HANDBOOK FOR DEVELOPMENT IN THE CHESAPEAKE BAY PRESERVATION AREA IN NEWPORT NEWS, VIRGINIA

3rd Edition

Prepared by the
City of Newport News
Department Planning
Department of Engineering Stormwater Division
Department of Codes Compliance

April 2005

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Preface

The purpose of this handbook is to help homeowners and developers understand the City's Chesapeake Bay Preservation Area (CBPA) Review Process. Through better understanding, it is hoped that all parties involved may proceed in a more efficient and timely manner. This handbook should guide the applicant through the process of developing within the CBPA, while achieving the overall goal of protecting the Chesapeake Bay and the water quality of its tributaries.

This handbook is divided into six sections. Section I is the introduction, which gives background information on the federal and state legislative authority for the City's local Chesapeake Bay Preservation Program. Section II describes site plan and subdivision plan review for development in the City's CBPA. Section III discusses development in the Resource Protection Area (RPA). Section IV describes water quality Best Management Practices (BMP). Section V discusses water quality impact assessment for development in the RPA. Section VI describes the Appeals Process. Section VII describes enforcement.

The appendix includes nine items: a site plan checklist, copies of the development waiver and buffer modification applications, copy of the Exception Application and Application Instructions, BMP Guidance Calculations, tables showing BMP Efficiencies, an example of a vegetative BMP agreement, an example of a structural BMP maintenance agreement, four types of minor water quality impact assessment forms and the Buffer Restoration/ Replacement Information from the Riparian Buffer Modification and Mitigation Manual by the Chesapeake Bay Local Assistance Division of the Virginia Department of Conservation and Recreation.

The Department of Planning staff is available to discuss development projects and advise homeowners and developers regarding the City's Chesapeake Bay Preservation ordinance requirements, please contact staff either by phone at (757) 926-8761, fax at (757) 926-3639 or e-mail at nnplan@nngov.com.

Introduction

In 1987, the Chesapeake Bay Commission signed the Chesapeake Bay Agreement that became the basis for each state to create and implement programs to clean up the Chesapeake Bay. The Virginia General Assembly responded to the Chesapeake Bay Agreement by enacting the Chesapeake Bay Preservation Act in 1988. The Act established the Chesapeake Bay Local Assistance Board (Board) and the Chesapeake Bay Local Assistance Department (CBLAD). The Board developed regulations to provide guidance to localities creating their own Chesapeake Bay Preservation Programs. CBLAD was created to provide staff support to the Board and also to provide technical assistance to the localities. Once the Board approved the regulations, each Tidewater locality was given one year to establish its Chesapeake Bay Preservation Areas and enforcement mechanisms by incorporating development performance criteria through a separate ordinance or by revisions to existing zoning and subdivision ordinances. In 2005, CBLAD ceased to exist and became a Division of the Department of Conservation and Recreation known as the Chesapeake Bay Local Assistance Division.

The Newport News City Council passed their first Chesapeake Bay Preservation Area map and ordinance on September 7, 1990. In order to obtain consistency with the Chesapeake Bay Act, the City adopted a revised Chesapeake Bay Preservation Ordinance and Map on July 14, 1999. In 2002, the Board adopted revised Chesapeake Bay Preservation Area Designation and Management Regulations and required localities to adopt revisions to their local programs by December 31, 2003. On December 16, 2003, the latest revision to the City's Chesapeake Bay Preservation Ordinance was adopted by the City Council to become effective on April 1, 2004. On June 21, 2004, the Board found the revised ordinance consistent subject to several conditions. On April 12, 2005, revisions based on the Board recommendations were adopted by City Council to become effective on April 22, 2005.

The City adopted Stormwater Control Regulations for non-point source pollution on November 15, 1994. Five ordinances were adopted as part of the program, and all are found in the Code of Ordinances for the City of Newport News. Two are found under Chapter 37.1 Stormwater Management, one under Chapter 33 Sewers and Sewage Disposal, and one under Chapter 35 Soil Removal and Other Land-Disturbing Activities. The City's Chesapeake Bay Preservation Ordinance (CBPO) is found in Article 5 of Chapter 37.1. These Stormwater Control Regulations deal with both stormwater quality and quantity.

Owners or prospective buyers of property impacted by the CBPA should become familiar with the terms Resource Protection Area (RPA), Resource Management Area (RMA) and Industrial Waterfront Intensely Developed Areas (IWIDA). Definitions for these terms and many others are found in the City's CBPO.

The City's CBPO identifies the 'Performance Standards' Section 37.1-51 of CBPO for devel-

oping in the CBPA. General performance standards for development and redevelopment are as follows:

- Land disturbance in excess of 2,500 square feet in the CBPA is subject to a plan of development process, including the approval of a site plan that includes sediment and erosion control plan, and a stormwater management plan.

- Development in the RPA may be allowed subject to approval by the Director of Planning only if it is:

  - Water dependent or constitutes redevelopment;
  - Constitutes development or redevelopment within a designated intensely developed area;
  - Redevelopment outside designated intensely developed areas, but in the RPA if there is no increase in impervious area and no further encroachment in the RPA;
  - Is a new use established through the buffer encroachment process for lots created prior to March 1, 2002 and satisfying specific conditions stated in the CBPO;
  - Is a road or driveway crossing satisfying specific conditions stated in the CBPO; and
  - Is a flood control or stormwater management facility satisfying specific conditions stated in the CBPO.

- A water quality impact assessment is required for any land disturbance within the RPA.

- Land disturbance is limited to the area necessary to provide the proposed use or development.

- Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed on the approved Site Plan and Land Disturbance Permit.

- Impervious cover shall be limited to promote infiltration of stormwater into the ground consistent with the proposed use or development.

- Stormwater management Best Management Practices (BMPs) are required for all development and redevelopment exceeding 36 percent impervious cover.

These standards, or requirements, are set up to prevent a net increase in non-point source pollution when development occurs in CBPAs. Development proposed in the buffer area of the RPA must meet additional performance standards. This includes replacing trees that were removed during development, ensuring the encroachment in the RPA is the least needed for development, and if necessary, using a Best Management Practice (BMP) to mitigate for the encroachment. The City's CBPO can be found on the Municode website in

the Newport News city code Chapter 37.1, Stormwater Management, Article 5: Chesapeake Bay Preservation.

