



# County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

## Chesapeake Bay Exception Review Committee

### AGENDA

December 2, 2020

2:00 p.m.

Citrix WebEx Electronic Meeting Platform

#### **Agenda Items:**

Open the Meeting: Chairperson Elizabeth Martin at 2:00 p.m.

#### **Topic 1:**

ERC Business

1. Review and vote on proposed electronic meeting policy
2. Review of previous meeting minutes from February 5, 2020

#### **Topic 2:**

Update on Woodlark presented by Marc Gori

#### **Topic 3:**

Presentation on Article 6 Exceptions – Findings and Criteria by Camylyn Lewis

#### **Topic 4:**

Presentation on LTI 20-02: New Application and Submittal Requirements for Water Quality Impact Assessments (WQIA) by Matthew Hansen

#### **Topic 5:**

Set Next Meeting Date

Adjourn: 4:00 p.m.

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**Department of Land Development Services**

12055 Government Center Parkway, Suite 659

Fairfax, Virginia 22035-5503

Phone 703-324-1780 • TTY 711 • FAX 703-653-6678

[www.fairfaxcounty.gov](http://www.fairfaxcounty.gov)



ACTION –

Adopting a Written Policy Governing Participation by Electronic Communication of Exception Review Committee Members in Public Meetings

ISSUE:

Virginia Code § 2.2-3708.2 authorizes the electronic participation of members of public bodies in public meetings under certain conditions. Prior to any member of the Chesapeake Bay Preservation Ordinance Exception Review Committee (ERC) attending a public meeting by electronic communication, however, it must adopt a written policy allowing for, and governing participation by electronic communication.

RECOMMENDATION:

That the ERC adopt a written policy (Attachment 1) allowing for and governing participation by electronic communication means.

TIMING:

The ERC action is requested on December 2, 2020, to promptly provide for remote participation of ERC members in public meetings.

BACKGROUND:

The Virginia Freedom of Information Act (FOIA) generally prohibits meetings of public bodies, including the ERC, from being conducted through telephonic, video, electronic, or other electronic communication means where the members of the public body are not physically assembled to discuss or transact public business. Va. Code § 2.2-3707(B).

However, a 2018 amendment to FOIA authorized public bodies to adopt a written policy allowing for and governing participation by electronic communication in limited circumstances. Va. Code § 2.2-3708.2(C). The ERC has not yet adopted a policy authorizing its members to participate in the ERC's public meetings by electronic communication.

After the ERC adopts a written policy, individual ERC members may remotely participate in meetings under limited circumstances. Those circumstances include:

- A quorum of the public body is physically assembled at a primary meeting location; Va. Code § 2.2-3708.2(C)(2);

ERC Agenda Item  
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- The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary location; Va. Code § 2.2-3708.2(C)(3); and
- The member of the public body requesting remote participation is unable to attend the meeting either due to (1) a temporary or permanent disability or other medical condition that prevents the member's physical attendance; or (2) a personal matter that is identified with specificity. Va. Code § 2.2-3708.2(A)(1). Remote participation due to a personal matter is limited each calendar year to two meetings. *Id.* "Personal matter" is not defined in the statute. There is no limitation to the number of meetings that a member may attend remotely due to a temporary or permanent disability.

As you are aware, both the Governor and the County have recently declared a State of Emergency due to the public health threat posed by COVID-19. In addition, the Governor is encouraging Virginians who are over age 65 to self-quarantine. Although the ERC is authorized to meet remotely during the current State of Emergency, this policy—if adopted—would allow at least some members of the ERC to remotely participate in the ERC's meetings once in-person meetings resume. This policy will allow individual members to participate remotely if they meet the requirements of the policy and it will continue to be in effect once the State of Emergency concludes, unless it is later affirmatively rescinded by the ERC.

FISCAL IMPACT:

There is no anticipated fiscal impact.

ENCLOSED DOCUMENTS:

Attachment 1- POLICY FOR PARTICIPATION IN MEETINGS BY ELECTRONIC COMMUNICATION

STAFF:

Danielle Badra, Land Development Services

ASSIGNED COUNSEL:

Lou Nuzzo, Assistant County Attorney

**THE FAIRFAX COUNTY CHESAPEAKE BAY PRESERVATION ORDINANCE**  
**EXCEPTION REVIEW COMMITTEE’S POLICY FOR PARTICIPATION IN**  
**MEETINGS BY ELECTRONIC COMMUNICATION**

1. **AUTHORITY AND SCOPE.**

a. This policy is adopted pursuant to the authorization of Va. Code § 2.2-3708.2 and is to be strictly construed in conformance with the Virginia Freedom of Information Act (VFOIA), Va. Code §§ 2.2-3700—3715.

b. This policy shall not govern an electronic meeting conducted to address a state of emergency declared by the Governor. Any meeting conducted by electronic communication means under such circumstances shall be governed by the provisions of Va. Code § 2.2-3708.2(A)(3).

2. **DEFINITIONS.**

a. “**ERC**” means the Fairfax County Chesapeake Bay Preservation Ordinance Exception Review Committee.

b. “**Member**” means any member of the ERC.

c. “**Remote participation**”, “**remotely participate**”, or “**participate remotely**” mean participation by a member of the ERC via telephonic, video, or other audio or combined audio and video electronic communication method where the member is not physically assembled with the other members of the ERC.

d. “**Meeting**” means a meeting as defined by Va. Code § 2.2-3701.

e. “**Notify**” or “**notifies**,” for purposes of this policy, means actual notice, including, but not limited to, email, text, telephone, or in-person notice.

3. **MANDATORY REQUIREMENTS**

Regardless of the reasons why the member is participating in a meeting from a remote location by electronic communication means, the following conditions must be met for the member to participate remotely:

a. A quorum of the ERC must be physically assembled at the primary or central meeting location; and

b. Arrangements have been made for the voice of the remotely participating member to be heard by all persons at the primary or central meeting location. If at any point during the meeting the voice of the remotely participating member is no longer able to be heard by all persons at the meeting location, the remotely participating member shall no longer be permitted to participate remotely.

4. **PROCESS TO REQUEST REMOTE PARTICPATION**

a. On or before the day of the meeting, and at any point before the meeting begins, the requesting member must notify the ERC Chair (or the Vice-Chair if the requesting member is the Chair) that they are unable to physically attend a meeting due to a personal matter or a temporary or permanent disability or other medical condition that prevents their physical attendance at the meeting.

b. The requesting member shall also notify the Director of Land Development Services of their request, but their failure to do so shall not affect their ability to remotely participate.

c. If the requesting member is unable to physically attend the meeting due to a personal matter, the requesting member must state with specificity the nature of the personal matter. Remote participation due to a personal matter is limited to two times per calendar year. There is no limit to the number of times that a member may participate remotely due to a temporary or permanent disability or other medical condition.

d. The requesting member is not obligated to provide independent verification regarding the reason that they are not able to physically attend the meeting.

e. The Chair (or the Vice-Chair if the requesting member is the Chair) shall promptly notify the requesting member whether their request is in conformance with this policy, and therefore approved or disapproved.

5. **PROCESS TO CONFIRM APPROVAL OR DISAPPROVAL OF PARTICIPATION FROM A REMOTE LOCATION**

When a quorum of the ERC has assembled for the meeting, the ERC shall vote to determine whether:

a. The Chair's decision to approve or disapprove the requesting member's request to participate from a remote location was in conformance with this policy; and

b. The voice of the remotely participating member can be heard by all persons at the primary or central meeting location.

6. **RECORDING IN MINUTES:**

a. If the member is allowed to participate remotely due to a temporary or permanent disability or other medical condition, the ERC shall record in its minutes (1) the ERC's approval of the member's remote participation; and (2) the remote location from which the member participated.

b. If the member is allowed to participate remotely due to a personal matter, such matter shall be cited in the minutes with specificity, as well as whether this is the first or second meeting of the calendar year in which the member has participated remotely due to a personal matter, and the remote location from which the member participated.

c. If a member's request to participate remotely is disapproved, the disapproval, including the grounds upon which the requested participation violates this policy or VFOIA, shall be recorded in the minutes with specificity.

7. **CLOSED SESSION**

If the ERC goes into closed session, the member participating remotely shall ensure that no third party is able to hear or otherwise observe the closed meeting.

8. **STRICT AND UNIFORM APPLICATION OF THIS POLICY**

This Policy shall be applied strictly and uniformly, without exception, to the entire membership, and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.



# County of Fairfax, Virginia

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## Draft Minutes

### Meeting of the Chesapeake Bay Exception Review Committee

February 5, 2020, 2:00 PM  
Herrity Building, Room 941  
12055 Government Center Parkway  
Fairfax, Virginia 22035

#### Present

##### Committee:

Anne S. Kanter, James C. Chesley, Sue Kovach Shuman, Edward W. Monroe, Jr., Dr. David Schnare, Elizabeth Martin, Amy Gould, Som Govender.

##### County Staff:

Danielle Badra, Brandy Mueller, Camylyn Lewis, Jerry Stonefield, Bruce McGranahan, John Friedman, Ellie Coddling, Marc Gori, Keyona Green, Hugh Whitehead.

#### Committee Members Absent

Ken Lanfear.

#### Call to Order

Meeting called to order by Vice Chair Elizabeth Martin at: 2:02 PM

#### ERC Business

1. Review of the March 6, 2019 minutes:
  - a. Motion was made by Schnare to approve the minutes. The motion was seconded by Chesley and approved 6-0 with 1 abstention.
2. Welcome new ERC member: Som Govender
  - a. Works for Fairfax County Park Authority. Representing Sully District.
3. Election of Officers:
  - a. Martin mentioned her interest in becoming the new Chair of the ERC.
  - b. Kanter nominated Martin as Chair of the ERC. The nomination was seconded by Schnare.
  - c. Nominations for Chair closed after hearing no other nominations. The nomination of Martin as Chair of ERC was approved 7-0.



- d. Martin nominated Monroe to Vice Chair of the ERC. The nomination was seconded by Kanter. Nominations for Vice Chair closed after hearing no other nominations. The nomination of Monroe as Vice Chair of ERC was approved 7-0.
- e. Martin nominated Shuman to Secretary of the ERC, seconded by Kanter. Nominations for Secretary closed after hearing no other nominations. The nomination of Shuman as Secretary of ERC was approved 8-0.
- 4. Schnare raised the issue of there being two vacancies on the ERC for the Lee and Mason districts. Schnare suggested that committee members write to the Supervisors of Lee and Mason districts reminding them to nominate someone for each district.
- 5. Martin reminded the ERC that according to the ERC By-Laws Article 3, Section 3.b., the ERC may seek professional advice on a case-by-case basis. The problem is that there is a tight timeframe for review of applications and unless the case is deferred, there usually isn't time to obtain further input.
  - a. A suggestion was made that a professional instead come to the public hearing to provide input on specific applications, as a member of the public.

#### Committee Matters

- 1. Update on Woodlark Case presented by Marc Gori
  - a. Gori updated the committee on the status of the Woodlark case. A two-day trial is set for mid-June. Gori will inform the clerk to the ERC of the exact trial date to share with the other members. Gori advised against discussing the Woodlark case or any active exception review cases outside of scheduled committee meetings.
- 2. RPA Buffers Amendment ([Attachment 1](#)) presented by John Friedman
  - a. Schnare informed the ERC that Friedman helped to write the Chesapeake Bay Preservation Ordinance.
  - b. Friedman passed out a PowerPoint presentation ([Attachment 2](#)) on the proposed RPA Buffers Amendment ([Attachment 1](#)) text, which was previously emailed out to the committee.
  - c. Friedman will keep the ERC informed about when the BOS public hearings are scheduled for this amendment.
  - d. Friedman explained that anyone who submits a plan to LDS for review uses the guidelines in the PFM.
  - e. Friedman has been vetting the amendment. Consulted with the State. Going to the Tree Commission, Environmental Quality Advisory Committee, Engineering Standards Review Committee, and ERC.
  - f. Concerns were raised about the number of planting holes and potential die-off that would occur in order to meet the planting requirements of this amendment.
  - g. Friedman explained that one of the reasons for the reduction in the number of shrubs to be planted is to prevent having a ruined acre filled with holes.
  - h. Definition of "Native" species included in the amendment text.



