

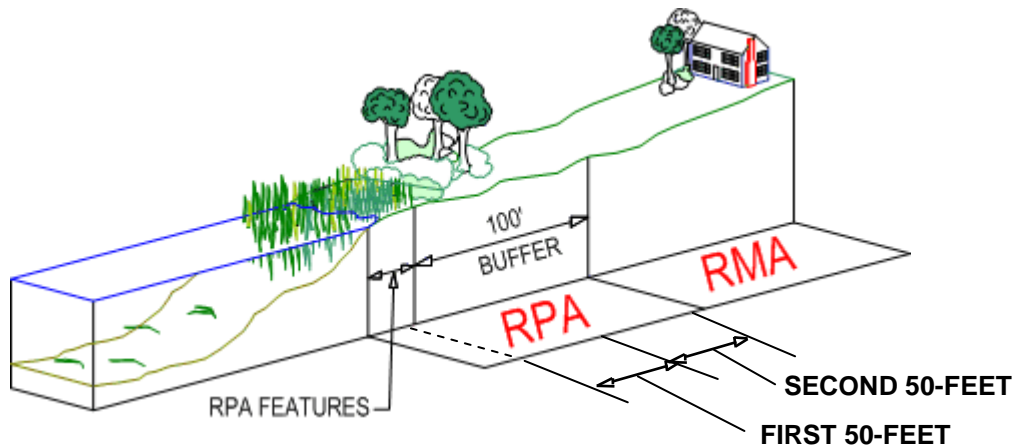


York County Buffer Requirements, Part I

Approved by BOS Resolution No. 03-192, Dated: 12/16/03

Revised 10/01/09

One of the key components of the Chesapeake Bay Preservation Act is the requirement for a 100-foot vegetated buffer from the edge of the water, wetlands or stream. The buffer must be restored to or left in a natural state with existing and/or indigenous plantings to protect the water quality of the Bay. A vegetated buffer is part of the Resource Protection Area (RPA) and consists of a mixture of trees, shrubs and groundcovers. The following requirements are intended to provide guidance concerning permissible activities within the RPA buffer area. If the proposed work or development exceeds the limits outlined in the Buffer Requirements, then approval may be sought from the Chesapeake Bay Board. An application fee of \$250.00 and a Water Quality impact Assessment (WQIA) is required to apply to the Board.



1. Home landscaping is permitted in the buffer provided that water quality is protected and does not result in an erosion problem. Home landscaping includes the following:

- a) Pruning of trees and shrub provided no more than one third of the vegetation is removed;
- b) Mowing of grass and groundcovers;
- c) Placement of mulch; and
- d) Planting of seeds, shrubs, trees, groundcovers, etc.

The above activities may be performed provided the following conditions are met:

- a) No self propelled equipment may be used with the first 50-feet of the buffer except for walk behind or riding lawn mowers.
- b) No self propelled equipment larger than a uni-loader may be used in the second 50-feet of the buffer.

Any work that results in land disturbance is not considered home landscaping and requires submittal of a WQIA.

2. Removal of noxious weeds is permitted in the buffer provided:

- a) They are replaced with vegetation equally adapted for the growing environment; and
- b) The root mat and soil are left undisturbed.

Any work that results in land disturbance is not considered home landscaping and requires submittal of a WQIA.

3. After submittal and approval of a WQIA, existing woody vegetation in the buffer may be removed for reasonable sight lines provided:

- a) Selected trees less than 3-inches DBH (diameter at breast height defined as 4-feet 10-inches above existing grade) in the first 50-feet of the buffer may be removed provided the root ball is not removed and they are replaced with 15-inch minimum height shrubs at a 1:1 rate absent conditions that suggest a higher or lower replacement ratio. NOTE: This provision shall not be construed to allow all trees less than 3-inches DBH in the first 50-feet of the buffer to be removed.
- b) Selected trees less than 6-inches DBH in the second 50-feet of the buffer may be removed provided the root ball is not removed and they are replaced with 15-inch minimum height shrubs at a 1:1 rate absent conditions that suggest a higher or lower replacement ratio. NOTE: This provision shall not be construed to allow all trees less than 6-inches DBH within the second 50-feet of the buffer to be removed.
- c) No land disturbance in the RPA buffer may occur or result from these activities.
- d) The replacement vegetation must be protected by a recorded BMP Maintenance Agreement.

4. After submittal and approval of a WQIA, dead or diseased trees may be removed provided:

- a) All dead or diseased trees must be field checked by county staff prior to their removal.
- b) When questions arise concerning the health of the trees proposed to be removed, the property owner shall be responsible for providing documentation from a certified landscape professional as to the health and viability of the trees. Such documentation shall be subject to review and approval of the Chesapeake Bay Program Manager.
- c) Dead or diseased trees must be replaced with 1-inch DBH minimum caliper trees at a 1:1 rate or with 15-inch minimum height shrubs at a 3:1 rate, absent conditions that suggest a higher or lower replacement ratio.
- d) No land disturbance in the RPA buffer may occur or result from the removal of dead or diseased trees.
- e) The replacement vegetation must be protected by a recorded BMP Maintenance Agreement.

