

III-6 Chesapeake Bay Preservation Area Overlay District, CBPA

GENERAL PROVISIONS

III-6.1. Title. This district shall be known and referenced as the “Chesapeake Bay Preservation Overlay District” of the Town of Saxis, Virginia.

III-6.2. Findings of Fact. The Chesapeake Bay and its tributaries constitute one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of the Town of Saxis and the Commonwealth of Virginia. The health of the Bay is vital to maintaining the Town of Saxis’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, designed by the Saxis Town Council, as Chesapeake Bay Preservation 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 Saxis and the Commonwealth of Virginia.

III-6.3. Authority. This Article is enacted under the authority of Section 62.1-44.15:67 *et seq.* (Chesapeake Bay Preservation Act) and Section 15.2-2283 of the Code of Virginia. Section 15.2-2283 states that zoning ordinances may “also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and groundwater as defined in Section 62.1-255.”

III-6.4. Conflict with other Regulations. In any case where the requirements of this Article conflict with any other provisions of the Town of Saxis Code or existing state or federal regulations, whichever imposes the more stringent restrictions shall apply.

III-6.5. Definitions. The words and terms used in the Overlay District have the meanings which are defined in Article II, Definitions, of the Town of Saxis Zoning Ordinance, unless the context clearly indicates otherwise.

III-6.6. Purpose and Intent.

A. This ordinance is enacted to implement the requirements of Section 62.1-44.15:67 *et seq.* of the Code of Virginia (Chesapeake Bay Preservation Act) as part of the Town of Saxis Zoning Ordinance. The intent of the Saxis Town Council and the purpose of the Overlay District is to: (1) protect existing high quality state waters; (2) restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them; (3) safeguard the clean waters of the Commonwealth from pollution; (4) prevent any increase in

pollution; (5) reduce existing pollution; (6) promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the Town of Saxis.

B. This district shall be in addition to and shall overlay all other zoning districts where they are applied so that any parcel of land lying in the Chesapeake Bay Preservation Area Overlay District shall also lie in one or more of the other zoning districts provided for by the Zoning Ordinance. Unless otherwise stated in the Overlay District, the review and approval procedures provided for in the Town of Saxis Zoning Ordinance Article XII, Plan of Development Requirements, the Accomack County Erosion and Sediment Control Ordinance, and the Accomack County Building Code, including all grading permits and building permits, shall be followed in reviewing and approving development, redevelopment, and uses governed by this Article.

### AREAS OF APPLICATION

#### III-6.7. Application of CBPA District.

A. The Chesapeake Bay Preservation Area Overlay District shall apply to all lands identified as CBPAs as designated by the Saxis Town Council and as shown on the Town of Saxis Zoning Map as the Chesapeake Bay Preservation Area Overlay District. The Chesapeake Bay Preservation Area Overlay District is composed of a Resource Protection Area, a Resource Management Area, and an Intensely Developed Area.

(1) Resource Protection Areas include the following land categories, the protection of which is necessary to protect the quality of state waters:

a. Tidal wetlands;

b. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;

c. Tidal shores;

d. A 100-foot vegetated buffer area located adjacent to and landward of the components listed in subsections a. through c. above, and along both sides of any water body with perennial flow.

(2) Resource Management Area are generally composed of the following land categories: floodplains; highly erodible soils, including steep slopes; highly permeable soils; nontidal wetlands not included in the RPA; and hydric soils.

B. The Town of Saxis Zoning Map shows the general location of CBPAs and should be consulted by persons contemplating activities within the Town of Saxis prior to engaging in a regulated activity.

C. Portions of the Resource Protection Areas and Resource Management Areas designated by the Saxis Town Council as Intensely Developed Areas shall serve as redevelopment areas. Areas so designated shall comply with all erosion and sediment control requirements in Section III-6.12.B(4) and the storm water management requirements in Section III-6.7.B(7).