- i. Concerns were raised that this amendment does not tell people specifically which trees to use.
- j. Friedman explained that there are lists of the acceptable trees species available but that they didn't want to include an exclusive list of trees in the amendment because there may be alternatives available outside of a restrictive list. Thus, the amendment provides more options/flexibility.
- k. Mueller mentioned that the county does have a list of recommended plantings for RPA located on the Chesapeake Bay Preservation Ordinance website. Whenever stormwater planning approves a plan, they attach that document.
- l. Concerns were raised that the PFM is just a guidance document, so how will this amendment be enforceable?
- m. Mueller answered that the Code dictates to plant in accordance with the PFM. If there is a violation and they don't replant according to the PFM, then they are still in violation and enforcement happens.
- n. Schnare suggested including information about the fiscal impact of this amendment somewhere in the board package.
- o. Friedman responded that while there is a fiscal impact, it can be minimal depending on the type of plantings selected.
- p. What does "control" mean in the phrase "Control of non-native plant species must be controlled"?
- q. Friedman and Whitehead explained that control basically means "removal, if deemed necessary." There are other ways to stabilize the soil if you remove the invasive species.
- r. Martin asked if Friedman needed anything from the committee.
- s. Friedman suggested to write up any individual comments and send them through the clerk to the ERC.

#### ERC Business

- 1. Schnare mentioned the possibility of no longer accepting staff recommendations on the exception review application packages. Proposed the language, "Henceforth, all staff reports on applications shall not include a staff recommendation."
  - a. It was resolved that this is not currently a possibility since staff is required by ordinance to forward the application with a staff recommendation. The code states, in part, at 118-6-1, that the Director shall forward such exception requests with recommendation for denial or approval.
- 2. Mueller agreed to forward the LTI on Water Quality Impact Assessments to the committee.
- 3. Schnare mentioned the issue of sheds requiring an exception review case. The language that required this has been removed from the county website, but nothing has been done to revise or replace that language. It is technically still enforceable.

- a. Staff agreed to forward Schnare's concerns to the SDID Director, Bruce McGranahan, for further consideration.
4. Martin asked, "Are there any exception review cases coming down the pike?"
  - a. Mueller responded that there are none in an acceptable position. There are 6 right now that are potentially headed in that direction, but none are ready for submission.
5. Gould asked Mueller to give an update on an outstanding violation issued at 8211 Little River Turnpike.
  - a. Mueller stated the owner had recently resubmitted their Water Quality Impact Assessment to the county for review and that her staff continues to perform routine E&S inspections. She also mentioned staff from Stormwater Planning Division monitors the site for illicit discharge after heavy rain events, with no issues yet.
  - b. Mueller confirms this violation will ultimately require review by the ERC.
6. Motion was made by Kanter to adjourn. The motion was seconded and approved unanimously.

#### Next Meeting

No meeting date was set.

#### Adjournment

Motion from Kanter to adjourn at 4:10 PM. The motion was seconded and approved 8-0.

Attachment 1

**Proposed Amendment to Chapter 12 (Tree Conservation)  
of  
the Public Facilities Manual**

**Amend Section 12-0316 (Requirements and Specifications for Replacement Trees and/or Vegetation), by revising Subsection 12-0316.4 and adding Table 12.13 to read as follows:**

- 12-0316.4     ~~When RPAs have been disturbed without prior approval by the Director, or are proposed to be disturbed as part of a construction plan, buffer areas must be restored or created as required under Chapter 118 of the Code and § 6-0000 *et seq.*, and planting must be consistent with Performance Criteria found in the “Riparian Buffers Guidance and Mitigation Guidance Manual” published by the Division of Chesapeake Bay Local Assistance, Virginia Department of Conservation and Recreation. At least 25 percent of the area must be planted with trees as specified in § 12-0316.2. In addition, one seedling as specified in § 12-0505.5 must be planted for each 100 square feet of disturbed area and one shrub with a minimum height of 18 inches must be planted for each 100 square feet of disturbed area. Soil preparation, soil amendments, and/or seed mix is required as determined by the Director. The surface area associated with these plantings may be used to meet 10-year Tree Canopy requirements when being planted to offset allowable disturbances to RPAs. RPA Establishment and Restoration. When RPAs are to be established or restored (see [Chapter 118](#) of the Code), plantings must include a mix of: overstory trees; understory trees; shrubs or shrubs with non-woody shrub equivalents; and both annual and perennial herbaceous seed mixes for groundcover planted at the densities listed in [Table 12.13](#) and in accordance with the following:~~
- A. Stock sizes must conform to the [American Standard for Nursery Stock \(ANSI Z60.1](#) current edition).
  - B. Large caliper trees may not be planted on slopes steeper than 2:1.
  - C. Plant materials from each of the required categories must be placed throughout the buffer.
  - D. Plants and perennial seed mixes must be species native to Fairfax County, tolerant of site conditions and non-invasive. Native species are those known to occur naturally (i.e., not assisted by human movement) within 100 miles of Fairfax County. Wetland plant species should be used where warranted by site conditions.
  - E. If non-native invasive plant species (NNIs) are present in the RPA and are likely to affect establishment or growth of plantings, control of NNIs must be included in the RPA planting plan.

- F. Undisturbed areas within an RPA to be restored should not be replanted or included in the planting density computations, except that if NNIs are to be removed, adequate ground cover must be established.
- G. For partially disturbed areas (e.g., some trees remain), planting densities may be adjusted with approval by the Director.
- H. The Director may require additional or more specific plantings to correct violations of [Chapter 118](#) of the Code.

Table 12.13 Planting Density per acre for RPA Establishment or Restoration					
A. Trees <sup>1</sup>					
	1.5-in. Caliper <sup>2</sup>	¾-in. Caliper <sup>2</sup>	Gallon Pot <sup>3</sup>	Tubelings <sup>4</sup>	Bareroot Seedlings <sup>5</sup>
Overstory Trees	109	164	218	400	1,210 <sup>7</sup>
Understory Trees <sup>6</sup>	N/A	218	435	800	
<p>1. Any overstory tree size may be paired with any understory tree size. Overstory trees and understory trees do not have to be the same size and more than one size of overstory tree and understory tree may be used. Using a 1-acre site as an example, a planting plan could specify 109 1.5-inch caliper overstory trees, 109 ¾-inch caliper understory trees and 218 1-gallon pot understory trees.</p> <p>2. Tree caliper is measured at 6 inches above ground as specified in <a href="#">ANSI Z60.1</a>.</p> <p>3. A gallon pot contains approximately 1 gallon of soil, equivalent to a #1 or #2 container size in accordance with <a href="#">ANSI Z60.1</a>.</p> <p>4. A tubeling is a tree grown from seed and offered for sale in plastic "plug" containers. Plants can vary in age from 1 to 4 years.</p> <p>5. Bareroot seedlings may only be used with approval by the Director. A bareroot seedling is a tree grown from seed but sold without soil. Plants can vary in age from 1 to 4 years.</p> <p>6. Up to 25% of the understory trees may be composed of overstory species.</p> <p>7. Combined total of understory trees and overstory trees.</p> <p>8. The recommended planting window is November 1 through April 15 when the ground is not frozen (after first hard frost and before bud break).</p>					
B. Shrubs					
	12-24 in. tall in a 1 gallon or larger pot <sup>1</sup>				
Shrubs	654				
Non-Woody Shrub Equivalents <sup>2</sup>	2,616				
<p>1. A gallon pot contains approximately 1 gallon of soil, equivalent to a #1 or #2 container size in accordance with <a href="#">ANSI Z60.1</a>.</p> <p>2. Up to 25% of the shrub layer may be composed of non-woody shrub equivalents. Non-woody shrub equivalents are herbaceous plants that preform a niche function otherwise</p>					

occupied by shrubs. Using a 1.2-acre site as an example, 589 (0.9-acre x 654/acre) shrubs and 785 (0.3-acre x 2,616/acre) non-woody shrub equivalents would be required.

3. The recommended planting window for shrubs is November 1 through April 15 when the ground is not frozen (after first hard frost and before bud break).

4. The recommended planting window for non-woody shrub equivalents is September 1 through October 31 and March 1 through May 15.

C. Groundcover<sup>1</sup>

	Pure Live Seed
Perennial Herbaceous Seed Mix <sup>2</sup> (minimum of 12 species)	30 lbs.
Annual Herbaceous Cover Crop Seed Mix <sup>2</sup> (1-2 species)	60 lbs.

1. Other types of groundcover such as leaf litter or mulch may be approved by the Director.

2. An herbaceous seed mix is a seed mix of perennial and/or annual grasses and flowers.

3. The recommended planting window for the perennial herbaceous seed mix is September 1 through October 31 and March 1 through May 15.

4. Annual herbaceous cover crop seed mixes may be planted year-round.

Attachment 2



# **Draft Resource Protection Area (RPA) Planting Requirements**

Chesapeake Bay Exception Review Committee

John Friedman  
Land Development Services  
February 5, 2020



## **Today's Discussion**

- Status of Amendments
- Background
- Draft Standards
- Going Forward

## Status of Amendments

- The original advertised amendments to Chapter 118 (Chesapeake Bay Preservation Ordinance) were not adopted.
- At the public hearing on November 19, 2019, the Board directed that the amendments be re-advertised with related amendments to Chapter 12 (Tree Conservation) of the PFM at a later date.
- The amendments to Chapter 12 have been drafted by LDS staff in collaboration with DPWES staff from the Urban Forest Management and Stormwater Planning Divisions.
- Roll-out to stakeholders has begun.
- The schedule for re-advertising has not been set.

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## Background

- Currently, both the ordinance and the PFM include planting densities for RPAs.
- The planting densities and computational methods in the ordinance and PFM are different.
- The state's *Riparian Buffers Modification & Mitigation Guidance Manual* (Guidance Manual) published in 2003, also has recommended planting densities. The manual is referenced in the PFM.

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## Background

- The planting density for trees is approximately the same in all three sources, the ordinance, the PFM and the Guidance Manual.
- The density of shrubs in the PFM is much less than what the ordinance requires but it's still greater than the recommended density in the Guidance Manual.
- The PFM uses 10-YR tree cover for 25% of the area to determine the number of caliper sized trees required to be planted with 75% of the area planted with seedlings.
- The ordinance uses stems/acre.

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## Background

- What is the purpose of the amendments?

Reconcile the differences between the requirements in the ordinance and the PFM and have all the requirements in one location.

- Why locate the requirements in the PFM?

The PFM is the best place for the density requirements because it includes all of the standards for field practice, which are not included in the ordinance, needed to implement RPA planting plans.

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## Existing Standards

### Chapter 118

Trees – 100 2" caliper overstory trees and 200 2" caliper understory trees per acre or 200 overstory tree seedlings and 400 understory tree seedlings per acre
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Shrubs <sup>1</sup> – 1089 18" tall shrubs (size per PFM) per acre
--------------------------------------------------------------------

Groundcover <sup>2</sup> – seed mix of grasses and perennials or wetland plants and/or seed mix of wetland plants as determined by the Director (per PFM); the application rate of seed is not specified
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

1. The ordinance doesn't specify the size of shrubs but it does require the use of plant materials as specified in the PFM. The use of 18" tall shrubs is assumed based on PFM requirements
2. The ordinance doesn't specify the type of groundcover or application rate for ground cover if seed is used but does require use of plant materials as specified in the PFM.

