

Town of Scarborough Conservation Commission

October 16, 2023 | 6:00 p.m. | Scarborough Town Hall and via Zoom

Meeting Minutes

Present in person:

Commission: Dick Harvey, Randi Hogan, Pete Slovinsky

Staff: Angela Blanchette, Jami Fitch

Present via Zoom:

Commission: Rita Breton, Cathleen Miller, Jessica Sargent, Maggie Vishneau, Marla Zando

Staff: Autumn Speer

Council: Karin Shupe

A recording of this meeting is available online: <https://www.youtube.com/watch?v=dY5vy-TWV8I&t=2650s>

Call to order

1. Meeting was called to order at 6:00 pm.
2. Randi offered a land acknowledgement to recognize the Wabanaki People as traditional stewards of Scarborough.
3. Pete motioned to accept the minutes. Jessica seconded. Rollcall vote was unanimous. Motion passed.

Old Business

1. Conserving Land & Building Resiliency: Review and discuss proposed Environmental Standards for Natural Resource Protection
 - Autumn provided an overview of the proposed natural resources standards, which are based on similar standards from Portsmouth, NH. She noted that the Long Range Planning Committee reviewed the framework of the proposed ordinance. Their comments were provided to the Commission prior to the meeting (attached).
 - The Commission intends to discuss standards at this meeting with the intent to finalize their recommendations at the November meeting. Autumn noted that the recommendations can be brought to the Long Range Planning Committee in December so the ordinance can go before the Ordinance Committee in the new year.
 - Marla suggested a mapping exercise to model buffers on various wetland areas to understand how parcels will be impacted by the new buffer standards.
 - Dick noted that he's found a [map showing vernal pools in Scarborough](#). There are several pools designated as non-significant clustered in one area. He suggested setting buffer standards around the area as a whole and not just around the individual vernal pools.
 - Pete provided revised tables for the Commission's consideration prior to the meeting (attached). He walked the Commission through the tables and his approach.
 - Pete's recommendations include applications for development and redevelopment. Autumn suggested focusing on determining buffers for new development before moving to redevelopment.

Engineering & Technical Services

- The Commission likes the concept of establishing a “Marsh Migration Zone” to allow the marsh space to respond to sea level rise. Pete suggests the zone be defined as the highest astronomical tide (HAT) + 3.9’ of sea level rise (SLR) or + 125’ (whichever is greater). Autumn noted that it will likely be an overlay.
- Pete suggests defining coastal bluff setbacks. The State’s standards are very weak when it comes to bluffs. There are limited areas of Scarborough that are designated coastal bluffs.
- Rita noted that vegetated buffers around vernal pools are important to the wildlife that depend on the pools. The recommendations in the original document fall far short of the recommended buffer widths.
- Dick shared that intermittent streams are important ecological features. According to USGS, intermittent streams were removed from their maps in the 1950s. Maine DEP is willing to add intermittent streams back to the maps, and Dick would like to work on identifying these streams in Scarborough. He’d also like to see buffer requirements apply to intermittent streams.
- Non-tidal marsh tributary areas need to be well defined, because most non-tidal areas of Scarborough could fall under this category. Pete suggests applying the standards to the associated wetlands within the Dunstan, Nonesuch, Libby, Cascade, and Spurwink River watersheds. Urban impaired and threatened streams (Red, Phillips, Mill, and Willowdale Brooks).
- The Commission thanks Pete for the work he put into developing buffering recommendations.
- Ordinance revisions:
 - Include diagrams to show how the requirements will be applied (once buffer widths and setbacks are determined).
 - Be clear that the size of the wetland is for the system as a whole and not just the portion of the system on a particular parcel.
 - Consider how to minimize the cumulative impact of individual projects on systems as a whole.
 - Consider establishing a marsh migration overlay HAT + 3.9’ of SLR or + 125’ (whichever is greater).
 - Add pesticide and fertilizer restrictions within the definitions of vegetated buffers.
- Next Steps: Staff will revise the draft document based on the Commission’s feedback.