Site Plan/Subdivision Plan Review for Development in the City's CBPA

All proposed development or redevelopment in the City's field verified CBPA requires a site plan or subdivision review process. The extent of the review depends on the proposed location and magnitude of the development or redevelopment. **It must be emphasized that the City's CBPA map is a general guide and that an on-site environmental assessment and perennial/intermittent stream study will be required during the development and redevelopment process to accurately delineate the Chesapeake Bay Preservation Area.**

Multiple-Family, Commercial and Industrial Development

Any commercial, industrial or multiple-family development projects are required to go through the City's Site Plan Review Process. This process is facilitated by the Department of Engineering and requires the site plan to be reviewed by several City departments. The Department of Planning reviews the site plan for zoning, building setbacks, landscaping and CBPA requirements. If a CBPA application process is necessary for a multiple-family, commercial or industrial development, the developer is informed and the application process commences. A site plan approval is not granted until the applicable CBPA applica-

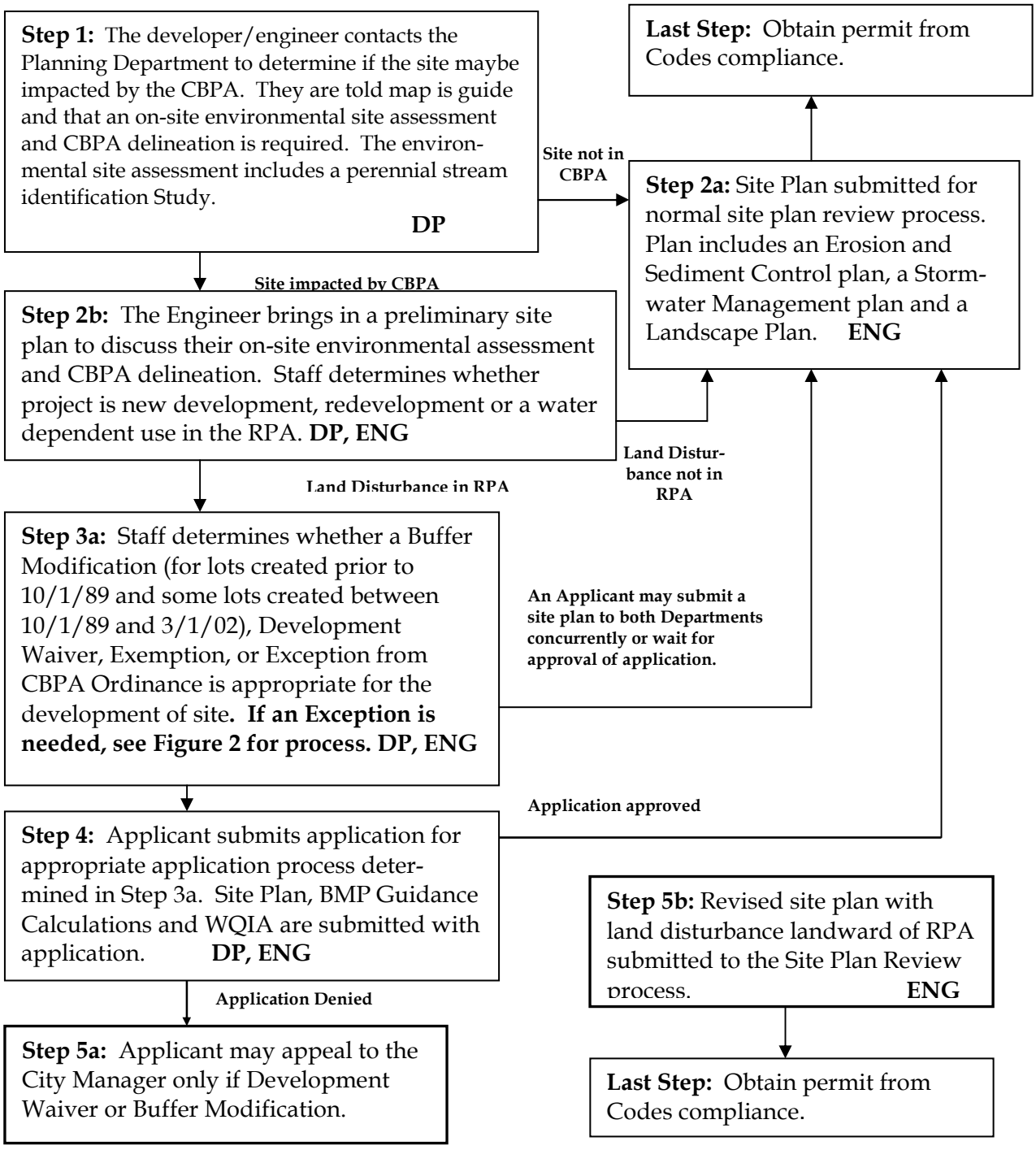
It is recommended that developers confer with the Department of Planning regarding CBPA impact on their development sites prior to submission of site plans to the City's formal Site Plan review process. The formal site plan review process is shown in Figure 1 and Figure 2.

Developers of commercial, industrial and multiple-family projects should obtain copies of the Site Regulations and the Design Criteria Manual from the Department of Engineering. The Design Criteria Manual contains sections on Water Quality and Water Quantity Control within the Stormwater Management Chapter.

Subdivisions

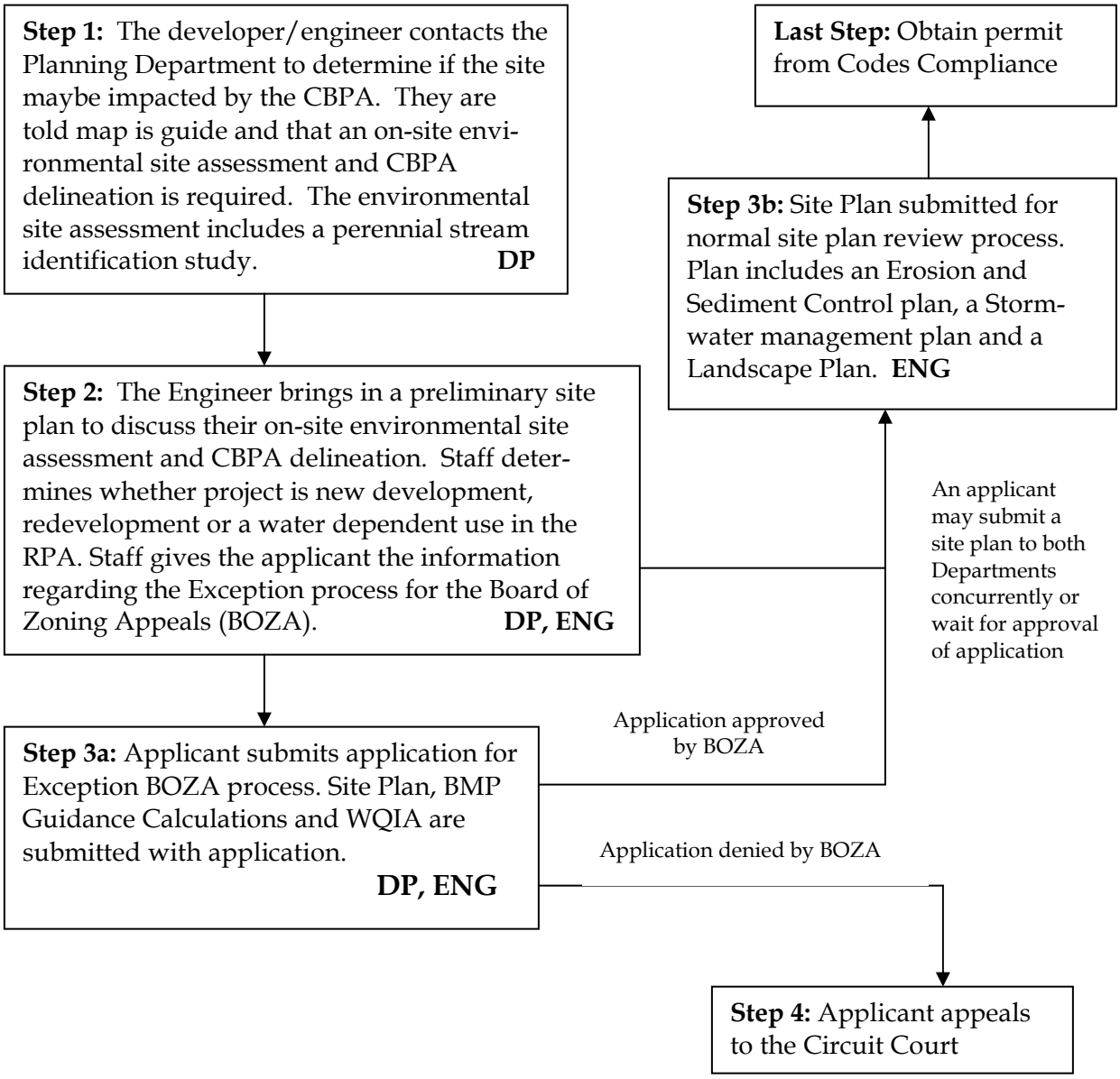
Subdivision plans are required to go through the City's Subdivision Review process. This process is facilitated by the Department of Engineering and requires the subdivision to be reviewed by several City departments. It is preferred that developers of new subdivisions place their lots landward of the 100-foot RPA buffer. The RPA buffer should be placed in a common area. If site constraints preclude development of lots landward of the 100-foot buffer, the buffer should be placed in an open space easement where encroachments of impervious area are discouraged and sufficient buildable areas are provided on the lots landward of the 100-foot RPA buffer.

