

CITY OF BALTIMORE
ORDINANCE **20-464**
Council Bill **20-0624**

Introduced by: The Council President
At the request of: The Administration (Department of Planning)
Introduced and read first time: October 5, 2020
Assigned to: Land Use Committee

Committee Report: Favorable with amendments
Council action: Adopted
Read second time: November 16, 2020

AN ORDINANCE CONCERNING

**Baltimore City Critical Area Management Program –
Conforming Certain Provisions to New State Mandates**

FOR the purpose of amending, in accord with a recent mandate of the Critical Area Commission, the definitions of “Buffer” and “Critical Area” and the provisions governing “Designation of the Critical Area”; and providing for a special effective date.

BY repealing and reordaining, with amendments

Article 32 - Zoning
Sections 7-402(b) and (c) and 7-403
Baltimore City Code
(Edition 2000)

BY repealing and reordaining, with amendments

Critical Area Management Program Manual (2020 Edition)
Sections 13.1(“Buffer”) and 13.1(“Critical Area”)
(As enacted by Ordinance 20-374)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 32. Zoning

Title 7. Open-Space and Environmental Districts

Subtitle 4. Chesapeake Bay Critical Area Zoning District

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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1 § 7-402. Definitions.

2 (b) Buffer.

3 [(1) In general.]

4 ["Buffer" has the meaning stated in State Natural Resources Article
5 § 8-1802(a)(4) {"Critical Area Protection Program: Definitions"}, as
6 amplified by COMAR 27.01.01.01B(8).]

7 [(2) Delineation.]

8 [The Buffer is generally the first 100 feet landward of the mean high water line
9 in the Critical Area, as measured from existing conditions on site. Steep slopes,
10 erodible soils, wetlands, and other environmental conditions can alter the shape
11 and increase the size of the Buffer.]

12 ~~(1) IN GENERAL.~~

13 ~~"BUFFER" MEANS AREA THAT:~~

14 ~~(I) BASED ON CONDITIONS AT THE TIME OF DEVELOPMENT, IS IMMEDIATELY~~
15 ~~LANDWARD FROM MEAN HIGH WATER OF TIDAL WATERWAYS, THE EDGE OF~~
16 ~~A BANK OF A TRIBUTARY STREAM, OR THE EDGE OF A TIDAL WETLAND; AND~~

17 ~~(II) EXISTS, OR MAY BE ESTABLISHED IN, NATURAL VEGETATION TO PROTECT A~~
18 ~~STREAM, TIDAL WETLAND, TIDAL WATERS OR TERRESTRIAL ENVIRONMENTS~~
19 ~~FROM HUMAN DISTURBANCE.~~

20 ~~(2) INCLUSIONS:~~

21 ~~"BUFFER" INCLUDES:~~

22 ~~(I) AN AREA OF AT LEAST 100 FEET, EVEN IF THAT AREA WAS PREVIOUSLY~~
23 ~~DISTURBED BY HUMAN ACTIVITY; AND~~

24 ~~(II) ANY EXPANSION FOR CONTIGUOUS AREAS, INCLUDING A STEEP SLOPE, HYDRIC~~
25 ~~SOIL, HIGHLY ERODIBLE SOIL, NONTIDAL WETLAND, OR A NONTIDAL WETLAND~~
26 ~~OF SPECIAL STATE CONCERN AS DEFINED IN COMAR 26.23.01.01.~~

27 "BUFFER" MEANS AREA THAT BASED ON CONDITIONS AT THE TIME OF DEVELOPMENT, IS
28 IMMEDIATELY LANDWARD FROM MEAN HIGH WATER OF TIDAL WATERWAYS, THE EDGE OF
29 BANK OF A TRIBUTARY STREAM, OR THE EDGE OF A TIDAL WETLAND; AND THE AREA
30 EXISTS, OR MAY BE ESTABLISHED IN, NATURAL VEGETATION TO PROTECT A STREAM, TIDAL
31 WETLAND, TIDAL WATERS OR TERRESTRIAL ENVIRONMENTS FROM HUMAN DISTURBANCE.
32 THE BUFFER INCLUDES AN AREA OF AT LEAST 100-FEET, EVEN IF THAT AREA WAS
33 PREVIOUSLY DISTURBED BY HUMAN ACTIVITY, AND ALSO INCLUDES ANY EXPANSION FOR
34 CONTIGUOUS AREAS, INCLUDING A STEEP SLOPE, HYDRIC SOIL, HIGHLY ERODIBLE SOIL,
35 NONTIDAL WETLAND, OR A NONTIDAL WETLAND OF SPECIAL STATE CONCERN AS
36 DEFINED IN COMAR 26.23.01.01.