New Business

1. Conserving Land: Update on Open Space Ad-Hoc Committee
 - A draft committee charge for the Ad-Hoc Open Space Committee was provided to the Commission in the agenda packet. The Ad-Hoc Committee will serve as a steering committee to develop the Conservation Open Space Plan to help the Town achieve its 30x30 goal.
 - Karin hopes to have the creation of the Ad-Hoc Committee be on one of the Council’s November meeting agendas. The Conservation Commission and other identified groups will nominate their representative to the Ad-Hoc Committee. Autumn would suggest that groups identify their representatives to the Committee by December.
 - Autumn noted that the RFP to select a consultant for the Open Space Plan is in development and will be released by the end of the year.
 - Jessica suggests the scope within the RFP be very clear with regards to goals; deliverables; and the roles and responsibilities of the consultant, staff, and committees to ensure the finished product will be useful to the Town.
 - Jami suggested that Jessica provide examples of good (or bad) RFPs, if she has any she’s able to share.
 - Next Steps: Conservation Commission will nominate their representative to the Ad-Hoc Committee at their November meeting.
2. Building Resiliency: Update on Spurwink Marsh restoration

- Jami provided an update on grants the Towns of Scarborough and Cape Elizabeth have applied for to restore the Spurwink Marsh. The Towns will learn about the success of the proposals by the end of 2023.
3. Conservation Commission 2024 meeting dates
- The Planning Board is changing their 2024 meeting schedule to meet once per month instead of every three weeks. In order for the Conservation Commission to review and provide comments on Planning Board applications, the Commission’s monthly meeting date needs to change.
 - Staff propose moving the Commission’s meeting from the second Monday of the month to the first Monday of the month. Meetings that conflict with holidays will need to be moved to Tuesday.
 - Pete will not be able to participate four times per year due to a standing Friends of Scarborough Marsh board meeting.
 - **ACTION: STAFF will look at other possible dates that will align with the Planning Board’s schedule. The discussion will continue in November.**

Updates

1. Education Subcommittee
 - The Speaker Series presentations have been well attended and well received. The first talk had approximately 25 attendees, and the second presentation had 56 attendees. The final workshop of the year is scheduled for 11/2.
 - The Town Council could benefit from a presentation about sea level rise and marsh migration.
2. Sustainable Scarborough Day
 - The event was a great success with more than 25 vendors and approximately 200 participants. The event also received great coverage in *The Leader*.
 - Evaluations were sent to vendors and participants who provided email addresses to join the Town’s e-newsletter. The planning committee will review the feedback at their wrap up meeting. The feedback was overall very positive.
3. Town Council
 - Karin would like to see a Planning Board liaison to the Commission.
 - Karin encourages the Commission to make comment on the proposed zoning changes in The Downs related to the consolidated school.
4. Sustainability Committee
 - The Sustainability Committee exploring an ordinance to establish a commercial property assessed clean energy (C-PACE) program in Scarborough, which would provide commercial property owners access to financing for energy efficiency upgrades. The Town has had a residential PACE program in place since 2010.
5. Planning Board
 - An Aroma Joe’s is proposed for Bridges Drive. The Commission is encouraged to look at the Planning Board application for this site.

Meeting adjourned at 7:51 pm.

