

# Chesapeake Bay Preservation Act

## Richmond City Planning Commission Exceptions Training

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# Topics for Today

- 
- The Bay Act and water quality
  - Local program requirements
  - Waivers and Exceptions
  - Measurable progress!

# Chesapeake Bay Preservation Act

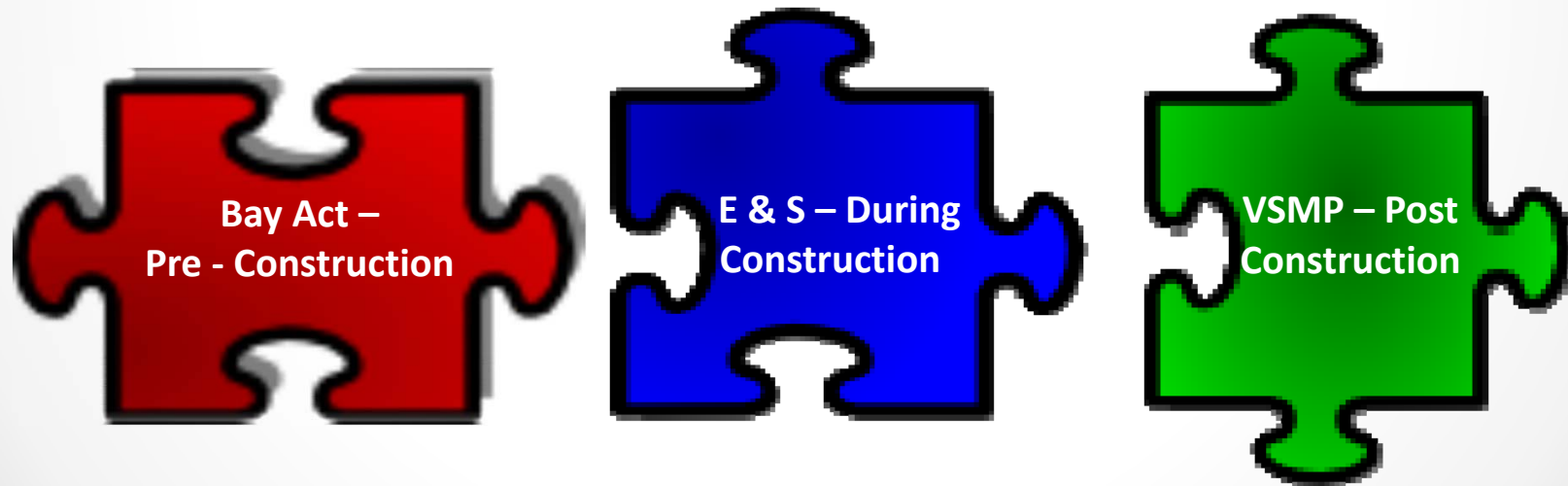
“Balanced economic development and water quality protection are not mutually exclusive.”

- Comprehensive, enforceable nonpoint source program
- Purpose is to protect City and state waters from any further increase in nonpoint source pollution
- Cost effective, locally implemented approach
- Financial and technical assistance *mandated*
- Integrated with other environmental programs



# Integrated DEQ Programs

- Water quality protection begins with **project planning, design, and approval.**
- Continues with the **control of erosion and sediment** during construction.
- Is ongoing throughout the life of the development as **stormwater runoff is managed.**



