

BALTIMORE COUNTY MODIFIED BUFFER AREA PLAN
REGULATIONS PERTAINING TO MODIFIED BUFFER AREAS
IN THE CHESAPEAKE BAY CRITICAL AREA

INTRODUCTION

The State Chesapeake Bay Critical Area regulations generally require the establishment of a 100-foot, undisturbed, vegetated or planted buffer landward from the mean high water line of tidal waters or from the edge of tidal wetlands or tributary streams. The purpose of establishing this buffer is to fulfill the following functions:

1. Filter sediments, nutrients, and potentially harmful or toxic substances from entering the Chesapeake Bay and its tributaries;
2. Minimize disturbance to wetlands, shorelines, stream banks, tidal waters, and aquatic resources from human activities;
3. Maintain an area of transitional habitat between aquatic and upland communities;
4. Maintain the natural environment of streams; and
5. Protect riparian wildlife habitat.

The State Chesapeake Bay Critical Area regulations also allow local jurisdictions to map “Modified Buffer Areas” (hereafter MBAs) where it can be sufficiently demonstrated that existing (as of 1986) patterns of residential, commercial, institutional, and industrial development prevent the buffer from fulfilling the functions listed above. MBAs are intended to accommodate limited use of the shoreline areas in certain situations while protecting water quality and habitat to the greatest extent possible. Convenience or expense shall not be factors considered when evaluating the extent of allowable impacts to the buffer.

The majority of the shoreline areas along tidal waters in Baltimore County were developed many years ago and fulfill few, if any, of the listed buffer functions. These MBAs provide alternative water quality and habitat protection measures.

DEFINITIONS

For the purpose of implementing this Plan, the following words have the following meanings. In the case of conflicts with other definitions, the stricter provisions shall apply.

ACCESSORY STRUCTURE means a structure that is located on the same lot as and is clearly incidental and subordinate to the principal structure; or if there is no

principal structure on the lot, a structure that is customarily incidental and subordinate to a principal structure.

ACCESSORY STRUCTURE includes decks, patios, walkways, steps, sheds, storage buildings, pools, hot tubs, pavilions, gazebos, open porches and similar structures or uses.

ACCESSORY STRUCTURE does not include enclosed dwelling additions such as living rooms, dining rooms, bedrooms, kitchens, sunrooms, and bathrooms.

ACCESSORY STRUCTURE does not include other enclosed primary structure additions such as offices, work spaces, and restaurant spaces.

BUFFERYARD means an area, at least 25 feet wide, located between development activity and the water (or edge of wetlands or streams), planted with vegetation consisting of native species and other appropriate plantings. this area shall be maintained primarily for the purposes of wildlife habitat and water quality and shall not be maintained in a manner that conflicts with these purposes such as by mowing or the application of herbicides.

CANOPY TREE means a tree that, when mature, reaches a height of at least 35 feet.

DEVELOPMENT means a human activity that materially affects the condition or use of dry land, land under water, or a structure.

DEVELOPMENT includes redevelopment.

GRANDFATHERED PARCEL/LOT means a parcel of land or lot that was subdivided into recorded, legally buildable lots where the subdivision received final approval before December 1, 1985.

IMPERVIOUS SURFACE means a surface that impedes the infiltration of rainfall and results in an increased volume of surface runoff, including roofs, buildings, paved streets, parking areas, concrete, asphalt, compacted dirt, compacted gravel, impermeable at grade and above ground decks, and other unvegetated human-made surfaces.

(NOTE: FOR PURPOSES OF THIS PLAN, PERMEABLE WOOD MULCH WILL NOT BE CONSIDERED IMPERVIOUS SURFACE.)

LARGE SHRUB means a shrub that, when mature, reaches a height of at least 6 feet.

LOT COVERAGE means the percentage of a total lot or parcel that is:

1. Occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or
2. Covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material.

LOT COVERAGE includes the ground area covered or occupied by a stairway or impermeable deck.

LOT COVERAGE does not include:

1. A fence or wall that is less than 1 foot in width that has not been constructed with a footer;
2. A walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier;
3. A wood mulch pathway; or
4. A deck with gaps to allow water to pass freely.

(NOTE: PLEASE REFER TO THE CRITICAL AREA COMMISSION LOT COVERAGE GUIDANCE DOCUMENT FOR MORE DETAILS. SEE LINK BELOW TO ACCESS THIS DOCUMENT.)

http://www.dnr.state.md.us/criticalarea/pdfs/lot_coverage.pdf

MITIGATION means an action taken to compensate for an adverse impact to the environment resulting from a development activity or a change in land use or intensity.

MODIFIED BUFFER AREA means an area of land where a pattern of residential, industrial, commercial, or recreational development existed in the 100-foot buffer on December 1, 1985, and that, as part of a local program approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, is shown on a map maintained on file by the local jurisdiction and is subject to modified development provisions.

NATIVE means indigenous to the physiographic area in Maryland where the planting is proposed.

NEW DEVELOPMENT means a development activity that takes place on a property with pre-development lot coverage or imperviousness less than 15 percent as of December 1, 1985.

PRINCIPAL STRUCTURE means, for the purpose of establishing setbacks, the primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling, not including utilities and the septic system.

REDEVELOPMENT means a development activity that takes place on a property with pre-development lot coverage or imperviousness greater than or equal to 15 percent as of December 1, 1985.

SMALL SHRUB means a shrub that, when mature, reaches a height of up to 6 feet.

STRUCTURE means building or construction materials, or a combination of those materials, that are purposely assembled or joined together on or over land or water. Structure includes a temporary or permanent fixed or floating pier, piling, deck, walkway, patio, dwelling, building, boathouse, platform, gazebo, or shelter for the purpose of marine access, navigation, working, eating, sleeping, or recreating.

UNDERSTORY TREE means a tree that, when mature, reaches a height of 12 to 35 feet.

MODIFIED BUFFER AREA MAPPING CRITERIA

The 100-foot buffer to tidal waters was initially mapped onto January 1986 aerial photos. State tidal wetlands, forests and developed woodlands, mapped stream information, water bodies, landmarks, street names, and the land use classification (Intensely Developed Area, Limited Development Area, or Resource Conservation Area) were also included on these photos.

Aerial photos were then pre-screened to identify developed areas along the shoreline potentially containing non-functioning buffers. Field visits were conducted by Department of Environmental Protection and Sustainability (hereafter Department) staff to verify this information, and data sheets were completed to document findings and establish MBA boundaries.

A digital MBA layer was created in 2015 as part of the Department's efforts to digitize all mapped Critical Area information. The 1986 aerial photos showing the original MBAs were first scanned and georeferenced. New MBA polygons encompassing the original MBAs were then digitized. For illustrative purposes, these polygons extend 100 feet landward of 2007 mapped shorelines and State wetlands. Where possible, polygon endpoints are snapped to the GIS cadastral layer (property boundaries). In situations where only part of a parcel or lot met the criteria for designation as an MBA, then only those areas were designated as MBA. The Department also chose to expand existing MBAs and add new MBAs to include other areas where patterns of development in 1986 precluded functioning buffers.

