

Department of Planning
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Chesapeake Bay Preservation Area CBPA EXCEPTION APPLICATION

PURPOSE

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

It is recommended that the applicant meet with the Planning Department prior to submitting the CBPA Exception application so that potential problem areas may be identified, prior to the scheduled public hearing.

REVIEW PROCESS

The deadline for submitting a CBPA Exception application is exactly two weeks prior to the first and third Tuesday of each month. All applications are to be submitted to the Planning Department prior to 5:00 p.m.

The Planning Department will review the application for completeness. If the application is found to be incomplete, the Planning Department will return the application, site plans and filing fee to the applicant, with a description of the manner and areas in which the application is incomplete. **The filing fee for exceptions is \$200.00 per lot for which relief is sought.**

Once an application is determined to be complete, the application will be reviewed by the CBPA Review Committee, which is made up of two representatives from the Planning Department and the Department of Public Works, one representative from the following departments: Public Utilities Department, the Zoning Department, Economic Development and the City Arborist. The CBPA Review Committee will either recommend the application for approval to the Wetlands/CBPA Board, recommend the application for denial to the Wetlands/CBPA Board or will ask the applicant to submit revisions to the site plan or application, if required or recommended.

Notwithstanding any initial determination of completeness, the Planning Director, the CBPA Review Committee, or the Wetlands/CBPA Board may at any time during the review process find that essential information is lacking and may deem the application incomplete.

REVIEW PROCESS (continued)

The Planning Department will prepare a legal notice advertisement. The applicant is responsible for all of the advertising costs of providing the required notice of hearing.

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

The Chesapeake Wetlands/CBPA Board will hold a public hearing the third Wednesday of the month usually 40-45 days after the filing of the application. The public hearing is open to all citizens. The applicant or agent must attend the Wetlands/CBPA Board public hearing. Failure of the applicant or agent to attend the Wetlands/CBPA Board Public Hearing may delay action by the Wetlands/CBPA Board thereby delaying processing of the application. At the public hearing, the Wetlands/CBPA Board will hear proponents and opponents of the application, as well as staff comments and recommendations. The Wetlands/CBPA Board considers all information and either approves the application as presented, approves it with conditions or safeguards, or disapproves the application.

APPLICATION DIRECTIONS

1. The applicant is usually the homeowner.
2. The agent, when listed, is usually the company contracted to accomplish the work for the homeowner.
3. The owner of property information is provided if the owner is different from the applicant or agent.

DESCRIPTION OF PROPERTY:

1. The 13-digit tax map number is available in the Real Estate office on the 4th floor of the City Hall building.
2. Address of the project is self explanatory.
3. The subdivision with lot number is found on the plat of the property or in the legal description of the property.
4. The "watershed" is the major river into which runoff flows. It is determined by a review of a city map to determine the property's proximity to either the Western, Southern, or Eastern Branch of Elizabeth River.
5. The total existing impervious area should be determined by a profession engineer, or surveyor. All impervious areas as they are, excluding your new proposal, must be included, such as buildings, driveways, decks, sidewalks, pools, accessory structures, concrete slabs, etc. in square feet.
6. The total property size in square feet and acreage is sometimes found on the survey, plat, or site plan. If not known, this will need to be determined by a professional engineer, surveyor, or authorized individual preparing the plan.
7. The total lot area within the Resource Protection Area (RPA) should be determined by a profession engineer, surveyor, or authorized individual preparing the plan.

APPLICATION DIRECTIONS (continued)

8. The date the lot was recorded and the Deed Book number and page number can be found in the Real Estate office on the 4th floor of the City Hall building.

DESCRIPTION OF PROJECT:

Exempt Activities:

In accordance with the performance standards in Sections 26-519 and 26-526 of the City Code, the following activities or development may be allowed in the RPA, on a case-by-case basis, if approved by the CBPA Review Committee:

- New or expanded water-dependent activities (such as docks, piers, shoreline stabilization structures, and boathouses);
 - Redevelopment activities outside the IDA;
 - Roads or driveways;
 - Redevelopment activities within an IDA;
 - Flood control or stormwater management facilities;
 - Bona fide agricultural activities; and
 - Wetland restoration activities.
9. The total proposed additional impervious area of the proposed project should be determined by a profession engineer or authorized individual preparing the plan.
 10. The description of the project should include the square footage of the proposed encroachment and whether the application is for a pre-existing lot, CBPA Ordinance, 26-520.B.7.; non-conforming use or structure, 26-525; IDA, 26-521; or exempt activity, 26-526. Include all details as relevant to the proposal.
 11. The description of the project should include the square footage of the proposed encroachment and whether the application is for a pre-existing lot, CBPA Ordinance, 26-520.B.7.; non-conforming use or structure, 26-525; IDA, 26-521; or exempt activity, 26-526. Include all details as relevant to the proposal.
 12. If the property has been previously reviewed for CBPA encroachment, please provide the CBPA application number and date of action.
 13. The Water Quality Assessment is usually required for new development only. For additions or alterations to existing structures, silt fencing (SF) must be installed along the 50-foot RPA buffer with appropriate BMP practices, as necessary. Sample worksheets can be found in Chapter 6 of the Public Facilities Manual (PFM), Volume I, or on the following website:
<http://www.cityofchesapeake.net/services/depart/pub-wrks/engineer-publicfacilitiesmanual.shtml>

APPLICATION DIRECTIONS (continued)

Development on Lots Recorded Prior to January 21, 1992:

For applicants who can demonstrate that an encroachment into the 50-foot landward portion of the RPA buffer is the minimum necessary to provide a reasonable buildable area for the principal structure and necessary utilities, the CBPA Review Committee may approve these applications based on the criteria set out in Section 26-520.B.7.(b) of the City Code. In no case may the development encroach into the seaward fifty (50) feet of the RPA buffer. Any encroachment into the seaward fifty feet of the buffer will require an exception granted by the CBPA Board (see exception information below). Buffer encroachments are not allowed for accessory structures, such as garages, gazebos, sheds, or pools.

Development on Lots Recorded After January 21, 1992 and Prior to March 1, 2002:

This scenario applies to lots that have been approved by the Department of Public Works as part of a valid final site plan or final subdivision plan approved prior to March 1, 2002. Where the encroachment into the 50-foot landward portion of the RPA buffer is the minimum necessary to provide a reasonable buildable area for the principal structure, an addition, and necessary utilities, a determination must be made that prior approval of the buffer encroachment has been given based on the use of appropriate best management practices that collectively achieve water quality protection, pollutant removal and water resource conservation at least the equivalent of the full one hundred foot buffer area, and that the BMP continues to operate effectively. This approval includes a written memorandum by Public Works and confirmation by Planning staff that the encroachment cannot extend into the seaward fifty (50) feet of the RPA buffer.

Additions and Alterations for Non-conforming Buildings or Structures:

This application is for properties containing a lawfully non-conforming building or structure which existed on or before December 31, 2003, and the applicant proposes to remodel, alter or add to this building or structure. The CBPA Review Committee may approve these applications based on the criteria set out in Section 26-525 of the City Code. This classification shall not apply to accessory structures.

Intensely Developed Areas (IDAs):

An IDA is a designated redevelopment area found on the City's IDA Map. IDAs are those areas that are historically urban in character and where little of the natural environment remains. Special provisions for development in an IDA are found in Sections 26-519 and 26-521 of the City Code and in the CBPA Specifications Manual.

ADJACENT PROPERTY OWNERS

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

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

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

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

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

SITE PLAN / PLAT REQUIREMENTS

As a part of this application, the following maps must be submitted. **All maps shall have a north arrow.** The map required under subsection 1 below shall be drawn to scale. Other maps are not required to be to scale, but shall be drawn fairly to reflect the relationship of the subject property to surrounding properties.

1. A preliminary site plan or plat at a scale not less than 1" = 50' meeting the requirements of Section 18-201 of the Chesapeake Zoning Ordinance. **All site plans/plats shall be folded to a size no larger than 9" x 14" and shall include a vicinity map.** *Please fold with the site plan facing out.* If a revision is submitted, please include the Planning Department's application number in the title block. Please do not provide separate construction, landscape, erosion and sediment control or grading plans.
2. The site plan or plat of the property should include landscape components and a stormwater management plan, according to Article X of the Chesapeake City Code (including CBPA calculations in accordance with the Chesapeake City Code and the requirements as set forth in the Chesapeake Public Facilities Manual). The site plan or plat should be prepared by a certified surveyor or engineer, **drawn to scale and not reduced**, showing all proposed structures, including areas to be filled, graded, excavated or cleared, buildings, porches, stoops, steps, bay windows, roof overhangs, decks and/or patios, pools accessory structures, sidewalks, driveways, trails, parking, landscape areas, Best Management Practice (BMP) areas, location of the silt fence, topography lines (as well as the vertical datum utilized), wetland (both tidal and non-tidal) areas, wooded areas (including trees to be removed and trees to be protected), all bodies of water, and all other structures and features located on the site. The limits of disturbance shall be clearly delineated. If the site has been previously developed, indicate the existing conditions on the site as well as the proposed new development. If existing structures or other impervious areas are to be removed, note that they will be removed on the site plan. Please clearly distinguish between existing conditions and the proposed new development.