*Together,* the three programs protect water quality

# Before Development

## Nonpoint source pollution

- Sediment
- Nutrients
- Toxic substances
- Pathogens

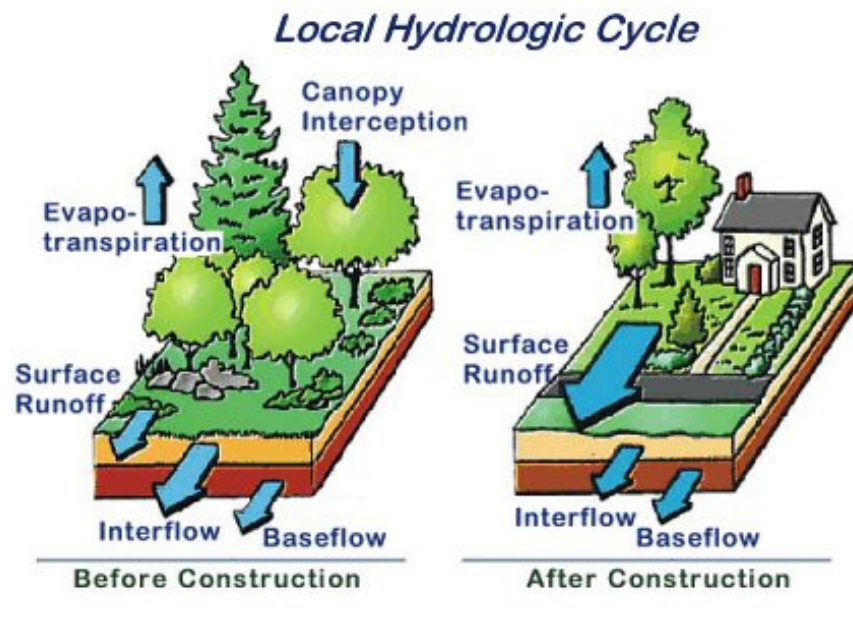


## Prior to development

- Rainfall is stored in the tree canopy, taken up by the roots of vegetation, and infiltrates into the soil
- Filtering nonpoint source pollutants out of storm water runoff before it reaches local waters



# After Development



- Impervious surfaces replace indigenous vegetation
- The capacity and ability of soils to absorb rainfall decreases
- The volume and velocity of stormwater runoff increases
- Less water infiltration = **MORE** nonpoint source pollution

# How does the Bay Act help?

- Identify and map Chesapeake Bay Preservation Areas (CBPAs)

- ✓ Resource Protection Areas (RPAs)
- ✓ Resource Management Areas (RMAs)
- ✓ Intensely Developed Areas (IDAs)



- Incorporate performance criteria – water quality protection measures – into plans, ordinances, and policies

- ✓ Comprehensive Plan
- ✓ Zoning Ordinance
- ✓ Subdivision Ordinance
- ✓ Plan of development review process



# Chesapeake Bay Preservation Areas

- **Resource Protection Areas**
  - ✓ Tidal wetlands and shores
  - ✓ Nontidal wetlands connected and contiguous to water bodies with perennial flow
  - ✓ 100' vegetated buffer
- **Resource Management Areas**
  - ✓ Adjacent to the RPA
  - ✓ Highly permeable soils
  - ✓ Highly erodible soils
  - ✓ 100-year floodplains
  - ✓ Nontidal wetlands not included as RPA
- **Intensely Developed Areas**
  - ✓ Serve as redevelopment areas
  - ✓ Designated according to conditions when program initially adopted
  - ✓ Typically include areas where development is concentrated and little of the natural environment remains






# General Performance Criteria

Applied to all land development within CBPAs

- Minimize land disturbance
- Preserve indigenous vegetation
- Minimize impervious surfaces
- E&S and stormwater requirements apply >2,500 SF
- **Plan of development** review process required >2,500 SF
- **Septic system** requirements
  - ✓ Pump out or inspection every 5 years
  - ✓ Reserve sewage disposal sites
- **Agricultural** and **Silvicultural** requirements



# RPA Development Criteria

- 
- Conduct a **site-specific determination** of the RPA based on current site conditions
  - Submit a **WQIA, including mitigation**, for land disturbance
  - Comply with the **general performance criteria**
  - The 100-foot RPA **buffer is never reduced** in width

# 100-foot RPA Buffer Functions



- Retards runoff
- Prevents erosion
- Filters nonpoint source pollution
- Protects RPA features - tidal shores, tidal wetlands, perennial water bodies, and connected non-tidal wetlands

# Activities in the RPA are Limited

- Certain “by-right” uses
- Exempted uses
- Permitted buffer modifications
- Approved encroachments
- Projects permitted through the exceptions process