### III-6.8. Interpretation of Resource Protection Area Boundaries

#### A. Delineation by the Applicant.

The site-specific boundaries of the Resource Protection Area shall be delineated by the applicant for any land disturbance within the Resource Protection Area. This may be achieved through the performance of an environmental site assessment as required under Section XII-5 or a water quality impact assessment as required under Section III-6.13, subject to approval by the Zoning Administrator.

#### B. Delineation by the Zoning Administrator.

The Zoning Administrator, when requested by an applicant wishing to construct a single-family residence or accessory structure, may waive the requirement for an environmental site assessment but not the water quality impact assessment. The Zoning Administrator may perform the site-specific determination of the Resource Protection Area on behalf of the applicant. The Zoning Administrator may use hydrology, soils, plant species, and other data, and consult other appropriate resources as needed to perform delineation.

#### C. Where Conflict Arises Over Delineation.

When the applicant provides a site-specific delineation of the RPA, the Zoning Administrator will verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the Zoning Administrator may render adjustments to the applicant's boundary delineation, in accordance with Article XII, Plan of Development Requirements, of the Town of Saxis Zoning Ordinance. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of Section XII-4.D, Appeals.

### III-6.9. Use Regulations.

Permitted uses, special permit uses, accessory uses, and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.

### III-6.10. Lot Size.

Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any lot shall have sufficient area outside the RPA to accommodate an intended development, in accordance with the performance standards in Section III-6.12, Performance Standards, when such development is not otherwise allowed in the RPA.

### III-6.11. Required Conditions

A. Development in RPA may be allowed, subject to approval by the Zoning Administrator, only if it meets the following:

(i) is water-dependent; a new or expanded water-dependent facility may be allowed provided that:

1. It does not conflict with the Saxis Town Plan;
2. It complies with the performance criteria set forth in Section III-6.12 of this Article;
3. Any non-water-dependent component is located outside of Resource Protection Areas;
4. Access will be provided with the minimum disturbance necessary. Where possible, a single point of access will be provided.

(ii) constitutes redevelopment;

(iii) constitutes redevelopment or development within a designated Intensely Developed Area (IDA);

(iv) is a new use established pursuant to Section III-6.12(C)(2);

(v) is a road or driveway crossing that meets the following criteria: (1) there is no reasonable alternative to aligning the road or driveway in or across the RPA; (2) the alignment of the road or driveway are optimized, consistent with other applicable requirements, to minimize (i) encroachment in the RPA and (ii) adverse effects on water quality; (3) the design and construction of the road or driveway satisfy all applicable criteria of this article, including submission of a water quality impact assessment; and (4) the review of the plan for the proposed road or driveway in or across the RPA is conducted coordination site plan, subdivision, and plan of development approvals, as applicable; or

(vi) is a flood control or stormwater management facility that drains or treats water from multiple development projects or from a significant portion of a watershed, provided such facilities are allowed and constructed in accordance with the Virginia Stormwater Management Act and its attendant regulations, and provided that: (1) Zoning Administrator has determined that the location of the facility within the RPA is the optimum location; (2) the size of the facility is the minimum necessary to provide necessary flood control or stormwater treatment, or both; (3) all applicable permits for construction in state or federal waters must be obtained from the appropriate state and federal agencies, such as the U.S. Army Corps of Engineers, the Department of Environmental Quality, and the Virginia Marine Resources Commission; (4) approval must be received from the local government prior to construction; and (5) routine maintenance is allowed to be performed on such facilities to assure they function as designed.

B. A water quality impact assessment shall be required for any proposed land disturbance, development, or redevelopment within RPAs and for any development within RMAs when required by the Zoning Administrator because of the unique characteristics of the site or intensity of development, in accordance with the provisions of Section III-6.13, Water Quality Impact Assessment, of this Article.

C. All development and redevelopment exceeding 2500 square feet of land disturbance shall be subject to a plan of development process, in accordance with Article XII, Plan of Development,

of this Zoning Ordinance, including the approval of a site plan in accordance with the provisions of Section XII-4, Site Plan.

D. Redevelopment shall be permitted in the Resource Protection Area only if there is no increase in the amount of impervious cover, no further encroachment within the Resource Protection Area, and the activity conforms with the erosion and sediment control requirements in Section III-6.12(4) and stormwater management requirements in Section III-6.12.(7) of this Article.

