

Onancock, VA Bay Act Locality Report

Onancock, Virginia is subject to the [Chesapeake Bay Preservation Act](#) (Bay Act) and must have specific program elements as established under the Bay Act and the accompanying Chesapeake Bay Preservation Area Designation and Management Regulations. The Regulations provide the required elements and criteria that local governments must adopt and implement in administering their Bay Act programs. The purpose of the Bay Act program is to protect and improve water quality in local waters and the Chesapeake Bay by requiring the implementation of effective land use and development management practices.

Local Bay Act programs must include:

1. A map generally depicting Chesapeake Bay Preservation Areas (CBPAs).
2. Performance criteria applying in CBPAs that pertain to the use, development and redevelopment of land.
3. A comprehensive plan that incorporates the protection of CBPAs and quality of state waters in the locality.
4. Zoning or other ordinance that incorporates measures to protect the quality of state waters within CBPAs and requires compliance with the performance criteria.
5. A subdivision ordinance that incorporates measures to protect the quality of state waters in CBPAs and assures that all subdivisions in CBPAs comply with the performance criteria.
6. A plan of development process prior to the issuance of a building permit to assure that the use and development of land in CBPAs is accomplished in a manner that protects the quality of state waters.
7. Publishing on its website the elements and criteria adopted to implement their local plan.

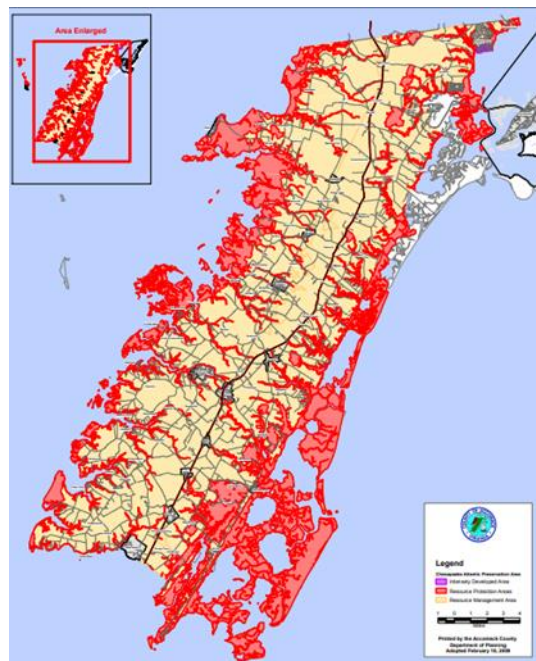
Chesapeake Bay Preservation Areas:

Chesapeake Bay Preservations Areas include Resource Management Areas and Resource Protection Areas. The Resource Protection Area (RPA) includes all tidal wetlands; tidal waters; non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; shorelines; and a one hundred (100) foot vegetated buffer around such features and around all water bodies with perennial flow. The Resource Management Area (RMA) includes those lands contiguous to the inland boundary of the RPA which have a potential for degrading water quality or diminishing the functional value of the RPA, if not properly managed. The RMA within Onancock, Virginia has been designated as the Chesapeake Bay and its tributaries. This constitutes one of the most important and productive estuarine systems in the world providing economic and social benefits to the citizens of the Town of Onancock and the

Commonwealth of Virginia. The health of the Bay is vital to maintaining the Town of Onancock's economy and the welfare of its citizens. The Chesapeake Bay waters have been degraded significantly by many sources of pollution, including nonpoint source pollution from land uses and development. Existing high quality waters are worthy of protection from degradation to guard against further pollution. Certain lands that are proximate to shorelines have intrinsic water quality value due to the ecological and biological processes they perform. Other lands have severe development constraints from flooding, erosion and soil limitations. With proper management, they offer significant ecological benefits by providing water quality maintenance and pollution control, as well as flood and shoreline erosion control. These lands together, designated by the Onancock Town Council as Chesapeake Bay Preservations Areas (hereinafter "CBPAs"), which include Resource Protection Areas (hereinafter "RPAs") and Resource Management Areas (hereinafter "RMAs"), need to be protected from destruction and damage in order to protect the quality of water in the Bay and consequently the quality of life in the Town of Onancock and the Commonwealth of Virginia. Those provisions shall be known and referenced as the "Chesapeake Bay Preservation Area Overlay District" of the Town of Onancock, Virginia and can be found at [Link to Onancock Ordinances](#)