FIELD BUFFER DETERMINATION REQUIRED

An applicant may not use the 100-foot boundary of a mapped MBA polygon to determine the location of the buffer on a property. The buffer delineation for a property to be included on a site plan must be based upon measurements taken in the field from mean high tide, the edge of State or private tidal wetlands, or the edge of a stream; whichever is or are applicable.

MITIGATION REQUIRED FOR BUFFER IMPACTS

Mitigation to offset water quality impacts, or payment of a fee-in-lieu of mitigation, will be required for all buffer impacts. Please refer to appropriate section of the Plan related to the type of proposed development for specific mitigation options.

MBA PLAN APPLICABLE ONLY TO DESIGNATED MBA AREAS

Only those portions of a lot or parcel designated as MBA will be subject to the MBA development requirements. Portions of a lot or parcel that are not designated as MBA shall comply fully with all State-mandated and County Critical Area buffer requirements.

COMPLIANCE WITH MBA PLAN REQUIRED

The MBA Plan applies only to situations where individuals have obtained written approval from the Department, and all other required Baltimore County permits and approvals, **prior** to initiating construction, development activities, or grading/filling activities on a property in the MBA. The Department reserves the right to apply full Critical Area buffer standards outlined in COMAR 27.01.09.01 in non-compliance situations within MBAs.

The Department may enforce the MBA Plan in accordance with:

1. Article 33, Title 2 or Article 3, Title 6 of the Baltimore County Code; and
2. All State Critical Area Natural Resources Article and COMAR provisions applicable to Baltimore County's Chesapeake Bay Critical Area Local Protection Program.

SINGLE FAMILY DWELLING MODIFIED BUFFER AREA REQUIREMENTS

Permitted Uses in Single Family Dwelling Modified Buffer Areas

1. The following structures and lot coverage/impervious surfaces are permitted in the 100-foot buffer within the MBA on single family residential properties:
 - A. New and rebuilt single family dwellings;
 - B. Dwelling additions, including porches and sunrooms;
 - C. Garages and carports (attached and detached);
 - D. Permeable and impermeable decks (attached and detached);
 - E. Sheds, storage buildings, pavilions, and gazebos;
 - F. Swimming pools (above ground and inground), hot tubs, and spas;
 - G. Patios, sidewalks, walkways, driveways and parking pads, steps; and
 - H. Water-dependent structures or uses;

provided that:

- I. The waterward intrusion of new or rebuilt dwellings is minimized to the extent possible (See Attachment 1);
- II. New and replacement accessory structures and lot coverage/impervious surfaces, excluding wooden decks, extend no closer to the water than the existing dwelling (See Attachments 2 & 3);
- III. Allowable lot coverage limits for the property are not exceeded by construction of the dwelling or other other lot coverage;
- IV. Existing woody vegetation within the buffer is retained except that required by the proposed construction;
- V. Any trees removed within the buffer are replaced onsite on a 1:1 basis;
- VI. Adverse water quality impacts will not result from the proposed structure or use due to construction impacts, the type of materials used in construction, or the location of the structure or use relative to the water; and

- VII. Onsite mitigation is provided by the applicant, or a fee-in-lieu of mitigation is paid by the applicant to the County.
2. Wooden decks, including multi-layer decks, are permitted in the 100-foot buffer on the waterward side of an existing dwelling within the MBA on single family residential properties provided that:
 - A. Existing woody vegetation within the buffer is retained except that required by the proposed construction;
 - B. Any trees removed within the buffer are replaced on a 3:1 basis;
 - C. Adverse water quality impacts will not result from the proposed deck due to construction impacts, the type of materials used in construction, or the location of the structure relative to the water; and
 - D. Mitigation is provided by the applicant, or a fee-in-lieu of mitigation is paid by the applicant to the County.

Alternate Locations for Structures & Lot Coverage/Impervious Surfaces

1. The Department may allow the applicant to locate a dwelling in another location provided that the dwelling extends no closer to the water than either the existing dwelling or the waterward extent of a dwelling located farthest from the water on one of the two adjacent properties (excluding vacant lots). When determining the waterward extent of dwellings on adjacent properties, measurements shall be taken on the sides of the adjacent dwellings closest to the proposed dwelling. Approval of alternate dwelling locations will require that all other conditions outlined in these regulations are met, and may require additional mitigative measures to offset any additional water quality impacts.
2. The Department may allow the applicant to locate other new or replacement accessory structures or lot coverage/impervious surfaces waterward of the existing dwelling if no alternate location for a structure, lot coverage/impervious surface, or activity associated with the structure or lot coverage/impervious surface, exists on the property. Approval of an alternate location for a structure or lot coverage/impervious surface will require that the waterward intrusion of the structure or lot coverage/impervious surface is minimized to the extent possible and that all other conditions outlined in these regulations are met. Also, the cumulative total of new accessory structures (including decks and decking around pools), additions, and lot coverage/impervious surfaces proposed to be placed waterward of the existing dwelling on a property after the effective date of this policy (January 3, 1996) shall not exceed 500 square feet within 50 feet of the water or 750 square feet within 75 feet of the water or 1,000 square feet within 100 feet of the water (See

Attachment 4). Additional mitigative measures may be required to offset any additional water quality impacts.

3. The Department will require variance approval for any new or rebuilt primary or accessory structure, or lot coverage or impervious surface, proposed to be placed closer than 25 feet to the water. Variance approval will also be required when waterward intrusion of these structures or uses has not been minimized or when cumulative totals for accessory structures or lot coverage/impervious surfaces listed above has been exceeded. These statements do not mean that structures or uses will automatically be allowed to be placed 25 feet from the water. Alternative locations for structures must first be investigated. Applicants should also be aware that all required variance criteria must be met in order to obtain variance approval.

Other Permitted Structures and Activities

1. Direct walkway access from the dwelling to the water, including steps if necessary, are permitted in the 100-foot buffer within the MBA on single family residential properties provided that:
 - A. Walkways do not exceed 3 feet in width, are generally perpendicular rather than parallel to the shoreline, and are constructed to allow a single direct access point to the shoreline or a pier (Note: The Department may consider a walkway up to 6 feet in width on a property where safe access to the shoreline cannot be provided by a narrow walkway.); and
 - B. A site inspection is requested by the applicant and conducted by the Department staff prior to initiating construction.
2. Minor grading and filling of existing lawn for the purpose of maintaining the lawn or an existing shore erosion protection measure in a usable condition is permitted in the 100-foot buffer within the MBA provided that:
 - A. The total disturbed area is less than 5,000 square feet in size and involves less than 100 cubic yards of fill;
 - B. The fill material may not include dredge spoil;
 - C. A site inspection is requested by the applicant and conducted by the Department staff prior to initiating the proposed work;
 - D. Lawn or other approved ground cover is reestablished; and
 - E. Any trees removed within the buffer are replaced on a 1:1 basis.