Next Meeting:

November 13, 2023 @ 6:00 pm



Jami Fitch <jfitch@scarboroughmaine.org>

Environmental Standards - LRPC Minutes

1 message

Autumn Speer <aspeer@scarboroughmaine.org>
To: Jami Fitch <jfitch@scarboroughmaine.org>

Wed, Sep 20, 2023 at 8:52 AM

Jami,

These are the draft minutes from the LRPC conversation about the proposed Environmental Standards:

Thank you,

Autumn

I. Review and Discuss recommendations to Conservation Commission – Chapter 405B Site Plan Standards, New Draft Section - Environmental Standards

Autumn gave an overview of buffering for natural resources (wetlands, vernal pools, etc.). She stated the intent of this review is to look at the framework, with the Conservation Commission to recommend specific distances and parameters after they meet in October. Robyn suggested additions to the “purpose” section to clarify that this is for specific resources and not in response to state or federal stormwater or other environmental requirements. Robyn noted the town can request data from the state illustrating changes in resources to determine if any are deteriorating. Rachel suggested clarification on man made versus natural vernal pools, with Robyn adding the same is true for wetlands (i.e. wetlands created by agricultural activity). Allen Paul asked if the state has definitions for buffering, with staff noting it will check in with the Town Engineer for applicable MaineDEP or Army Corps of Engineer requirements.

Wetland delineation was discussed, with Autumn noting protections via fencing or boulders are often pushed back and the resource impacted. The intent of other Ordinance work is to exclude those resource areas from being included in the the total lot area. Peter Freilinger asked if these were for commercial or residential uses, with Autumn noting this would be for Planning Board reviewed projects (site plan, subdivision). Individual single family homes that do not require subdivision review would be exempt. Once the Ordinance is completed, staff intends to add diagrams to illustrate the required buffering. Peter asked to see similar Ordinances, as Portsmouth and Cape Elizabeth were discussed to have stringent wetland requirements. Rachel added that a provision should be added to address changes in wetland area, where development causes wetlands to disappear and then that development to expand in the previously wetland area. Provisions around use of the former wetland area should be outlined. Peter discussed the converse, where rising sea levels may create more wetlands. The Committee requested the Conservation Commission review these instances and make a recommendation for language in the Ordinance.

Autumn presented the proposed matrix showing what is permitted in the buffer area for particular resources (vernal pools, streams or brooks, wetlands, vegetated buffer, etc.). The language includes protection via buffer, then a setback for disturbance or construction (typically five feet). Marvin requested to see other examples of protection for marsh areas throughout New England. Robyn suggested the Chesapeake Bay as an example to look at, as it is one of the most well protected waterways in the country. Allen requested Section G for waivers be consistent with other sections of Town Ordinances, including what was just discussed for landscaping.

Buffers, Setbacks and Activities in Tidally Influenced Areas

	Undeveloped tidally influenced areas “Marsh Migration Zone”*	Already developed tidally influenced areas “Marsh Migration Zone”*	Unstable or Unmapped Coastal Bluffs “Coastal Bluff Erosion Zone”	Stable Coastal Bluffs “Coastal Bluff Erosion Zone”
Setback	HAT+3.9 ft or HAT+125 feet	HAT+3.9 ft or HAT+125 feet	HAT+3.9 feet + 150 feet	HAT+3.9 feet + 100 feet
Minimum Vegetated Buffer**	100 feet	50 feet (restored)	35 feet 15 feet (restored in developed areas)	25 feet 15 feet (restored in developed areas)
Markers	Pins every 50 feet	Pins every 50 feet	Pins every 50 feet	Pins every 50 feet
Pesticides	No	No	No	No
Fertilizers	No	Yes	Yes***	Yes***
Forestry	No	No	No	No
Fences	Yes	Yes	Yes	Yes
Shoreline stabilization structures	No	No	No	No
Living Shorelines	Required	Required	Required	Required
Reconstructed Structures	NA	Allowed, must move landward if possible	Allowed, must move landward if possible	Allowed, must move landward if possible
Source	https://www.maine.gov/dacf/mgs/hazards/slr_ss/index.shtml https://www.maine.gov/dacf/mnap/assistance/marsh_migration.htm	https://www.maine.gov/dacf/mgs/hazards/slr_ss/index.shtml https://www.maine.gov/dacf/mnap/assistance/marsh_migration.htm	https://www.maine.gov/dacf/mgs/pubs/digital/bluffs.htm https://www.cumberlandswcd.org/documents-1/coastal-bluffs	https://www.maine.gov/dacf/mgs/pubs/digital/bluffs.htm https://www.cumberlandswcd.org/documents-1/coastal-bluffs

* Includes tidally-influenced tributaries, creeks, and associated wetlands with the Nonesuch, Dunstan, Libby, Cascade, and Spurwink Rivers.

