

Overview - The Chesapeake Bay Preservation Act

Daniel Moore

Principal Environmental Planner
Office of Local Government Programs

City of Fairfax

Environmental Sustainability Committee
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Topics

- ✓ Background on the Bay Act
- ✓ Regulatory Requirements
- ✓ Local Program Requirements
- ✓ Compliance Reviews
- ✓ DEQ Bay Act Liaison Functions



How the Bay Act started.....

- **Result of Virginia's Commitment to the Original Chesapeake Bay Agreement**
- **1986-87: Chesapeake Bay Land Use Roundtable formed**
 - ✓ Composed of legislators, farmers, developers, local government officials, the conservation community and citizens
 - ✓ Charge: to evaluate and recommend actions needed to reduce the impact of nonpoint source pollution on the water quality of the Bay and its tributaries
 - ✓ Findings: need to address non-point source loadings from land use
 - ✓ Consensus Recommendation: new legislation to address land use and non-point source pollution and an independent agency (Chesapeake Bay Local Assistance Department) to implement that legislation

Chesapeake Bay Preservation Act: Authorities & Intent

Statutory Authority:

1988 - Chesapeake Bay Preservation Act adopted
Code of Virginia Sec. 62.1-44.15:67 through
62.1-44.15:79

Regulatory Authority:

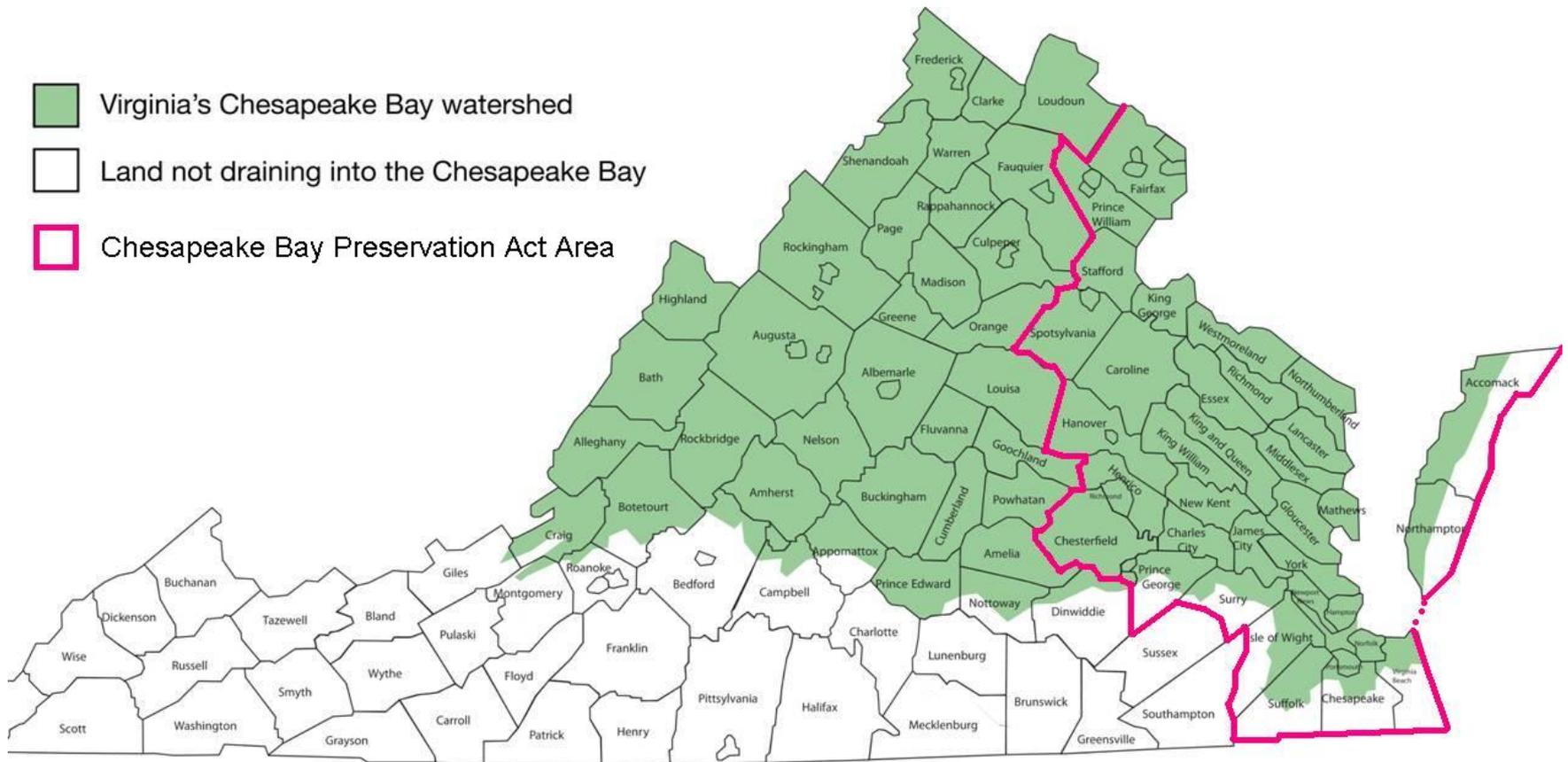
1989 Chesapeake Bay Preservation Area Designation and
Management Regulations; amended in 1991, 2001 and 2014