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## Existing Standards

### PFM

Trees <sup>1</sup> – 25% of area planted with a mix of 2" caliper overstory and understory trees based on 10-yr tree cover plus
------------------------------------------------------------------------------------------------------------------------------------

Remaining 75% of area planted with bareroot seedlings at 436 plants/acre
--------------------------------------------------------------------------

Shrubs – 436 18" tall shrubs per acre
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Groundcover – Seed mix of grasses and perennials or wetland plants and/or seed mix of wetland plants as determined by the Director
------------------------------------------------------------------------------------------------------------------------------------

1. The PFM doesn't specify any specific breakdown between understory and overstory trees for the 2" caliper trees but it would be reasonable to assume a 2:1 ratio based on the ratio in the ordinance and the state's Guidance Manual.

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## Revised Standards

### What do the revised RPA planting requirements look like?

- Planting densities will be located in the PFM.
- Planting densities are based on local experience with stream restoration projects.
- Four components:
  - 1) overstory trees; 2) understory trees; 3) shrubs and 4) groundcover.
- Include additional planting options (e.g. tree caliper sizes).
- All planting densities trees and shrubs expressed as stems/acre.

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## Revised Standards

### Trees (stems/ac.)

	1.5" caliper	3/4" caliper	1 gal. pot	<u>Tubelings</u>	Bareroot Seedlings <sup>1</sup>
Overstory Trees <sup>2</sup>	109	164	218	400	1,200
Understory Trees <sup>2</sup>	N/A	218	435	800	

1. Bareroot seedlings may only be used with approval by the Director.
2. Any overstory tree size may be paired with any understory tree size.
3. The existing ordinance calls for 100 2.0" caliper overstory trees and 200 2.0" caliper understory trees or 200 overstory seedlings and 400 understory seedlings.
4. Highlighted numbers are the same as the Guidance Manual.

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## Revised Standards

### Shrubs

(stems/ac.)

	12-24 in. tall in a 1 gallon or larger pot
Woody Shrubs	654
Non-woody Shrub Equivalents <sup>1</sup>	2,616

1. Up to 25% of the shrub layer may be composed of non-woody shrub equivalents. Non-woody shrub equivalents are herbaceous plants such as ferns and vines that perform a niche function otherwise occupied by shrubs.
2. The existing ordinance requires 1089 shrubs; the current PFM requires 436 shrubs; and the state's Guidance Manual requires 327 shrubs.

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## Revised Standards

### Groundcover

	Pure Live Seed
Perennial Herbaceous Seed Mix (minimum of 12 species)	30 lbs.
Annual Herbaceous Cover Crop Seed Mix (1-2 species)	60 lbs.

1. Other types of groundcover such as mulch may be approved by the Director.
2. An herbaceous seed mix is a seed mix of perennial and/or annual grasses and flowers. The perennial mix is used for permanent groundcover and the annual seed mix is used for immediate soil stabilization.
3. The existing ordinance doesn't specify the type of groundcover or application rate for ground cover if seed is used but does require use of plant materials as specified in the PFM. The PFM specifies that the application rate be determined by the Director.

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## Example

1.5 acres of the RPA has been disturbed; how do you determine the number of trees and shrubs that need to be planted?

- Let's start with the trees. You need to plant both overstory and understory trees.
- First select one or more sizes of overstory trees.
- For our example, we will use 1.5" caliper size trees to meet 30% of the requirement and 1 gal. pot size trees to meet 70% of the requirement:

**109** 1.5" caliper size overstory trees per acre X **0.30** X **1.5** acres = **49 trees**

**218** 1 gal. pot size overstory trees per acre X **0.70** X **1.5** acres = **229 trees**

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## Example (continued)

- Now we need to select one or more sizes of understory trees.
- For our example, we will use 3/4" caliper size trees to meet 40% of the requirement and 1 gal. pot size trees to meet 60% of the requirement:

**218** 3/4" caliper size understory trees per acre X **0.40** X **1.5** acres = **131 trees**

**435** 1 gal. pot size understory trees per acre X **0.60** X **1.5** acres = **392 trees**

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## Example (continued)

For the 1.5 acres of disturbed RPA we will be planting:

- **49** - 1.5" caliper size overstory trees
- **229** - 1 gal. pot size overstory trees
- **131** - 3/4" caliper size understory trees
- **392** - 1 gal. pot size understory trees

**A total of 801 trees**

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## Example (continued)

The next step is to determine the number of shrubs that need to be planted

- Decide if you want to use non-woody shrub equivalents for a portion of the requirement but no more than 25%.
- For our example, we will use woody shrubs to meet 85% of the requirement and non-woody shrub equivalents to meet 15% of the requirement:

**654** woody shrubs per acre X **0.85** X **1.5** acres = **834** woody shrubs

**2,616** non-woody shrub equivalents per acre X **0.15** X **1.5** acres = **589**  
non-woody shrub equivalents

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## Example (continued)

Finally, we need to determine the amount of herbaceous seed mix that needs to be planted.

- **30 pounds of perennial seed mix per acre X 1.5 acres = 45 pounds**
- **60 pounds of annual seed mix per acre X 1.5 acres = 90 pounds**

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## Example (continued)

Summary - to revegetate our 1.5 acre RPA buffer we will be planting:

1.5" caliper overstory trees	49
1 gal. pot overstory trees	229
3/4" caliper understory trees	131
1 gal. pot understory trees	392
woody shrubs	834
non-woody shrub equivalents	589
perennial herbaceous seed mix	45 pounds
annual herbaceous cover crop seed mix	90 pounds

18

## Going Forward

- Present revised standards to the Tree Commission, EQAC etc.
- Assemble all of the stakeholder comments and revise the amendments as needed.
- Send revised amendments to DEQ for preliminary OK.
- Bring the revised PFM amendments to the ESRC for approval.

19

## Going Forward

- Board Re-authorization of amendments to Ch 118 and PFM.
- Planning Commission hearing and recommendation.
- Board hearing and adoption.

20

## Questions?

**For more information:**

**Contact:**

[John.Friedman@fairfaxcounty.gov](mailto:John.Friedman@fairfaxcounty.gov)

[Jan.Leavitt@fairfaxcounty.gov](mailto:Jan.Leavitt@fairfaxcounty.gov)

**Send comments through your staff liaison**





# Summary of Chapter 118, Articles 3, 5 & 6

Staff & Exception Review Committee (ERC) review  
of  
Chesapeake Bay Exceptions

Stormwater Staff

December 2, 2020

## Article 5 (Staff) and Article 6 (ERC)

### Article 5 (Staff)

- Section 118-5-1. Nonconforming Uses and Noncomplying Structures.
- Section 118-5-2. Public Utilities, Railroads, Public Roads, and Facilities Exemptions.
- Section 118-5-3. Additional Exemptions.
- **Section 118-5-4. Waivers for Loss of Buildable Area in a Resource Protection Area.**
- Section 118-5-5 (Techs). Exceptions for Minor Additions.



### Article 6 (ERC)

- Section 118-6-1. Granting of Exceptions.
- Section 118-6-2. Conduct of Public Hearings.
- Section 118-6-3. Required Notice for Public Hearings.
- Section 118-6-4. Withdrawal of Application.
- Section 118-6-5. Submission Requirements for Exception Requests.
- Section 118-6-6. Required Findings.
- **Section 118-6-7. Exceptions for loss of buildable area in a resource protection area (in the seaward 50 feet).**
- Section 118-6-8. Exceptions for Accessory Structures.
- Section 118-6-9. General Resource Protection Area Encroachment Request.

## Articles 2, 3 & 5 (Staff)

- Section 118-2-1 RPA
  - Allowed Uses Redevelopment
  - Performance Criteria 118-3-3
- Section 118-2-2 Resource Management Area (RMA) Performance Criteria
  - 118-3-2
- Stormwater Specialists Sections 118-5-1 through 118-5-4
- 118-5-5 – Minor Additions and the walkthrough process (Techs)
- When a Water Quality Impact Assessment (WQIA) is required

## Section 118-2-1 (Staff)

### Allowed Uses, Development and Redevelopment in Resource Protection Areas.

#### WQIA unless exempt

- Water-dependent development
- Redevelopment outside of Intensely Developed Areas (IDAs)
- Uses, exempted under Article 5
- Roads and driveways not exempted under Article 5
- “Regional” Flood control and stormwater management facilities
  - Not Best Management Practices (BMPs) for individual lots



# New WQIA Form



## Water Quality Impact Assessment Application

Site Development and Inspections Division (SDID)  
Fairfax County Land Development Services  
12055 Government Center Parkway, Suite 535, Fairfax, VA 22035  
Phone: 703-324-1720, TTY 711  
[www.fairfaxcounty.gov/landdevelopment](http://www.fairfaxcounty.gov/landdevelopment)



A Water Quality Impact Assessment (WQIA) is an analysis of the impacts on water quality when a project is proposed within a Resource Protection Area (RPA). The purpose of the WQIA is to ensure protection of RPAs consistent with the goals, objectives, and requirements of the Chesapeake Bay Preservation Ordinance of Fairfax County to:

1. Identify the impacts of the proposed project on water quality;
2. Ensure that the proposed land disturbance will occur in a manner that will be least disruptive to the natural function of RPAs;
3. Propose mitigation that will address water quality protection through preserving or restoring all buffer functions including stormwater pollutant removal, erosion, and sediment and runoff control.

Per [§118-3-3\(a\)](#), a WQIA is required for any land disturbance, development, or redevelopment within a RPA unless exempt under Article 5 or unless waived by the Director of Land Development Services in accordance with the provisions of [§118-6-5](#). A WQIA may also be required for development or redevelopment within a Resource Management Area (RMA) if the Director determines that such an assessment is necessary because of the unique characteristics of the site or because the intensity of the proposed development may cause significant impacts on the adjacent RPA. For the code required WQIA components, see [§118-4-3](#).

### Please print or type the following information:

Associated Plan and/or Building Permit Number (if applicable): \_\_\_\_\_

Tax Map Number: \_\_\_\_\_ Magisterial District: \_\_\_\_\_

Property Address: \_\_\_\_\_

Applicant Name: \_\_\_\_\_ ☐ Owner ☐ Developer ☐ Engineer ☐ Agent

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

[Article 6](#) Exception Request to be submitted following acceptance of this WQIA: ☐ Yes ☐ No



# Review & Approval (Staff)

## CHESAPEAKE BAY PRESERVATION ORDINANCE RESOURCE PROTECTION AREA (RPA) EXEMPTION/EXCEPTION REQUEST FORM (Does not require a Public Hearing)

Associated Plan #: \_\_\_\_\_ Exception #: \_\_\_\_\_  
Project Name: \_\_\_\_\_ Magisterial District: \_\_\_\_\_  
Project Address: \_\_\_\_\_ Tax Map #: \_\_\_\_\_  
Applicant Name: \_\_\_\_\_ ☐ Owner ☐ Developer ☐ Agent ☐ Engineer  
Mailing Address: \_\_\_\_\_ City, State, ZIP: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