** Minimum vegetated buffers must include native vegetation and cannot include lawn areas

*** low phosphate slow release fertilizer allowed for revegetation of buffers using native plants

^ Construction of fences outside the vegetated buffer, provided that there are no footings and no ground disturbance within five feet (5') of the vegetated buffer. Fences may be constructed along the setback line.

Buffers, Setbacks and Activities in Other Water Areas

	Non-tidal Marsh Tributary Zone*	Vernal Pools	River, Stream or Brook, or Wetlands ≥ 10,000 SF	1,000 SF ≤ Wetlands ≤ 10,000 SF	Wetlands ≤ 1,000 SF
Setback	125 feet	250 feet	100 feet	50 feet	25 feet
Minimum Vegetated Buffer**	100 feet	225 feet	75 feet	25 feet	15 feet
Markers	Pins every 50 feet	Pins every 50 feet	Pins every 50 feet	Pins every 50 feet	NA
Pesticides	No	No	No	No	No
Fertilizer	No	No	No	Yes	Yes
Forestry***	No	No	Yes	Yes	Yes
Fences^	Yes	No	Yes	Yes	Yes
Shoreline Stabilization Structures	No	No	No	No	No
Living Shorelines	Yes	No	Yes	Yes	Yes
Reconstructed Structures	Allowed, must move back if possible	NA	NA	NA	NA
Source	Need consistent GIS source	https://www.arcgis.com/apps/dashboard/e3713733193943188d7d01e7d286042c	Need consistent GIS source	Need consistent GIS source	Need consistent GIS source

* Includes non-tidally influenced tributaries, creeks, and associated wetlands with the Nonesuch, Dunstan, Libby, Cascade, and Spurrwink Rivers. **Are there others? Stuart? Mill? Finnerd? Phillips? Red Brooks?**

