

# **A SUMMARY OF THE CHESAPEAKE BAY PRESERVATION AREA**

Prepared for Nansemond River Preservation Alliance

DISCLAIMER: This document is a review and brief summary of the Chesapeake Bay Preservation Act, Virginia Code § 62.1-44.15; *67 et seq* and a portion of the Unified Development Ordinance (UDO) of the Suffolk City Code § 31-415. Questions regarding interpretation and applicability of the requirements of the CBPA and UDO should be referred to the Director of Planning for the City of Suffolk.

CHESAPEAKE BAY PRESERVATION ACT (CBPA) and UNIFIED DEVELOPMENT ORDINANCE (UDO): The Chesapeake Bay Preservation Act (CBPA) was enacted by the Virginia General Assembly in 1988 in order to protect, preserve and improve the waters of the Chesapeake Bay and its tributaries. The CBPA required localities, such as the City of Suffolk, to enact ordinances to implement and enforce the requirements of the CBPA. In 1990 the City of Suffolk enacted the Unified Development Ordinance (UDO) which contained therein the Chesapeake Bay Preservation Area Overlay District. Within the City of Suffolk that overlay district encompasses most of the land in the northern half of the city, roughly land north of Route 58. The primary purpose of the CBPA and overlay district is to improve water quality by reducing storm

water runoff and other nonpoint source pollution. Nonpoint source pollution includes, but is not limited to sediments generated from construction, agriculture and land disturbance activity as well as nutrients such as nitrogen and phosphorus from fertilizers, pesticides and waste petroleum products.

CHESAPEAKE BAY PRESERVATION AREAS (Overlay District): Within the City of Suffolk the Chesapeake Bay Preservation Areas consist of three components; (1) Resource Protection Areas (RPAs), (2) Resource Management Areas (RMAs), and (3) Intensely Developed Areas (IDAs). Those components are areas shown on the attached cross section sketch.

RESOURCE PROTECTION AREA (RPA): Consists of lands adjacent to water bodies with perennial (recurring annual) flow. These could consist of ravines and even drainage ditches as well as small streams. RPAs may consist of (a) tidal wetlands, (b) non-tidal wetlands, connected by surface flow, (c) tidal shores, (d) drinking water reservoirs, and (e) the vegetated buffer area not less than 100 feet in width located adjacent and landward of the components (a) through (d) above. This so-called 100' buffer is one of the most important aspects of the Chesapeake Preservation Act, and possibly one of the most controversial. The 100' buffer adjacent to shorelines is effective in reducing nonpoint source pollution, and acts as an effective filter. The RPA buffer also reduces shoreline erosion, provides habitat for wildlife and moderates water temperatures.

RPA areas in the City of Suffolk includes land adjacent to the following water bodies and their tributaries:

James River	Cahoon Creek	Lake Kilby
Nansemond River	Burnetts Mill	Lake Cahoon
Hoffler Creek	Cedar Creek	Lake Prince
Streeter Creek	Campbell Creek	Lake Burnt Mills
Knotts Creek	Chuckatuk Creek	Cedar Lake
Bennett Creek	Quaker Neck Creek	Lone Star Lakes
West Creek	Speights Run	Western Branch
Shingle Creek	Lake Meade	Reservoir

RESOURCE MANAGEMENT AREAS (RMAs): Are adjacent to RPAs and include such areas as flood plains, highly erodible soils, steep slopes, non-tidal wetlands. Within the City of Suffolk the RMA includes all land outside the RPA that is within the Chesapeake Bay Watershed, being roughly the northern half of the city north of Route 58.

INTENSLY DEVELOPED AREAS (IDAs): IDAs are made up of existing high density residential, commercial and industrial developments where little of the natural environment remains. In general the natural state of the area has been severely altered, it has more than 50% impervious cover, and public sewer and water is generally provided. In IDAs the goal is to reduce the nonpoint source pollution when properties are re-developed and to explore opportunities to re-establish the 100' RPA buffer where possible.

CONSTRUCTION WITHIN THE RPA: Virtually all new development and construction must be located outside (landward of) the 100' RPA buffer. Certain water dependent construction such as marinas, piers and shoreline erosion control structures may be allowed within the RPA with approval from the Suffolk Planning Department. Piers and other such encroachments into tidal tributaries may be subject to obtaining a Joint Permit Application reviewed by VMRC, the Army Corps of Engineers and the City of Suffolk Wetlands Board, together with a building permit. Such construction into reservoirs within the City of Suffolk may be allowed only by obtaining permission from the locality which owns the reservoir (i.e. Norfolk, Portsmouth, Suffolk). In order to add and addition to an existing structure that encroaches into the RPA an Encroachment Application must be submitted to the Planning Department for approval. This would similarly apply to accessory structures within the RPA, such as, garages, sheds, swimming pools, gazebos and patios which may be allowed only with a written Exception Application submitted to the Planning Department.

CONSTRUCTION ON LAND SUBDIVIDED PRIOR TO CHESAPEAKE BAY PRESERVATION ACT: For property subdivided prior to September, 1990 (effective date of the UDO), the property owner may obtain administrative relief to develop on "pre-recorded" lots of record by submitting an Encroachment Application. The Planning Department only approves applications requesting the minimal necessary encroachment to achieve a reasonable buildable area, and in no event will an encroachment be extended into the seaward 50' portion of the buffer area.

VEGETATION WITHIN THE RPA: Disturbance of any vegetation within the RPA may be allowed only by application to the Suffolk Planning Department. With approval from the Planning Department, trees may be pruned or moved only as necessary to provide reasonable sight lines. Dead or diseased vegetation may be removed. Any vegetation removed within the RPA must be replaced with other vegetation that is equally effective in preventing erosion, again subject to approval by Suffolk Planning Department. With approval invasive species may be removed within the RPA, but must be replanted with vegetation that is native or non-invasive.

If applications to the Suffolk Planning Department are declined an appeal may be noted within thirty (30) days to the Suffolk City Council. Once again, we emphasize that questions regarding the Chesapeake Bay Preservation Act, the Uniform Development Ordinance and the 100' buffer should be referred to the Suffolk Planning Department for definitive action and approval.