Portions of Resource Protection Areas and Resource Management Areas designated by the Onancock Town Council as Intensely Developed Areas shall serve as redevelopment areas. Areas so designated shall comply with all erosion and sediment control requirements and the performance standards in Sec. 24-67. Additionally Onancock, Virginia has identified an Intensely Developed Area (IDA) which overlies portions of the RPA.

These CBPAs are identified in the Onancock, Virginia's adopted CBPA map which can be found here:



Provisions for Activities in Chesapeake Bay Preservation Areas:

Under the Bay Act framework, Onancock, Virginia is responsible for implementing its Bay Act program. Onancock, Virginia has adopted ordinance provisions that incorporate the performance criteria required by the Bay Act. Those provisions include and can be found as outlined in the ordinance and required by the Bay Act and Regulations, land development and disturbance in a Resource Protection Area is limited.

The Onancock, Virginia requires land disturbances in Resource Protection Areas may be exempted from the Overlay District

- a. water wells
- b. passive recreation facilities such as boardwalks, trails and pathways
- c. historic preservation and archaeological activities that comply with the following conditions
 1. Any required permits, except those to which this exemption specifically applies, shall have been issued.
 2. Sufficient and reasonable proof are submitted that the intended use will not substantially deteriorate water quality.
 3. The intended use does not conflict with nearby planned or approved uses.
 4. Any land disturbances exceeding an area of 2,500 square feet shall comply with all local erosion and sediment control requirements.

Exemptions for Reconstruction Following Casualty Loss.

Reconstruction of structures and other improvements located within Chesapeake Bay Preservation Areas following a casualty loss shall be exempt from the requirements of this article, provided that:

1. The structure or other improvement existed on April 26, 1993.
2. Reconstruction is not otherwise prohibited by an ordinance of the Town of Onancock. The lawful use of a building or structure which existed on April 26, 1993 or which exists at the time of any amendment to this article, and which is not in conformity with the provisions of the Overlay District may be continued in accordance with Chapter 23, Article XIII, Nonconforming Uses, of this Ordinance with the exception that:
 - a. The Zoning Administrator may grant a nonconforming use and development waiver for structures on legal nonconforming lots or parcels to provide for remodeling and alterations to such nonconforming structures, provided that:
 - i. There will be no increase in nonpoint source pollution load.

- ii. Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of this article.
- iii. An application for the expansion of a nonconforming principal structure within a Resource Protection Area may be approved by the Zoning Administrator provided that the following findings are made:
 - a. The request for the waiver is the minimum necessary to afford relief.
 - b. Granting the waiver will not confer upon the applicant any specific privileges that are denied by this Article to other property owners in similar situation.
 - c. The waiver is in harmony with the purpose and intent of this Article and does not result in water quality degradation.
 - d. The waiver is not based on conditions or circumstances that are self-created or self imposed.
 - e. In no case shall this provision apply to accessory structures.
 - f. An application for a nonconforming use and development waiver shall be made to and upon forms furnished by the Zoning Administrator and shall include for the purpose of proper enforcement of this article, the following information:
 - i. Name & address of applicant and property owner.
 - ii. Legal description of the property and type of proposed use and development.
 - iii. A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot

lines and boundary of the Resource Protection Area.

- iv. Location and description of any existing private water supply or sewage system.

