



**Office of the County Executive
STEUART PITTMAN**

ANNE ARUNDEL COUNTY GOVERNMENT RELATIONS OFFICE

Legislative and Fiscal Summary of Administration Legislation

To: Members, Anne Arundel County Council

From: Ethan Hunt, Director of Government Affairs /s/

Date: June 1, 2026

Subject: Bill No. 53-26 – Subdivision and Development – General Provisions –
Modifications – Nontidal Wetlands and Buffers

This summary was prepared by the Anne Arundel County Government Relations Office for use by members of the Anne Arundel County Council during consideration of Bill No. 53-26.

Summary

This Bill, introduced at the request of the Administration on behalf of the Office of Planning & Zoning, codifies “Green Notice” OPZ-20-06-REV, which articulates current practice regarding the mitigation conditions that the Planning & Zoning Officer (“PZO”) may impose when granting a modification request to the prohibition on development in non-tidal wetlands and their buffers under Anne Arundel County Code §17-2-108 and §17-6-402.

It has long been the policy of the County to protect nontidal wetlands and their buffers through the development review process and minimize disturbance. OPZ-20-06-REV provides that

[I]t shall be the policy of the Office of Planning and Zoning to prohibit any disturbance of nontidal wetlands and their buffers through the development process. Applicants must explore alternative site design options to avoid impacts to nontidal wetlands and their buffers. If, after considering alternative site design options, applicants believe disturbance of a nontidal wetland and, or a nontidal wetland buffer are unavoidable, they may apply for a modification.

Anne Arundel County Code §17-6-402 prohibits development within a nontidal wetland or within a 25-foot buffer of a nontidal wetland, except that commercial harvesting of trees is permitted provided certain conditions are met. Section 17-2-108 allows the PZO to approve an application for a modification if the following conditions are met:

Note: This Legislative and Fiscal Summary provides a synopsis of the legislation as introduced. It does not address subsequent amendments to the legislation.

1. Practical difficulties or unnecessary hardship will result from strict application of this article;
2. The purposes of Article 17 of the Anne Arundel County Code, including minimization and mitigation of environmental impacts through the use of clustering or other available design alternatives to preserve the character of the impacted area, will be served by an alternative proposal;
3. The modification is not detrimental to the public health, safety, or welfare or injurious to other properties;
4. The modification does not have the effect of nullifying the intent and purpose of Article 17 of the Anne Arundel County Code, the Anne Arundel County General Development Plan, or Article 18 of the Anne Arundel County Code; and
5. The applicant has submitted written verification to the Office of Planning and Zoning that: (a) the requested modification was disclosed and discussed at a community meeting; or (b) all owners of property located within 300 feet of the affected property were mailed a notice explaining the reason for the modification, along with a copy of the request for modification.

This Bill provides that the PZO is not required to approve a modification solely because the applicant has obtained approval authorizing wetland disturbance from the appropriate state or federal agency. If the PZO determines that the above conditions are met, then they may impose the following conditions to mitigate the adverse environmental impact:

1. For Nontidal Wetlands of Special State Concern (which are specifically identified sites in COMAR 26.23.06.02):
 - a. onsite wetland creation equal to three (3) times the square footage of wetlands disturbed;
 - b. onsite planting of native trees equal to three (3) times the square footage of wetlands disturbed;
 - c. offsite wetland creation or purchase equal to six (6) times the square footage of wetlands disturbed; or
 - d. offsite planting of native trees equal to six (6) times the square footage of wetlands disturbed.
2. For Nontidal Wetlands of Special State Concern Buffers:
 - a. onsite wetland creation equal to two (2) times the square footage of buffer disturbed;
 - b. onsite planting of native trees equal to two (2) times the square footage of buffer disturbed;
 - c. offsite wetland creation or purchase equal to four (4) times the square footage of wetlands buffer; or
 - d. offsite planting of native trees equal to four (4) times the square footage of buffer disturbed.
3. For Other Nontidal Wetlands:
 - a. onsite wetland creation equal to two (2) times the square footage of wetlands disturbed;
 - b. onsite planting of native trees equal to two (2) times the square footage of wetlands disturbed;
 - c. offsite wetland creation or purchase equal to four (4) times the square footage of

- wetlands disturbed; or
 - d. offsite planting of native trees equal to four (4) times the square footage of wetlands disturbed.
4. For Other Nontidal Wetland Buffers
- a. onsite wetland creation equal to the square footage of buffer disturbed;
 - b. onsite planting of native trees equal to the square footage of buffer disturbed;
 - c. offsite wetland creation or purchase equal to two (2) times the square footage of buffer disturbed; or
 - d. offsite planting of native trees equal to two (2) times the square footage of buffer disturbed.

Alternatively, the PZO may consider an alternative mitigation proposal requested in an application, upon a finding that the alternative is equally or more beneficial to the environment as the mitigation conditions. The Bill also provides that if possible, mitigation shall occur in the same watershed of the development site, and shall be required to be placed in a protective easement, and that flexibility in imposing mitigation conditions may be exercised for development of projects essential to the public good, including schools, libraries, hospitals, private or public stormwater projects, or utility or transportation infrastructure. This Bill does not make any substantive changes to the modification provisions for nontidal wetlands and buffers, and merely codifies current practice.

Purpose

This Bill codifies current practice regarding the mitigation conditions that the PZO may impose when granting a modification request to the prohibition on development in non-tidal wetlands and their buffers, as provided in “Green Notice” OPZ-20-06-REV.

Fiscal Impact

Please see the Fiscal Note prepared by the Budget Office for an explanation of the fiscal impact of this Bill.

Additional Information

The Government Relations Office is available to answer any additional questions regarding this Bill. Specific questions should be directed to Erik Michelsen, Environmental Policy Director, or Kelly Kenney, Office of Law. Thank you.

cc: Honorable Stuart Pittman, County Executive
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