# Permitted Uses

- New or expanded water dependent uses
- Redevelopment
- Roads and drives
- Flood control and SWM facilities



# Exempted Uses

- Public roads
- Public utilities
- Railroads
- Flood control and SWM facilities
- Water wells
- Passive recreation facilities - boardwalks and access paths
- Historic preservation and archaeological activities



# Buffer Modifications

(no structures)



- Sight lines and vistas
- Access paths
- General woodlot management
- Shoreline erosion control projects

# Buffer Encroachments

(structures)

## ■ Administrative Waivers:

- ✓ New development of a principal structure and utilities on pre-Bay Act lots (recorded before 10/1/89\*) provided:
  - Minimum necessary to achieve reasonable buildable area
  - Mitigation consists of vegetated area equal to encroachment
  - Encroachment is not allowed within the seaward 50' of the buffer
- ✓ Expansion of non-conforming structures contingent upon meeting required findings
- ✓ Administrative approval by City staff, no public hearing requirement

\* Lots recorded after October 1, 1989 are required to include sufficient buildable area outside RPA.



# Buffer Encroachments

(structures)

- **Formal Exceptions:**

- ✓ Relief from performance criteria for
  - Accessory structures & uses: detached decks or garages, pools, gazebos, patios, sheds, etc.
  - Encroachment into the seaward 50' of the buffer
- ✓ May be granted by the City Planning Commission
- ✓ Must meet the required findings and reasonable conditions, including mitigation
- ✓ Requires public notice and public hearing
- ✓ Issuance of Virginia Water Protection (VWP) or Virginia Marine Resource Commission (VMRC) permits do not obligate the CPC to approve encroachments into the RPA

# Required Findings

- **Findings must be made** for any exception to RPA development criteria:
  - ✓ Exception is the **minimum necessary** to afford relief
  - ✓ Exception **will not confer upon the applicant any special privileges** that are denied to other property owners who are similarly situated
  - ✓ Exception is **in harmony with the purpose and intent** of the Regulation and not a detriment to water quality
  - ✓ Exception is not based on **self-created or self-imposed** conditions or circumstances
  - ✓ **Reasonable and appropriate conditions** are imposed that will prevent the activity from degrading water quality

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# Waiver & Exception Considerations

- Is there sufficient buildable area outside of the RPA?
- Can the house be placed further away from the shoreline?
- Can required setbacks be reduced in order to minimize encroachment into the RPA?
- Can an adequate amount of vegetation be planted to replace what is lost and mitigate for increased stormwater runoff?
- Can a proposed expansion be placed over existing impervious surface?



# The Bottom Line

- Development within the RPA **impacts water quality**
- Required to meet a **higher development standard**
- Documentation that demonstrates the **five findings are met**
- All land disturbance within the RPA requires submission of a **WQIA** with proposed **mitigation**
- **One exception per property**



# Significant Economic Value

“Protection and/or restoration of riparian zones are proven effective strategies affecting health-oriented, aesthetic, and recreational community values through enhanced watershed health.”

- **Improved quality of life**

- ✓ Protection of water supplies
- ✓ Abundant and diverse wildlife, healthy fish stocks
- ✓ Scenic views and vistas
- ✓ Aesthetic enhancement of communities

- **Protection of property values**

- ✓ Flood and shoreline erosion mitigation
- ✓ Price premium for residential areas

- **Tourism and recreational revenue**

- ✓ Opportunities for recreation
- ✓ Related tax revenue becomes locality revenue stream

- **Protection is more cost effective and efficient than clean up**

- ✓ Citizens willing to pay for watershed restoration and protection



# Measurable Progress

- > **2,995,916** acres of land designated as CBPAs (RPA & RMA)
- > **474,000** acres of Resource Protection Areas preserved
- > **10,000** miles of stream banks protected
- > **580** agricultural assessments conducted on farm lands
- > **23,030** septic systems pumped
- ~**11,515** lbs of nitrogen reduced

# Questions & Discussion



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