### III-6.12. Performance Standards

#### A. Purpose and Intent.

The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential.

The purpose and intent of these requirements are also to implement the following objectives: prevent a net increase in nonpoint source pollution from new development; achieve a 10% reduction in nonpoint source pollution from redevelopment; and achieve a 40% reduction in nonpoint source pollution from agricultural uses.

#### B. General Performance Standards for Development and Redevelopment.

(1) Land disturbance shall be limited to the area necessary to provide for the proposed use or development.

a. In accordance with an approved site plan, the limits of land disturbance, including clearing or grading shall be strictly defined by the construction footprint. These limits shall be clearly shown on submitted plans and physically marked on the development site.

b. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the Zoning Administrator.

(2) Existing vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed and in accordance with the Virginia Erosion and Sediment Control Handbook.

a. Existing trees over six (6) inches diameter at breast height (DBH) shall be preserved outside the construction footprint. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed.

b. Clearing shall be allowed only to provide necessary access, positive site drainage, water quality BMPs, and the installation of utilities, as approved by the Zoning Administrator.

c. Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected 5 feet outside the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

(3) Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the proposed use or development.

a. Pervious material shall be used for any required parking area, alley, or other low traffic driveway, unless otherwise approved by the Zoning Administrator.

b. Parking space size shall be 162 square feet. Parking space width shall be nine (9) feet; parking space length shall be 18 feet. Two-way drives shall be a maximum of 22 feet in width.

(4) Notwithstanding any other provisions of this Article or exceptions or exemptions thereto, any land disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, septic tanks, and drainfields, shall comply with the requirements of the Accomack County Erosion and Sediment Control Ordinance.

(5) All on-site sewage disposal systems not requiring a Virginia Pollutant Discharge Elimination System (VPDES) permit shall be pumped out at least once every five years, in accordance with the provisions of the Accomack County Health Code.

(6) A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided, in accordance with the Accomack County Health Code. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989 if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local Health Department. Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the State Water Control Board, until the structure is served by public sewer.

(7) For any development or redevelopment, stormwater runoff shall be controlled by the use of best management practices consistent with the water quality protection provisions of the Virginia Stormwater Management Regulations (9 VAC 25-870-10 *et seq.*)

(8) Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state, and local laws and regulations shall be obtained and evidence of such submitted to the Zoning Administrator, in accordance with Article XII, Plan of Development Requirements, of this Zoning Ordinance.

(9) Land upon which agricultural activities are being conducted shall have a soil and water quality conservation assessment. Such assessments shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management and management of pesticides, and where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with this Article.

C. Buffer Area Requirements.

To minimize the adverse effects of human activities on the other components of Resource Protection Areas, state waters, and aquatic life, a 100-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist.

The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the RPA, in accordance with Section III-6.7, Application of CBPA District, and Article XII, Plan of Development Requirements, of this Zoning Ordinance.

The 100-foot buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40% reduction of nutrients.

The buffer area shall be maintained to meet the following additional performance standards:

(1) In order to maintain the functional value of the buffer area, existing vegetation may be removed, subject to approval by the Zoning Administrator, only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows:

a. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.

b. Any path shall be constructed and surfaced so as to effectively control erosion.

c. Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu and multiflora rose) may be removed and thinning of trees may be allowed pursuant to sound horticulture practices.

d. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

(2) When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Zoning Administrator may, through an administrative process, permit encroachments into the buffer area in accordance with Article XII, Plan of Development Requirements, of this Zoning Ordinance and the following criteria:

a. Encroachment into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;

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

c. The encroachment may not extend into the seaward 50 feet of the buffer area.

(3) Redevelopment within IDAs may be exempt from the buffer area, in accordance with Section III-6.13, Water Quality Impact Assessment, of this Article.