Focus:

Prevent and reduce NPS pollution with a comprehensive
approach to protecting water quality

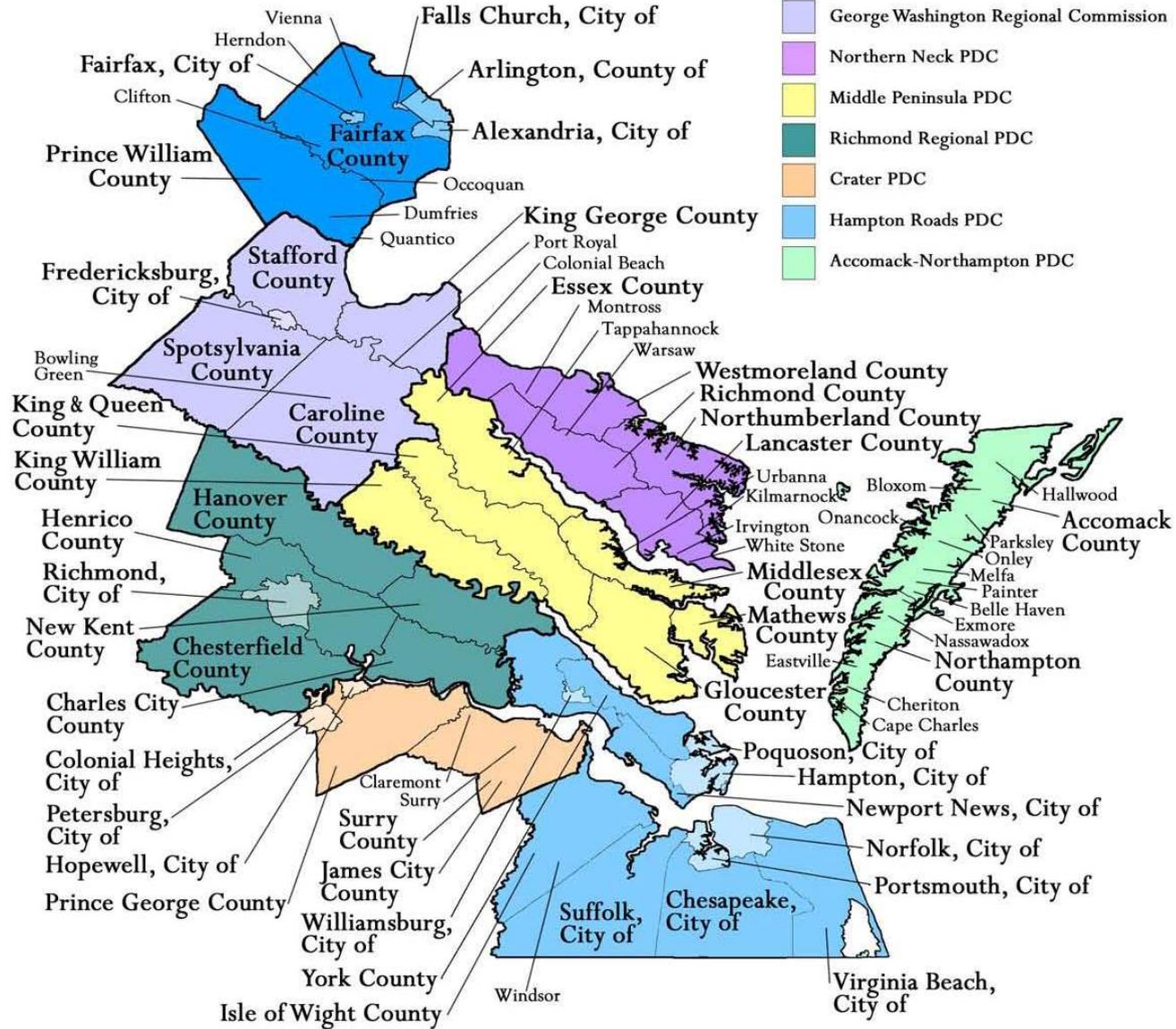
- Revise land development ordinances
- Protect sensitive lands
- Performance standards for development and redevelopment
- Water quality policies in comprehensive plans