Figure 1: Site Plan Process to be used for Site Plans of Multiple-Family, Commercial and Industrial projects <u>within the CBPA</u>



DCC - Department of Codes & Compliance **DP** - Department of Planning
ENG - Department of Engineering

Figure 2: Site Plan Process to be used for Site Plans of Multiple-Family, Commercial and Industrial projects on lots created after October 1, 1989 encroaching in the RPA 100-foot Buffer or RPA Protected Feature



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It is recommended that developers confer with the Department of Planning regarding CBPA impact on their development sites prior to submission of subdivisions to the City's formal review process. Figure 3 shows the formal subdivision review process.

Developers of subdivisions should obtain copies of the Subdivision Regulations and the Design Criteria Manual from the Department of Engineering. The Design Criteria Manual contains sections on Water Quality and Water Quantity Control within the Stormwater Management Chapter.

Single-Family homes, additions to existing single-family homes and accessory Structures

The CBPA site plan review process for individual single-family houses, additions and accessory structures is less involved than the commercial site plan process. The Department of Planning reviews the site plan and, if warranted, forwards the plan to the Department of Engineering for review by the Stormwater Management division. Site plans require specific information. The checklist in Appendix A of this handbook can assist you in developing a plan that contains the information the City requires.

Property owners are urged to confer with the Department of Planning regarding the CBPA impact on their property prior to submission of a project for a building permit. Figures 4 and 5 show the plan review process for single-family homes, additions and accessory structures, respectively.

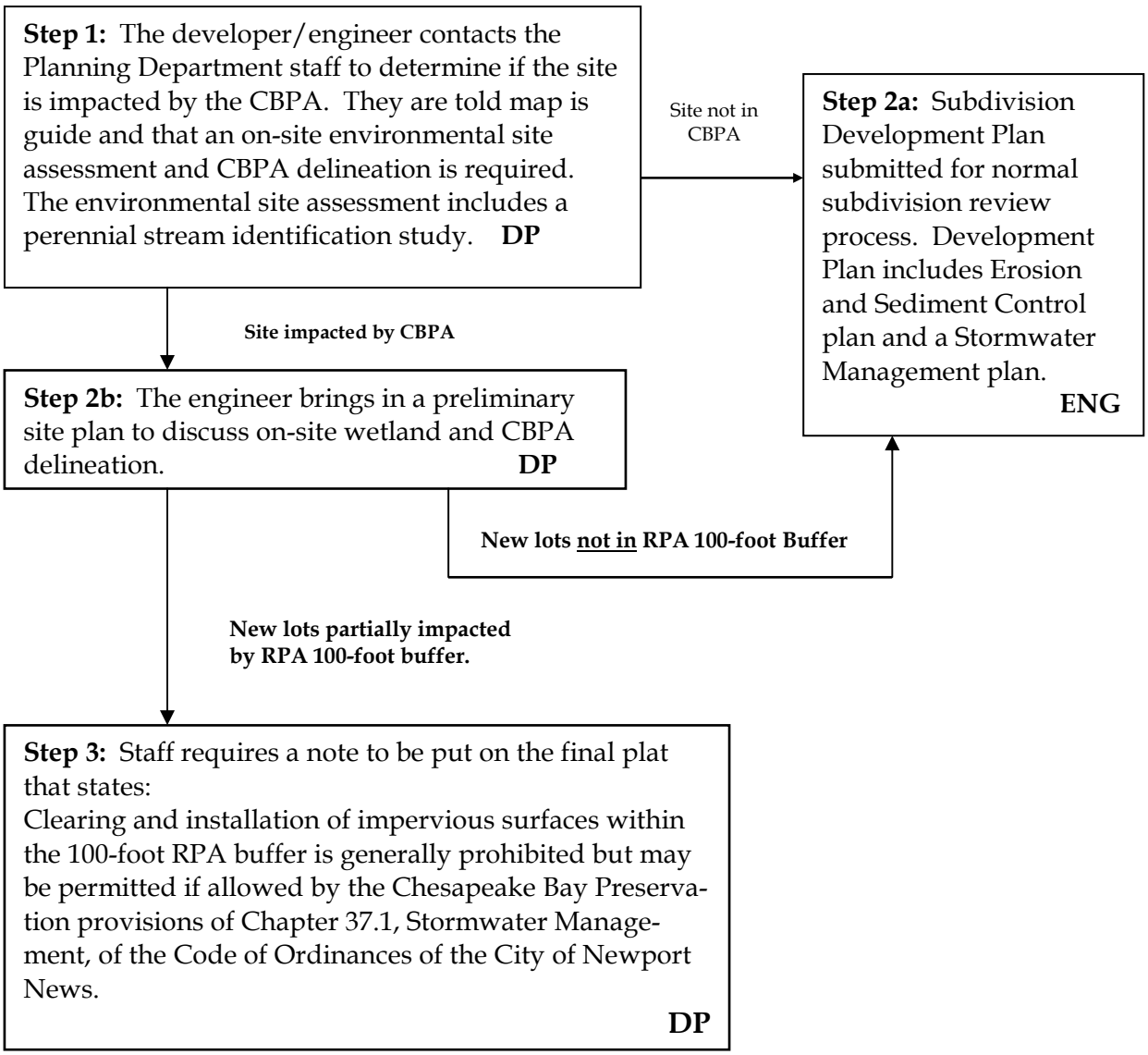
Piers, and docks

Commercial and residential piers or docks, and the access paths or walkways to these facilities are permitted by the City's CBPO. It should be noted that the construction of private or public piers must be evaluated by the following regulatory agencies: The Army Corps of Engineers (COE), The Virginia Marine Resources Commission (VMRC) and the Newport News Wetlands Board (NNWB). The Department of Planning can assist you in obtaining information regarding this application procedure.