### Please Check All Sections That Apply

CHECK	COUNTY CODE REFERENCE	EXEMPTION/EXCEPTION/SUBMISSION DESCRIPTION
	§118-3-3(a)	<b>Water Quality Impact Assessment (WQIA)</b> – Required for any land disturbance, development or redevelopment within the RPA that is not exempt pursuant to Article 5. <b>\$432 Review Fee (for non-bonded lots); \$1,652.40 Review Fee (for bonded lots)</b>
	§118-3-3(d)	<b>Buffer Area</b> – (Request to remove vegetation) Applies to site lines, general woodlot management, habitat management or other authorized uses <b>\$0 Review Fee</b>
	§118-5-1	<b>Exemption</b> – Nonconforming uses and structures (WQIA not required) <b>\$0 Review Fee</b>
	§118-5-2	<b>Exemption</b> – Public utilities, railroads, public roads and facilities (WQIA not required) <b>\$0 Review Fee</b>
	§118-5-3	<b>Exemption</b> – Water wells, site amenities for passive recreation (e.g., access paths), historic preservation, and archeological activities. (WQIA not required) <b>\$0 Review Fee</b>
	§118-5-4(a)	<b>Exception - Loss of buildable area in RPA</b> for lots recorded prior to October 1, 1989 where encroachment (i.e., limits of clearing and grading) does not extend into the seaward 50' of the RPA buffer area. <b>\$204 Review fee per lot + \$432 Fee for WQIA.</b>
	§118-5-4(b)	<b>Exception - Loss of buildable area in RPA</b> for lots recorded between October 1, 1989 and November 17, 2003 where encroachment (i.e., limits of clearing and grading) does not extend into the seaward 50' of the RPA buffer area. <b>\$204 Review Fee per lot + \$432 Review Fee for WQIA.</b>
	§118-5-5(a)	<b>Exception – Minor additions in RPA</b> (does not include accessory structures/uses) to houses that were established (RUP issued) prior to July 1, 1993. <b>\$204 Review Fee per lot + \$432 Review Fee for WQIA.</b>
	§118-5-5(b)	<b>Exception - Minor additions in RPA</b> (does not include accessory structures/uses) to houses that were established (RUP issued) between July 1, 1993 and November 17, 2003 <b>\$204 Review Fee per lot + \$432 Review Fee for WQIA.</b>

### ☐ LETTER OF JUSTIFICATION ATTACHED

Address how approval of the proposed encroachment within the RPA (refer to § 118-5-4 or § 118-5-5(c)):

1. Is the minimum necessary to afford relief.
2. Will not confer upon the applicant any special privileges that are denied by the Chesapeake Bay Preservation Ordinance (CBPO) to other property owners who are subject to the CBPO provisions and who are similarly situated.
3. Is in harmony with the purpose and intent of the CBPO and is not of substantial detriment to water quality.
4. Is not based upon conditions or circumstances that are self-created or self-imposed.
5. Will implement reasonable and appropriate conditions that will prevent the activity from causing a degradation of water quality.

### ☐ WATER QUALITY IMPACT ASSESSMENT (WQIA) APPLICATION ATTACHED

Required for any land disturbance, development or redevelopment within the RPA unless exempt pursuant to Article 5. Include [WQIA Application](#) in letter of justification or plan. Include all the following elements (per CBPO § 118-4-3 and [LTI 20-02](#)):

1. Display the boundaries of the RPA.
2. Display and describe the location and nature of the proposed encroachment into and/or impacts to the RPA, including any clearing, grading, impervious surfaces, structures, utilities, and sewage disposal systems.
3. Provide justification for the proposed encroachment into and/or impacts to the RPA.
4. Describe the extent and nature of any proposed disturbance or disruption of wetlands.
5. Display and discuss the type and location of proposed best management practices to mitigate the proposed RPA encroachment and/or adverse impacts.
6. Demonstrate the extent to which the proposed activity will comply with all applicable performance criteria of the Chesapeake Bay Preservation Ordinance.

APPLICANT/AGENT SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

Submit two copies of this form, Letter of Justification, and plans for all above requests to:  
Customer and Technical Support Center, Site Application Center  
12065 Government Center Parkway, Suite 230  
Fairfax, Virginia 22035

SDI Effective Date 3/11/2020

## CHESAPEAKE BAY PRESERVATION ORDINANCE RESOURCE PROTECTION AREA (RPA) EXEMPTION/EXCEPTION REQUEST FORM (Does not require a Public Hearing)

Associated Plan #: \_\_\_\_\_ Exception #: \_\_\_\_\_  
Project Name: \_\_\_\_\_ Magisterial District: \_\_\_\_\_  
Project Address: \_\_\_\_\_ Tax Map #: \_\_\_\_\_  
Applicant Name: \_\_\_\_\_ ☐ Owner ☐ Developer ☐ Agent ☐ Engineer  
Mailing Address: \_\_\_\_\_ City, State, ZIP: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

### Please Check All Sections That Apply

CHECK	COUNTY CODE REFERENCE	EXEMPTION/EXCEPTION/SUBMISSION DESCRIPTION
	§118-3-3(a)	<b>Water Quality Impact Assessment (WQIA)</b> – Required for any land disturbance, development or redevelopment within the RPA that is not exempt pursuant to Article 5. <b>\$432 Review Fee (for non-bonded lots); \$1,652.40 Review Fee (for bonded lots)</b>
	§118-3-3(d)	<b>Buffer Area</b> – (Request to remove vegetation) Applies to site lines, general woodlot management, habitat management or other authorized uses <b>\$0 Review Fee</b>
	§118-5-1	<b>Exemption</b> – Nonconforming uses and structures (WQIA not required) <b>\$0 Review Fee</b>
	§118-5-2	<b>Exemption</b> – Public utilities, railroads, public roads and facilities (WQIA not required) <b>\$0 Review Fee</b>
	§118-5-3	<b>Exemption</b> – Water wells, site amenities for passive recreation (e.g., access paths), historic preservation, and archeological activities. (WQIA not required) <b>\$0 Review Fee</b>
	§118-5-4(a)	<b>Exception - Loss of buildable area in RPA</b> for lots recorded prior to October 1, 1989 where encroachment (i.e., limits of clearing and grading) does not extend into the seaward 50' of the RPA buffer area. <b>\$204 Review fee per lot + \$432 Fee for WQIA.</b>
	§118-5-4(b)	<b>Exception - Loss of buildable area in RPA</b> for lots recorded between October 1, 1989 and November 17, 2003 where encroachment (i.e., limits of clearing and grading) does not extend into the seaward 50' of the RPA buffer area. <b>\$204 Review Fee per lot + \$432 Review Fee for WQIA.</b>
	§118-5-5(a)	<b>Exception – Minor additions in RPA</b> (does not include accessory structures/uses) to houses that were established (RUP issued) prior to July 1, 1993. <b>\$204 Review Fee per lot + \$432 Review Fee for WQIA.</b>
	§118-5-5(b)	<b>Exception - Minor additions in RPA</b> (does not include accessory structures/uses) to houses that were established (RUP issued) between July 1, 1993 and November 17, 2003 <b>\$204 Review Fee per lot + \$432 Review Fee for WQIA.</b>

# Article 5 - Nonconformities, Waivers, Exceptions, and Exemptions (Staff)

## Section 118-5-1. Nonconforming Uses and Noncomplying Structures

- Before November 18, 2003 – can continue to be maintained but not expanded
- Destroyed by casualty – can be reconstructed

## Section 118-5-2. Public Utilities, Railroads, Public Roads, and Facilities Exemptions

- Electric, natural gas, fiber-optic and telephone transmission lines, railroads, and public roads with conditions

## Section 118-5-3. Additional Exemptions

- Water wells, passive recreation, historic preservation, archaeological, land disturbance in RMAs < 2,500 square feet (sq. ft.), and Silvicultural with conditions

## Section 118-5-4. Waivers for Loss of Buildable Area in a Resource Protection Area

- Not in seaward 50 feet

## Section 118-5-5. Exceptions for Minor Additions

- Techs/walk through - coming up next



# Section 118-5-5. Exceptions for Minor Additions (Staff)

## Principal Structure

- established as of July 1, 1993
- lot recorded prior to July 1, 1993
- Max additional 1,000 sq. ft. impervious (cumulative)
- Or max 2% of the lot area (max 2,500 sq. ft.)

## Principal Structure

- July 1, 1993 - November 18, 2003
- Principal structure before resource protection area (RPA)
- Max additional 1,000 sq. ft. impervious (cumulative)
- Or 2% of the lot area (max 2,500 sq. ft.)





## Section 118-5-5. Exceptions for Minor Additions (Staff) Cont'd

### Conditions & findings:

- Minimum necessary to afford relief
- No special privileges
- Harmony & intent maintained no substantial detriment to water quality
- Not self-created or self-imposed
- Conditions imposed to prevent degradation of water quality; *provide a vegetated buffer to mitigate.*
- No net increase in nonpoint source pollutant load. Decks over existing maintained areas meet this finding.
- Erosion and sediment control requirements



[http://www.fairfaxcounty.gov/dpwes/publications/stormwater/01\\_ps\\_qc\\_full\\_ada\\_v2.pdf](http://www.fairfaxcounty.gov/dpwes/publications/stormwater/01_ps_qc_full_ada_v2.pdf)

## Section 118-5-4. Waivers for Loss of Buildable Area (Staff)

lot or parcel recorded prior to October 1, 1989

1. Minimum necessary for structure & utilities
2. Vegetated buffer
3. **Not in seaward 50 feet**
4. < 10,000 sq. ft. disturbance in RPA
5. < 5,000 sq. ft. impervious area in RPA
6. Minimum lot size (valid lot)
7. Performance criteria 118-3-2 & 118-3-3

lot or parcel recorded between October 1, 1989  
and November 18, 2003

1. 1 through 7 above plus
2. Legal subdivision
3. Previous exception requirements met
4. Existing BMPs maintained



# Article 6 – Three Types of Exception (ERC)

- 118-6-1. Granting of Exceptions.
- 118-6-2. Conduct of Public Hearings.
- 118-6-3. Required Notice for Public Hearings.
- 118-6-4. Withdrawal of Application.
- 118-6-5. Submission Requirements for Exception Requests.
- 118-6-6. Required Findings.
- 118-6-7. Exceptions for loss of buildable area in a resource protection area – **that encroach into the seaward 50 feet.**
- 118-6-8. Exceptions for Accessory Structures.
- 118-6-9. General Resource Protection Area Encroachment Request.

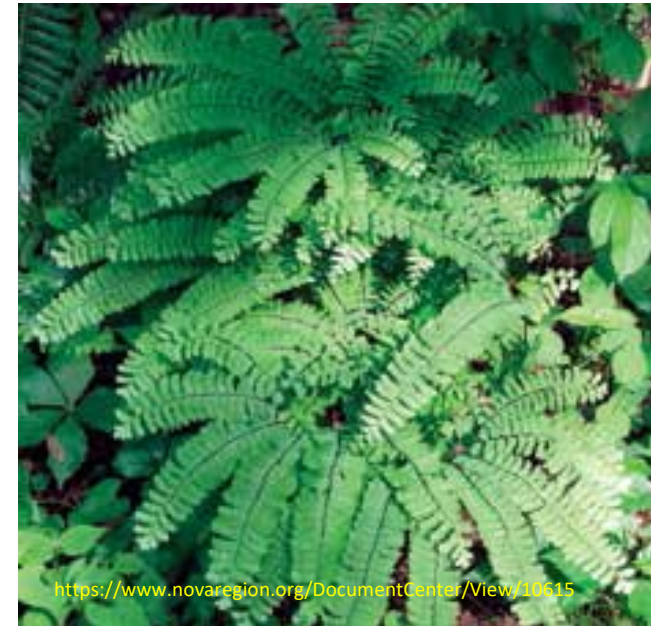




# Section 118-6-6. - Required Findings (ERC)

Required findings:

- a) Minimum necessary to afford relief
- b) No special privileges
- c) Harmony & intent - not detriment to water quality
- d) Not self-created or self-imposed
- e) Conditions are imposed, prevent degradation of water quality
- f) Other findings



## Section 118-6-7. - Exceptions for Loss of Buildable Area in a Resource Protection Area (ERC)

- **Not approvable by staff (in seaward 50 ft.)**
- Lot before Nov 18, 2003
- $\leq 10,000$  sq. ft. of land disturbance (except septic field and access)
- $\leq 5,000$  sq. ft. impervious (except access)
- Valid lot
- Vegetated buffer
- Performance requirements 118-3-2 (RMA) & 118-3-3 (RPA)
- Required findings 118-6-6 (minimum necessary, no special privileges, in harmony no substantial detriment to water quality, not self created, conditions to prevent degradation of water quality)