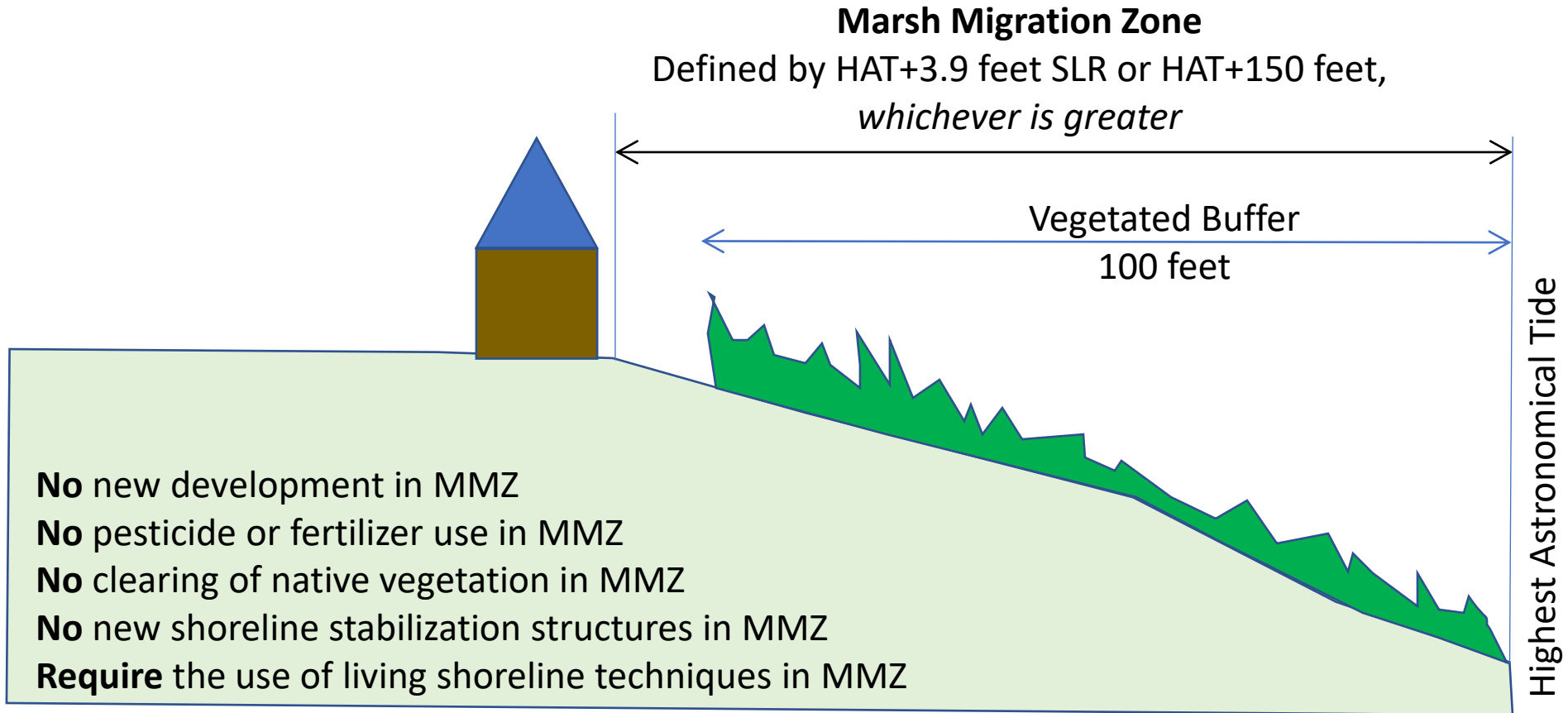
** Minimum vegetated buffers must include native vegetation and cannot include lawn areas

*** in the buffer, harvesting of no more than 20% of the total volume each acre of trees 4.5 inches DBH or greater in any 10-year period is allowed