Prior to obtaining a building permit, the pier or dock or other shoreline activity receives approval for development in the CBPA. A copy of approvals of the various boards and commissions must be delivered to the Department of Planning prior to approval for development in the CBPA. Figure 6 shows the review process.

In addition, piers in conjunction with a marina or boat basin may need a conditional use permit obtained through the City Planning Commission and City Council. A boat basin is defined in the City's zoning ordinance as a place for the launching, docking or mooring of pleasure boats and fuel sales for boats. A marina is defined in the City's zoning ordinance as a place for boat launching, docking, mooring, repair sales and service and the sale of fuel and accessory equipment for boats.

Figure 3: Subdivision Process to be used for Subdivisions <u>within the CBPA</u>



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ENG - Department of Engineering

Figure 4: Permit Process to be used for Additions to Existing Single-Family Homes and New Single Family Homes within the CBPA

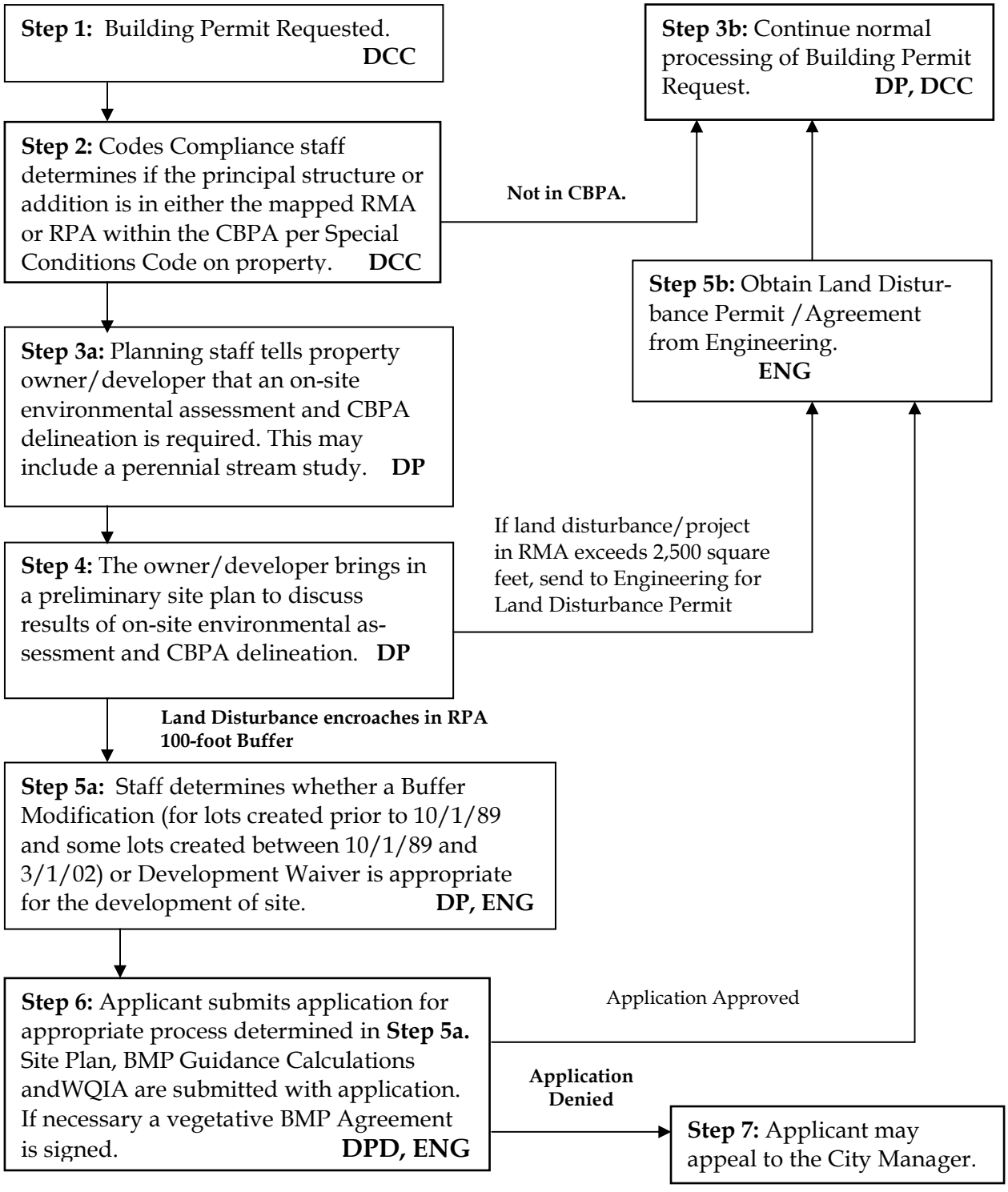

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Figure 5: Permit Process for Accessory Structures within the RPA and for Principal Structures and Impervious Area on lots created prior to March 1, 2002 with sufficient Buildable Area landward of 100-foot Buffer