Chesapeake Bay Watershed and Bay Act Region



- Northern Virginia Regional Commission
- George Washington Regional Commission
- Northern Neck PDC
- Middle Peninsula PDC
- Richmond Regional PDC
- Crater PDC
- Hampton Roads PDC
- Accomack-Northampton PDC

17 Cities
29 Counties
38 Towns



Diversity of Bay Act Localities



Results of Bay Act Program Implementation

- ✓ Pollutants to local waters and the Bay has been minimized through local Bay Act programs, despite population growth and development in Tidewater
- ✓ Prior to the Bay Act, many localities did not have zoning ordinances and insufficient plan of development review processes
- ✓ Localities have effectively incorporated the Bay Act requirements into zoning, subdivision and other local land use ordinances and plan review requirements
- ✓ Comprehensive plans now have specific water quality protection policies and measures to implement those policies

Required Elements of Local Bay Act Programs

1. Chesapeake Bay Preservation Area map
2. Local ordinance provisions containing 10 performance criteria for the use, development and redevelopment of land
3. Comprehensive Plan elements incorporating water quality protection
4. Zoning ordinance containing water quality protection
5. Subdivision ordinance containing water quality protection
6. Adequate Plan of Development Review process

Chesapeake Bay Preservation Areas - RPAs

Resource Protection Areas (RPAs)

- ✓ Tidal Wetlands
- ✓ Non-tidal Wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow
- ✓ Tidal Shores
- ✓ 100' Vegetated Buffer landward of any of these features and water bodies with perennial flow



What is allowed in the RPA?

- ✓ **Exempted uses:** public utilities, railroads, public roads
- ✓ **Permitted uses and activities:** water dependent, redevelopment, private roads or driveways w/conditions
- ✓ **Permitted modifications:** reasonable sight lines, access paths, dead/diseased/dying vegetation removal and shoreline erosion control projects--subject to approval
- ✓ **Approved Encroachments:** relief available from local requirements when specific conditions are met and approval is granted



Shoreline Erosion Control Project



Streambank Restoration Project

Criteria for development in the RPA

- ✓ The 100-foot RPA buffer is never reduced
- ✓ A Water Quality Impact Assessment (WQIA) is required for all proposed RPA land disturbance
- ✓ On-site RPA delineation based on current conditions is required for any proposed development in CBPAs



