

Sec. 17.3-62. Definitions. (10/1/93; 5/12/04; 5/23/07; 1/9/08)

For the purposes of this Article, the following terms shall have these specific meanings:

1. "Agricultural lands" means those lands used for the planting and harvesting of crops or plant growth of any kind in the open; pasture; horticulture; dairying; floriculture; or raising of poultry and/or livestock; but not to include home gardens or home landscaping.
2. "Buffer area" means an area of natural or established vegetation managed to protect other components of a Resource Protection Area and state waters from significant degradation due to land disturbances and consists of the landward component of the Resource Protection Area (RPA).
3. "Buildable area" means the portion of the lot remaining after required yard setbacks, buffer areas, and BMP areas have been provided but in no event shall the buildable area be less than 1,500 square feet for lots equal to or greater than 6,000 square feet. For lots under 6,000 square feet, the minimum buildable area shall be as determined by the zoning administrator.
4. "Chesapeake Bay Preservation District" (SPI-CBPD) means any land so designated by the Hampton City Council, pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9 VAC 10-20-70 et seq., and Section 10.1- 2107 of the Code of Virginia, and pursuant to this Ordinance. A Chesapeake Bay Preservation District shall consist of a Resource Protection Area and a Resource Management Area.
5. "Coastal Barrier Resources System" means an area comprised of undeveloped barrier islands and associated wetlands as designated under the Coastal Barrier Resources Act, 16 U.S.C.A. § 3501.
6. "Development" means the construction or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures.
7. "Environmental Site Assessment" means a physical survey of the site or parcel that is prepared and certified as complete and accurate by licensed engineer or a certified land surveyor and drawn at a scale of not less than one hundred (100) feet to the inch on a print not greater than twenty four (24) inches by thirty six (36) inches to clearly delineate with labels the physical limits of all components of the SPI-CBPD on and adjacent to the development site and the geographic extent and classification of all wetland areas on and contiguous to the site or parcel. The geographic extent and classification of wetland areas shown shall be the result of a recent physical survey, and in the case of non-tidal wetlands, a field delineation that is consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987 and subsequent amendments or revisions that are adopted.
8. "Improvement" means any physical alteration of real property. Included in the term are clearing vegetation, grading, utility installation, filling, excavation, or construction of any structure.

9. "Intensely Developed Area" (IDA) means a portion of the Chesapeake Bay Preservation District, delineated within the Resource Protection Area and designated on the Chesapeake Bay Preservation District Map.
10. "Non-point source pollution" means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agricultural and urban land development and uses.
11. "Non-tidal wetlands" means those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency and the Army Corps of Engineers, pursuant to enforcement of Section 404 of the Federal Clean Water Act in 33 CFR 328.3b.
12. "Plan of development" means the process for site plan, subdivision plan, or construction plan review to ensure compliance with this Article prior to any clearing or grading of a site or the issuance of a building or zoning permit.
13. "Public Road" means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to: (i) the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and (ii) the Virginia Stormwater Management Act (§ 10.1-603.1 et seq. of the Code of Virginia). This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by the City of Hampton in accordance with city standards.
14. "Redevelopment" means the process of developing land that is or has been previously developed.
15. "Resource Management Area" (RMA) means that component of the Chesapeake Bay Preservation District that is not classified as the Resource Protection Area. The RMA is comprised of land that is contiguous to the variable width buffer for a distance of one hundred (100) feet in the landward direction.
16. "Resource Protection Area" (RPA) means that component of the Chesapeake Bay Preservation District comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or that are sensitive to impacts which may result in significant degradation to the quality of state waters. Resource Protection Areas include:
  - (i) Tidal wetlands;
  - (ii) Non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;

- (iii) Tidal shores; and,
  - (iv) A variable width buffer area not less than one hundred (100) feet in width. The variable width buffer area shall be located adjacent to and landward of the components listed in (i) through (iii) above and along both sides of any water body with perennial flow. The variable width buffer area shall also include lands designated as part of the Coastal Barrier Resources System not otherwise listed as a Resource Protection Area Feature where present. The buffer area shall be designated as the landward component of the RPA notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing in compliance with this Article.
17. “Resource Protection Area (RPA) Feature” means that portion of the RPA that is not in the buffer area and includes tidal wetlands, non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow, and tidal shores.
18. "Review committee" means that group of persons, established by Section 17.3-67 herein, which convenes to evaluate buffer encroachment applications, hear requests for relief to the Chesapeake Bay Preservation District regulations and to arbitrate SPI-CBPD boundary disputes.
19. “Silvicultural activities” means forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to Section 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under Section 58.1-3230 of the Code of Virginia.
20. "Tidal shore" or "shore" means land contiguous to a tidal body of water between the mean low water level and the mean high water level.
21. "Tidal wetlands" means vegetated land which lies between and contiguous to mean low water and an elevation above mean low water equal to the factor of one and one-half (1- 1/2) times the mean tide range, or non-vegetated land which lies contiguous to mean low water and is between mean low water and mean high water.
22. "Water-dependent facility" means a development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to: (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) marinas and other boat docking structures; (iv) beaches and other public water-oriented recreation areas; and (v) fisheries and similar marine resources facilities.