Zoning Ordinance Text Amendment ZOTA #25-06 – Chesapeake Bay Preservation Area Overlay Updates

Planning Commission Work Session

March 9, 2026

David Stromberg, AICP - Zoning Administrator

Aaron Zoellick - Zoning Services Specialist

Background

April 2020 – the General Assembly amended Va. Code 62.1-44.15:72 to require the Virginia Department of Environmental Quality (DEQ) to adopt regulations for the preservation of mature trees or planting of trees as a water quality protection tool, and for the implementation of resiliency and adaptation measures within the Resource Protection Area (RPA)

September 2021 – DEQ adopted a new section of the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC25-830-155)

October 2025 – DEQ issued Guidance Memo 25-2004

December 2025 – Herndon Town Council initiated ZOTA #25-06



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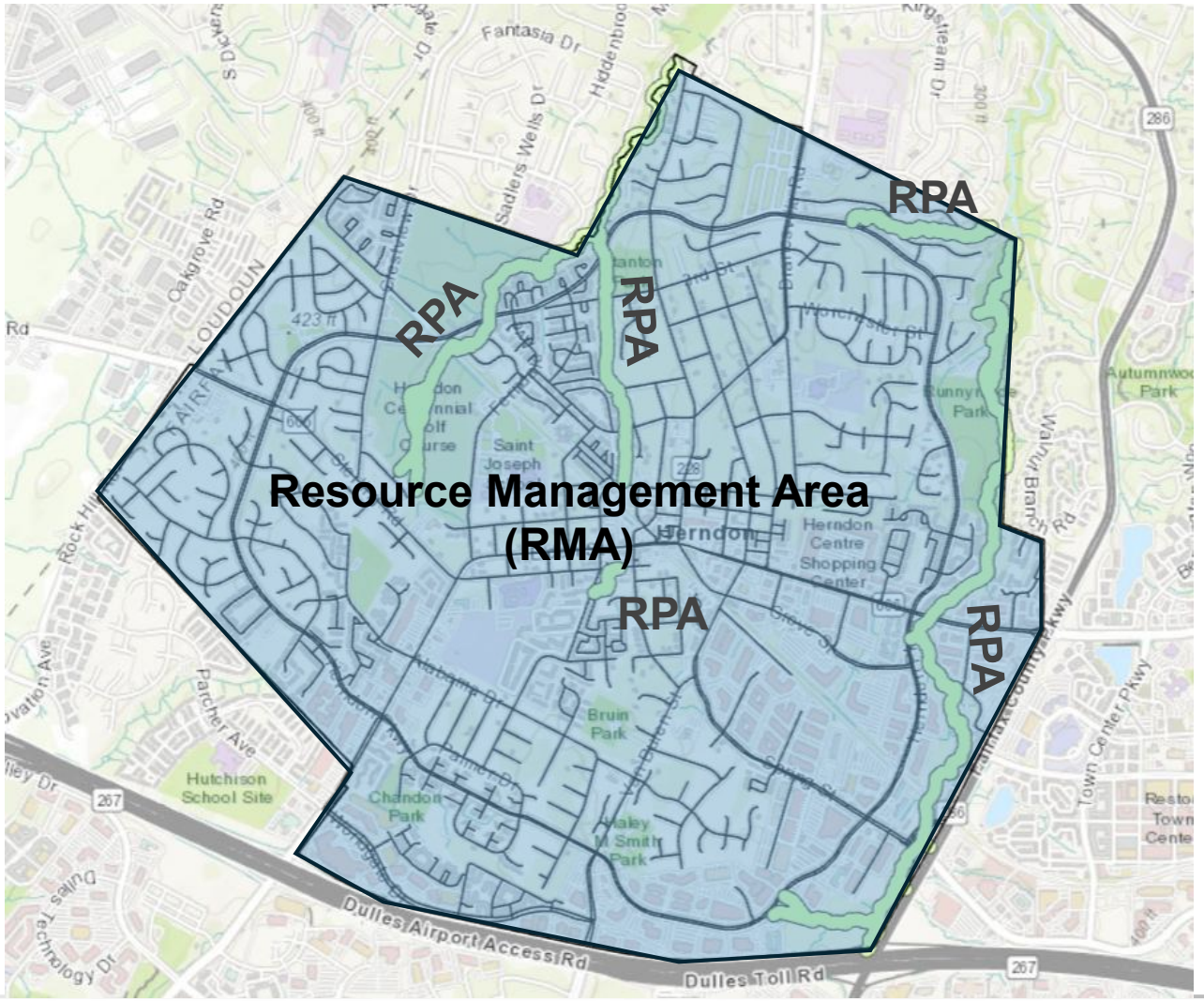
Chesapeake Bay Preservation Area Overlay