Benefits of the RPA Buffer

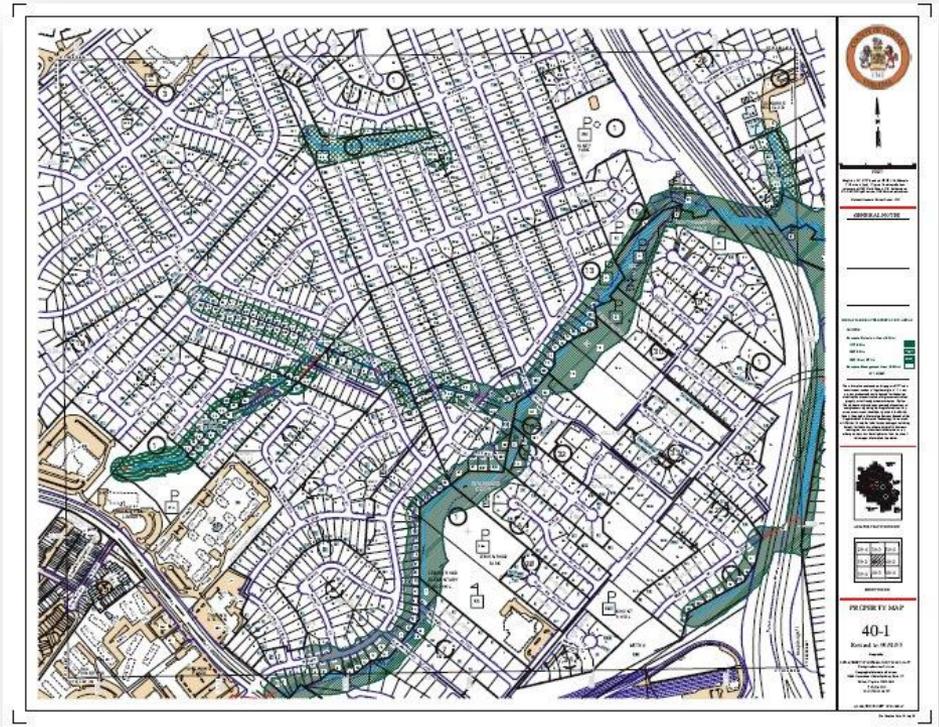
- ✓ Reduces sediment
- ✓ Reduces nutrients
- ✓ Converts pesticides & herbicides to less toxic forms
- ✓ Provides shade for fish and other aquatic organisms



Chesapeake Bay Preservation Areas - RMA

Resource Management Areas (RMAs)

- ✓ Required along the entire edge of the RPA;
- ✓ Highly permeable soils;
- ✓ 100-year floodplains;
- ✓ Highly erodible soils,
- ✓ Nontidal wetlands not included as RPA features
- ✓ 60 localities have jurisdiction wide RMAs

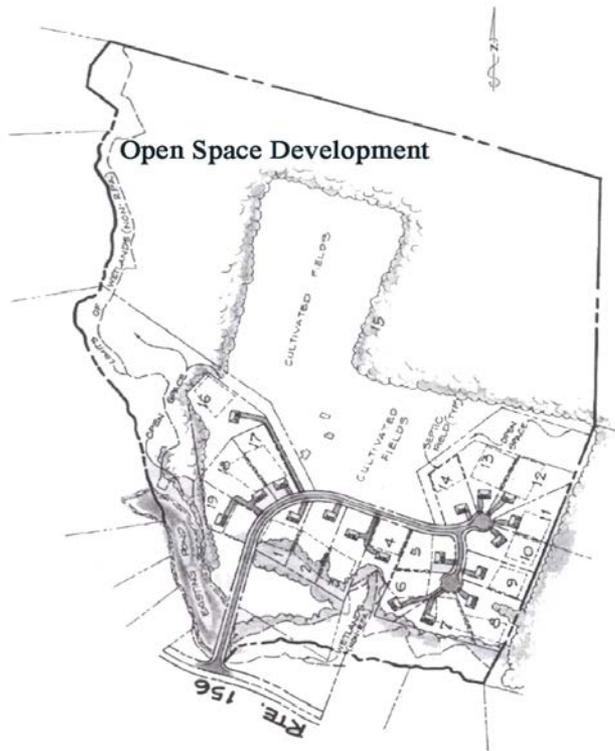


In CBPAs, development must meet 10 performance criteria:

1. Minimize land disturbance
2. Preserve indigenous vegetation
3. Requires Plan of Development review process
4. Minimize impervious cover
5. E&S for development >2,500 sq. ft.
6. Chesapeake Bay Preservation Act land-disturbing activity shall comply with stormwater regulations (>2,500 sq. ft. < 1 acre)
7. Septic pump-out and reserve drain field
8. Agricultural conservation assessments
9. Silviculture exemption
10. Wetlands permits



Land Development Requirements...