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1 (c) *Critical area.*

2 [(1) *In general.*]

3 ["Critical area" means all parts of the Chesapeake Bay Critical Area, as delineated
4 in and as modified by the City under State Natural Resources Article 8-1807
5 {"Critical Area Protection Program: Lands included"} and COMAR
6 27.01.01.01B(18), that fall within City boundaries.]

7 [(2) *Delineation.*]

8 [The Critical Area is generally all land within 1,000 feet of the mean high
9 water line.]

10 ~~(1) *IN GENERAL.*~~

11 ~~"CRITICAL AREA" MEANS ALL LANDS AND WATERS DEFINED IN §8-1807 OF THE STATE
12 NATURAL RESOURCES ARTICLE.~~

13 ~~(2) *INCLUSIONS.*~~

14 ~~"CRITICAL AREA" INCLUDES:~~

15 ~~(I) ALL WATERS OF AND LANDS UNDER THE CHESAPEAKE BAY AND ATLANTIC
16 COASTAL BAYS AND THEIR TRIBUTARIES TO THE HEAD OF TIDE;~~

17 ~~(II) ALL STATE AND PRIVATE WETLANDS DESIGNATED UNDER TITLE 16 OF THE
18 STATE ENVIRONMENT ARTICLE;~~

19 ~~(III) ALL LAND AND WATER AREAS WITHIN 1,000 FEET BEYOND THE LANDWARD
20 BOUNDARIES OF STATE OR PRIVATE WETLANDS AND THE HEADS OF TIDES
21 DESIGNATED UNDER TITLE 16 OF THE STATE ENVIRONMENT ARTICLE; AND~~

22 ~~(IV) MODIFICATION TO THESE AREAS THROUGH INCLUSIONS OR EXCLUSIONS
23 PROPOSED BY LOCAL JURISDICTIONS AND APPROVED BY THE CRITICAL AREA
24 COMMISSION, AS SPECIFIED IN §8-1807 OF THE STATE NATURAL RESOURCES
25 ARTICLE.~~

26 "CRITICAL AREA" MEANS ALL LANDS AND WATERS DEFINED IN § 8-1807 OF THE STATE
27 NATURAL RESOURCES ARTICLE. "CRITICAL AREA" INCLUDES:

28 (1) ALL WATERS OF AND LANDS UNDER THE CHESAPEAKE BAY AND ATLANTIC
29 COASTAL BAYS AND THEIR TRIBUTARIES TO THE HEAD OF TIDE;

30 (2) ALL STATE AND PRIVATE WETLANDS DESIGNATED UNDER TITLE 16 OF THE STATE
31 ENVIRONMENT ARTICLE;

32 (3) ALL LAND AND WATER AREAS WITHIN 1,000 FEET BEYOND THE LANDWARD
33 BOUNDARIES OF STATE OR PRIVATE WETLANDS AND THE HEADS OF TIDES
34 DESIGNATED UNDER TITLE 16 OF THE STATE ENVIRONMENT ARTICLE; AND

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(4) MODIFICATION TO THESE AREAS THROUGH INCLUSIONS OR EXCLUSIONS PROPOSED BY LOCAL JURISDICTIONS AND APPROVED BY THE CRITICAL AREA COMMISSION AS SPECIFIED IN § 8-1807 OF THE STATE NATURAL RESOURCES ARTICLE.

§ 7-403. Designation of Critical Area.

The Chesapeake Bay Critical Area Act (State Natural Resources Article Title 8, Subtitle 18) requires the City to designate as its Critical Area an area that consists of, at a minimum:

[(1) all waters of and land under the Chesapeake Bay and its tributaries to the mean high water line, as indicated on the State Wetland Maps;]

[(2) all State and private wetlands designated under State Environment Article Title 16; and]

[(3) all land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the mean high water line.]