# Section 118-6-8. - Exceptions for Accessory Structures (ERC)

## Principal structures before July 1, 1993

- < 1,000 sq. ft. additional impervious or 2% up to 2,500 sq. ft. (cumulative)
- lot recorded prior to July 1, 1993
- additions allowed until maximum reached
- where practicable, a vegetated buffer



## Principal structures July 1, 1993 - November 18, 2003

- $\leq 1000$  sq. ft. additional impervious RPA or 2 % up to 2,500 sq. ft. (cumulative); added after November 18, 2003
- lot prior to November 18, 2003
- Additions to maximum impervious reached
- where practicable, a vegetated buffer



## Required Findings 118-6-6



## Section 118-6-9. - General Resource Protection Area Encroachment Request (ERC)

- Do not qualify under 118-6-7 or Section 118-6-8
- Meet the **required findings** listed in Section 118-6-6
- Meet additional finding that the water quality benefits resulting from the proposed facility or improvement exceed the associated water quality detriments
- Where practicable, a vegetated buffer



<https://www.novaregion.org/DocumentCenter/View/10615>



<https://www.novaregion.org/DocumentCenter/View/10615>

# Section 118-6-9. - General Resource Protection Area Encroachment Request (ERC)

## Water quality benefits exceed the detriments – Simple Method

Total Phosphorous (TP) event mean concentration (EMC) of 0.26 mg/L

$$L = 2.28072 * R_v * A \text{ lbs./ year}$$

( $R_v$ ) that account for impervious areas, managed turf, and forest/open space is calculated as follows:

$$R_v(Composite) = R_v(I) \times \%I + R_v(T) \times \%T + R_v(F) \times \%F$$

Where:

$R_v(Composite)$  = Composite or weighted runoff coefficient

$R_v(I)$  = Runoff Coefficient for Impervious Cover

$R_v(T)$  = Runoff coefficient for Turf cover or disturbed soils

$R_v(F)$  = Runoff coefficient for forest/open space

$\%I$  = Percentage of Site in Impervious cover (fraction)

$\%T$  = Percentage of Site in Turf cover (fraction)

$\%F$  = Percentage of Site in Forest/Open Space (fraction)



Exception # \_\_\_\_\_

### APPLICATION FORM

For Resource Protection Area (RPA) Encroachment Exceptions Pursuant to Article 6 of the  
Chesapeake Bay Preservation Ordinance; Public Hearing Required

#### Part 1 – Property Information

Property Owner's Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

Description (Lot# Subdivision): \_\_\_\_\_

Project Name: \_\_\_\_\_

Tax Map Number: \_\_\_\_\_

Magisterial District: \_\_\_\_\_ Permit #: \_\_\_\_\_

#### Part 2 -Exception Type

Check One	CBPO Section	Exception Types: (Refer to CBPO for detailed list of qualifications and limitations)
<input type="checkbox"/>	118-6-7	<b>Loss of buildable area</b> within an RPA on a lot or parcel recorded prior to November 18, 2003. The proposed construction encroaches into the seaward 50 feet of the RPA buffer.
<input type="checkbox"/>	118-6-8(a)	<b>Accessory structure</b> within the RPA, where the principal structure was established (i.e. RUP issued) as of July 1, 1993 and the proposed construction encroaches into the 1993 RPA.
<input type="checkbox"/>	118-6-8(b)	<b>Accessory structure</b> in the RPA, where the principal structure on the lot or parcel was established (i.e. RUP issued) between July 1, 1993 and November 18, 2003 and the construction encroaches into the 2003 RPA.
<input type="checkbox"/>	118-6-9	<b>General RPA Encroachment</b> request for encroachments into either the 1993 or 2003 RPA that do not qualify for waivers under CBPO Article 5 and do not qualify under any of the above Sections.

#### Part 3 –General Description of Exception Request

Acres or Square Feet	Description of Exception Request
Property Area (acres or square feet)	
Disturbed Area in RPA (acres or square feet)	
Impervious Area within RPA (acres or square feet)	
Brief Description of Project and RPA Encroachment	

☐ Check here if a Special Exception (SE) and/or Rezoning (RZ) application has been/will be submitted. The public hearing will be conducted by the Board of Supervisors in conjunction with the SE or RZ hearing.

# Review & Approval (ERC)

#### Part 2 -Exception Type

Check One	CBPO Section	Exception Types: (Refer to CBPO for detailed list of qualifications and limitations)
<input type="checkbox"/>	118-6-7	<b>Loss of buildable area</b> within an RPA on a lot or parcel recorded prior to November 18, 2003. The proposed construction encroaches into the seaward 50 feet of the RPA buffer.
<input type="checkbox"/>	118-6-8(a)	<b>Accessory structure</b> within the RPA, where the principal structure was established (i.e. RUP issued) as of July 1, 1993 and the proposed construction encroaches into the 1993 RPA.
<input type="checkbox"/>	118-6-8(b)	<b>Accessory structure</b> in the RPA, where the principal structure on the lot or parcel was established (i.e. RUP issued) between July 1, 1993 and November 18, 2003 and the construction encroaches into the 2003 RPA.
<input type="checkbox"/>	118-6-9	<b>General RPA Encroachment</b> request for encroachments into either the 1993 or 2003 RPA that do not qualify for waivers under CBPO Article 5 and do not qualify under any of the above Sections.

<https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/assets/documents/forms/rpa-exceptions-public-hearing-required.pdf>

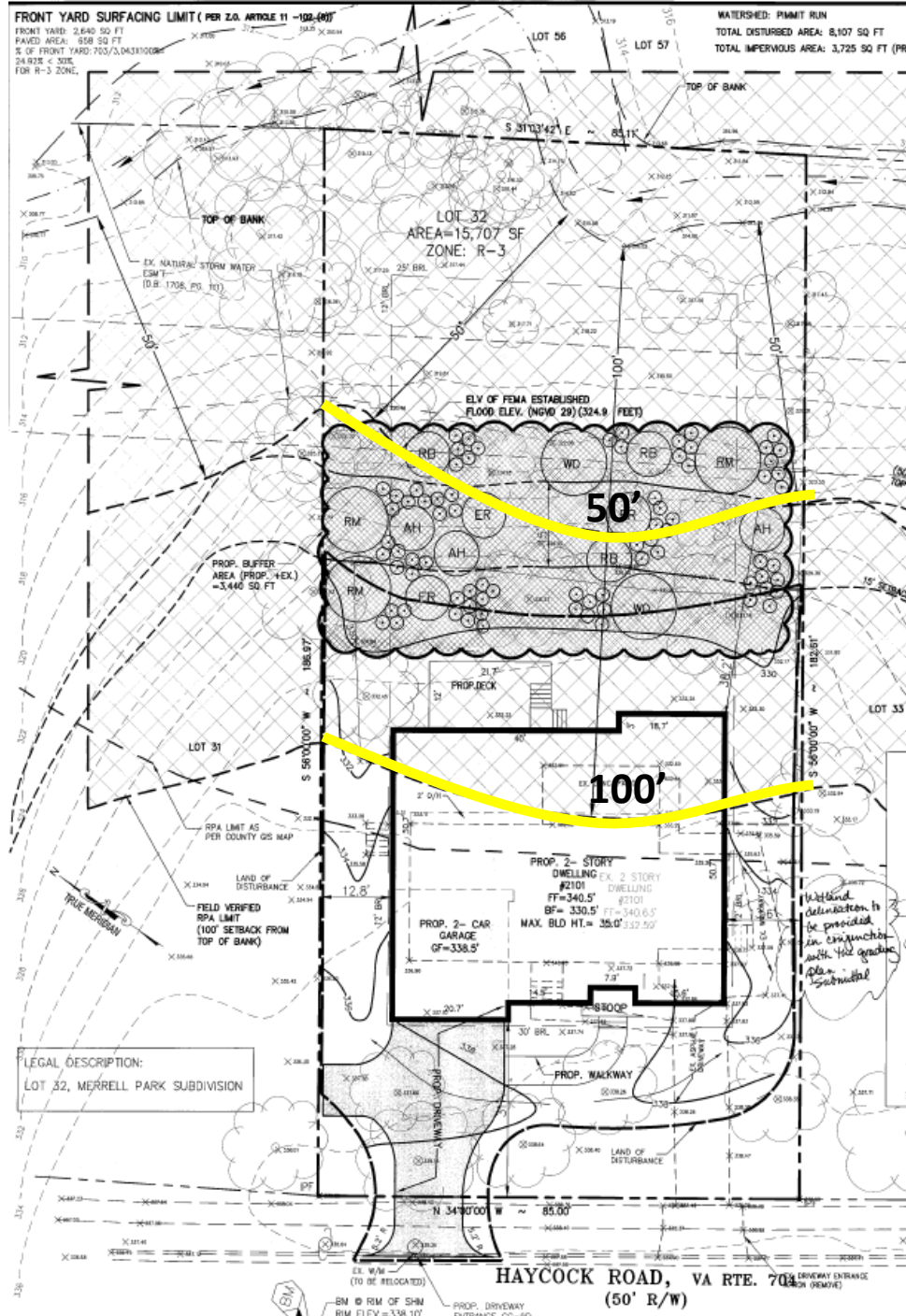


# Questions



# Examples for Loss of Buildable Area





## Example: 5770-WRPA-006-2

- ✓ The limits of clearing and grading were outside the 50 ft. seaward RPA
- ✓ A vegetated buffer area in the lower portion of the site was provided
- ✓ A portion of the RPA was re-established

### IMPERVIOUS AREA CALCULATION:

DESCRIPTION	PRE-DEV. REMOVAL	PROPOSED	POST-DEV TOTAL
BLD FOOTPRINT	1,266	-1,266	2,893
WALK	64	-64	117
FRONT PORCH	41	-41	57
CREVWAY	413	-413	658
CONC. PATIO	211	-211	0
TOTAL	1,995	-1,995	3,725

TOTAL IMPERVIOUS AREA=3,725 / 15,707=23.71%

# Example: 5770-WRPA-006-2

## Addition Approval conditions

### PROPOSED GREEN VEGETATION (118-3-3)(f)

PROPOSED BUFFER AREA= 2875 SQ FT

OR 8.895 AC

KEY	BOTANICAL NAME	COMMON NAME	QTY	STOCK SIZE (IN/CALIPER)	STOCK TYPE	15-YR TREE CANOPY (SF)	TREE CANOPY SUB-TOTAL (SF)
RM	ACER RUBRUM	RED MAPLE	3	2" CALIPER	EQ	280	840
WO	QUERCUS PHELLOR	WILLOW OAK	2	2" CALIPER	EQ	200	400
2 EX OVERSTORY TREES (10" and 4" CALIB) WILL BE COUNTED TO MEET BUFFER AREA			2				875
SUB-TOTAL=			7				
ER	JUNIPERUS VIRGINIANA	EASTERN REDCEDAR	3	2" CALIPER	EQ	100	300
AH	ILEX OPACA	AMERICAN HOLLY	3	2" CALIPER	EQ	100	300
RB	BETULA NIGRA	RIVER BIRCH	3	2" CALIPER	EQ	150	450
EX. 2 BLACK CHERRY AND 1 DOGWOOD WILL BE COUNTED TO MEET BUFFER AREA			5				514
SUB-TOTAL=			14				3439

For Decidua/Deciduous	24	1 GAL.
For Gallica/Viburnum	24	1 GAL.
For's Microcarpa/Black Chokeberry	24	1 GAL.