Better Site Design techniques – minimize impervious cover



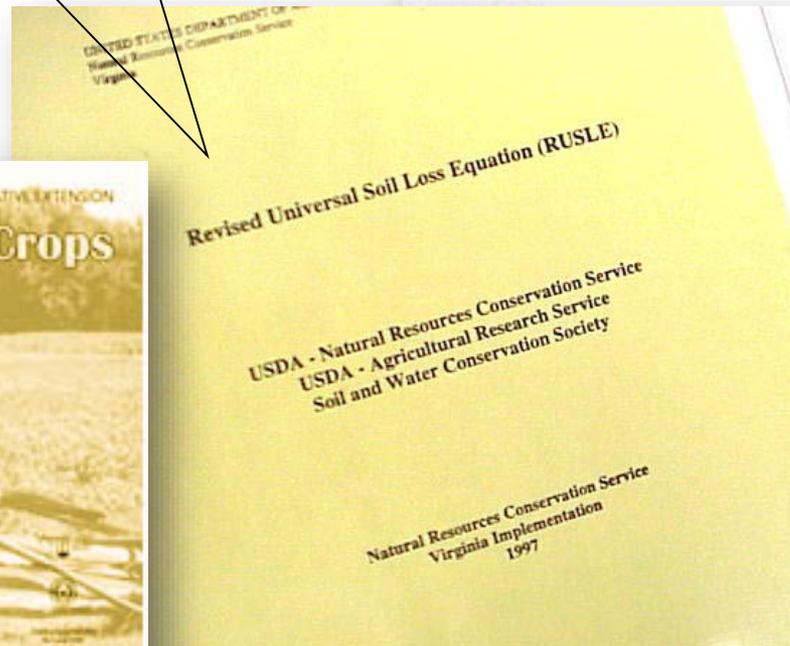
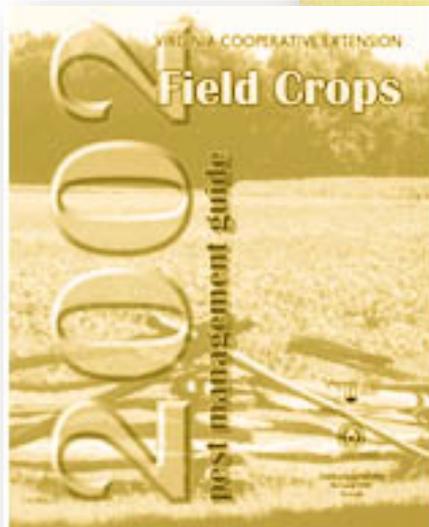
Requirements of Farmers...

Soil & Water Quality
Conservation Assessment
and/or Conservation Plan

Virginia Nutrient Management Standards and Criteria

Revised November 1995

Department of Conservation and Recreation
Division of Soil and Water Conservation
203 Governor Street, Suite 206
Richmond, VA 23219-2094
Phone (804) 786-2064

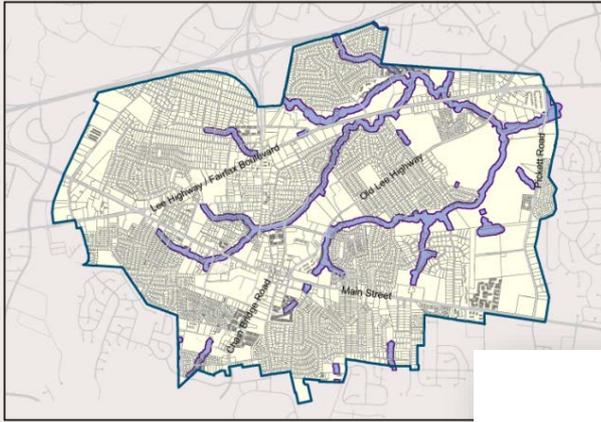


Septic pump out...