~~(1) ALL WATERS OF AND LANDS UNDER THE CHESAPEAKE BAY AND ITS TRIBUTARIES TO THE HEAD OF TIDE, AND ALL STATE AND PRIVATE WETLANDS DESIGNATED UNDER TITLE 16 OF THE STATE ENVIRONMENT ARTICLE; AND~~

~~(2) ALL LAND AND WATER AREAS WITHIN 1,000 FEET BEYOND THE LANDWARD BOUNDARIES OF STATE OR PRIVATE WETLANDS AND THE HEADS OF TIDES DESIGNATED UNDER TITLE 16 OF THE STATE ENVIRONMENT ARTICLE.~~

(1) ALL WATERS OF AND LANDS UNDER THE CHESAPEAKE BAY AND ITS TRIBUTARIES TO THE HEAD OF TIDE, AND ALL STATE AND PRIVATE WETLANDS DESIGNATED UNDER TITLE 16 OF THE STATE ENVIRONMENT ARTICLE; AND

(2) ALL LAND AND WATER AREAS WITHIN 1,000 FEET BEYOND THE LANDWARD BOUNDARIES OF STATE OR PRIVATE WETLANDS AND THE HEADS OF TIDES DESIGNATED UNDER TITLE 16 OF THE STATE ENVIRONMENT ARTICLE.

SECTION 2. AND BE IT FURTHER ORDAINED, That the definitions in the Critical Area Management Program Manual read as follows:

Baltimore City Critical Area Management Program Manual

§ 13.1 Definitions.

The following terms have been incorporated into the Baltimore City Critical Area Management Program. Each of these terms has the meaning indicated below.

...

[“Buffer”, as described under COMAR 26.23.01.01, means an area that:]

[●Based on conditions present at the time of development, is immediately landward from mean high water of a tidal water, the edge of bank of a tributary stream, or the edge of a tidal wetland; and,]

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[●Exists or may be established in natural vegetation to protect a stream, tidal wetland, tidal waters, or terrestrial environment from human disturbance.]

[“Buffer” includes an area of:]

[●At least 100 feet, even if that area was previously disturbed by human activity; and]

[●Expansion for contiguous areas, including a steep slope, hydric soil, highly erodible soil, non-tidal wetland, or a Non-tidal Wetland of Special State Concern as defined in COMAR 26.23.01.01.]

~~“BUFFER” MEANS AREA THAT: (I) BASED ON CONDITIONS AT THE TIME OF DEVELOPMENT, IS IMMEDIATELY LANDWARD FROM MEAN HIGH WATER OF TIDAL WATERWAYS, THE EDGE OF A BANK OF A TRIBUTARY STREAM, OR THE EDGE OF A TIDAL WETLAND; AND (II) EXISTS, OR MAY BE ESTABLISHED IN, NATURAL VEGETATION TO PROTECT A STREAM, TIDAL WETLAND, TIDAL WATERS OR TERRESTRIAL ENVIRONMENTS FROM HUMAN DISTURBANCE.~~

~~“BUFFER” INCLUDES: (I) AN AREA OF AT LEAST 100 FEET, EVEN IF THAT AREA WAS PREVIOUSLY DISTURBED BY HUMAN ACTIVITY; AND (II) ANY EXPANSION FOR CONTIGUOUS AREAS, INCLUDING A STEEP SLOPE, HYDRIC SOIL, HIGHLY ERODIBLE SOIL, NONTIDAL WETLAND, OR A NONTIDAL WETLAND OF SPECIAL STATE CONCERN AS DEFINED IN COMAR 26.23.01.01.~~

