

Alert

New Critical Area Buffer Regulations Alter Waterfront Development In The State Of Maryland

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On March 8, 2010 the Critical Area Commission promulgated regulations ("Regulations") impacting the management, establishment, and development of the Critical Area Buffer - typically a one-hundred foot strip upland of mean high water. Waterfront property owners, developers, and managers should familiarize themselves with the Regulations and carefully consider the impacts on the management and development plans for their property.

The Regulations require, among other measures:

- The establishment (replanting) of a fully-vegetated buffer for a wide range of development activities within the 1,000-foot critical area zone, but outside the buffer. Buffer establishment, if triggered, can be expensive and restrict or impair sight-lines and viewsheds for waterfront and waterview properties.
- Enhanced mitigation requirements triggered by low-impact development activities within the buffer, such as riparian access corridors and shoreline stabilization measures.
- Detailed planting standards for both buffer mitigation and establishment.
- The wide-spread adoption of Buffer Management Plans ("BMPs"), which are reviewed at the County level, and may require: (1) granting inspection rights to the local authority; (2) posting of financial assurances that buffer mitigation or establishment plantings are maintained; (3) the recordation of deed restrictions or other restrictive covenants that may impact title to riparian properties; and, (4) the permanent posting of conspicuous signs regarding the existence of the buffer at a density of one for every two-hundred linear feet that warn about the existence of the buffer.

As promulgated, the Regulations provide little flexibility to local jurisdictions to make adjustments or accommodations. The strict implementation of the regulations may negatively impact the ability of waterfront property owners to develop their Property in a manner that simultaneously maximizes value while providing net environmental benefits.

Waterfront property owners, developers, and managers should carefully consider the impacts of the Regulations as they may affect both current land management regimes and also long-term development or redevelopment plans. Linowes and Blocher LLP has prepared a white paper which details some of the restrictions imposed by the new Regulations, and offers some practical insights to property owners, developers, and managers as they begin efforts to ensure compliance with the Regulations. A copy of the white paper can be found [here](#).