SUB-TOTAL 72

BUFFER AREA FROM NEW PLANTING= 2,050 SQ FT  
 BUFFER AREA FROM 2 EX. OVERSTORY TREES= 875 SQ FT  
 BUFFER AREA FROM 5 EX. UNDERSTORY TREES= 514 SQ FT  
 TOTAL BUFFER AREA=2,050 SQ FT+875 SQ FT+514 SQ FT=3,439 SQ FT

AP  
COUNT  
LAND DEVEL  
BY P.S.  
DATE 1/11  
LEGENDS  
—EP— EDK




✓ A wetland delineation shall be submitted with the grading plan

✓ Vegetated buffer of 2,875 sq. ft.



# Vegetative Buffer Area Planting Schedule

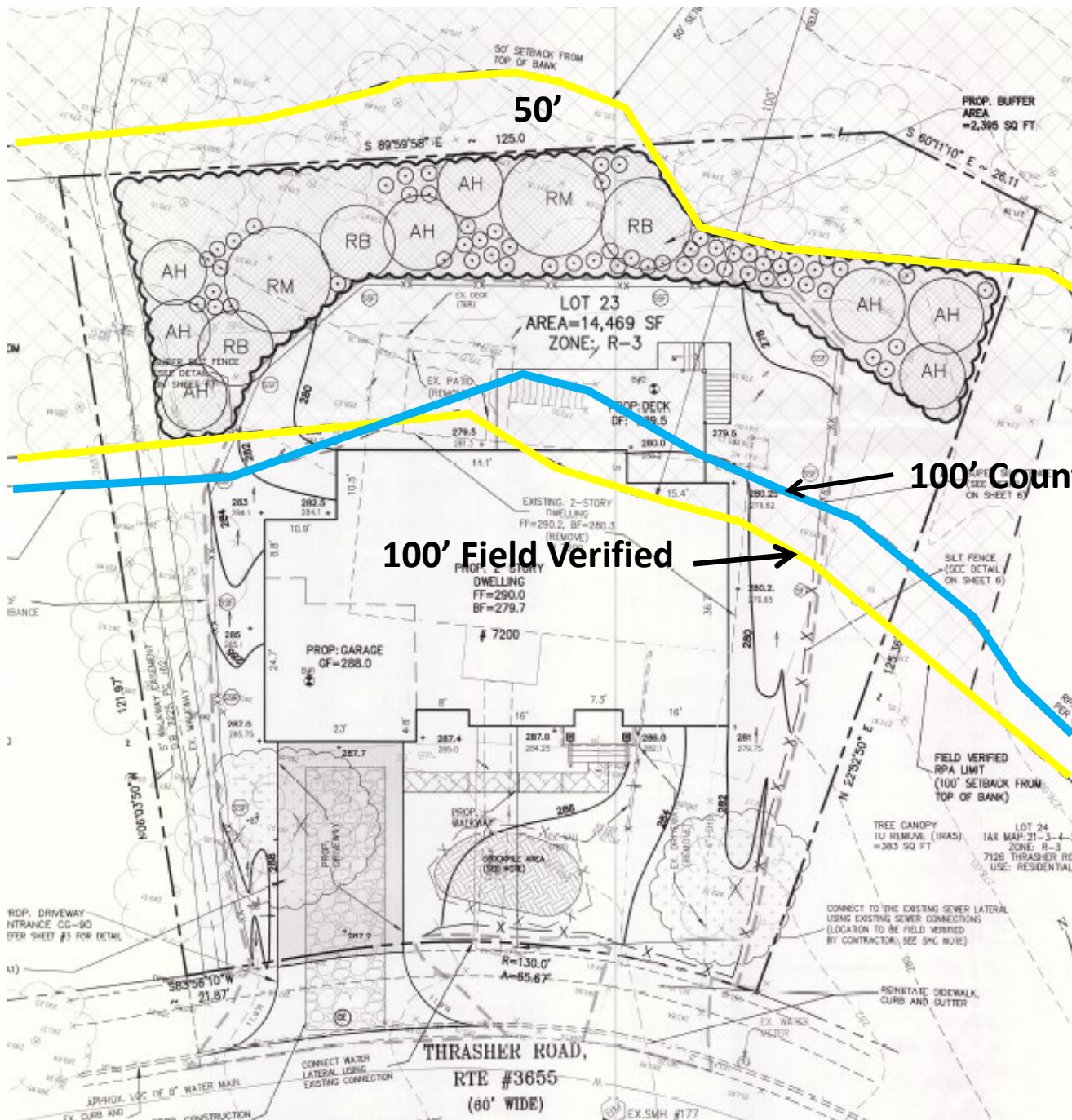
VEGETATIVE BUFFER AREA PLANTING SCHEDULE  
(PER BMP WAIVER APPROVAL)

	KEY	COMMON NAME	QTY.
OVER STOREY		ACER RUBRUM	1
		RED MAPLE	1
		TOTAL	2
UNDER STOREY		AMELANCHIER CANADENSIS	2
		SERVICEBERRY	2
		TOTAL	4
SHRUBS		ALNUS SERRULATA	4
		ARONIA	4
		ASIMINA TRILABA	4
		TOTAL	12
		GRAND TOTAL	18
GROUND COVER		CHRYSOGONUM VIRGINIANUM GREEN & GOLD 475 SF OF GROUND COVER	

SPECIES OF TREES LISTED ABOVE MAY ONLY BE SUBSTITUTED WITH TREES AS APPROVED BY UFMD.

- ✓ A wetland delineation shall be submitted with the grading plan
- ✓ Vegetated buffer of 7,675 sq. ft. (7,200 sq. ft. was credited from existing vegetation inside RPA)





- ✓ The limits of clearing and grading were outside the 50 ft. seaward RPA
- ✓ A vegetated buffer area in the lower portion of the site was provided
- ✓ A portion of the RPA was re-established



KEY	BOTANICAL NAME	COMMON NAME	QTY	STOCK SIZE (HT/CALIPER)	STOCK TYPE	10-YR TREE CANOPY (SF)	TREE CANOPY SUB-TOTAL (SF)
OVERSTORY TREE @ 100 COUNTS PER ACRE 118-3-3(f)= 6 (MINIMUM REQUIRED)							
RM	ACER RUBRUM	RED MAPLE	2	2" CALIPER	BB	200	400
(4 EX. OVERSTORY TREES (MAPLES, OAKS ) WILL BE COUNTED TO MEET BUFFER			4				945
SUB-TOTAL= 6							
UNDERSTORY TREE @ 200 COUNTS PER ACRE 118-3-3(f)= 11 (MINIMUM REQUIRED)							
AH	ILEX OPACA	AMERICAN HOLLY	8	6' HEIGHT	CONT.	75	600
RB	BETULA NIGRA	RIVER BIRCH	3	2" CALIPER	BB	150	450
SUB-TOTAL= 11							2395
SHRUBS @ 1089 COUNTS PER ACRE 118-3-3(f)= 60 (MINIMUM REQUIRED)							
Ilex Decidua/Decidious			20	1 GAL			
Ilex Galbra/Inkberry			20	1 GAL			
Aronia Melannocarpa/Black Chokeberry			20	1 GAL			
SUB-TOTAL 60							

KEY	BOTANICAL NAME	COMMON NAME	QTY	STOCK SIZE (HT/CALIPER)	STOCK TYPE	10-YR TREE CANOPY (SF)	TREE CANOPY SUB-TOTAL (SF)
OVERSTORY TREE @ 100 COUNTS PER ACRE 118-3-3(f)= 6 (MINIMUM REQUIRED)							
RM	ACER RUBRUM	RED MAPLE	2	2" CALIPER	BB	200	400
(4 EX. OVERSTORY TREES (MAPLES, OAKS ) WILL BE COUNTED TO MEET BUFFER			4				945
SUB-TOTAL= 6							
UNDERSTORY TREE @ 200 COUNTS PER ACRE 118-3-3(f)= 11 (MINIMUM REQUIRED)							
AH	ILEX OPACA	AMERICAN HOLLY	8	6' HEIGHT	CONT.	75	600
RB	BETULA NIGRA	RIVER BIRCH	3	2" CALIPER	BB	150	450
			SUB-TOTAL= 11				2395
SHRUBS @ 1089 COUNTS PER ACRE 118-3-3(f)= 60 (MINIMUM REQUIRED)							
<i>Ilex Decidua/Decidious</i>			20	1 GAL			
<i>Ilex Galbra/Inkberry</i>			20	1 GAL			
<i>Aronia Melannocarpa/Black Chokeberry</i>			20	1 GAL			
			SUB-TOTAL 60				

# Waiver / Exception / Exemption

- Waiver – relinquishment/relaxation; 118-5-4 Staff approval for loss of buildable area
- Exception – does not conform to the general rule; 118-5-5 Staff approval of minor additions
- Exemption – immunity/not required to meet certain requirements; 118-5-2 Public Utilities, Railroads, Public Roads, and Facilities

# 118-6-6 Required Findings – applicant statements

Exception # \_\_\_\_\_

## Part 5 Statement of Justification checklist

Check	CBPO Section	Exception Types: (Refer to CBPO for detailed list of qualifications and limitations)
	118-6-6(a)	The requested exception to the criteria is the minimum necessary to afford relief.
	118-6-6(b)	Granting the exception will not confer upon the applicant any special privileges that are denied by this part to other property owners who are subject to its provisions and who are similarly situated.
	118-6-6(c)	The exception is in harmony with the purpose and intent of this Chapter and is not of substantial detriment to water quality.
	118-6-6(d)	The exception request is not based upon conditions or circumstances that are self-created or self-imposed.
	118-6-6(e)	Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality.
	118-6-6(f)	Other findings, as appropriate and required for the specific exception being applied for, are met. The additional criteria are listed in CBPO Sections 118-6-7(a) through (f), CBPO Section 118-6-8(a)(1) and (2), CBPO Section 118-6-8(b)(1) and (2), or CBPO Section 118-6-9.

# DCR Guidance on the Required Findings



## Exceptions

Guidance on the Chesapeake Bay Preservation Area  
Designation and Management Regulations  
*September 16, 2002, Revised June 15, 2009*

### Purpose:

This document provides local planners and officials with guidance when considering exceptions to requirements of the Chesapeake Bay Preservation Area Designation and Management Regulations as implemented at the local level.

The Regulations provide authority for local relief mechanisms in cases where a development proposal cannot meet the regulatory requirements due to a unique set of circumstances and conditions. The Regulations also outline a process by which adjacent property owners and other concerned citizens are to be included in the exception review and decision-making process.



## Land Development Services

# Technical Bulletin

**Subject:** New Application and Submittal Requirements for Water Quality Impact Assessments (WQIA)      **Date:** January 22, 2020      **No.:** 20-02

Summary: Fairfax County's Department of Land Development Services (LDS) has developed a new [WQIA Application Form](#), and the submittal requirements are now divided into "Minor" and "Major" categories. The two categories differentiate the required detail on submittals based on potential Resource Protection Area (RPA) impacts. This bulletin describes what technical information is required for each submittal type to comply with the Chesapeake Bay Preservation Ordinance (CBPO).

Effective Date: Immediately. However, WQIA applications may continue to be submitted without this application until March 2, 2020.

Background: WQIAs are required to accompany and support applications to work within the RPA, per [CBPO §118-3-3\(a\)](#). Although the WQIA components are specified in [CBPO 118-4-3](#), this code does not differentiate between large and small projects. Projects with encroachments within the RPA can vary in scope and potential impact to water quality. For this reason, the process must have flexibility to ensure that application requirements are commensurate with the level of detail necessary to ensure water quality protection. This policy recognizes the varying sizes and impacts of different WQIA applications by defining WQIA submission requirements for major and minor projects.

Policy: The WQIA Application Form must be used for all WQIA submissions after March 2, 2020. The form is intended for both minor and major WQIAs. However, the narratives, descriptions, proposed mitigation, and supporting documentation should correspond to the scope of the project and/or encroachment into the RPA.