3. The Department will require an approved variance for any filling or grading in excess of 5,000 square feet in size or involving more than 100 cubic yards of fill. An approved grading permit from the Baltimore County Department of Permits, Approvals and Inspections will also be required.

Mitigation/Offset Requirements for Single Family Dwelling Modified Buffer Areas

1. In order to provide an alternate means of achieving water quality and habitat protection functions of the buffer, the Department will require mitigation or payment of a fee-in-lieu of mitigation for impacts within MBAs. Mitigation or payment of a fee-in-lieu will not be required where there is no waterward encroachment and no increase in the footprint or size of an existing structure, including but not limited to situations where a structure has been destroyed by natural forces.
2. Onsite mitigation options include the following (See Attachment 5):
 - A. Plant container-grown native deciduous canopy trees that are 5-6 feet in height or larger, at a rate of 3 trees for each 100 square feet of the proposed structure or lot coverage/impervious surface placed within the 100-foot buffer;
 - I. Smaller container-grown native understory trees that are 3-4 feet in height, or large container-grown native deciduous shrubs in 3-gallon pots, may be substituted for canopy trees at a rate of 3 understory trees or large shrubs per 1 canopy tree;
 - II. Small container-grown native deciduous shrubs in 1-gallon pots may be substituted for large shrubs at a rate of 2 small shrubs per 1 large shrub;
 - III. Container-grown native coniferous trees in either of the above size categories may be substituted for canopy or understory deciduous trees at a rate of 2 coniferous trees per 1 deciduous tree; and
 - IV. Plants must be installed on the waterward side of the proposed structure or in the buffer, where possible;
 - B. Remove existing lot coverage/impervious surface from the property at a rate of 1 square foot for every 1 square foot of structure or lot coverage/impervious surface placed within the 100-foot buffer; or
 - C. Install one or more buffer gardens (See the Critical Area publication “The Green Book for the Buffer – An Illustrated Guidebook for Planting at the Shoreline”) of the appropriate size to meet the required mitigation. See the link below to access this document.

http://www.dnr.state.md.us/criticalarea/pdfs/GreenBook_Buffer_sm.pdf

Baltimore County Modified Buffer Area Plan
*Regulations Pertaining to Modified Buffer Areas
in the Chesapeake Bay Critical Area*

3. Other mitigation options which achieve water quality and habitat protection functions may be proposed by the applicant, and will be evaluated by Department staff on a case by case basis.
4. When all or part of the required mitigation cannot be met onsite, either due to site constraints or property owner preference, a fee-in-lieu of mitigation shall be paid by the applicant to the County at a rate of \$1.50 per square foot of required mitigation.
5. The fee-in-lieu money may be used by the County for any or all of the following offsets within the Critical Area:
 - A. Establishing vegetated buffers along tidal waters, tidal wetlands, non-tidal wetlands, or streams;
 - B. Shoreline enhancement;
 - C. Stream restoration;
 - D. Water quality improvement; or
 - E. Fish, wildlife, or plant habitat restoration or improvement.
6. If it is not possible for the County to carry out the above offsets within the Critical Area, to the extent possible, the offsets should be implemented within the impacted watershed(s).

COMMERCIAL, INDUSTRIAL, INSTITUTIONAL, RECREATIONAL AND MULTI-FAMILY RESIDENTIAL DEVELOPMENT MODIFIED BUFFER AREA REQUIREMENTS

Purpose and Intent

The following provisions are intended to accommodate limited use of shoreline areas in certain situations while protecting water quality and wildlife habitat to the greatest extent possible.

Standards for Development and Redevelopment

1. New development or redevelopment activities, including structures, roads, parking areas and other lot coverage/impervious surfaces or septic systems will not be permitted in the buffer unless the applicant can demonstrate that there is no feasible alternative, and the Department finds that efforts have been made to minimize buffer impacts based on the following guidelines:
 - A. Development and redevelopment activities shall be located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.
 - B. Variances to zoning setback requirements shall be considered before additional intrusion into the buffer.
 - C. Convenience or expense shall not be factors considered when evaluating the extent of allowable impacts to the buffer.
2. New development, including accessory structures and uses, shall minimize the extent of intrusion into the buffer. New development may not be located closer to the water (or edge of tidal wetlands or streams) than 50 feet, whichever is greater. Structures on adjacent properties may not be used to determine the setback line. The 50-foot setback shall be maintained for all subsequent development or redevelopment of the property.
3. Redevelopment, including accessory structures, on sites where there is no conversion of existing uses (i.e., existed since December 1, 1985) to another type of site use, shall minimize the extent of intrusion into the buffer. This type of redevelopment may not be located closer to the water (or edge of tidal wetlands or streams) than 25 feet, whichever is greater. Structures on adjacent properties may not be used to determine the setback line. Existing structures located within the setback may remain or a new structure may be constructed on the footprint of an existing structure or impervious surface. Opportunities to establish a 25-foot setback should be maximized (See Attachment 6).

4. Redevelopment involving any conversion of an existing commercial, industrial, institutional, recreational or multi-family residential use (i.e., existed since December 1, 1985) to a different type of site use shall minimize the extent of intrusion into the buffer. This type of redevelopment may not be located closer to the water (or edge of tidal wetlands or streams) than 50 feet, whichever is greater. Structures on adjacent properties may not be used to determine the setback line. The 50-foot setback shall be maintained for all subsequent development or redevelopment of the property (See Attachment 7).
5. Development and redevelopment activities may not impact any Critical Area habitat protection areas other than the buffer, including non-tidal wetlands, State or Federal permits notwithstanding.
6. No vegetation may be removed from the buffer except that required by the proposed construction. The applicant will be required to maintain other existing vegetation in the buffer.
7. The requirement to establish a 300-foot buffer for new residential developments exceeding five dwelling units in a limited development area does not apply to redevelopments within or immediately landward of a MBA.
8. Any pier, shoreline access, or public walkway proposed in the buffer shall be located, designed, constructed and maintained to minimize adverse impacts on water quality, habitat protection areas, and aquatic resources in accordance with alternatives analysis procedures outlined in §33-2-402(d) of the Baltimore County Code.
9. Stormwater management Environmental Site Design (ESD) practices that include planting of native vegetation; including bioretention areas, rain gardens, landscape infiltration, soil restoration/reforestation, and impervious surface conversion; are allowed in the buffer. ESD practices shall be located, designed, constructed and maintained to minimize adverse impacts on water quality, habitat protection areas, and aquatic resources in accordance with alternatives analysis procedures outlined in §33-2-402(d) of the Baltimore County Code.
10. MBA designation shall not be used to facilitate the filling of tidal or non-tidal wetlands that are contiguous to the buffer or to create additional buildable land for new development or redevelopment activities.
11. Any development or redevelopment activities in the MBA require mitigation, as noted below.

