

# Chesapeake Bay Exception Guidelines

It is the intent of these guidelines to provide guidance to the Planning Commission as they consider requests for Exceptions to the Chesapeake Bay Protection regulations that are allowed by the state code. These guidelines are to serve as a framework not absolutes. Each site is to be considered on its individual merit when the applicant's proposed mitigation practices are considered. Should a need to modify these guidelines occur, the Planning Commission at any public meeting might consider and approve the desired changes. Finally it is the intent of the Planning Commission to provide the minimum possible relief to existing lots and developments that because of the creation of the Bay regulations have had the majority of their rear yards declared unbuildable. These guidelines are not developed to be used as guidelines for new principal buildings, additions to principal buildings, swimming pools paved areas and the like. These types of exceptions are to be considered again on their merits.

**NOTE: An exception is not required for an accessory structure located in the *landward 50 feet* of a lot located in a subdivision created with the "50 foot reduced buffer" (lots created between 1989 and 2002). These requests may be Administratively Approved by a Planning Staff Member.**

## Two Types

### 1. **Minimum Exception – A minimum exception is defined as applying to:**

- Structures that do not require a building permit,
- Structures that are not permanent,
- Structures or other improvements that do not involve pouring a slab or creating a paved area,
- Accessory structures proposed in the landward 50 feet of the buffer, only

#### **Examples**

1. Small pre-built accessory building
2. Small deck on landward end of pier
3. Small observation deck

### **Guidelines for Considering Exception**

- There currently are no other accessory buildings on the site
- Accessory structures encompass 150 square feet or less
- Structures may not have a concrete slab or poured continuous concrete footings
- Proposed structure/improvement cannot be located on another portion of the lot outside of the entire buffer area
- Board of Zoning Appeals action cannot be granted or effective
- A planted and mulched area prepared in a manner approved by the Planning Department with a size no less than ½ square foot of planted area to 1 square foot of structure or disturbed area. This area is to be landscaped with plants and or trees from the approved listing prepared and on file in the Planning Department Office. The landscaped area and a complete description of the number, type and size of plants must be drawn to scale on a survey submitted with the request for the exception

### 2. **Major Exception**

- Requests for all other exceptions provided in the City's Chesapeake Bay Preservation Area regulations and not considered minor.

### **Guidelines for Considering Exception**

- There currently are no other accessory buildings on the site
- Accessory structures encompassing 250 square feet or less or no more than 10% of the buffer area,

- Project cannot be located on another portion of the lot outside of the entire buffer area,
- Board of Zoning Appeals action cannot be granted or effective,
- Infiltration trench installed, if determined as necessary by the Department of Engineering that equals 1 square foot of area for each 1 square foot over 150 square feet for structures not on permanent foundations. If the structure has a permanent foundation or slab floor then the trench shall be 1 square foot of area for each 1 square foot. The infiltration trench's design must be approved by the Department of Engineering.
- A planted and mulched area prepared in a manner approved by the Planning Department with a size no less than ½ square foot of planted area to 1 square foot of structure or disturbed area. This area is to be landscaped with plants and or trees from the approved listing prepared and on file in the Planning Department Office. The landscaped area and a complete description of the number, type and size of plants must be drawn to scale on a survey submitted with the request for the exception

Both exceptions must assess each Chesapeake Bay Exception request utilizing **City Code Section 9.1-12 (C)**:

- Granting the exception will not confer upon the applicant any special privileges that are denied by this chapter to other property owners in the Overlay District.
- The exception request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or nonconforming that are related to the adjacent parcels.
- The exception request is the minimum necessary to afford relief.
- The exception request will be in harmony with the purpose and intent of this chapter, and not injurious to the neighborhood or otherwise detrimental to water quality or the public welfare.
- Reasonable and appropriate conditions are imposed, which will prevent the exception request from causing a degradation of water quality.

### **Advertisement Requirement**

All Chesapeake Bay Exceptions must be advertised.

### **Application Fee (All Exception Requests)**

The **application fee** for both the Administrative and Commission Exceptions will remain at **\$250.00**.