

What is the Resource Protection Area? The Chesapeake Bay Preservation “Resource Protection Area” is a designation for environmentally-sensitive areas, to include:

1. Tidal wetlands or shores
2. Nontidal wetlands which are connected by surface flow and are contiguous to tidal wetlands or perennial water bodies
3. A 100-foot-wide buffer area that is adjacent to and landward of the components, listed above, and along both side of any water body with perennial flow.

The 100-foot Resource Protection Area (RPA) buffer should remain vegetated and undisturbed in order to serve its function in slowing stormwater runoff, preventing erosion and filtering nonpoint source pollution runoff.

As a homeowner, how can I determine if there is a Resource Protection Area designation on my property? Homeowners should be aware if their property has a Resource Protection Area buffer, as this will restrict the kind of development or land disturbance that is allowable. Proximity to tidal wetlands or perennial waterways is a good indicator that the presence of Resource Protection Area is likely. Sometimes a site-specific delineation is required, especially if building on a new or previously undeveloped parcel.

The City of Poquoson maintains a public map viewer that is available as a guideline at: <https://poquoson.civ.quest/>. Residents can key in a specific address in the search bar to locate their property. Resource protection areas can be highlighted on the map under the “Environmental” category. Both the Resource Protection Area and Resource Management Area can be displayed. The RPA is also noted on each parcel’s property card under “Property Details.” A meeting with City staff is highly suggested to ensure the location of the Resource Protection Area is accurate.

What development is allowed within the Resource Protection Area? City staff approval is required for all development in the Resource Protection Area. Water dependent-facilities such as docks, piers, and access paths, are permissible although permits from the Poquoson Wetlands Board, the City of Poquoson or other agencies may be required. Re-development projects (when the project will remain within the current impervious footprint of the existing structure or surface) can be administratively approved by City staff. Many houses were built prior to the Chesapeake Bay Preservation Ordinance. Additions and expansions to these primary structures are allowable by City ordinance based on when the parcel was recorded.

Can I remove trees or vegetation from the Resource Protection Area? Following approval by City staff, vegetation can be removed if it is considered dead, diseased or noxious and must follow certain guidelines for removal. Trees may be pruned or removed to provide for reasonable sight lines and vistas. Pathways may be constructed as long as their construction does not cause erosion. Replacement plantings will be required in most cases.

Can I build a storage shed or install a swimming pool in the Resource Protection Area? Accessory structures such as detached sheds, detached garages, gazebos and swimming pools are not administratively permissible within the Resource Protection Area. Homeowners should attempt to relocate accessory structures outside of the Resource Protection Area whenever possible. If encroachment cannot be avoided, a formal exception to the Chesapeake Bay Preservation Ordinance may be granted by the Board of Zoning Appeals. City staff will determine if this is required during the review process of the project.

How do I get permission or approval for my project? Homeowners should start with a Building Permit Application through the Department of Community Development for any development or redevelopment in the Resource Protection Area. City staff will review the project for compliance with the Chesapeake Bay Preservation Ordinance. Any project or land disturbance over 2,500 square feet in total will also require a land disturbance permit. For projects that only involve minor vegetation removal, administrative approval can be obtained without additional permits.

How does the Board of Zoning Appeals make a decision? In deciding the case, the Board must consider the testimony of persons in support or opposition to the application; the impact on public health, safety, and welfare; and conformance with legal standards and guidelines. In order to grant the exception, the following criteria must be met:

- The exception request is not based upon conditions or circumstances that are self-created or self-imposed. The exception must pertain to alleviating requirements imposed by the implementation of the ordinance and shall not afford a special privilege or mere convenience sought by the applicant.
- The physical characteristics of the property and/or existing development must be such that, in the opinion of the board, there exists no other reasonable option or location outside of the required RPA buffer area.
- The exception request shall be the minimum necessary to afford relief.
- Reasonable and appropriate conditions shall be proposed in order to maintain or reduce the predevelopment pollutant loading index

of the property. The proposed development shall not effectively increase the pollutant loading index.

- The exception request shall be consistent with the purpose and intent of the overlay district, and not injurious to the neighborhood, detrimental to the public welfare, or of substantial detriment to water quality.
- Granting the exception will not confer upon the applicant any special privileges that are denied by this part to other property owners who are subject to its provisions and who are similarly situated.

If any of the criteria are not met, the application must be denied by the Board of Zoning Appeals.

Approval of the application and proposal requires affirmative votes from the majority of the board members. If not enough votes, the application is denied but can be resubmitted in a modified form.

Can I appeal the decision of the Board of Zoning Appeals? You may appeal the decision of the Board of Zoning Appeals within thirty (30) days of the Board's decision to the York-Poquoson Circuit Court.

What other permits do I need from the city?

Depending on the size, location, and type of project, you may require a building permit, land disturbance permit, construction general permit, and/or Wetlands Board approval.

How long does the approval process take? If your project requires an exception request by the Board of Zoning Appeals, it will be placed on the public hearing docket after receiving your application and deeming it complete. To expedite

the approval process, please ensure your permit application includes all the required information and provide contact information where staff can reach you in case there are additional questions.

What is the penalty if I act in a Chesapeake Bay Preservation Area without proper approvals? Any person who knowingly, intentionally, negligently, or continually violates any order, rule, or regulation of the Chesapeake Bay Preservation Act or the City of Poquoson Code shall be guilty of a Class I misdemeanor and subject to civil and criminal penalties.

What should I do if I see a violation of the Chesapeake Bay Preservation Ordinance? Who can I call if I have additional questions? Any questions regarding any Chesapeake Bay Preservation Area on your property or the permitting process, please contact the Environmental Compliance Officer at 757-868-3035. To report a violation, please use the permitting portal which is available on the city website, www.ci.poquoson.va.us or by phone 757-868-3035.



Chesapeake Bay Preservation Area