(4) On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds from invading the buffer area. The agricultural buffer area may be reduced as follows:

a. Agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when at least one agricultural best management practice, which, in the opinion of the local Soil and Water Conservation District board, addresses the more predominant water quality issue on the adjacent land – erosion control or nutrient management – is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil test, must be developed consistent with the “Virginia Nutrient Management Training and Certification Regulations (4 VAC 50-85 *et seq.* administered by the Virginia Department of Conservation and Recreation).

b. Agricultural activities may encroach within the landward 75 feet of the 100-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as “T”, as defined in the “National Soil Survey Handbook” of November 1996 in the “Field Office Technical Guide” of the U. S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil test, must be developed consistent with the “Virginia Nutrient Management Training and Certification Regulations (4 VAC 50-85 *et seq.* administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot wide buffer area.

c. The buffer area is not required to be designated adjacent to agricultural drainage ditches if the adjacent agricultural land has in place at least one best management practices as considered by the local Soil and Water Conservation District to address the more predominant water quality issue on the adjacent land – either erosion control or nutrient management.

(5) When agricultural or silvicultural uses within the buffer area cease, and the lands are proposed to be converted to other uses, the full 100-foot wide buffer area shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions are maintained or established.

### III-6.13. Water Quality Impact Assessment

#### A. Purpose and Intent.



The purpose of the water quality impact assessment is to identify the impacts of proposed development on water quality and lands within Resource Protection Areas and other environmentally sensitive lands; ensure that, where development does take place within Resource Protection Areas and other sensitive lands, it will be located on those portions of a site and in a manner that will be least disruptive to the natural functions of Resource Protection Areas and other sensitive lands; to protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high ground water, erosion, or vulnerability to flood and storm damage; and specify mitigation which will address water quality protection.

#### B. Water Quality Impact Assessment Required

A water quality impact assessment, to be submitted during the plot plan, site plan, and/or subdivision review process is required for:

- (1) Any proposed **land disturbance**, development, or redevelopment within a Resource Protection Area, including any buffer area encroachment as provided for in Section III-6.12.C of this Article.
- (2) Any proposed development or redevelopment within an RMA. The Zoning Administrator may waive this requirement when it is apparent that the unique characteristics of the site (such as the topography, soils, groundcover, location of wetlands and tidal shores) will prevent the proposed development from causing a degradation of water quality.

#### C. Contents of a Water Quality Impact Assessment

The water quality impact assessment shall be of sufficient specificity to demonstrate compliance with this Article. The information required in this section shall be considered a minimum, the Zoning Administrator may determine that additional information is necessary due to the nature and scope of the proposed use and development of land. The impact statement shall be prepared by qualified persons acting within the limits of their professional expertise and license, and shall include the following:

- (1) Location of the components of the RPA, including the one hundred (100) foot RPA buffer **and location of any water body with perennial flow**.
- (2) Location and nature of any proposed encroachments into the RPA buffer area including the type of paving material; areas of clearing or grading; and the location of any structures, driveways, and other impervious cover.
- (3) Type and location of proposed stormwater management facilities and best management practices necessary to comply with performance standards for stormwater management contained in Section III-6.12.B(7).
- (4) Calculation of pre-and post-development pollutant loading in accordance with Section III-6.12.B(7).

(5) Identification and status of any required wetlands permits from federal, state, or local agencies.

(6) An erosion and sediment control plan in accordance with the requirements of the Accomack County Erosion and Sediment Control Ordinance.

(7) A narrative describing the site; the impacts of the proposed development on topography, soils, hydrology, and geology; and the measures taken to mitigate nonpoint source pollution.

#### D. Evaluation Procedure

(1) Upon the completed review of a water quality impact assessment, the Zoning Administrator will determine if the proposed **encroachment into** the buffer area is consistent with the purpose and intent of this Article. The Zoning Administrator will make a finding based on the following criteria in conjunction with Article XII:

- a. The necessity of the proposed encroachment into the buffer area and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;
- b. Within any RPA, the proposed development is water dependent or **constitutes redevelopment**.
- c. The disturbance of wetlands will be minimized;
- d. Impervious surface is minimized;
- e. The development, as proposed, meets the purpose and intent of this Article;
- f. Proposed erosion and sediment control devices are adequate to achieve the reductions in runoff and prevent off-site sedimentation;
- g. Proposed stormwater management facilities and practices are adequate to control the stormwater runoff to achieve the required standard for pollutant control;
- h. The development will not result in unnecessary destruction of plant materials on site;
- i. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.