Mitigation/Offset Requirements for Commercial, Industrial, Institutional, Recreational and Multi-Family Residential Development Modified Buffer Areas

1. Except as noted in subparagraph 2 below, the following mitigation measures shall be implemented for all development and redevelopment projects:
 - A. A forested or landscaped bufferyard 25 feet wide shall be on the project site between the development or redevelopment and the water. Two planting options are available for the bufferyard, as noted below.
 - I. Option 1: Plant native forest vegetation in the bufferyard dominated by trees and shrubs, as illustrated in Figure 1, in accordance with buffer planting credits in COMAR 27.01.09.01-2.L (See Table 1).
 - II. Option 2: Plant one or more buffer gardens from the Critical Area publication “The Green Book for the Buffer – An Illustrated Guidebook to Planting at the Shoreline” of sufficient size to cover the entire bufferyard. See attached link below.

http://www.dnr.state.md.us/criticalarea/pdfs/GreenBook_Buffer_sm.pdf

Figure 1. Schematic Bufferyard Planting Plan

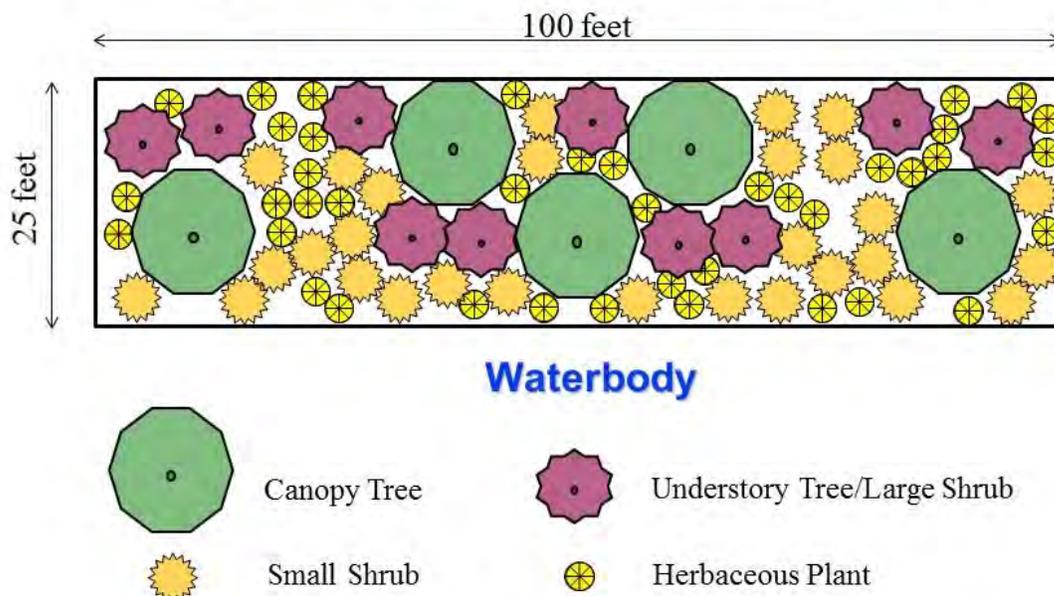


Table 1. Buffer planting credits in COMAR 27.01.09.01-2.L

Vegetation Type	Minimum Size Eligible for Credit	Maximum Credit Allowed (Square Feet)	Maximum Percent of Landscape Stock Credit
Canopy tree	2-inch caliper	200	Not applicable
Canopy tree	3/4-inch caliper	100	Not applicable
Understory tree	3/4–inch caliper	75	Not applicable
Large shrub	3 feet high	50	30
Small shrub	18 inches high	25	20
Herbaceous perennial	1 quart or based on the area covered by plugs or seed mix	2	10
Planting Cluster for buffer establishment or mitigation of less than 1/2 acre	1 canopy tree; and 3 large shrubs or 6 small shrubs of sizes listed above	300	Not applicable
Planting Cluster for buffer establishment or mitigation of less than 1/2 acre	2 understory trees; and 3 large shrubs or 6 small shrubs of sizes listed above	350	Not applicable

- B. On development or redevelopment sites involving continuance of existing site uses:
- I. If existing structures or those rebuilt on an existing footprint limit the area available for planting; or if the applicant otherwise demonstrates to the satisfaction of the Department that planting the entire required bufferyard is physically infeasible, then appropriate modifications to the width of the planted bufferyard may be made on a case-by-case basis. In such cases, 1:1 mitigation will be required for continuance of existing uses in the MBA, in addition to mitigation requirements in subparagraph 2 below.
 - II. For portions of a buffer where the existing soil conditions or substrate preclude conventional planting, an applicant may establish a bufferyard or other mitigation plantings in raised garden beds. Garden bed liners may be utilized where appropriate, as determined by the Department.
 - III. Bufferyard establishment will not be required for minor redevelopments where the cumulative total of new or expanded primary or accessory structures or uses proposed to be placed in the buffer does not exceed 500 square feet within 50 feet of the water or 750 square feet within 75 feet of

the water or 1,000 square feet within 100 feet of the water. In such cases, an applicant may follow single family residential MBA mitigation standards.

- C. An applicant may increase the percentage of large shrubs, small shrubs, or herbaceous perennials in a buffer management plan if:
 - I. The buffer has existing canopy coverage of at least 50 percent; or
 - II. Site constraints preclude canopy planting, including severely eroding slopes, salt water intrusion, predominately sandy soils, unconsolidated fill or locations of existing structures and site uses.
 - D. An applicant may incorporate viewsheds into the bufferyard by planting lower growing vegetation between clustered larger stock, provided that overall vegetative cover in the buffer is evenly distributed.
2. In addition to establishing a 25-foot bufferyard on site as described above, one or more of the following mitigation measures shall be implemented based on the following order of preference:
- A. Native forest vegetation of an area twice the extent of the footprint of the development activity within the 100-foot buffer shall be planted on site in the buffer or at another location, preferably on-site, as may be determined by the Department.
 - B. Applicants who cannot fully comply with the planting requirement in “A” above, may use offsets to meet the mitigation requirement. Offsets may include the removal of an equivalent area of existing lot coverage/impervious surfaces from the buffer, or other measures approved by the Department that improve water quality or riparian habitat.
 - I. Except as noted in subparagraph II below, removal of lot coverage/impervious surfaces prior to bufferyard establishment or mitigation planting may be credited as an offset for buffer impacts. However, no separate buffer offset credit will be given for placing soil on top of existing lot coverage/impervious surfaces prior to planting; and
 - II. Any ESD measures implemented to meet State-mandated stormwater management requirements, including but not limited to removal of lot coverage/impervious surfaces and planting vegetation, may not be double-credited as an offset for buffer impacts.
 - C. When all or part of the required mitigation cannot be met on site, a fee-in-lieu of mitigation shall be paid by the applicant to the County at a rate of \$1.50 per square foot of required mitigation. This fee shall be paid prior to approval of the

project plan, grading permit, building permit, or environmental agreement, as determined by the Department.