5. Necessary tree removal in the buffer for existing developed conditions and proposed development associated with an Encroachment, Noncomplying Use and Development Waiver, Redevelopment, Allowable Land Development or Exception: To construct authorized improvements, trees often must be removed. The purpose of the following is to

establish a baseline or threshold of acceptability for tree removal and the replacement ratios that would be considered appropriate to mitigate the effects of removal.

- a) Within the building footprint or within 10-feet of the foundation: trees greater than or equal to 6-inch DBH, may be removed for the protection of the existing structure or the construction of the home or addition provided they are replaced with 1-inch DBH minimum caliper trees at a 1:1 rate or with 15-inch minimum height shrubs at a 3:1 rate.
- b) The existing trees and proposed plantings must be shown on the plan or WQIA.

6. Healthy tree removal in the buffer After submittal, review and approval of a WQIA, healthy trees may be removed from the buffer under the below specified circumstances provided those trees are replaced in accordance with the CBLAD Riparian Buffers Modification and Mitigation Guidance Manual, Appendix D.

- a) A maximum of three trees may be removed from a property.
- b) When greater than three trees are proposed for removal, then the Chesapeake Bay Board will consider the request based on special and unique circumstances.
- c) The replacement vegetation must be protected by a recorded BMP Maintenance Agreement.

7. After submittal and approval of a WQIA, vegetation removal in the buffer associated with approved shoreline erosion control best management practices may be undertaken. The Ordinance allows existing woody vegetation and trees to be removed in conjunction with approved shoreline erosion control best management practices. The following guidelines clarify the acceptable limits of tree removal and tree replacement:

- a) On lots where access is blocked by trees, a 15-foot wide swath landward from the top of bank and a single 15-foot wide construction access road may be cleared provided it is aligned to minimize tree removal and environmental impact.
- b) Woody vegetation within the footprint of the shoreline structure may be removed.
- c) When trees greater than or equal to 3-inch DBH, must be removed for the construction of the shoreline best management practice and/or construction access, they must be replaced with 1-inch DBH minimum caliper trees at a 1:1 rate or 15-inch minimum height shrubs at a 3:1 rate.
- d) The existing trees, proposed plantings and clearing limits must be shown on the Joint Permit Application and/or WQIA and protected by a recorded BMP Maintenance Agreement.
- e) Land disturbance greater than 2500 square feet outside of the wetlands requires a Land Disturbing Activity permit.

8. After submittal and approval of a WQIA, fill may be allowed in the buffer provided:

- a) In order to prevent woody vegetation from being adversely impacted by the proposed fill - no more than 50% of the area within the drip line of existing vegetation will have more than four inches of fill.
- b) No wetlands will be filled.
- c) The requirements of the Floodplain Ordinance must be satisfied.
- d) The requirements of the Erosion and Sediment Control Ordinance must be satisfied.
- e) The fill area must be vegetatively stabilized within seven days.

- f) Positive and proper drainage must be established and the requirements of the Stormwater Management Ordinance must be satisfied.

9. Buffer Violations

When the buffer has been altered illegally, it must be restored in accordance with the CBLAD Riparian Buffer Modification and Mitigation Guidance manual, Appendix D and protected by a recorded BMP Maintenance Agreement.

Absent circumstance suggesting a higher or lower amount, civil charges for illegal tree removal will be \$300.00 plus \$50.00 for each four inches of tree diameter, or portion thereof. The contractor may be assessed a separate civil charge. The maximum civil charge is \$10,000 per violation as provided for in the County Code.

10. Buffer restoration requirements

- a) A restored buffer must consist of a mixture of trees, shrubs, groundcovers and mulch
- b) Groundcovers (non-woody) and grass augment the necessary woody planting materials and are not to be used in lieu of trees and shrubs.
- c) Plants must be chosen from “Plants for CBPA buffers”, CBLAD list or otherwise approved.
- d) Foundation plantings, within 5-feet of a structure are not counted towards restoration and replacement requirements.
- e) The use of native plants is strongly encouraged and invasive species are discouraged.

11. Buffer restoration plan -A buffer restoration plan and narrative must include at a minimum the following information:

- Property owners’ name, mailing address and phone number;
- Property address;
- Property boundaries;
- Physical improvement such as houses, sheds, driveways, etc.;
- Type, number and location of trees greater than 3-inches DBH within the first 50-feet of the buffer and trees greater than 6-inches DBH in the second 50-feet of the buffer;
- Type, number and location of replacement trees and shrubs;
- Limits and depth of fill;
- Designation of trees to remain and trees to be removed;
- Appropriate erosion control measures;
- Expected date of completion.

A GIS map available from Computer Support Services or a current physical survey may be used as a base map for the plan. The plan and narrative must have sufficient information for staff inspection.