Minor WQIAs are appropriate for projects meeting ALL of the following criteria:

- Projects of less than 2,500 square feet of land disturbance in the RPA;
- Projects proposing less than 256 square feet of impervious area in the RPA; and,
- Projects disturbing no land in the 50 seaward feet of the RPA buffer.

All RPA encroachments requiring a WQIA and NOT meeting ALL of the above criteria require a Major WQIA submission.

A Minor WQIA may be satisfied by submitting the attached application along with a site drawing showing the required information. The application form is intended to provide all required narrative information for minor cases, with no requirement for a separate narrative. Nonetheless, additional narrative descriptions may be included as needed to provide required information. A separate site drawing is required to show the required graphic information.



A Major WQIA submittal must include the WQIA application along with a more comprehensive narrative and site drawing satisfying the requirements of this Technical Bulletin.

The Director of LDS shall determine which WQIA criteria apply to all violations of the CBPO.

**See the table below, “Major and Minor WQIAs,” for additional information.**

This policy may exclude RPA exceptions for minor additions meeting the criteria of [CBPO 118-5-5](#). This policy may also exclude the removal of dead, diseased or dying trees or removal of invasive species or noxious plants in the RPA. These activities must be approved by LDS. Application forms are available at the [LDS CBPO website](#).

Approved By: Bruce McGranahan, P.E., Director  
Site Development and Inspections Division  
Department of Land Development Services  
12055 Government Center Parkway, Suite 535  
(703) 324-1720, TTY 711

**Attachments:**

1. Table 1: Major and Minor WQIAs

**Additional Resources:**

1. [WQIA Application Form](#)
2. [The Jade](#), Fairfax County’s Comprehensive Mapping Application
3. [Fairfax County Public Facilities Manual](#) (PFM) Table 12.17 Tree Selection and Canopy Cover Guide
4. [Fairfax County Recommended Tree and Shrub Species for Reforestation of RPAs](#)
5. [Virginia Department of Conservation and Recreation \(DCR\) - Invasive Plant Management Program](#)
6. [DCR - Virginia Invasive Plant Species List](#)
7. [United States Department of Agriculture - A Management Guide for Invasive Plants in Southern Forests](#)

*Table 1: Major and Minor WQIAs*

Requirement	Minor WQIA (Application and plat/drawing only)	Major WQIA (Application, plat/drawing, and narrative)
General Information	<p>A required WQIA is considered to be minor and may be satisfied by submitting the application form and required exhibits if all of the following criteria are met:</p> <ul style="list-style-type: none"> <li>• Land disturbance in the RPA less than or equal to 2,500 square feet; and</li> <li>• No disturbance in the 50 seaward feet of the RPA buffer; and</li> <li>• Additional proposed impervious area in the RPA less than 256 square feet, and total RPA impervious area no more than 1,000 cumulative square feet since adoption of the RPA, except for minor additions which are permitted by §118-5-5.</li> </ul> <p>Example projects for these criteria include sheds and small accessory structures, and the removal or management of vegetation.</p> <p>The criteria provided in this column are not an all-inclusive list. Upon review of the Minor WQIA application, staff may request additional information be provided as necessary to evaluate potential water quality impacts of the proposed activity, per §118-4-3(g).</p>	<p>A required WQIA is considered to be “major” and requires additional analysis beyond this application form if any of the following criteria apply:</p> <ul style="list-style-type: none"> <li>• Land disturbance in the RPA exceeds 2,500 square feet; or</li> <li>• Any disturbance in the 50 seaward feet of the RPA buffer; or</li> <li>• Any disturbance of wetlands or streams (core components); or</li> <li>• Any RPA disturbance that does not qualify for a Minor WQIA.</li> </ul> <p>Example projects for these criteria include large accessory structures, such as pools and detached garages.</p> <p>Major WQIA criteria must address all minor WQIA criteria <u>and</u> the additional requirements noted below.</p>
Display the boundaries of the RPA; §118-4-3(a)	<p><u>Show on a plat or site drawing:</u></p> <ul style="list-style-type: none"> <li>• RPA boundary information may be taken from existing site-related plans or a plat showing the RPA boundary.</li> <li>• RPA boundary information may be taken from County data, such as the Jade Mapping</li> </ul>	<p><u>Show on a plat or site drawing:</u></p> <ul style="list-style-type: none"> <li>• Display a site-specific RPA delineation (submitted separately if required by the Director) or;</li> <li>• Display the RPA boundary from a previously approved, separate RPA delineation plan, providing the referenced plan number (____-RPA-____-__) or;</li> </ul>

Requirement	Minor WQIA (Application and plat/drawing only)	Major WQIA (Application, plat/drawing, and narrative)
	<p>Application or RPA maps available through the County CBPO <a href="#">website</a>.</p> <ul style="list-style-type: none"> <li>Applicants may be asked to provide a site-specific delineation of the RPA if the work is within 50' or the core components of the RPA as defined in §118-1-7 (b).</li> </ul>	<ul style="list-style-type: none"> <li>If the project involves concurrent submission of an INF plan, the RPA Boundary delineation may be included on the plan, in accordance with <a href="#">Technical Bulletin 08-12</a> and incorporated in this WQIA.</li> </ul>
<p>Display and describe the location and nature of the proposed encroachment into and/or impacts to the RPA, including any clearing, grading, impervious surfaces, structures, utilities, and sewage disposal systems; §118-4-3(b)</p>	<p><u>Show on a plat or site drawing:</u></p> <ul style="list-style-type: none"> <li>Proposed encroachment area including grading and clearing</li> <li>A line indicating the extent of the work area and encompassing all clearing and grading.</li> <li>Existing and proposed improvements including impervious surfaces, structures, utilities, and sewage disposal systems</li> <li>Existing vegetation including trees, shrubs, and groundcover which is proposed to be impacted</li> </ul> <p><u>Describe in a narrative:</u></p> <ul style="list-style-type: none"> <li>Nature of the proposed encroachment</li> <li>Condition &amp; type of vegetation</li> <li>Details of the requested encroachment</li> <li>Any previously approved encroachments into the RPA</li> </ul>	<p><u>Show on a plat or site drawing:</u></p> <ul style="list-style-type: none"> <li>Disruptions to existing surface hydrology, including wetland and stream circulation patterns</li> <li>Disruptions, reductions, or increases in the supply of water to wetlands, streams, or other surface waters</li> <li>Location of dredge material and location of dumping for such material</li> <li>Percent of the site to be disturbed and cleared for the project</li> <li>General location and type of all significant onsite plant material. Specific location and type of all trees, shrubs, or groundcover to be removed.</li> </ul> <p><u>Describe in a narrative:</u></p> <ul style="list-style-type: none"> <li>Existing topography, soils, hydrology, and geology of the site and adjacent lands;</li> <li>Location, type, characteristics, and condition of RPA features</li> <li>Impact of the proposed development to the existing topography, soils, hydrology, and geology of the site and adjacent lands</li> <li>Nature and extent of any fill material</li> <li>Duration and proposed phasing of the project</li> <li>All requisite wetland permits from other agencies</li> <li>Type of all vegetation to be removed</li> </ul>
<p>Provide justification for the proposed encroachment into and/or impacts to the RPA; §118-4-3(c)</p>	<p><u>Describe in a narrative:</u></p> <ul style="list-style-type: none"> <li>Provide justification for proposed encroachment</li> </ul>	<p><u>Describe in a narrative:</u></p> <ul style="list-style-type: none"> <li>If this application is for an exception, demonstrate how the application meets the following criteria of 118-3-2.i: <ol style="list-style-type: none"> <li>How the requested exception is the minimum necessary to afford relief</li> <li>That granting the exception will not confer any special privileges denied in similar situations</li> </ol> </li> </ul>



Requirement	Minor WQIA (Application and plat/drawing only)	Major WQIA (Application, plat/drawing, and narrative)
		<p>3. The exception request is in harmony with the purpose and intent of the CBPO and is not a substantial detriment to water quality</p> <p>4. That the exception is not based on circumstances that are self-created and self-imposed.</p>
Describe the extent and nature of any proposed disturbance or disruption of wetlands; §118-4-3(d)	<p><u>Describe in a narrative:</u></p> <ul style="list-style-type: none"> <li>• If applicable, describe impacts to wetlands.</li> </ul>	<p><u>Describe in a narrative:</u></p> <ul style="list-style-type: none"> <li>• Location and condition of existing wetlands</li> <li>• Impacts to existing wetlands</li> <li>• Description of required Wetland Permits</li> </ul> <p><u>Show on a plat or site drawing:</u> Disturbance or destruction of wetlands in RPAs</p>
Display and discuss the type and location of proposed best management practices (BMPs) to mitigate the proposed RPA encroachment and/or adverse impacts; §118-4-3(e)	<p><u>Show on a plat or site drawing:</u></p> <ul style="list-style-type: none"> <li>• Replanting indigenous species in an area equal to the encroachment per 118-3-3(f) and PFM is generally sufficient mitigation for small RPA impacts.</li> <li>• Location of proposed BMPs to mitigate impact from the encroachment</li> </ul>	<p><u>Show on a plat or site drawing:</u></p> <ul style="list-style-type: none"> <li>• Calculation of percent increase in impervious surface on-site and types of surfacing materials used;</li> <li>• Calculation of pre-development and post-development pollutant loads in runoff using VRRM spreadsheet, or other method approved by the Director;</li> <li>• Replanting schedule and locations of replanting proportional to removed vegetation.</li> <li>• Erosion and sediment control measures used during construction</li> </ul> <p><u>Describe in a narrative:</u></p> <ul style="list-style-type: none"> <li>• Selection of the proposed BMP and how it will be effective at preventing an increase in nonpoint source pollution.</li> <li>• Descriptions of the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures may include, but are not limited to: <ul style="list-style-type: none"> <li>i. Proposed erosion and sediment control concepts. Concepts may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocity and volume/rates, measures to stabilize disturbed areas, and schedule and personnel for site inspection;</li> <li>ii. Minimization of proposed excavation and fill</li> </ul> </li> </ul>

Requirement	Minor WQIA (Application and plat/drawing only)	Major WQIA (Application, plat/drawing, and narrative)
		<ul style="list-style-type: none"> <li>Description of replanting plan in accordance with §118-3-3(f) and PFM, including a statement that all selected plants are indigenous species appropriate for the riparian buffer to the extent practicable.</li> </ul>
Demonstrate the extent to which the proposed activity will comply with all applicable performance criteria of §118-4-3(f);	<u>Describe in a narrative (reference site drawing):</u> <ul style="list-style-type: none"> <li>Land disturbance is the minimum necessary</li> <li>Preservation of existing indigenous vegetation</li> <li>That impervious cover is minimized</li> </ul>	<u>Describe in a narrative:</u> <ul style="list-style-type: none"> <li>How significant vegetation has been preserved to the maximum extent practicable.</li> <li>If this application is for an exception, describe compliance with the performance criteria of §118-3</li> </ul>
Any other information deemed by the Director to be necessary to evaluate potential water quality impacts of the proposed activity §118-4-3(g)		<u>Describe in a narrative:</u> For new homes, a wastewater element which: <ul style="list-style-type: none"> <li>Includes locations of anticipated drainfield;</li> <li>Provides justification for sewer line locations in CBPAs, where applicable, and describes construction techniques and standards;</li> <li>Describes any proposed on-site collection and treatment systems, their treatment levels, and impacts on receiving watercourses; and</li> <li>Describes the potential impacts of the proposed wastewater systems, including the proposed mitigation measures for these impacts.</li> </ul>



# Water Quality Impact Assessment Application

Site Development and Inspections Division (SDID)  
Fairfax County Land Development Services  
12055 Government Center Parkway, Suite 535, Fairfax, VA 22035  
Phone: 703-324-1720, TTY 711  
[www.fairfaxcounty.gov/landdevelopment](http://www.fairfaxcounty.gov/landdevelopment)



A Water Quality Impact Assessment (WQIA) is an analysis of the impacts on water quality when a project is proposed within a Resource Protection Area (RPA). The purpose of the WQIA is to ensure protection of RPAs consistent with the goals, objectives, and requirements of the Chesapeake Bay Preservation Ordinance of Fairfax County to:

1. Identify the impacts of the proposed project on water quality;
2. Ensure that the proposed land disturbance will occur in a manner that will be least disruptive to the natural function of RPAs;
3. Propose mitigation that will address water quality protection through preserving or restoring all buffer functions including stormwater pollutant removal, erosion, and sediment and runoff control.