D. The fee-in-lieu money may be used by the County for any or all of the following offsets within the Critical Area:

- I. Establishing vegetated buffers along tidal waters, tidal wetlands, non-tidal wetlands, or streams;
- II. Shoreline enhancement;
- III. Stream restoration;
- IV. Water quality improvement; or
- V. Fish, wildlife, or plant habitat restoration or improvement.

E. If it is not possible for the County to carry out the above offsets within the Critical Area, to the extent possible, the offsets should be implemented within the impacted watershed(s).

Buffer management plan required

1. An applicant shall submit a buffer management plan to the Department for removal of trees, and establishment of the bufferyard and mitigation planting. The buffer management plan shall include:
 - A. A plan that shows the proposed limit of disturbance, the total number and size of trees to be removed, if applicable, and the arrangement of the planting to be done;
 - B. A landscape schedule that shows the proposed species type, the quantity of plants, the size of plants to be installed, and the proposed planting date;
 - C. A maintenance plan for the control of invasive species, pests, and predation that shows invasive species and pest control practices, the provision of at least 2 years of monitoring, and a reinforcement planting provision if survival rates fall below the 100 percent standard;
 - D. An inspection agreement that grants permission to the local jurisdiction to inspect the plantings at appropriate times; and
 - E. The signature of the party responsible for the proposed activity and for ensuring the survival of the planting.

2. All vegetation planted in accordance with this alternate shall be 100 percent guaranteed for at least 2 years after planting is completed. A Critical Area buffer management plan security equal to 110% of the cost of the planting shall be posted via an environmental agreement. In no instance may this security be less than \$0.25 per square foot of planting.
3. Any required mitigation/offset areas must be protected from future development through a Critical Area easement and plat notes, and recorded among the land records of Baltimore County.

Notification Requirements

1. Within MBAs, all new commercial, industrial, institutional, recreational, and multi-family residential development or redevelopment projects shall be submitted by the Department to the Critical Area Commission in accordance with COMAR 27.03.01.03. Mitigation plans shall be included as part of the project submission.
2. Prior to project approval, the Department must make written findings documenting that all MBA Plan requirements will be met, including that the disturbance to the buffer is the least intrusion necessary. These findings must be available to the Commission upon request.
3. The reporting of development activity carried out under this provision must be included in the Department's quarterly reports.

Other Modified Buffer Area Provisions for All Uses:

1. All proposed structures, lot coverage/impervious surfaces, grading or filling activities, and mitigation must be shown on a plan approved by the Department; regardless of whether a Baltimore County permit is required. All plan changes will require approval by the Department prior to plan implementation.
2. The Department reserves the right to require variance or variation of standards approval for an activity in or adjacent to a habitat protection area, a wetland, or a stream. The Department also reserves the right to require variance approval or additional mitigative measures when a proposed activity has the potential to adversely impact water quality or fish, plant, or wildlife habitat.
3. The Department will require variance or variation of standards approval for all proposed activities that do not meet the development or redevelopment standards or other provisions outlined in the MBA Plan.
4. All other applicable provisions of the County and State Chesapeake Bay Critical Area law and regulations must be met in full.

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5. The MBA Plan does not apply to commercial, industrial, institutional, recreational and multi-family residential developments or redevelopments that are or were the subject of a Critical Area growth allocation.

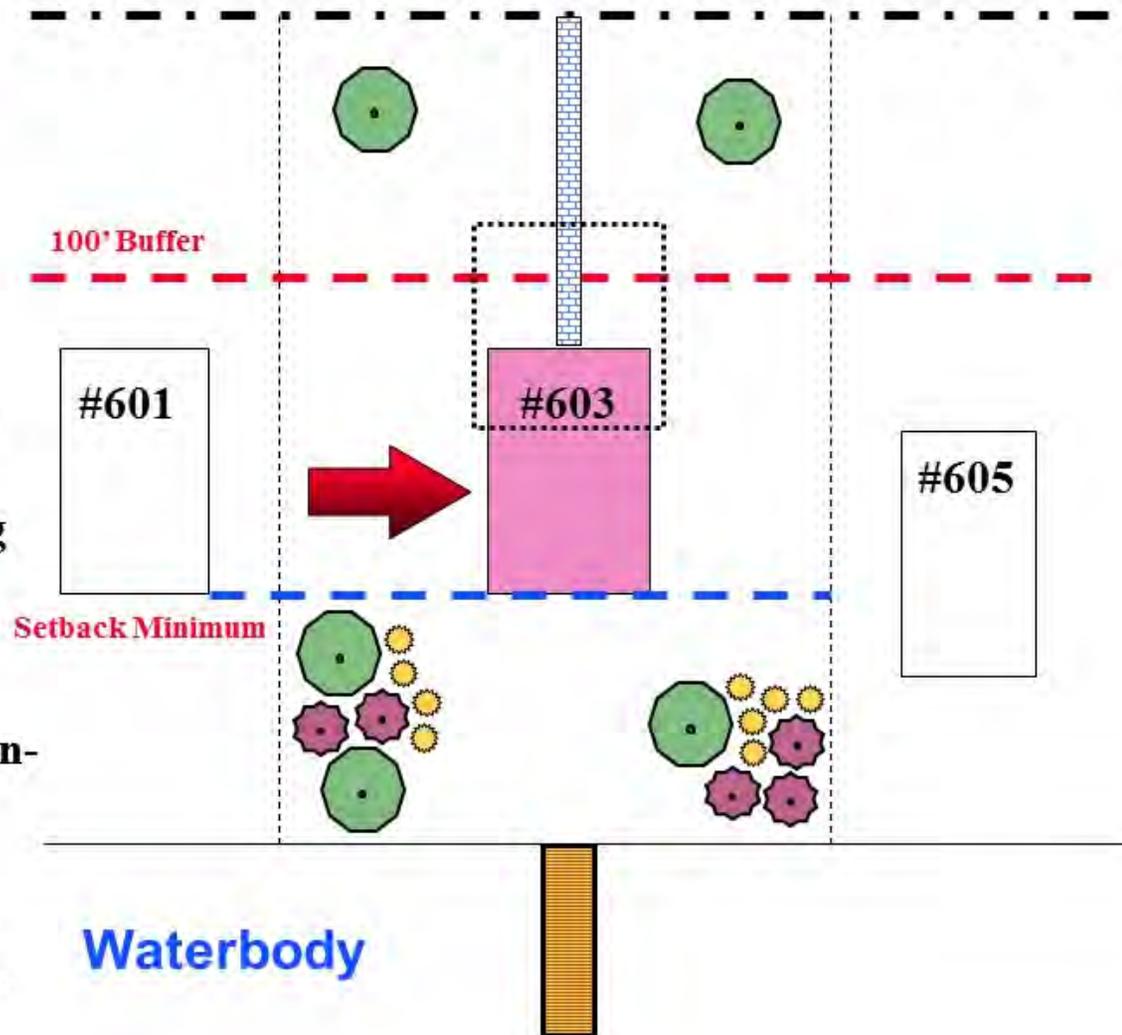
January 3, 1996; rev. February 4, 1998; rev. May 4, 2011; rev. November 4, 2015

Attachment 1: New or Rebuilt Single Family Dwelling

If building a dwelling...