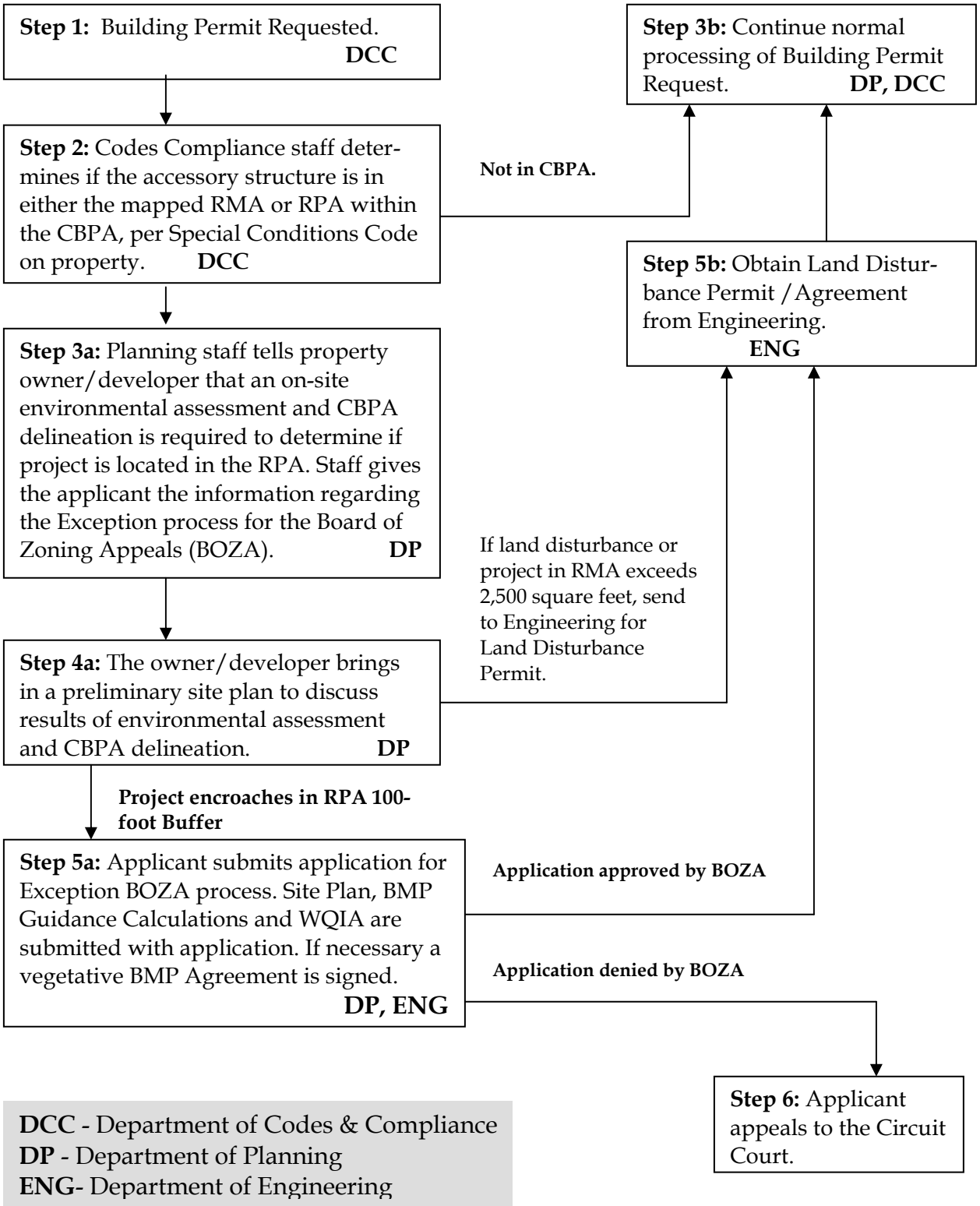
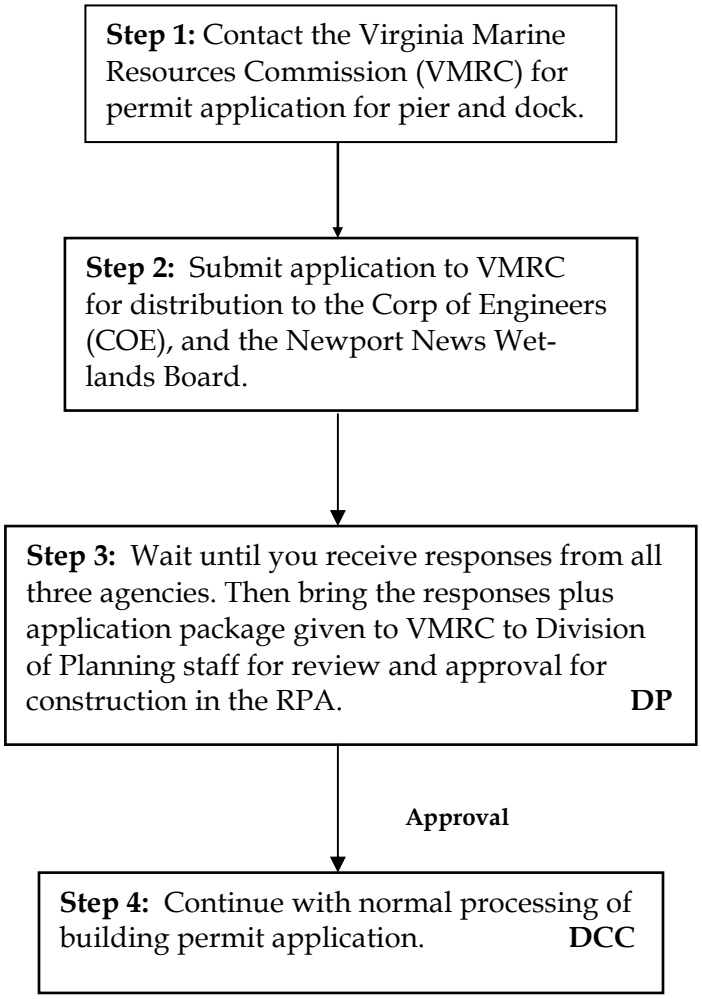


Figure 6: Site Plan Review Process for Piers and Docks in the Resource Protection Area (RPA)



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Shoreline Erosion Control Projects

Shoreline erosion control projects for new and replacement bulkheads, new or replacement riprap on the shoreline, backfilling behind the bulkhead and regrading of the slope behind the bulkhead or riprap shoreline must be evaluated by the following regulatory agencies: The Army Corps of Engineers (COE), The Virginia Marine Resources Commission (VMRC) and the Newport News Wetlands Board (NNWB). These projects must also be reviewed for compliance with the CBPO and the Erosion and Sediment Control Regulations by the Department of Planning and by the Department of Engineering, respectively. If the 100-foot buffer is removed during the regrading of the slope, it shall be revegetated with trees, shrubs and native ground cover not grass that requires fertilizers. A sediment and erosion control plan will be required as well. Figure 7 shows a flowchart of the review process.