“BUFFER” MEANS AREA THAT BASED ON CONDITIONS AT THE TIME OF DEVELOPMENT, IS IMMEDIATELY LANDWARD FROM MEAN HIGH WATER OF TIDAL WATERWAYS, THE EDGE OF BANK OF A TRIBUTARY STREAM, OR THE EDGE OF A TIDAL WETLAND; AND THE AREA EXISTS, OR MAY BE ESTABLISHED IN, NATURAL VEGETATION TO PROTECT A STREAM, TIDAL WETLAND, TIDAL WATERS OR TERRESTRIAL ENVIRONMENTS FROM HUMAN DISTURBANCE. THE BUFFER INCLUDES AN AREA OF AT LEAST 100-FEET, EVEN IF THAT AREA WAS PREVIOUSLY DISTURBED BY HUMAN ACTIVITY, AND ALSO INCLUDES ANY EXPANSION FOR CONTIGUOUS AREAS, INCLUDING A STEEP SLOPE, HYDRIC SOIL, HIGHLY ERODIBLE SOIL, NONTIDAL WETLAND, OR A NONTIDAL WETLAND OF SPECIAL STATE CONCERN AS DEFINED IN COMAR 26.23.01.01.

[["Critical Area" means all lands and waters defined in section 8-1807 of the Natural Resources, Annotated Code of Maryland. They include:]

[●All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the state wetlands maps, and all state and private wetlands designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland;]

[●All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland; and]

[●Modification to these areas through inclusions or exclusions proposed by the city and approved by the critical area commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.]

~~“CRITICAL AREA” MEANS ALL LANDS AND WATERS DEFINED IN §8-1807 OF THE STATE NATURAL RESOURCES ARTICLE AND INCLUDES: (I) ALL WATERS OF AND LANDS UNDER THE CHESAPEAKE BAY AND ATLANTIC COASTAL BAYS AND THEIR TRIBUTARIES TO THE HEAD OF TIDE; (II) ALL STATE AND PRIVATE WETLANDS DESIGNATED UNDER TITLE 16 OF THE STATE ENVIRONMENT ARTICLE; (III) ALL LAND AND WATER AREAS WITHIN 1,000 FEET BEYOND THE LANDWARD BOUNDARIES OF STATE OR PRIVATE WETLANDS AND THE HEADS OF TIDES DESIGNATED UNDER TITLE 16 OF THE STATE ENVIRONMENT ARTICLE; AND (IV) MODIFICATION TO THESE AREAS~~

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1 THROUGH INCLUSIONS OR EXCLUSIONS PROPOSED BY LOCAL JURISDICTIONS AND APPROVED BY
2 THE CRITICAL AREA COMMISSION, AS SPECIFIED IN § 8-1807 OF THE STATE NATURAL RESOURCES
3 ARTICLE.

4 “CRITICAL AREA” MEANS ALL LANDS AND WATERS DEFINED IN § 8-1807 OF THE STATE NATURAL
5 RESOURCES ARTICLE. “CRITICAL AREA” INCLUDES:

6 (1) ALL WATERS OF AND LANDS UNDER THE CHESAPEAKE BAY AND ATLANTIC COASTAL
7 BAYS AND THEIR TRIBUTARIES TO THE HEAD OF TIDE;

8 (2) ALL STATE AND PRIVATE WETLANDS DESIGNATED UNDER TITLE 16 OF THE STATE
9 ENVIRONMENT ARTICLE;

10 (3) ALL LAND AND WATER AREAS WITHIN 1,000 FEET BEYOND THE LANDWARD
11 BOUNDARIES OF STATE OR PRIVATE WETLANDS AND THE HEADS OF TIDES DESIGNATED
12 UNDER TITLE 16 OF THE STATE ENVIRONMENT ARTICLE; AND

13 (4) MODIFICATION TO THESE AREAS THROUGH INCLUSIONS OR EXCLUSIONS PROPOSED BY
14 LOCAL JURISDICTIONS AND APPROVED BY THE CRITICAL AREA COMMISSION AS
15 SPECIFIED IN § 8-1807 OF THE STATE NATURAL RESOURCES ARTICLE.
16

17 SECTION 3. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance
18 are not law and may not be considered to have been enacted as a part of this or any prior
19 Ordinance.

20 SECTION 4. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the date it is
21 enacted.

Certified as duly passed this 16 day of November, 20 20

Brandon M. Scott
President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this 16 day of November, 20 20

Katanna B. Austin
Chief Clerk

Approved this 2nd day of Dec, 20 20

Approved for Form and Legal Sufficiency
This 2nd day of December, 2020.
Elena D'Beato
Chief Solicitor

[Signature]
Mayor, Baltimore City