A new or rebuilt dwelling can extend as close to the water as the adjoining dwelling farthest from the water.

Mitigation or fee-in-lieu payment is required unless building on the existing footprint.

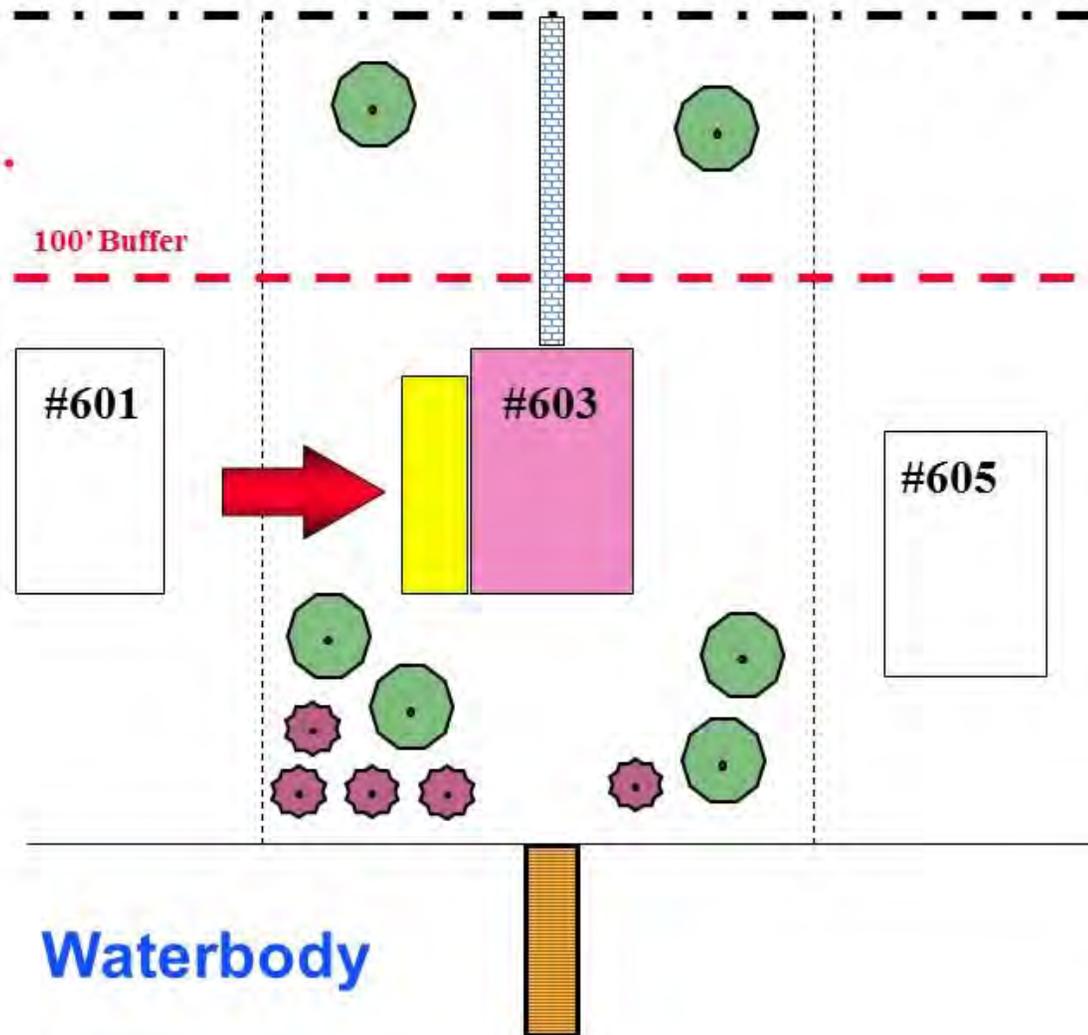


Attachment 2: Single Family Dwelling Addition

If building a house addition...

The addition must extend no closer to the water than the dwelling, where possible.

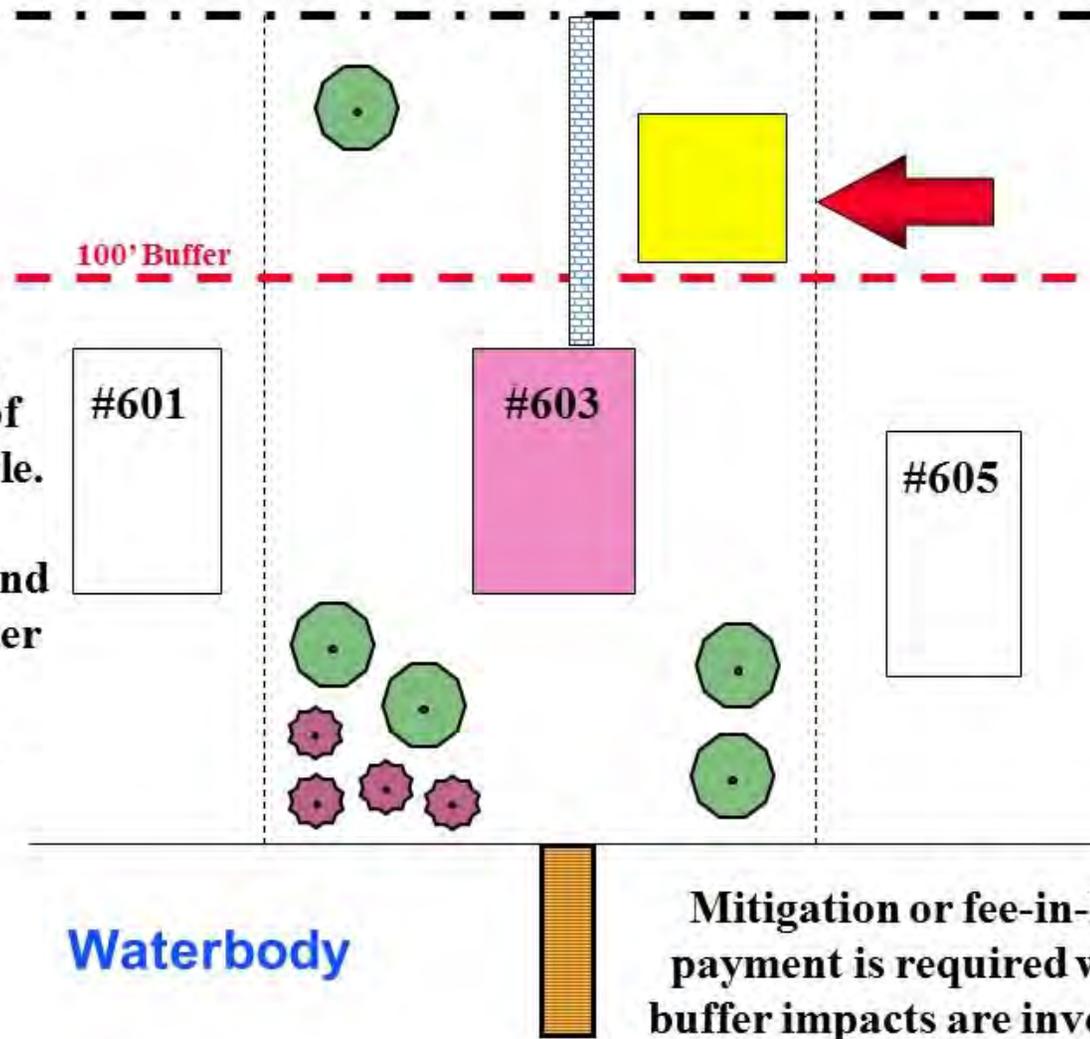
Mitigation or fee-in-lieu payment is required.