SITE PLAN / PLAT REQUIREMENTS

DELINEATION OF THE RESOURCE PROTECTION AREA (RPA)

The RPA delineation is required on the site plan utilized for all development within the Chesapeake Bay Preservation Overlay District. The RPA delineation is part of the required environmental assessment. The CBPA Review Committee has determined three methods to be utilized for all RPA delineations within the City of Chesapeake.

1. All tidal areas shall measure the 100-foot RPA buffer from the four-foot (4') elevation mark, based upon 1929 National Geodetic Survey (NGS) vertical datum, 1972 adjustment. The RPA delineation shall follow this four-foot elevation line and the 100-foot buffer shall be measured from that line. If using the NAVD 88 datum, the three-foot (3') elevation mark must be indicated on the plan and used as a reference to delineate the RPA. The 50-foot seaward and 50-foot landward portions of the 100-foot RPA must be labeled.
2. From all perennial water bodies with no surface flow connection to non-tidal wetlands, the RPA buffer shall be measured from the top edge of the active channel, stream, or ditch or the top of bank.
3. From all non-tidal wetland areas connected by surface flow to tidal wetlands or to a perennial water body, the RPA shall be based on an approved delineation, with the 100-foot buffer being measured from the landward edge of the delineated wetlands area. All field delineations will be subject to staff verification and will be handled on a case-by-case basis.

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

The RMA area is the area adjacent to the RPA, as designated on the CBPA map found in the Chesapeake Planning Department. The RMA area must be delineated on the site plan utilized for all development within the CBPA district.

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



CBPA EXCEPTION APPLICATION

CHESAPEAKE PLANNING DEPARTMENT

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

GENERAL INFORMATION

ADDRESS / LOCATION OF PROJECT: _____

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

Address: _____

Daytime Phone: _____ FAX Number: _____

E-mail address: _____

Interest in subject property: _____

2. **Agent(s):** _____

Agency: _____

Address: _____

Daytime Phone: _____ FAX Number: _____

E-mail address: _____

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

Name: _____

Address: _____

Daytime Phone: _____ FAX Number: _____

E-mail address: _____

ACKNOWLEDGEMENT

APPLICATION NUMBER: CBPA-

PRIMARY TAX MAP NUMBER: _____

DECLARATION OF WETLANDS/CBPA BOARD INTEREST:

Does any member of the Wetlands/CBPA Board own or have any personal or financial interest in the land which is subject to this application, or has any personal or financial interest in the outcome of the decisions, as defined by the Virginia Conflict of Interest Act? No Yes If yes, please explain:

DECLARATION OF ACCURACY:

I, the undersigned owner (or agent), certify that all statements in this application are true and correct to the best of my knowledge, are accurate and complete and includes all required information and submittals. I also certify that the list of adjacent property owners, if required, is complete and correct as of the date of this application submittal. I understand that if the list of adjacent property owners is determined to be incomplete at a later date, any action taken on this application may become null and void.

DECLARATION OF FINANCIAL RESPONSIBILITY FOR ADVERTISING COSTS:

I, the undersigned, understand that the cost of newspaper advertising for public hearing notification purposes is my responsibility and agree to pay all notices of payment due and bills associated with advertising costs for this application. Advertising cost will be billed separately. *Party responsible for advertising:* Applicant Agent

DECLARATION OF CONSENT:

By signing below, the applicant, owner or agent consents to entry upon the subject property by public officers, employees, and agents of the City of Chesapeake wishing to view the site for purposes of processing, evaluating or deciding this application.

