

CITY OF BALTIMORE
ORDINANCE _____
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
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 (c) *Critical area.*

28 [(1) *In general.*]

29 [“Critical area” means all parts of the Chesapeake Bay Critical Area, as delineated
30 in and as modified by the City under State Natural Resources Article 8-1807
31 {“Critical Area Protection Program: Lands included”} and COMAR
32 27.01.01.01B(18), that fall within City boundaries.]

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1 [(2) *Delineation.*]

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

4 (1) *IN GENERAL.*

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

7 (2) *INCLUSIONS.*

8 “CRITICAL AREA” INCLUDES:

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

11 (II) ALL STATE AND PRIVATE WETLANDS DESIGNATED UNDER TITLE 16 OF THE
12 STATE ENVIRONMENT ARTICLE;

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

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

20 **§ 7-403. Designation of Critical Area.**

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

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

25 [(2) all State and private wetlands designated under State Environment Article Title
26 16; and]

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

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

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

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

3 **Baltimore City Critical Area Management Program Manual**

4 **§ 13.1 Definitions.**

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

7 . . .

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

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

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

14 [“Buffer” includes an area of:]

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

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

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

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

28 . . .

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

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

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

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

41 “CRITICAL AREA” MEANS ALL LANDS AND WATERS DEFINED IN §8-1807 OF THE STATE NATURAL
42 RESOURCES ARTICLE AND INCLUDES: (I) ALL WATERS OF AND LANDS UNDER THE CHESAPEAKE

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1 BAY AND ATLANTIC COASTAL BAYS AND THEIR TRIBUTARIES TO THE HEAD OF TIDE; (II) ALL
2 STATE AND PRIVATE WETLANDS DESIGNATED UNDER TITLE 16 OF THE STATE ENVIRONMENT
3 ARTICLE; (III) ALL LAND AND WATER AREAS WITHIN 1,000 FEET BEYOND THE LANDWARD
4 BOUNDARIES OF STATE OR PRIVATE WETLANDS AND THE HEADS OF TIDES DESIGNATED UNDER
5 TITLE 16 OF THE STATE ENVIRONMENT ARTICLE; AND (IV) MODIFICATION TO THESE AREAS
6 THROUGH INCLUSIONS OR EXCLUSIONS PROPOSED BY LOCAL JURISDICTIONS AND APPROVED BY
7 THE CRITICAL AREA COMMISSION, AS SPECIFIED IN §8-1807 OF THE STATE NATURAL RESOURCES
8 ARTICLE.
9

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

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

Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City