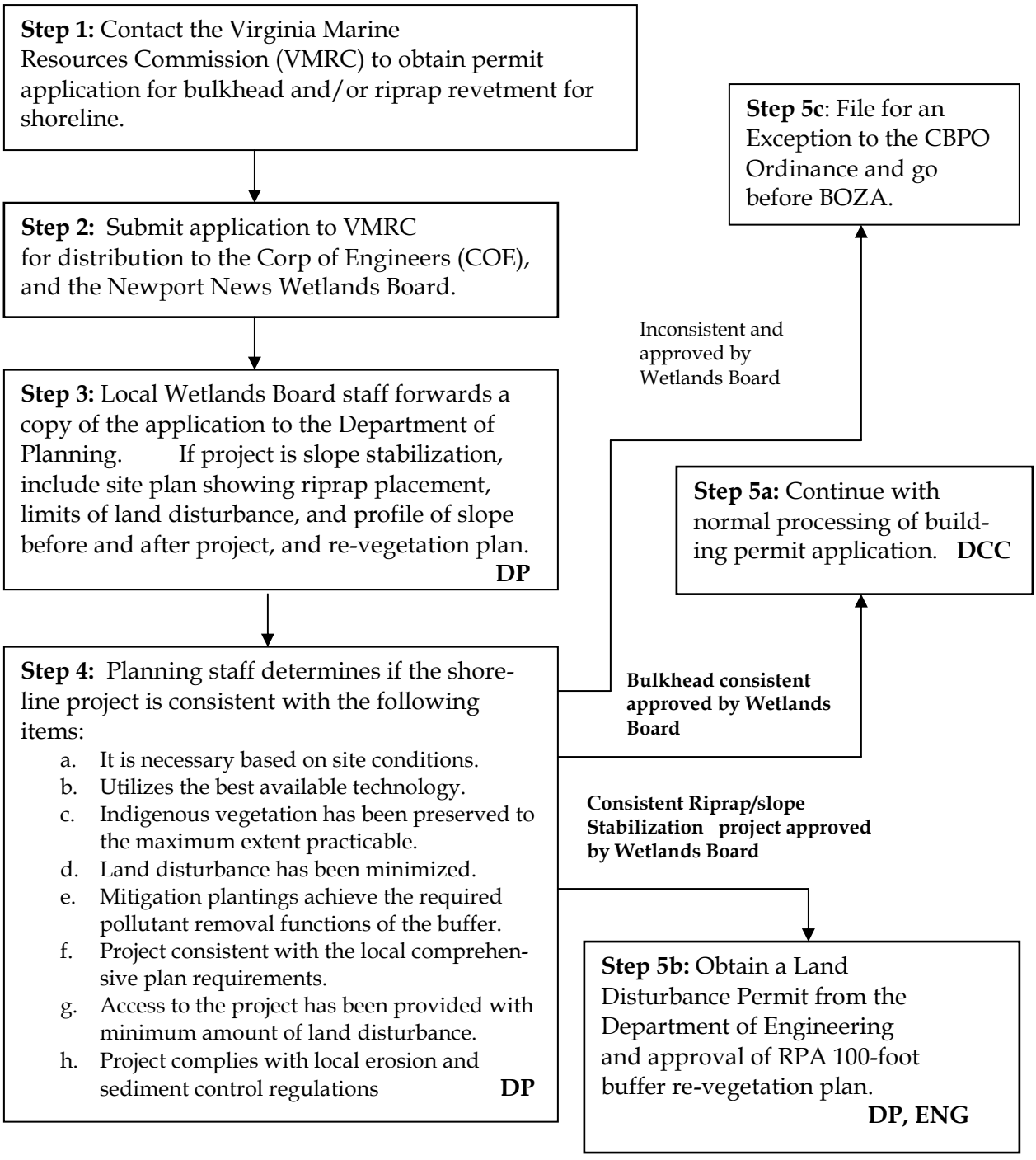
Sight Lines, Vistas and Access Paths

The establishment of sight lines, vistas and access paths are permitted in the RPA 100- foot buffer. However, a property owner should contact the City Planning Staff to discuss the appropriate ways of doing sight lines, vistas and access paths.

The CBPO preferred sight line filters the view through vegetation and retains existing trees, shrubs and ground cover. It can be achieved by removing limbs and trimming branches of trees as well as pruning shrubs. Vistas can be created where the buffer is thin and as long as existing trees, shrubs and ground cover remain on either side of the framed view and on the slopes to the buffer protected feature. However, filtered sightlines are preferred over vistas.

Access paths, materials to be used, and vegetation to be removed should be identified on a plan submitted for review and approval by the Department of Planning. A site visit will be conducted to ensure compliance with the plan.

Figure 7: Shoreline Erosion Control Projects in the Resource Protection Area (RPA)



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ENG - Department of Engineering

Development in the Resource Protection Area (RPA)

Subject to approval by the Director of Planning, development in the RPA may be allowed only, if it is:

- Water dependent or constitutes redevelopment;
- Constitutes development or redevelopment within a designated intensely developed area;
- Is a new use established through the buffer encroachment process for lots created prior to October 1,1989 or for some lots between October 1, 1989 and March 1, 2002;
- Is a road or driveway crossing satisfying specific conditions stated in the CBPO; and
- Is a flood control or stormwater management facility satisfying specific conditions stated in the CBPO.

Section 37.1-48 of the City's CBPO ordinance provides a complete listing of water dependent uses.

Development in the RPA generally requires one of the following application processes:

- Encroachment in the Resource Protection Area for Principal Structures and Utilities on lots created prior to October 1, 1989;

- Encroachment in Resource Protection Area for Principal Structures and Utilities on lots created between October 1, 1989 and February 14, 2002,

- Development Waiver for the Expansion of a Legally Non-conforming Principal Structure; and,

- Application for Exception from Resource Protection Area. Refer to section IV on Water Quality BMPs for additional development requirements.

Each application must be accompanied by specific information, and the type and location of proposed development will dictate which application is appropriate. In order to determine or verify which of the application processes discussed below is applicable to your situation, please contact the Department of Planning staff at (757) 926-8761.

Resource Protection Area Buffer Encroachment for Lots created prior to October 1, 1989.

The original Chesapeake Bay Preservation Area Designation and Management Regulations had an effective date of October 1, 1989. Any lot legally recorded prior to this date was created without regard to the RPA and RMA. Due to this fact, some of these prerecorded lots have inadequate buildable area. That is, when the restrictions of the RPA are considered with other zoning requirements and setbacks, there is not enough usable land area on

which to build an appropriate structure. In such situations, the owner or developer of the property may be allowed to place a principal structure and necessary utilities, which could be a residence or nonresidential building, within the landward 50 feet of the RPA. A BMP maybe required mitigating encroachments in the RPA. The City's CBPO states that the Director of Planning and the Director of Engineering may allow an encroachment in the RPA buffer, if the following are achieved:

1. Encroachments into the buffer area 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 effect of 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, unless in accordance with Section 37.1-52, Plan of Development.

Prior to submitting an application to encroach in the buffer area, all options should have been exhausted so that the encroachment is in fact the minimum necessary. For instance, the footprint of a proposed principal structure could be rotated so the encroachment is minimized or a variance for another required setback obtained. An Application for Resource Protection Area Buffer Encroachment must be accompanied by the following information:

- A Site plan with all required information, including a BMP if needed.
- Information regarding the date when the subdivision, where the lot is located, was recorded in the courthouse.
- Major or minor WQIA depending upon the amount of land disturbance.
- If possible, an area, equal in size to the amount of area encroaching upon the RPA buffer, should be designated on the site plan as undevelopable. This area should be located in such a way that it will benefit water quality.

A copy of the application can be found in Appendix B.