Chesapeake Bay Preservation Area



Chesapeake Bay Preservation Area Overlay Updates

Sec. 78-60.4 – Resiliency Assessment

Herndon Town Code currently requires a Water Quality Impact Assessment for non-exempt land disturbances exceeding 2,500 square feet within a Resource Protection Area (RPA)

The proposed updates require that:

1. The Town of Herndon or an applicant must conduct a resiliency assessment that considers the potential impacts of sea level rise, storm surge, and flooding on buffer function in light of a proposed RPA encroachment (Lines 265-296)
2. Anticipated impacts shall be based upon a thirty-year timeframe unless the applicant demonstrates that the lifespan of the project proposed for development is less than 30 years (Lines 297-304)
3. The zoning administrator will review the resiliency assessment along with the water quality impact assessment and determine whether the anticipated impacts necessitate an alteration or conditions to the proposed project (Lines 324-342)

Chesapeake Bay Preservation Area Overlay Updates

Sec. 78-60.4 – Adaptation Measures

Adaptation measures shall be:

1. Nature-based (Lines 171-173)
2. Selected from one on the following approved sources: (a) Chesapeake Bay program approved BMP list; (b) the Virginia Stormwater BMP Clearinghouse; (c) the VRMC Tidal Wetlands Guidelines; or (d) be a project that is eligible for funding by the Virginia Community Flood Preparedness Fund Grant (Lines 174-178)
3. Designed, installed, and maintained in accordance with the applicable specifications for the selected adaptation measure (Lines 181-183)

Adaptation measures should be:

1. Placed channelward of the proposed development whenever possible and maximize the preservation of mature trees and other natural vegetation (Lines 184-187)

The use of fill may:

1. Be permitted as a component of an adaptation measure provided it meets certain guidelines (Lines 188-246)

Chesapeake Bay Preservation Area Overlay Updates

Sec. 78-60.4 – Mature Trees

The proposed updates require that:

1. Mature trees shall be protected during development and only removed where necessary (Lines 84-85)
2. All trees located outside the area of land disturbance with a DBH of four inches or more shall be preserved (Lines 86-87)
3. Clearing within the area of land disturbance shall be limited to that necessary to provide for the intended use of the property (Lines 88-92)
4. Where the removal of trees within the buffer area is proposed, mature trees shall be preserved and trimmed or pruned in lieu of removal as site conditions permit (lines 143-148)

Definition Updates

Sec. 78-180

- **Adaptation measure (Lines 385-387)**
- **Canopy tree (Lines 412-415)**
- Critical root zone (Lines 430-432)
- Land disturbance or land disturbing activity (Lines 445-452)
- **Mature tree (Lines 480-481)**
- **Nature-based solution (Lines 483-485)**
- **Understory tree (Lines 523-524)**