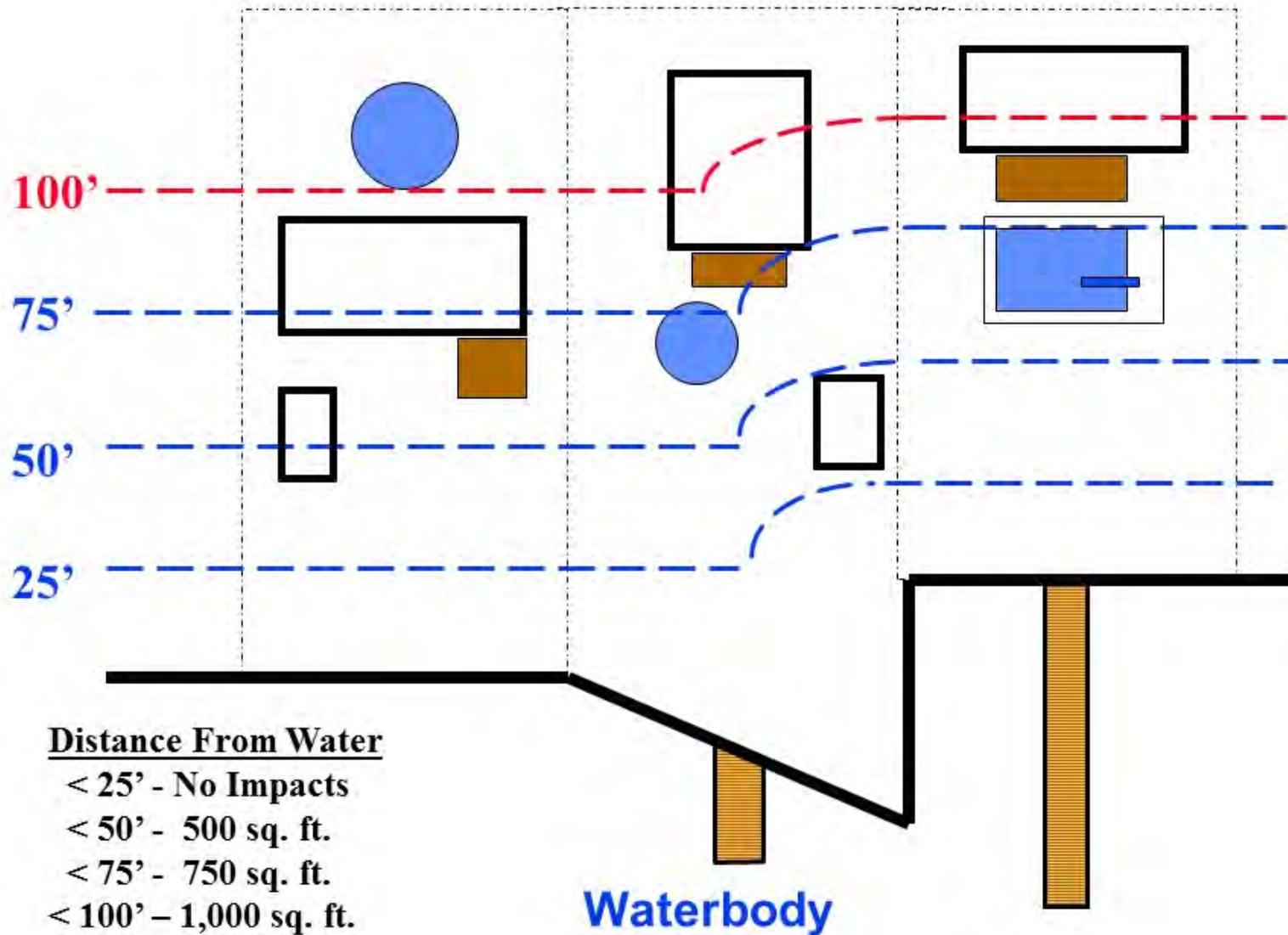
Attachment 3: Single Family Dwelling Accessory Structure

If building an accessory structure such as a garage...

