**Chesapeake Bay Preservation Act**

**Resiliency Provisions Implementation Checklist**

The following provides the general steps that a locality should take to ensure all applicable regulatory changes and provisions from 9 VAC 25-830-155 are addressed and incorporated into the local CBPA program. This checklist may be used in conjunction with the Model Ordinance language provided by the Department. Specifically, localities should follow these steps prior to and after updating applicable ordinance provisions and programs to ensure all required elements have been considered and portions requiring a decision by the locality have been considered.

**Initial Steps/Locality Decisions**

Determine if resiliency assessment will be conducted by applicant or locality

Determine if resiliency assessment will be incorporated into Water Quality Impact Assessment or be a stand-alone requirement

Review Sea-Level Rise mapping for jurisdiction to identify potentially affected properties or areas

Review existing local requirements for storm surge and flooding to identify which requirements would apply to potential properties and/or address potential resiliency impacts

Determine category of storm surge (select from Categories 1-4) that will be applied for storm surge impact analysis based upon historic trends for the area

Determine which model (AdaptVa, VFRIS, locality based) will be used to conduct resiliency assessment

Determine if adaptation measures will be added as a permitted development in Resource Protection Areas or as a permitted buffer modification

Determine the allowable lifespan for the assessment: either 30 years or less than 30 years if the applicant can support a claim that the lifespan of the proposed development is less than 30 years

Determine if a Water Quality Impact Assessment will be required when installing living shorelines, provided the locality has approved the project, the project minimizes land disturbance and maintains or establishes a vegetative buffer inland of the living shoreline and complies with the fill conditions, and is approved by the VMRC or local wetlands board as applicable.

Determine if additional information or resources will be considered for use during the assessment review process (e.g., additional storm surge model/forecast or VIMS Adapt VA shoreline management model)

Determine ordinance effective date and applicability date to plan development process and WQIA review for proposed projects

**Ordinance Revisions**

Update Regulatory Definitions to add:

Adaptation Measure (regulatory)

Fill

Freeboard

Limit of Moderate Wave Action

Living Shoreline

Nature-based solution

Storm Surge

Update Performance Criteria for Development in RPAs:

Add “adaptation measure” as permitted development within the RPA (if locality intends to adopt)

Add requirement for Resiliency Assessment for development in the RPA

Add to either Water Quality Impact Assessment or stand-alone requirement

Add Resiliency Assessment Requirements

Establish minimum project lifespan of 30 years

Establish required information/submission to request a project lifespan of less than 30-years

Incorporate required models/forecasts:

2017 NOAA Intermediate-High scenario for sea-level rise

NOAA Hydrodynamic Sea, Lake, and Overland Surges Hurricanes model

Special Flood Hazard Area for flooding

Limit of Moderate Wave Action for flooding

Establish content of Resiliency Assessment submission (if having applicant submit)

Require that impacts from models/forecasts be identified on the proposed Plan of Development/site plan/plat

Require an assessment of the projected impacts on the buffer:

Extent of impact on existing vegetation

Extent of migration of water and vegetation in light of impacts

Extent of impacts to any structures being proposed

Provide for alterations, conditions, or adaptations measures considering:

Site conditions

Nature, type, and size of proposed land development

Extent of potential impacts

Location within an Intensely Developed Area, if applicable

Minimizing future land disturbance and impervious surfaces and preserving buffer vegetation within the RPA

Provide for local government review and approval including the addition of alterations, conditions, or adaptation measures as necessary and appropriate

Establish Adaptation Measures Requirements if Allowing

Establish nature-based solution adaptation measure requirement

Provide list of approved sources

* Chesapeake Bay Program Partnership Best Management Practice
* Virginia Stormwater Best Management Practice
* Shoreline Protection Project under Tidal Wetlands Guidelines
* Approved or Eligible Virginia Community Flood Preparedness Fund Project

Provide requirement that adaptation measures be installed with applicable specifications

Establish Fill Conditions in Adaptation Measure

Grading/slope necessary for project specification

Run-off impacts minimized including uplands

Characteristics (i.e., sufficient organic content) for vegetative growth and infiltration

Flow onto adjacent properties controlled

Not negatively impacting septic systems or drainfields

Consistent with additional requirements including floodplain

Maximize vegetation preservation and minimize land disturbance and impervious surfaces

Comply with all requirements and permits

Establish that projects within the RPA (including adaptation measures and shoreline erosion control projects) will be consistent with VMRC Tidal Wetlands Guidelines

Add Living Shorelines exemption (if adopting)

Remove requirement for WQIA and additional performance criteria (if adopting)

Minimize land disturbance

Maintain or establish vegetative buffer inland

Comply with fill conditions

Receive VMRC permit/approval

Update Exceptions:

Prohibit exceptions for proposed development that do not include a resiliency assessment

Prohibit the use of fill in a Resource Protection Area for a proposed adaptation measure in contravention of the requirements

**Post-Adoption Steps**

Update/Create Forms: including Water Quality Impact Assessment and development of a new Resiliency Assessment checklist

Update Plan of Development Review Process documents: applications, checklists, policy and procedures documents

Update website and outreach materials for locality Bay Act program