



Land Development Services

Technical Bulletin

Subject: Policies Regarding Resource Protection Area
(RPA) Encroachment Requests

Date: May 7, 2025

No.: 25-02

Summary: This technical bulletin addresses policies regarding Resource Protection Area (RPA) encroachment requests under the [Chesapeake Bay Preservation Ordinance \(CBPO\)](#).

Effective Date: Immediately. There are no changes to current policies.

Background: This Technical Bulletin (TB) is intended to document the current policies and practices for proposed encroachments in the RPA as discussed below.

Policies:

The following are statements of policies that apply to uses and structures in the RPA. Please note that all uses and structures in the RPA are also subject to the General Performance Criteria in [CBPO § 118-3-2](#) and the Additional Performance Criteria in [CBPO § 118-3-3](#). Additional criteria, requirements and findings may also apply, based on the applicable provisions.

Accessory Structures:

Accessory structures are structures not considered to be part of the principal structure including pools, gazebos, patios, free-standing decks, detached garages, storage sheds, hot tubs, fireplaces and outdoor kitchens, etc. Accessory structures require an exception when proposed to be in the RPA in accordance with [Article 6 of the CBPO](#), subject to the applicable procedures, such as a public hearing and additional required findings, unless approvable as redevelopment in accordance with [CBPO § 118-2-1\(b\)](#).

- **Swimming Pools** – Outdoor swimming pools are accessory structures and require an exception in accordance with [CBPO § 118-6-8](#). Based on the definition of [impervious area](#) in the CBPO, the water surface area of the pool is treated as impervious area because it does not allow rainwater to infiltrate into the soil.
- **Patios** - A patio is an at-grade, paved outdoor area (including brick pavers, flagstone, etc.) without any walls or roof, serving as an accessory use to a principal use or structure, consistent with the [Zoning Ordinance definition](#). Patios are treated as [impervious surfaces](#) under the CBPO.
- **Sheds** - Detached storage sheds of any size (even those too small to require a building permit) require an exception as an accessory structure via public hearing. The dripline of the shed defines the impervious area. A Minor Water Quality Impact Assessment

Department of Land Development Services
12055 Government Center Parkway, Suite 659
Fairfax, VA 22035

Phone: 703-324-1780 TTY: 711 Fax: 703-653-6678
www.fairfaxcounty.gov/landdevelopment



(WQIA), as described in [Technical Bulletin 20-02 \(TB 20-02\)](#), may be used with the application in accordance with [CBPO § 118-6-8](#).

Additions:

Exceptions for minor additions may be approved in accordance with [CBPO § 118-5-5](#), subject to the approval of a WQIA and the findings in [CBPO § 118-5-5\(c\)](#). Consistent with the Zoning Ordinance [Subsection 4102.7.A\(2\)\(c\)](#), an accessory structure is considered part of the principal building if it is designed as a cohesive part of the principal building and has direct access to the principal building through an interior space that is fully enclosed,

- For additions that will disturb 2,500 square feet or more, prior to submission of the grading plan, an exception will require the separate submission of a Waiver (WAIV) record in the [Planning and Land Use System \(PLUS\)](#). Use the Resource Protection Area Exemption/Exception Request Coversheet and include the letter of justification and [Water Quality Impact Assessment Application](#) as supporting documentation for the WAIV. The exception and WQIA will be processed as a combined request. A separate WQIA record in PLUS is not required.
- For additions that will disturb less than 2,500 square feet, such that a plan of development is not required, refer to the [Minor Additions](#) webpage and submit as a “WAIV” record type in PLUS. Recent enhancements to PLUS have eliminated the need for the separate CBPO Exception Request Form and Water Quality Impact Assessment for Minor Additions Form. The exception and WQIA will be processed as a combined request.

Fill:

Recent amendments to the CBPO regarding coastal resilience and adaptation to sea level rise added limitations on the placement of fill that is applicable to Adaptation Measures in the RPA, as defined in [CBPO § 118-1-6\(a\)](#). The criteria and limitations for the placement of fill specified in [CBPO § 118-3-3\(g\)](#) apply to proposed Adaptation Measures in the RPA.

Redevelopment:

Redevelopment is the process of developing land that has previously been developed. It may be allowed in an RPA in accordance with [CBPO § 118-2-1\(b\)](#), subject to the approval of a WQIA, provided there is no increase in impervious area and no further encroachment in the RPA per [CBPO § 118-3-3\(c\)](#). Under these conditions, a structure or use that was legally established before the RPA was designated on a property can be removed and reconstructed or replaced with other structures or uses in approximately the same location as the previous development, but with no additional impervious area than previously existed and no further encroachment into the RPA than was approved with the original development or otherwise legally established, and existing at the time the RPA was designated. Although an exception request is not necessary, a WQIA is required.

Retaining Walls:

Retaining walls that are structurally necessary for a principal use can be included in Loss of Buildable Area exception requests, provided it meets all applicable criteria and findings in accordance with [CBPO § 118-5-4](#) or [CBPO § 118-6-7](#), including the minimum necessary to

afford relief criteria. Retaining walls that are not structurally necessary for the principal structure are accessory structures and would require approval in accordance with [CBPO § 118-6-8](#).

Sanitary Sewers:

The construction, installation, and maintenance of sanitary sewer lines, including pumping stations and laterals, are exempt from the provisions of the CBPO in accordance with [CBPO § 118-5-2](#), provided it meets all applicable criteria. A narrative is required on the plan of development demonstrating how the sanitary sewer, including sanitary laterals, comply with the applicable criteria. An applicant may, if they desire, submit a [separate request](#) in advance of the formal submission of the plan of development for a determination whether the sanitary sewer meets the applicable criteria.

Water Quality Impact Assessments:

The current WQIA form distinguishes between “minor” and “major” WQIAs, with different submission requirements, as defined in Technical Bulletin [TB 20-02](#). For example, Minor WQIAs are appropriate only for projects disturbing less than 2,500 square feet. Major WQIAs for uses allowed in the RPA under [CBPO § 118-2-1](#) may either be submitted separately for review and approval or incorporated into the plan of development for review and approval in accordance with [CBPO § 118-4-4](#).

Additional Resources:

Additional resources on the Chesapeake Bay Preservation Ordinance can be found at the [Chesapeake Bay Preservation Ordinance website](#), including application forms and answers to frequently asked questions.

For additional assistance, please contact Jerry Stonefield with the Site Code Research and Development Branch, at Jerry.Stonefield@fairfaxcounty.gov or 703-324-1791, TTY 711.

Approved by: William D. Hicks, P.E., Director
Land Development Services
12055 Government Center Parkway, Suite 659
Fairfax, Virginia 22035
703-324-1780 TTY 711