Resource Protection Area Buffer Encroachment for Lots created between October 1, 1989 and March 1, 2002

The Revised Chesapeake Bay Preservation Area Designation and Management Regulations have an effective date of March 1, 2002. Any lot legally developed through the City's subdivision regulations between October 1, 1989 and March 1, 2002 is eligible for a process to encroach in the RPA buffer with a principal structure and necessary utilities which could be a residence or nonresidential building, within the landward 50 feet of the, if the criteria below are met. A BMP may be required to offset encroachments in the RPA. The City's CBPO states that the Director of Planning and the Director of Engineering may allow the encroachment into the RPA buffer, if the following criteria are met:

1. The lot or parcel was created as a result of a legal process conducted in conformity with the city's subdivision regulations;

2. Conditions or mitigation measures imposed through previously approved exceptions shall be met;

3. If the use of a Best Management Practice (BMP) was previously required, the BMP shall be evaluated to determine if it continues to function effectively and, if necessary, the BMP shall be re-established or repaired and maintained as required; and

4. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities.

5. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effect of buffer encroachment and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel.

6. The encroachment may not extend into the seaward 50 feet of the buffer area, unless in accordance with Section 37.1-52, Plan of Development.

Prior to submitting an application to encroach in the buffer area, all options should have been exhausted so that the encroachment is in fact the minimum necessary. For instance, the footprint of a proposed principal structure could be rotated so the encroachment is minimized or a variance for another required setback obtained. An Application for Resource Protection Area Buffer Encroachment must be accompanied by the following information:

- A Site plan with all required information, including a BMP if needed.
- Information regarding the date when the subdivision, where the lot is located, was recorded in the courthouse.
- Major or minor WQIA depending upon the amount of land disturbance.
- If possible, an area, equal in size to the amount of area encroaching upon the RPA buffer, should be designated on the site plan as undevelopable. This area should be located in such a way that it will benefit water quality.

A copy of the application can be found in Appendix B.

Application for Development Waiver

An application for Development Waiver applies to existing non-conforming structures. This type of CBPA application is to be used when the proposed development expands an existing principal structure (building or residence) within the RPA by adding a 1st or 2nd floor addition, deck attached to the house, and garage attached to the house. This application may also be used to reconstruct a building or residence within the same footprint of the foundation if destroyed by an act of nature or casualty.

In order for a development waiver to be granted, the Director of Planning and Director of Engineering must conclude the following:

1) That there will be no net increase in non-point source pollution;

2) Any development or land disturbance exceeding 2500 square feet during reconstruction must comply with all required erosion and sedimentation controls and may require a BMP;

3) The requested waiver from the criteria is the minimum necessary to afford relief;

4) Granting the waiver will not confer upon the applicant any special privileges that are denied by Chapter 37.1 to other property owners who are subject to its provisions and who are similarly situated;

5) The waiver is in harmony with the purpose and intent of this part and is not of substantial detriment to water quality;

6) The waiver request is not based upon conditions or circumstances that are self-created or self-imposed.

7) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality;

8) Other findings, if appropriate and required by the local government, are met.

The Application for Development Waiver, found in Appendix B, should be submitted with a complete site plan and any other relevant information.

Application for Exception from the Resource Protection Area (RPA)

A request for exception from the City's requirements within the RPA must be made for construction of non-water dependent uses and/or land disturbance if the relief sought for the development project that cannot be addressed through either Application for Modifying Resource Protection Area Buffer Width for Lots created prior to October 1, 1989; or for some lots created between October 1, 1989 and March 1, 2002 or the Application for Development Waiver discussed above. For developed residential properties this includes the proposed construction of accessory structures such as: sheds, detached garages, pools, patios, free standing decks, gazebos, etc. in the RPA, if they are not located on existing impervious areas. The Board of Zoning Appeals will hear the Exception cases and make decisions based on the following criteria:

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 Chapter 37.1 to other property owners who are subject to its provisions and who are similarly situated;

3) The exception is in harmony with the purpose and intent of this part 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, that will prevent the allowed activity from causing a degradation of water quality; and,

6) Other conditions required by the board are met.

Prior to the public hearing before the board, surrounding property owners will be notified and notification posted on the property.

The application must be accompanied by a development plan with all required information. A major WQIA is also required, although this may be downgraded to a minor WQIA for small, residential projects. Any other information, which may be used to justify the exception, should also be provided. A copy of the Application and instructions is found in Appendix C. However, the Exception Application should not be copied from this document the original must be obtained from the Department of Planning.

Water Quality Best Management Practices (BMPs)

In order to determine if a water quality BMP is necessary for site development, the amount of pre and post development pollutant loadings of phosphorous, which is the key pollutant for measuring water quality benefits of BMPs in the CBPA, must be determined. The Water Quality Calculation Procedure for all development and redevelopment is used to determine the need for a BMP and its required efficiency. Information regarding the Water Quality Calculation Procedure can be obtained from the Department of Conservation and Recreation website in Chapter 5 and Appendix 5-D of the publication titled Stormwater Management Handbook

The amount and location of impervious area, or impervious cover on a site is part of the BMP calculation procedure to determine the pollutant loading. Impervious cover generally means surface areas that are resistant to absorbing water such as surfaced (including

gravel) streets, roofs, sidewalks, parking lots or similar structures which creates runoff. If impervious cover, existing and proposed, on a site located in the CBPA exceeds thirty-six (36) percent, an additional review by the Department of Engineering and the Department of Planning is required (See Figure 8.). A stormwater Best Management Practice (BMP) is required for storm water quality management. Prior to approval of site plans and subdivision plats, a BMP maintenance agreement is signed by the developer, which runs with the land.

The second edition of the City's Design Criteria Manual contains two tables related to stormwater BMP efficiencies. These tables are titled the Total Phosphorous Removal Efficiencies for BMPs Suitable for Development and Redevelopment in the City of Newport News and BMP Efficiency Requirements. Copies of these tables are found in Appendix E. Stormwater BMP efficiency information for individual single-family property development is not found in the City's Design Criteria Manual because development on these types of properties normally does not exceed 36 percent impervious cover.

A stormwater BMP is required on properties where the RPA has been encroached upon to allow for further development. There is a separate BMP Guidance Calculation form for buffer encroachment in the RPA (see Appendix D). For multiple-family, commercial, and industrial development, the structural stormwater BMP is sized to accommodate for the encroachment into the RPA as well as for the excess stormwater where impervious cover exceeds 36 percent. For development on individual single-family lots that apply for a Buffer Modification, Development Waiver or Exception, a vegetative stormwater BMP is preferred. This type of BMP is a mulched landscape bed that includes trees, shrubs, and native ground cover. These landscaped beds are placed seaward of the development project. Placement is determined on a site-by-site basis by considering the topography, and the location of the proposed impervious area. If the existing buffer area is vegetated with grass, the landscaped beds should be placed closer to the water or wetlands edge than to the impervious area. Beneficial plants for the Coastal Region of Chesapeake Bay are found in Appendix G. These types of plants have a better survival rate and take less fertilizer to be maintained.