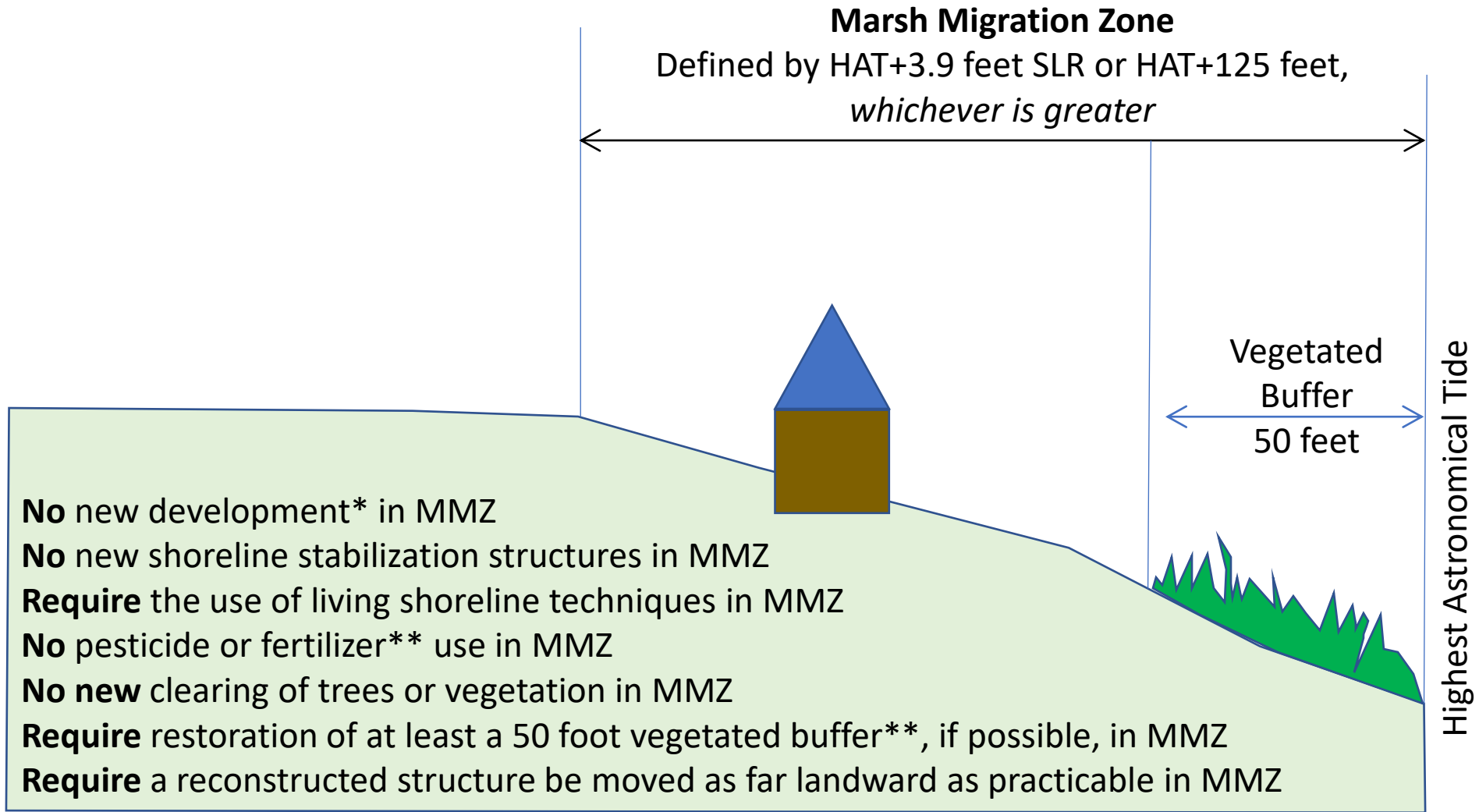
^ Construction of fences outside the vegetated buffer, provided that there are no footings and no ground disturbance within five feet (5') of the vegetated buffer. Fences may be constructed along the setback line.

DRAFT

In undeveloped tidally influenced areas of the Marsh, establish a “Marsh Migration Zone”
(as defined by the Highest Astronomical Tide map and SLR maps by MGS or
Tidal Wetlands Maps and Marsh Migration Maps by MNAP)



In already developed tidally influenced areas of the Marsh, establish a “Marsh Migration Zone”
(as defined by the Highest Astronomical Tide map and SLR maps by MGS or
Tidal Wetlands Maps and Marsh Migration Maps by MNAP)