Applicant Owner Agent (check appropriate box(es))

Name (signature) _____

Name (printed or typed) _____

Date: _____

DESCRIPTION OF PROPERTY

1. 13-Digit Tax Map Number(s): _____,
_____, _____
2. Address of Project: Please include street address along with the subdivision name & lot number OR common description if no street address is available:

3. Watershed (i.e., Western, Southern, or Eastern Branch of the Elizabeth River):
_____ Branch of the Elizabeth River
4. Subdivision Name with Lot #: _____
5. Legal Description: _____

6. Total existing impervious area (all impervious areas must be included, such as buildings, driveways, decks, sidewalks, pools, accessory structures, concrete slabs, etc. in square feet): _____ SF
7. Total property size in square feet and acreage: _____ SF _____ AC
8. Total property size located within the RPA (square footage): _____ SF
9. Total property size located within the RMA (square footage): _____ SF
10. Date lot recorded: _____ Deed Book number: _____ Page number: _____
11. Total impervious area for proposed new development (square footage): _____ SF
 - a. Total impervious area located within the RPA (square footage): _____ SF
12. Is the property subject to proffers approved with a conditional rezoning application?
 No Yes Application # R(C)-_____
12. Provide the vertical datum utilized for the required topographic lines on the site plan:

APPLICANT'S JUSTIFICATION FOR THE REQUESTED EXCEPTION

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

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

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

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

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

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

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

(attach additional sheets, if necessary)

SPECIAL POWER OF ATTORNEY

Application No: CBPA-

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

Nature of **CBPA Exception** sought: _____

I/we _____, am/are

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

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

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

Applicant/Owner:

sign _____
Name, Title _____
Company _____

Applicant/Owner:

sign _____
Name, Title _____
Company _____

State of _____

City of _____

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

By _____

NOTARY PUBLIC

Notary Registration No. _____

My commission expires: _____

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

ADJACENT PROPERTY OWNERS LIST OF ADDRESSES

Tax Map #: _____	Tax Map #: _____
Name: _____	Name: _____
Street: _____	Street: _____
City: _____	City: _____
State/Zip: _____	State/Zip: _____
Tax Map #: _____	Tax Map #: _____
Name: _____	Name: _____
Street: _____	Street: _____
City: _____	City: _____
State/Zip: _____	State/Zip: _____
Tax Map #: _____	Tax Map #: _____
Name: _____	Name: _____
Street: _____	Street: _____
City: _____	City: _____
State/Zip: _____	State/Zip: _____
Tax Map #: _____	Tax Map #: _____
Name: _____	Name: _____
Street: _____	Street: _____
City: _____	City: _____
State/Zip: _____	State/Zip: _____
Tax Map #: _____	Tax Map #: _____
Name: _____	Name: _____
Street: _____	Street: _____
City: _____	City: _____
State/Zip: _____	State/Zip: _____

CBPA EXCEPTION APPLICATION CHECKLIST

- The **original** CBPA Exception application, with original signatures, with **nine (9) copies of the completed application** including all required information listed below. All information must be typed or clearly printed on the application and 8.5" x 11" paper as needed. *Please ensure that the following is consolidated with each application:*
 - Twenty (20) copies of a site plan or plat** of the property.
 - Twenty (20) copies of a site plan or plat** reduced to 8.5" x 11" paper.
 - Vicinity map** on 8½" x 11" paper. This may be included on the survey of the property.
 - The adjacent property owner's list of addresses** on the form provided with this application or Avery 5260 label format.
 - Twenty (20) copies of a water quality assessment (WQIA)**, as required by Section 26-523 of the Chesapeake City Code, which identifies the impacts of the proposed exception on water quality and on lands within the Resource Protection Area (RPA).
- Any additional drawings, pictures, or information, which will assist the Wetlands/CBPA Board in making their decision.
- The **\$200.00 filing fee per lot** for which relief is sought.
- Stamped #10 (4 1/8" x 9½") envelopes** with the name and mailing address of each adjacent property owner printed legibly. **(Do not use pre-stamped, dated envelopes from a postage machine. Also, do not include a return address on the envelopes.)**
- In addition to the filing fee, the applicant is responsible for all newspaper advertising costs for public hearing notification. **The applicant will be billed separately for these costs.** The average cost is \$100 per advertisement, with a minimum of two (2) advertisements required (average \$200 per application). If your application is the sole application before the Board then the application costs will be higher. These costs are for the required advertisements for the Wetlands/CBPA Board.
- This completed CBPA Exception Application checklist.

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