A Vegetative BMP Maintenance Agreement (see Appendix F) is signed prior to completing the application process. Attached to the BMP Maintenance Agreement is a landscape plan identifying where the vegetative BMP is located on the site and the types of vegetation to be planted. The BMP Maintenance Agreements shall be recorded in the courthouse, so that it is binding on future owners.

If a structural BMP is necessary on an individual single-family lot, an example of a BMP Agreement is found in Appendix I. This agreement must be signed prior to the completion of the application process.

The BMP Maintenance Agreements will be recorded in the courthouse, so that it is binding on future owners.

Water Quality Impact Assessment for Development in the CBPA

A minor WQIA is required when development or redevelopment in the landward 50- foot of the RPA creates less than ten thousand (10,000) square feet in land disturbance. The surveyor or engineer preparing the site plan also prepares the minor WQIA. In Appendix J you will find four types of Minor Water Quality Impact Assessments. They are titled as follows:

- Redevelopment and Development in the Resource Protection Area (RPA) for Commercial and Industrial Development with less that 10,000 Square feet of Land Disturbance in Landward 50-feet of RPA.
- Redevelopment and Development in the RPA for Single-Family properties in Landward 50-feet of RPA.
- Shoreline Erosion Projects in the RPA
- Redevelopment and Development in the Industrial Waterfront intensely Developed Area

A major WQIA is required if more than ten thousand (10,000) square feet of land disturbance occurs in the landward 50 feet of the RPA or if any development or redevelopment is proposed within the seaward 50 feet of the RPA. The components and requirements of a major WQIA are much more complex, and must be done by a registered engineer or environmental engineer. Examples of previously submitted major WQIAs are available for review at the Department of Planning.

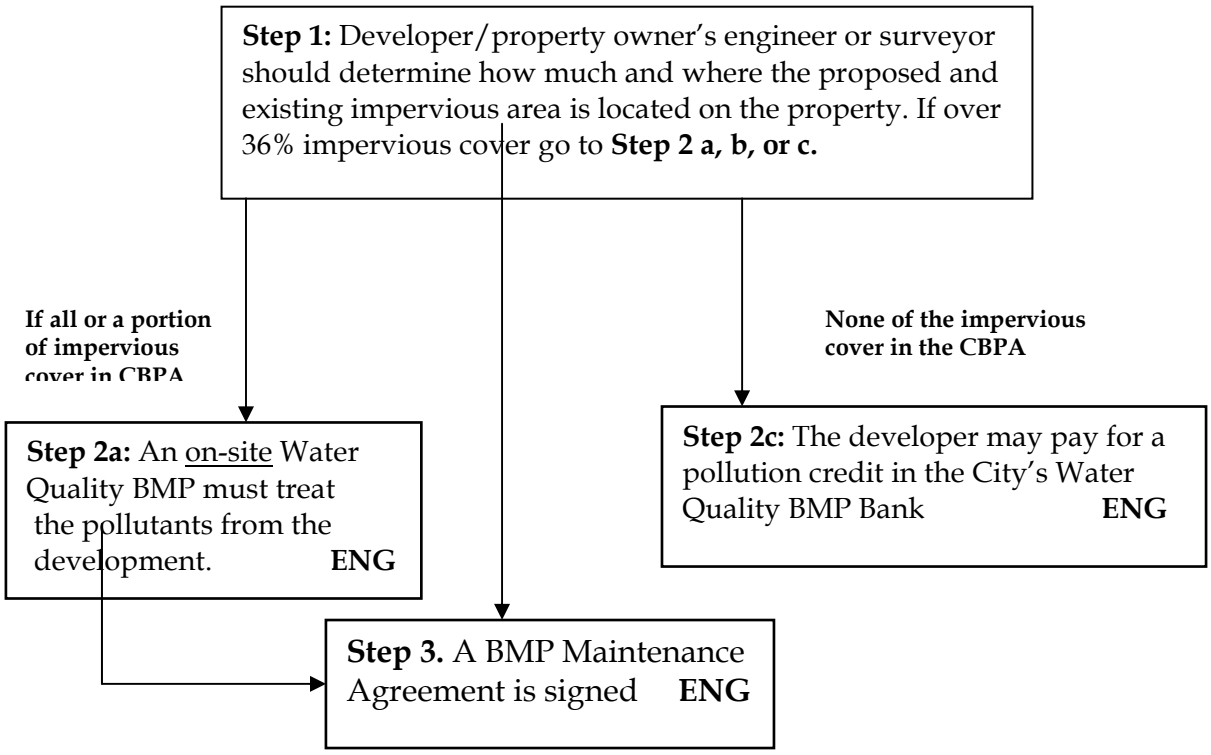
Appeals Process

If the Chesapeake Bay Preservation Area review process for all but Exceptions that go before the Board of Zoning Appeals, results in the denial of a final plan or one of its components, an appeal may be made to the City Manager. The appeal has to be a written letter and submitted within 10 working days of the date of denial. The City Manager may grant relief if all applicable ordinances are followed and techniques are employed to ensure water quality.

If the City Manager denies the appeal for relief, an appeal can then be filed with the Circuit Court of Newport News within 60 days of the City Manager's denial. If the appellant can prove to the Circuit Court that the denial has no rational basis then relief may be granted, otherwise the City Manager's decision will be upheld.

If the Board of Zoning Appeals denies an Exception it is appealed to the Circuit court.

Figure 8: Determination of On-site Water Quality BMPs in the CBPA for Multiple-Family, Commercial, Industrial site development and Subdivisions



ENG - Department of Engineering

Enforcement

Violations of the ordinance can be enforced through either the criminal or civil court process. A successful criminal penalty case would result in a misdemeanor creating a criminal record for the property owner and fines of $1,000.00 per each day of continued offense. A successful civil penalty case could award up to $5,000.00 in fines for each day of continuous violation.

At the request of the violator, the City can order the property owner to pay a one-time charge not to exceed $10,000.00 for each violation to be paid into the City Treasury.

The City hopes that processing violations through the courts will not be necessary and that property owners who are cited will replace the vegetation that was removed per the Buffer Restoration and Replacement guidance found in Appendix H.

Resource List

Department of Conservation and Recreation
Web site: http://www.dcr.state.va.us

Chesapeake Bay Local Assistance Division

Publications

A Guide to the Bay Act

- Brochure Working Together to Protect Streams, Rivers and the Bay
- Better Site Design
- Brochure "Got Buffer"

Technical Regulatory Guidance

Determination of Water Bodies with Perennial Flow
Riparian Buffers Modification and Mitigation Manual

Soil and Water Conservation Stormwater Management

Publication

Stormwater Management Handbook
Water Quality Calculation Procedure Chapter 5 and Appendix 5D

Alliance for the Chesapeake Bay
Website: http://www.acb-online.org

Publications

- Bayscape Information