(2) The Zoning Administrator may request review of the water quality impact assessment by the Virginia Department of Environmental Quality (DEQ). Any comments by DEQ will be considered by the Planning Commission provided that such comments are provided by DEQ within thirty (30) days of the request.

### ADMINISTRATION AND ENFORCEMENT

#### III-6.14. Exemptions

A. Exemptions for Utilities, Railroads, and Public Roads

1. Construction, installation, operation, and maintenance of electric, natural gas, fiber optic and telephone transmission lines, railroads, and lighting, in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (Section 62.1-44.15:51 *et seq.* of the Code of Virginia) and the Stormwater Management Act (Section 62.1-44.15:24 *et seq.* of the Code of Virginia), (ii) an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Environmental Quality, or (iii) local water quality protection criteria at least as stringent as the above state requirements will be exempt from the Overlay District requirements. The exemption of public roads is further conditioned on the following:

a. Optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize (i) encroachment in the Resource Protection Area and (ii) adverse effects on water quality;

b. Public roads as defined in Section II of this Article are exempt from Overlay District requirements.

B. Construction, installation, and maintenance of water, sewer, natural gas and underground telecommunication and cable television lines owned, permitted or both by the Town of Saxis shall be exempt from the Overlay District provided that:

a. To the degree possible, the location of such utilities and facilities shall be outside the RPA;

b. No more land shall be disturbed than is necessary to provide for the proposed utility installation.

c. All construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits designed and conducted in a manner that protects water quality; and

d. Any land disturbance exceeding an area of 2,500 square feet complies with all Accomack County erosion and sediment control requirements.

C. Silvicultural activities are exempt from the requirements of this Article provided that silvicultural operation adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the March 2011 edition of Virginia's Forestry Best Management Practices for Water Quality Technical Manual.

D. Exemptions in Resource Protection Areas.

The following land disturbances in Resource Protection Areas may be exempted from the Overlay District: (i) water wells; (ii) passive recreation facilities such as boardwalks, trails, and pathways; and (iii) historic preservation and archaeological activities, provided that it is demonstrated to the satisfaction of the Zoning Administrator that:

- (1) Any required permits, except those to which this exemption specifically applies, shall have been issued;
- (2) Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality;
- (3) The intended use does not conflict with nearby planned or approved uses; and
- (4) Any land disturbance exceeding an areas of 2500 square feet shall comply with all Accomack County erosion and sediment control requirements.

E. 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 August 2, 1993; and
- (2) Reconstruction is not otherwise prohibited by an ordinance of the Town of Saxis.

III-6.15. Exceptions

A. A request for an exception to the requirements of Sections III-6.11 and III-6.12.C shall be made in writing to the **Board of Zoning Appeals**. 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 Section III-6.13.

B. **The Town of Saxis 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 Board of Zoning Appeals** shall review the request for an exception...intent of this Article if the **Board of Zoning Appeals** finds:

- (1) 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;
- (2) The exception request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels;
- (3) The exception request is the minimum necessary to afford relief;
- (4) 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 **or substantial detriment to water quality**; and

(5) Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

D. If the Board of Zoning Appeals cannot make the required findings or refuses to grant the exception, the Board of Zoning Appeals shall return the request for an exception together with rationale for the decision to the applicant.

E. A request for an exception to the requirements of provisions of this Article other than Sections III-6.11 and III-6.12.C shall be made in writing to the Zoning Administrator. The Zoning Administrator may grant these exceptions provided that:

(1) Exceptions to the requirements are the minimum necessary to afford relief; and

(2) Reasonable and appropriate conditions are placed upon any exception that is granted, as necessary, so that the purposed and intent of this Article is preserved.

(3) Exceptions to Section III-6.12.B may be made provided that the findings noted in Section III-6.15.C are made.