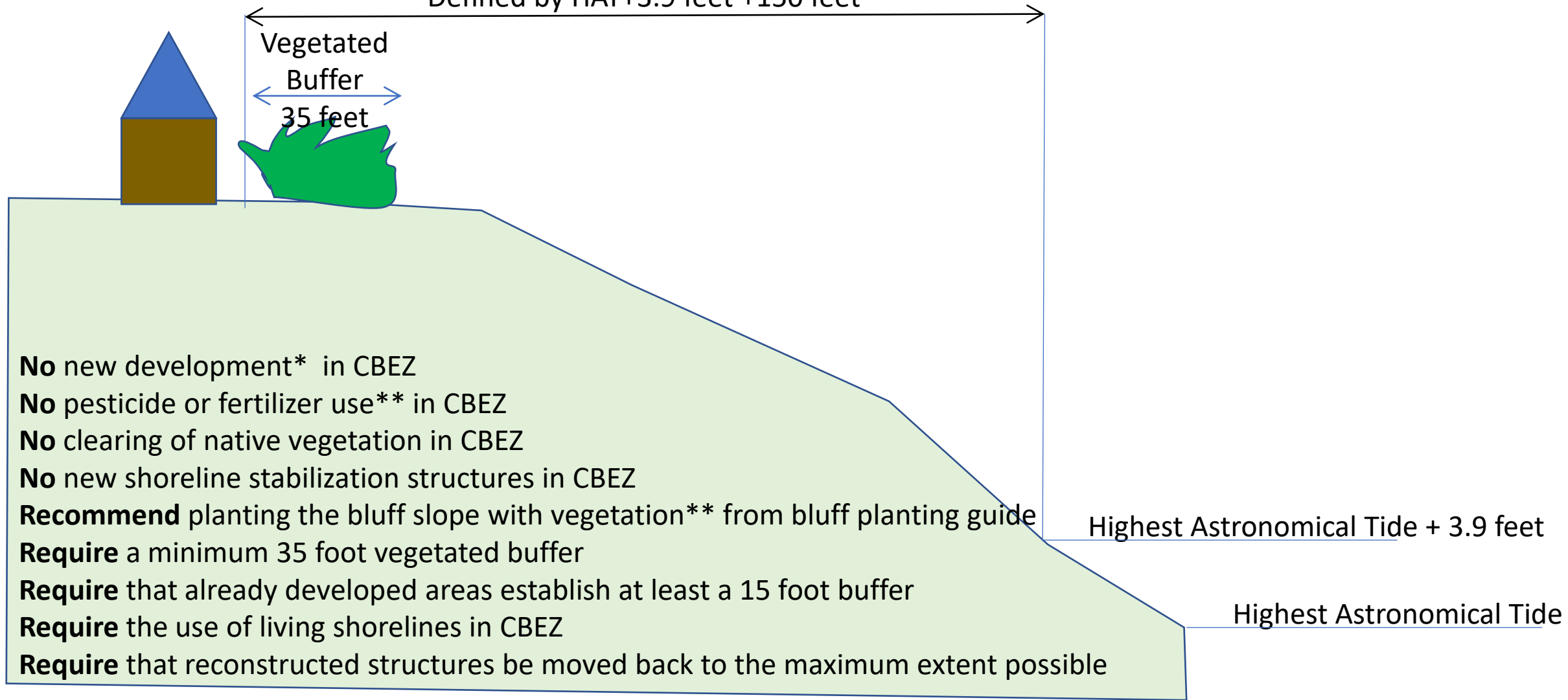
* Piers or docks may be permitted provided that all required local, state and federal approvals have been granted

** low phosphate slow release fertilizer allowed for revegetation of buffer using native plants. **How do we help fund restoration of the MMZ buffer?**

For areas mapped as unstable (or unmapped) coastal bluffs, establish a “Coastal Bluff Erosion Zone”