A non-conforming use and development waiver shall become null and void twelve (12) months from the date issued if no substantial work has commenced. Sec. 24-74. Exceptions are

- a. A request for an exception to the requirements of Sections 24-65 and 24-66.
- b. This Overlay District shall be made in writing to the Planning Commission. It shall identify the impacts of the proposed exception on water quality and on lands within the RPA through the performance of a water quality impact assessment, which complies with the provisions of Sec. 24-68 if required by the Zoning Administrator. The Town of Onancock shall notify the affected public of any such exception requests and shall consider these requests in a public hearing in accordance with § 15.2- 2204 of the Code of Virginia, except that only one hearing shall be required.
- c. The Planning Commission shall review the request for an exception and the water quality impact assessment, if required, and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this article if the Planning Commission finds:
 - i. Granting the exception will not confer upon the applicant any special privileges that are denied by this article to other property owners in the Overlay District.
 - ii. The exception request is not based upon conditions or circumstances that are self-created or self-imposed.
 - iii. The exception request is the minimum necessary to afford relief. 61
 - iv. The exception request will be in harmony with the purpose and intent of the Overlay District, and not injurious to the neighborhood or otherwise detrimental to the public welfare and is not of substantial detriment to water quality.
 - v. Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

If the Planning Commission cannot make the required findings or refuses to grant the exception, the Zoning Administrator shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision

to the applicant, with a copy to the Board of Zoning Appeals. The applicant may then apply to the Board of Zoning Appeals for a variance as provided in Article XVI, Provisions for Appeal.

The Board of Zoning Appeals shall consider the water quality impact assessment, if required, and the findings and rationale of the Planning Commission in determining consistency with the purpose and intent of this Article.

A request for an exception to the requirements of this Article other than Sections 24-66 and 24-67.c shall be made in writing to the Zoning Administrator. The Zoning Administrator may grant these exceptions provided that:

- i. Exceptions to the requirements are the minimum necessary to afford relief; and
- ii. Reasonable and appropriate conditions are placed upon any exception that is granted, as necessary, so that the purpose and intent of this Article is preserved.
- iii. Exceptions to Section 24-66 may be made provided that the findings noted in Section 24-70.c are made.

Those provisions shall be known and referenced as the “Chesapeake Bay Preservation Area Overlay District” of the Town of Onancock, Virginia and can be found at [Link to Ordinances](#)

As outlined in the ordinance and required by the Bay Act and Regulations, land development and disturbance in a Resource Protection Area is limited and the Onancock, Virginia requires exemptions in resource protection areas. The following land disturbances in resource protection areas may be exempted from the Overlay District:

1. Water wells
2. Passive recreation facilities, such as boardwalks, trails and pathways;
3. Historic preservation and archaeological activities they comply with the following conditions
 - a. Any required permits, except those to which this exemption specifically applies, shall have been issued.
 - b. Sufficient and reasonable proof are submitted that the intended use will not substantially deteriorate water quality.
 - c. The intended use does not conflict with nearby planned or approved uses.
 - d. Any land disturbances exceeding an area of 2,500 square feet shall comply with all local erosion and sediment control requirements.

Exemptions for reconstruction following casualty loss. Reconstruction of structures and other improvements located within Chesapeake Bay Preservation Areas following a casualty loss shall be exempt from the requirements of this article, provided that

1. The structure or other improvement existed on April 26, 1993.
2. Reconstruction is not otherwise prohibited by an ordinance of the town.

For example as part of a site plan review, any proposed development in the RPA is reviewed to ensure it meets applicable requirements, including a site-specific RPA delineation using a DEQ approved protocol and the submission of a Water Quality Impact Assessment which can be found here: [Link to Onancock, VA Water Quality Impact Assessment](#)

The Onancock, Virginia Bay Act program is implemented within the Accomack County Department of Planning and Zoning Office which should be contacted as early in the project decision-making process as possible, including application for a building permit, to determine what steps may need to be taken for compliance with the local Bay Act program.

More Information:

Additionally, as required by the Bay Act, water quality and protection provisions have been included in Onancock, Virginia's comprehensive plan which can be found here: [Link to Onancock, VA Comprehensive Plan](#)

You can learn more about the Bay Act and [The Virginia Department of Environmental Quality](#) which provides general program oversight and technical assistance to Onancock, Virginia here at [Link to Virginia Department of Environmental Quality](#).

[Link to Accomack County Chesapeake/Atlantic Preservation Area](#)

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