Critical Root Zone

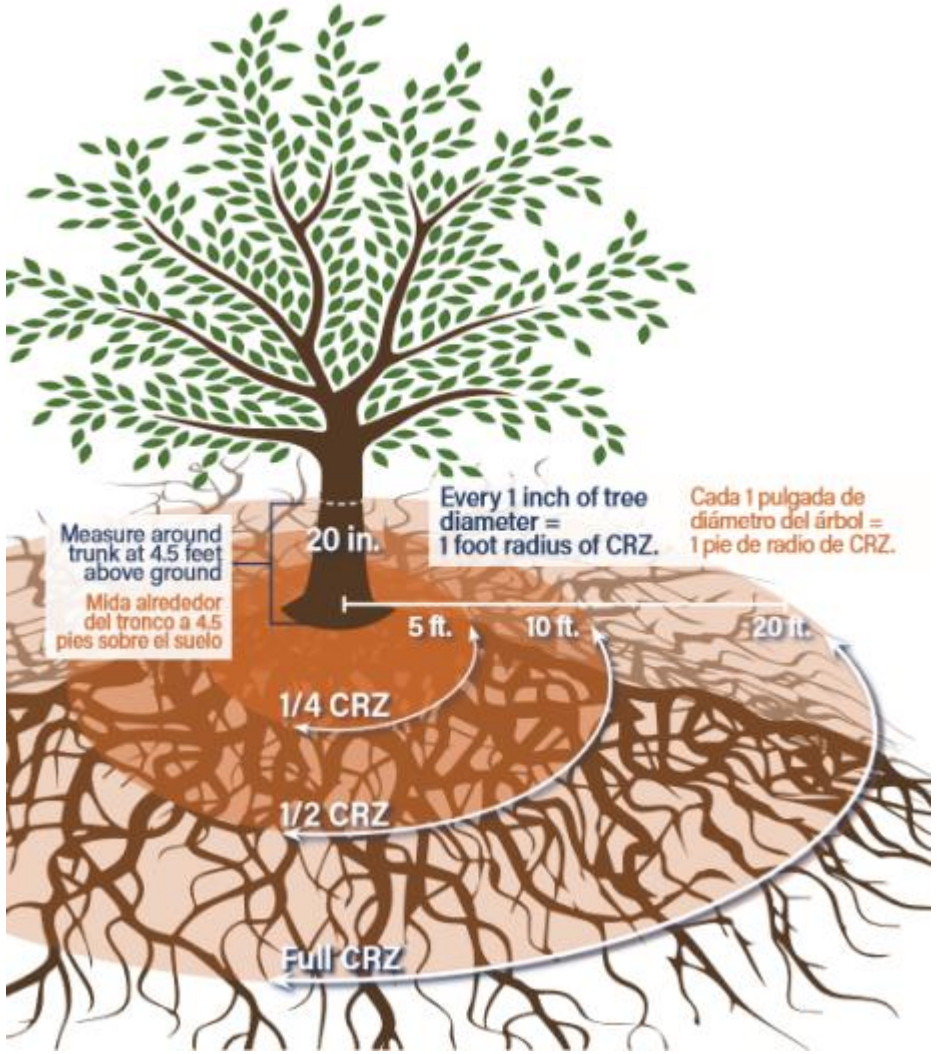
Lines 430-432

Model Ordinance Definition

- The area encompassing all of the roots extending to the dripline of a tree.

Staff Recommended Definition

- The area of soil surrounding a tree trunk where the minimum amount of roots considered essential for tree health are located. Critical root zone is generally defined as a radius of one foot per inch of trunk diameter at breast height (DBH).



Pedraza. C. (2019). *Tree regulations & critical root zone* [PowerPoint slides]. City of Austin.

Land Disturbance Definition

Lines 445-452

Model Ordinance Definition

- A man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including construction activity such as the clearing, grading, excavating, or filling of land. The term shall not include minor activities such as home gardening, individual home landscaping, and home maintenance or repairs.

Staff Proposed Definition

- A man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including but not limited to construction activity such as clearing, grading, excavating, or filling of land. For land disturbance exemptions refer to Sec. 26-324.

Recommendations

- Recommend *approval* of Zoning Ordinance Text Amendment ZOTA #25-06 to the Town Council