Per [§118-3-3\(a\)](#), a WQIA is required for any land disturbance, development, or redevelopment within a RPA unless exempt under Article 5 or unless waived by the Director of Land Development Services in accordance with the provisions of [§118-6-5](#). A WQIA may also be required for development or redevelopment within a Resource Management Area (RMA) if the Director determines that such an assessment is necessary because of the unique characteristics of the site or because the intensity of the proposed development may cause significant impacts on the adjacent RPA. For the code required WQIA components, see [§118-4-3](#).

## Please print or type the following information:

Associated Plan and/or Building Permit Number (if applicable): \_\_\_\_\_

Tax Map Number: \_\_\_\_\_ Magisterial District: \_\_\_\_\_

Property Address: \_\_\_\_\_

Applicant Name: \_\_\_\_\_ ☐ Owner ☐ Developer ☐ Engineer ☐ Agent

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

[Article 6](#) Exception Request to be submitted following acceptance of this WQIA: ☐ Yes ☐ No

The WQIA submittal requirements are divided into “Minor” and “Major” categories. The two categories differentiate the required detail on submittals based on potential RPA impacts. The narratives, descriptions, proposed mitigation and supporting documentation will be different corresponding to the scope of the project and/or encroachment into the RPA, as further identified in the below table.

**Table 1: Minor & Major WQIA Eligibility Criteria**

Minor WQIA (Application and Plat Only)	Major WQIA (Application, WQIA Documents, and Technical Drawings)
<p>A required WQIA is considered “minor” and may be satisfied by submitting this application form and required exhibits if the following criteria are met:</p> <ul style="list-style-type: none"> <li>• Land disturbance in the RPA is less than or equal to 2,500 square feet; and</li> <li>• No disturbance in the 50 seaward feet of the RPA buffer; and</li> <li>• Additional proposed impervious area in the RPA is less than 256 square feet, and total RPA impervious area is no more than 1,000 cumulative square feet since adoption of the RPA, except for minor additions which are permitted by <a href="#">§118-5-5</a>.</li> </ul> <p>Example projects for these criteria include sheds and small accessory structures, and the removal or management of vegetation.</p> <p>The above list is not all inclusive. <b>Water-dependent uses</b> meeting the requirements of <a href="#">§118-2-1</a>, may submit under the Minor WQIA criteria at the discretion of the Director. Upon review of the Minor WQIA application, staff may request additional information be provided as necessary to evaluate potential water quality impacts of the proposed activity, per <a href="#">§118-4-3(g)</a>.</p>	<p>A required WQIA is considered “major” and requires additional analysis beyond this application form if the following criteria apply:</p> <ul style="list-style-type: none"> <li>• Land disturbance in the RPA exceeds 2,500 square feet; or</li> <li>• Any disturbance in the 50 seaward feet of the RPA buffer; or</li> <li>• Any disturbance of wetlands or streams (core components); or</li> <li>• Any RPA disturbance that does not qualify for a Minor WQIA.</li> </ul> <p>Major WQIA criteria must address all Minor WQIA criteria <b>and</b> the additional requirements noted in <a href="#">LTI 20-02</a>.</p> <p>Example projects for these criteria include large accessory structures such as pools and detached garages.</p>

For all requests associated with agricultural land, further coordination may be required with the Site Development and Inspections Division (SDID), as well as the [Northern Virginia Soil and Water Conservation District](#) prior to the submission of this application.

For further information, contact an SDID Stormwater Engineer by phone at 703-324-1720, TTY 711.

**Please Print or Type (use additional sheets as necessary)**

a) Display the boundaries of the RPA on a house location plat, survey, or site drawing, and attach that document to this form. The RPA boundary may be taken from County record or mapping for Minor WQIA. Site-specific delineation required for Major WQIA.

b) Display on the same plat, survey, or site drawing:

- ☐ Proposed RPA encroachment area including all areas of clearing, grading, filling, excavating, and otherwise removed or damaged vegetation;
- ☐ Existing and proposed improvements including impervious surfaces, structures, utilities, and sewage disposal systems;
- ☐ Existing vegetation including trees and shrub locations, and groundcover areas to be impacted.

Describe the location and nature of the proposed encroachment into and/or impacts to the RPA, including any clearing, grading, impervious surfaces, structures, utilities, and sewage disposal systems. Include a description of any vegetation to be removed and how the proposed vegetation removal is the minimum necessary to accommodate the proposed encroachment (e.g., number, size, and type of trees or area of woods). Address how indigenous vegetation is preserved to the maximum extent practicable. Include an invasive species management plan (e.g., type of vegetation removed, preserved, and replaced, and methods proposed) if invasive species management is an objective of this application.

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Disturbed Area - In determining the disturbed area, add a minimum 10-foot-wide area perimeter to the footprint of any structure. Also, include a single access path, minimum 10-foot-width, from the disturbed area to the street or driveway. Land disturbance should be the minimum necessary to facilitate the requested encroachment.

**Table 2: Total Disturbed Area**

<b>Proposed Work</b>	<b>Disturbed Area Within the RPA (sq. ft.)</b>	<b>Disturbed Area Outside of the RPA (sq. ft.)</b>	<b>Total Disturbed Area (sq. ft.)</b>
Construction Access Path (minimum 10-foot width)			
Structure (including work area) Include when no additional clearing and grading is associated (i.e., violations where the structure already exists)			
Other Encroachments (e.g., stockpiles & storage)			
Clearing & Grading (include vegetation removal, proposed structure(s) and 10-foot work perimeter)			
Total actual unpermitted disturbance (if associated with a Notice of Violation)			
New Drainfield (only with new home construction)			
New Utility Connections (if required)			
<b>Totals</b>			

**Is the total of all disturbed areas > 2,500 square feet?**

- ☐ Yes (a grading plan per [§104-1-2](#) is required)
- ☐ No (a grading plan is not required)

**Is the total of all disturbed areas in the RPA > 2,500 square feet?**

- ☐ Yes (meeting the Major WQIA criteria is required, in addition to this application, per [LTI 20-02](#))
- ☐ No (this application and a plat, survey, or site drawing satisfies the Minor WQIA requirement per [LTI 20-02](#))

- c) Provide justification for the proposed encroachment into and/or impacts to the RPA.

Briefly describe why it is not practical to locate the proposed encroachment outside of the RPA (e.g., entire lot located in RPA, house has RPA on all sides, location outside of RPA would not meet minimum yard setbacks, existing utility easements constrain location, etc.). For water-dependent use applications, all non-water-dependent uses shall be located outside the RPA.

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- d) Describe the extent and nature of any proposed disturbance or disruption of wetlands. [Note: any disturbance of wetlands requires the submittal of a Major WQIA (see [LTI 20-02](#))]. Site-specific boundary delineation by an appropriate design professional (see [§118-1-9\(d\)](#)) will be required if the presence of wetlands is known or suspected. One source of information is the [County Potential Wetland Area Map](#).

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Display on the house location plat, survey, or site drawing used for Parts a) & b) above:

- ☐ Proposed buffer area plantings equal to the area of encroachment and meeting the criteria specified under [§118-3-3\(f\)](#) and the Public Facilities Manual;<sup>1</sup>
- ☐ [Best Management Practices](#) (BMPs), if planted buffer area is not feasible (or if otherwise required) including location, size, and contributing drainage areas.<sup>2</sup>

<sup>1</sup>Describe the proposed buffer area plantings including species selection and density meeting [§118-3-3\(f\)](#) and the Public Facilities Manual. For more information on plantings, see the county's [Recommended Tree and Shrub Species Guide for RPAs](#):

**Table 3: RPA Buffer Area Planting Plan** (supplement with the plat, survey, or site drawing to show location)

Plant Name	Quantity	Size (Height/Caliper/Vol.)	Legend, Symbol, or Key used on plat, survey, or site drawing

Other notes as needed to describe the planting plan:

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<sup>2</sup>Describe the location and type of any proposed BMPs (normally required if mitigation cannot otherwise be met via a planted buffer area) used to prevent a net increase in phosphorus load from the proposed encroachment. The [Virginia Stormwater BMP Clearinghouse](#), and the [Manufactured Treatment Devices Approved for use in Fairfax County](#), are the primary sources of acceptable BMP practices.

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I hereby certify that the information provided above is true and correct to the best of my knowledge. I further certify that all wetlands permits required by law will be obtained prior to commencing land disturbing activities.

Applicant Name (Print): \_\_\_\_\_ ☐ Owner ☐ Contractor ☐ Agent

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

- ☐ Check here if additional narrative sheets are provided, beyond the plat, survey, or site drawing, to supplement the above information. If more than one attachment, please list below and ensure pages are labeled as "Attachment B" "C," etc.

Attachment A: (check one) ☐ Plat ☐ Survey ☐ Site Drawing

Attachment B: \_\_\_\_\_

Attachment C: \_\_\_\_\_

Attachment D: \_\_\_\_\_

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For County Use Only

New RPA impervious area proposed in this application: \_\_\_\_\_ (ft<sup>2</sup>)

Total cumulative RPA impervious area on the property (including new area): \_\_\_\_\_ (ft<sup>2</sup>)

Prior exception number(s): \_\_\_\_\_

**WQIA Application (Check appropriate action)**

☐ **APPROVED**

☐ **DISAPPROVED**

WQIA Reviewer – SDID (Print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



# Water Quality Impact Assessment (WQIA) Applications

Process Update

Matthew Hansen, PE, CFM  
Department of Land Development Services (LDS)

December 2, 2020

# Process Summary

- Exception Review Committee (ERC) hears exceptions under Ch. 118-6
- Staff processes applications:
  - “the Director shall, within 90 days of receipt of a complete application for an exception pursuant to this Article, unless an extended period is mutually agreed to by the applicant and the Director, forward such exception request to the Exception Review Committee for a public hearing.”*
- “Complete” Exception Applications include:
  - Application form
  - WQIA – Responsive to all requirements and reviewed by LDS-Site Development and Inspections Division (SDID)

# WQIA Update

- Ch. 118-4 defines the WQIA
- Major and Minor WQIA categories established by [Technical Bulletin 20-02](#)
- Intent:
  - Clarify expectations for all WQIA
  - Simplify the easiest “minor” WQIA applications
- Does not apply to minor additions (118-5-5) or removal of invasive vegetation
- [WQIA Application](#) form is required for all applications

# WQIA Criteria – Eligibility

- Minor WQIA – must meet all 3 criteria:
  - Less than 2,500 square feet of disturbance in Resource Protection Area (RPA)
  - Less than 256 square feet of impervious area proposed
  - No land disturbance in the 50 seaward feet of RPA buffer
- Major WQIA – All other WQIAs

# WQIA Content

- [Technical Bulletin 20-02](#) clarifies WQIA content requirements
- Minor WQIA
  - Requires only the application form and a site drawing
  - All required narrative is within the application form itself
  - Drawing may be a plat or survey – this is meant to simplify the preparation requirement for owners
- Major WQIA
  - Submit application and site drawing with required topographic survey
  - Separate narrative required to respond to all required information