Coastal Bluff Erosion Zone

Defined by HAT+3.9 feet +150 feet

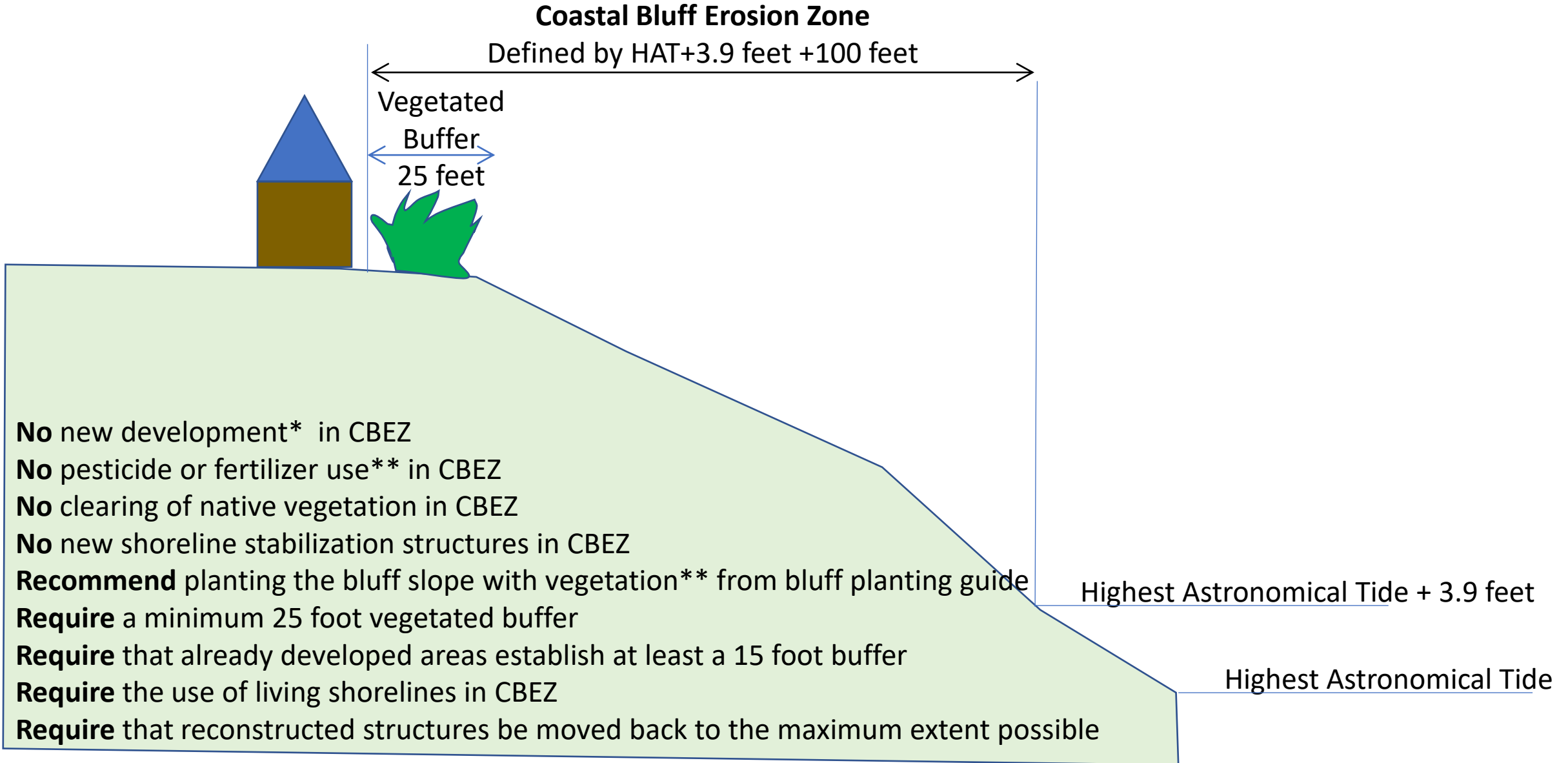


- No** new development* in CBEZ
- No** pesticide or fertilizer use** in CBEZ
- No** clearing of native vegetation in CBEZ
- No** new shoreline stabilization structures in CBEZ
- Recommend** planting the bluff slope with vegetation** from bluff planting guide
- Require** a minimum 35 foot vegetated buffer
- Require** that already developed areas establish at least a 15 foot buffer
- Require** the use of living shorelines in CBEZ
- Require** that reconstructed structures be moved back to the maximum extent possible

* Piers or docks may be permitted provided that all required local, state and federal approvals have been granted

** low phosphate slow release fertilizer allowed for bluff vegetation buffer or planting on slope of bluff

For developed areas mapped as stable coastal bluffs, establish a “Coastal Bluff Erosion Zone”



* Piers or docks may be permitted provided that all required local, state and federal approvals have been granted

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