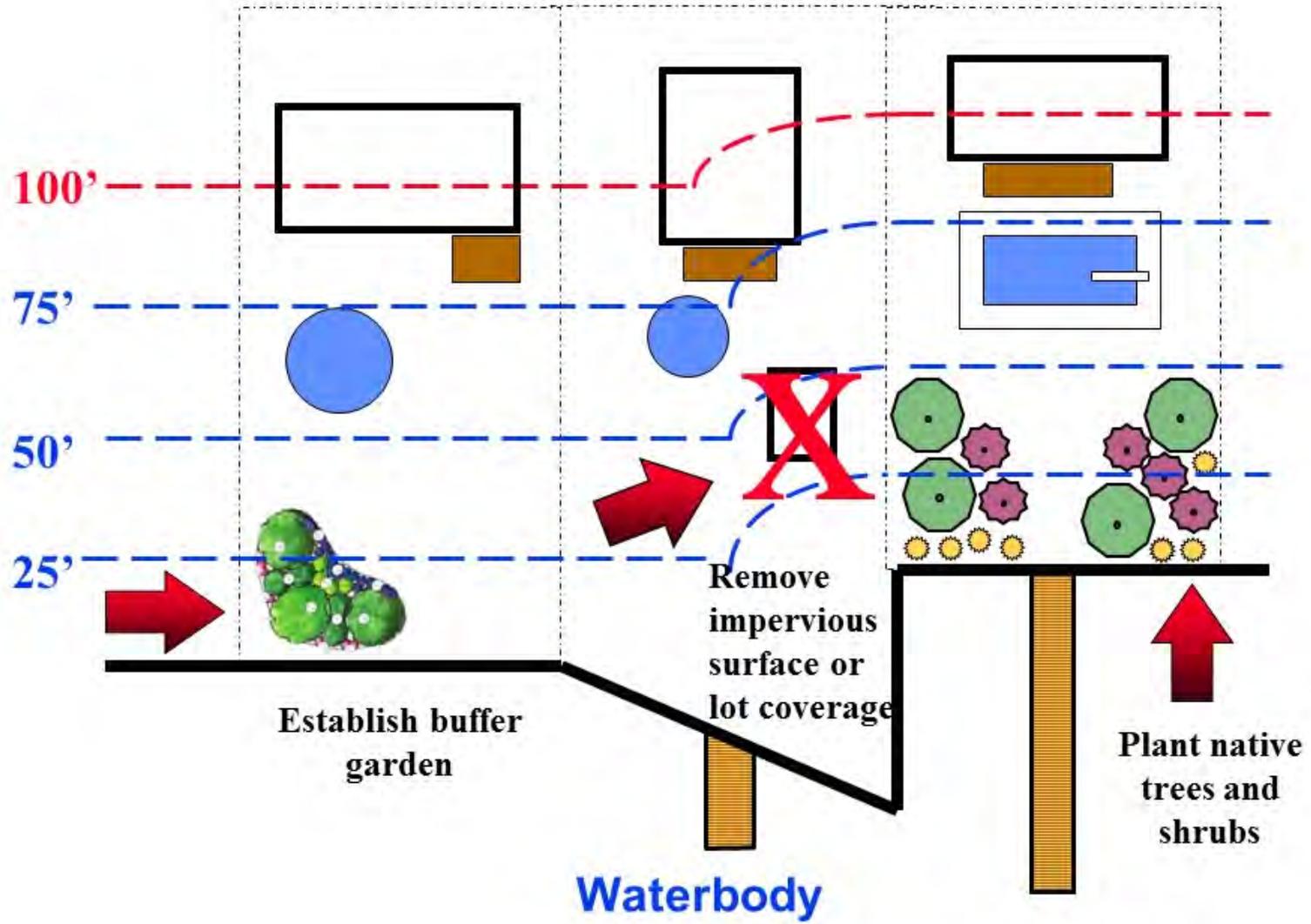
The structure must be located outside of the buffer, if possible. Otherwise, the structure must extend no closer to the water than the dwelling, unless no alternate exists.



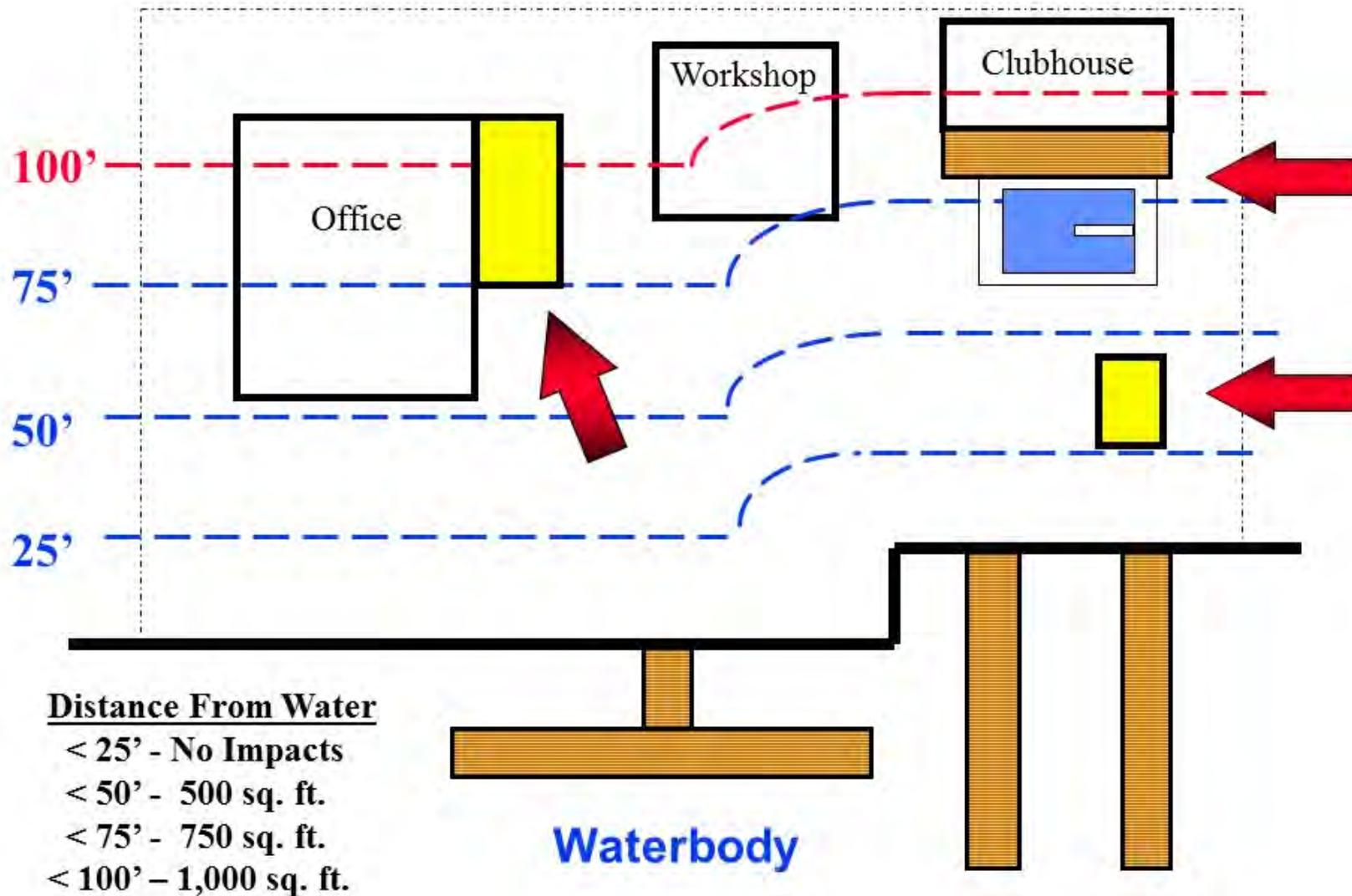
Attachment 4: Allowable Cumulative Impacts of Single Family Dwelling Accessory Structures



Attachment 5: Single Family Dwelling MBA Onsite Mitigation Options



Attachment 6: Allowable Cumulative Impacts of Accessory Structures Example – Minor Existing Marina Improvements



Attachment 7: Example – Conversion of Commercial Site to Multi-family Residential Development