Phases of a Local Bay Act Program

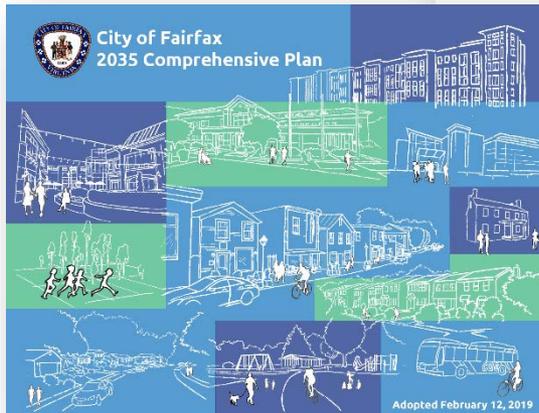
Chesapeake Bay Resource Protection Area
City of Fairfax, VA



SUBDIVISION ORDINANCE

CITY OF FAIRFAX,
VIRGINIA

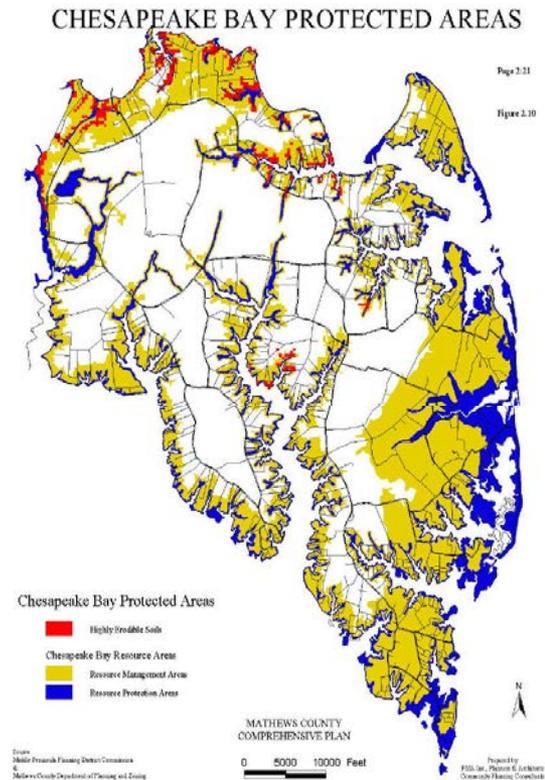
ADOPTED 7/12/2016
EFFECTIVE 10/1/2016
AMENDED THROUGH 12/19/2017



- ✓ **Phase I:** Mapping of Chesapeake Bay Preservation Areas, adoption of management program & local ordinance provisions including 10 performance criteria
- ✓ **Phase II:** Adoption of Comprehensive Plan criteria
- ✓ **Phase III:** Review and revision of local codes for inclusion of specific standards that implement water quality performance criteria

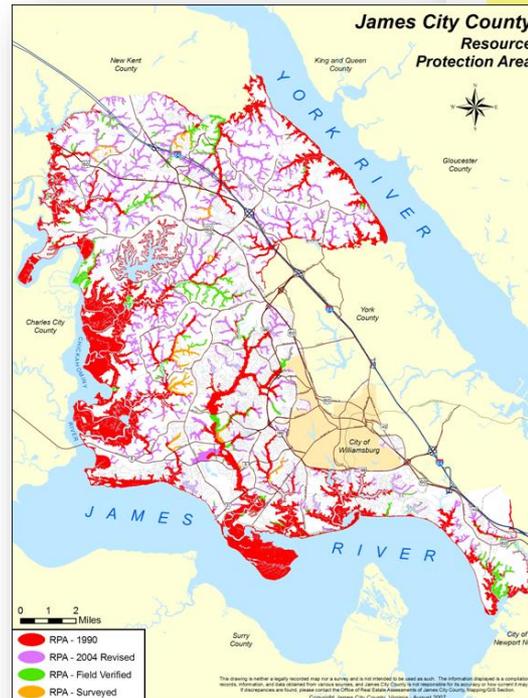
Phase I – Mapping and Ordinance Adoption

- Designate and map Chesapeake Bay Preservation Areas (CBPAs)
- Implement land use, development and redevelopment performance criteria within CBPAs

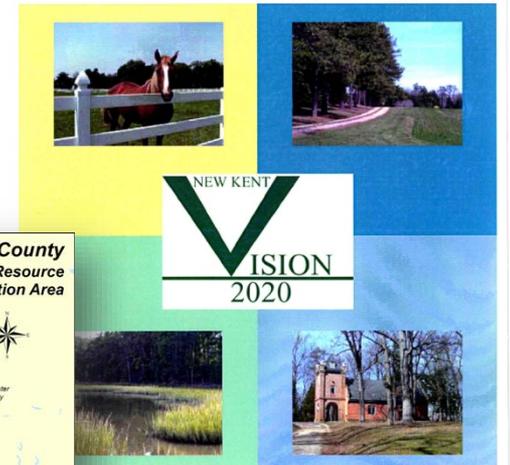


Phase II - Comprehensive Plan Criteria

- ✓ Summary of data (partial list)
 - Chesapeake Bay Preservation Areas
 - Existing & proposed land uses
 - Existing & potential sources of pollution
 - Shoreline and stream bank erosion problems
- ✓ Analysis and policy discussions
- ✓ Land use plan map
- ✓ Implementing measures and time frame for their accomplishment



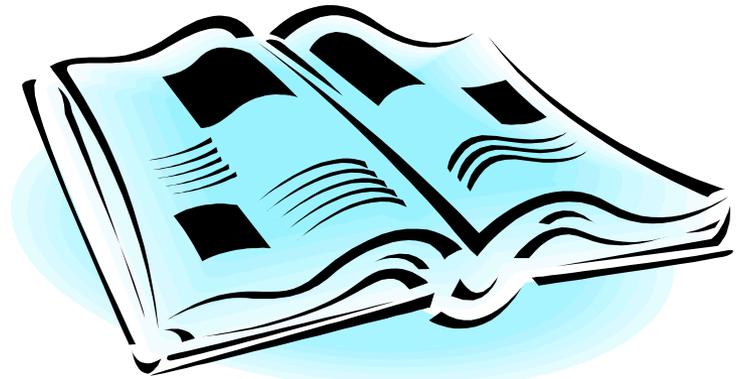
NEW KENT COUNTY VIRGINIA COMPREHENSIVE PLAN



Phase III – Land Use Code Review & Revision

Local ordinances must:

- ✓ Include specific development standards to address the three general performance criteria
- ✓ Include six provisions applicable to approved plats and plans
- ✓ Identify and resolve obstacles and conflicts to achieving the “water quality goals of the Act” within local programs and ordinances



Specific Development Ordinances

Local land development ordinances must contain “specific development standards” that implement the three general performance criteria. (9VAC 25-830-130 1, 2 & 4)

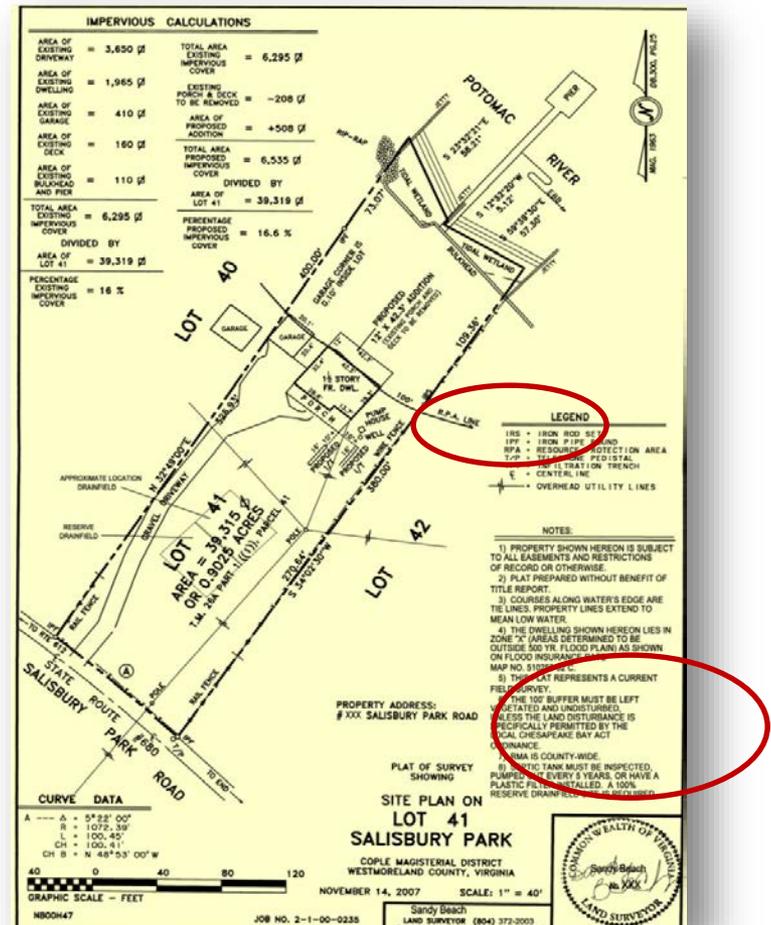


Minimize Land Disturbance
Preserve Indigenous Vegetation
Minimize Impervious Cover

Required Provisions for Site Plans and Plats

Local ordinances must require approved plats and plans to include:

1. depiction of RPA & RMA boundaries
2. notation for the requirement to retain an undisturbed and vegetated 100' buffer
3. notation regarding the requirement for on-site septic system 5 year pump-out
4. notation regarding the requirement for a 100% reserve drain field
5. notation that development in the RPA is limited to water dependent facilities or redevelopment
6. delineation of the buildable areas on each lot



The Phase III Review



- ✓ Advisory Reviews of Local Ordinances. Review local ordinances using the ***Checklist for Advisory Review of Local Ordinances*** and the ***Plan and Plat Consistency Review Checklist***.
 - Localities encouraged to adopt ordinance amendments as needed to implement the three general performance criteria.
 - Liaisons will provide assistance by providing example ordinance provisions as needed.
- ✓ Compliance Evaluations. Compliance evaluations of local Bay Act programs will include an enhanced review of performance criteria implementation to gauge adequacy of ordinance standards.

Bay Act Program Compliance Reviews

- ✓ Required on 5 year basis
- ✓ Use checklists and forms to ensure consistency
- ✓ Conduct several meetings with local staff to collect information; review plans and files, perform site visits
- ✓ Prepare summary report outlining findings and recommendations for compliance
- ✓ Follow-up with local government to ensure that compliance conditions are addressed

Compliance Reviews Components

- ✓ Local CBPA designation or ordinance changes
- ✓ Local comprehensive plan changes
- ✓ Local implementation of performance criteria, including Phase III provisions that were found during Advisory Review
- ✓ Review of sample plans and files to ensure:
 - ✓ RPAs are protected and development within them is approved consistent with Regulations
 - ✓ performance criteria, including required plan and plat notations, are implemented
 - ✓ approved plans are carried out during construction

Bay Act Staff Core Functions

- ✓ Program Oversight - Compliance Reviews
- ✓ Technical Assistance & Training
- ✓ Environmental Reviews
- ✓ Plan Reviews
- ✓ Grants
- ✓ Program Development
- ✓ Policy and Guidance Development



Technical Assistance to Localities

- ✓ Site plan reviews (and site visits, as needed)
- ✓ Advice on difficult program issues (exceptions, waivers, violations and enforcement)
- ✓ Program development/revision (septic pump-out programs, database design, mapping, forms, etc.)
- ✓ Perennial flow determinations
- ✓ Wetlands training



Questions?

