

# Harford County, Maryland

# ZONING CODE



Chapter 267 of the Harford County Code, as amended

Effective December 22, 2008  
Amended thru October 5, 2022

*DEPARTMENT OF PLANNING AND ZONING*  
Harford County, Maryland

# FLOODPLAIN MANAGEMENT PROGRAM, Chapter 131

*and*

## SUBDIVISION REGULATIONS, Chapter 268

of the Harford County Code, As Amended  
are included at the end of  
The Development Regulations.

### ZONING CODE AMENDMENT INFORMATION:

<u>Bill Number</u>	<u>effective date</u>	<u>Bill Number</u>	<u>effective date</u>
09-01	4/6/09	16-02AA	5/17/16
09-11	6/15/09	16-07	7/5/16
09-19AA	8/17/09	16-20	8/22/16
09-23AA	10/13/09	16-28	2/13/17
09-31AA	1/22/10	16-29AA	2/13/17
09-33AA	1/22/10	17-02	4/24/17
10-03	4/20/10	17-04	6/5/17
10-30	12/13/10	17-08AA	8/14/17
10-32AA	12/27/10	17-15AA	12/26/17
11-04AA	5/23/11	17-18AA	1/16/18
11-05AA	5/23/11	18-04AA	6/18/18
11-03	5/31/11	18-33	12/10/18
11-32	12/12/11	18-34	12/10/18
11-44	12/19/11	18-35	12/10/18
11-62AA	1/13/12	18-36	12/10/18
12-07AA	5/14/12	19-04AA	5/13/19
12-14	5/21/12	19-15AA	8/12/19
12-44	1/26/13	19-16AA	8/20/19
12-48AA	2/11/13	19-29AA	1/2/20
13-4AA	5/6/13	19-28	1/13/20
13-17	7/22/13	19-30	2/14/20
13-35	1/21/14	20-01	4/20/20
13-36	1/21/14	20-11	8/10/20
13-50	2/18/14	21-01AA	5/10/21
13-51	3/18/14	21-03AA	8/6/21
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14-09	7/11/14	21-20AA	12/20/21
14-26AA	8/25/14	21-23	1/10/22
15-17	12/7/15	22-06	7/19/22
15-23AA	1/4/16	22-08	7/25/22
15-35AA	2/8/16	22-14	8/22/22
15-36AA	2/16/16	22-11	10/5/22
15-39AA	2/16/16		

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**§ 267-4. Definitions.** [Amended by Bill 09-19, as amended; Bill 11-04, as amended; Bill 11-05, as amended; Bill 11-32; Bill 12-44; Bill 12-48 as amended; Bill 13-35; Bill 14-1; Bill 15-39 as amended; Bill 16-02 as amended; Bill 16-20; Bill 17-04; Bill 18-36; Bill 19-04 as amended; Bill 19-15 as amended; Bill 19-16 as amended; Bill 19-29 as amended; Bill 20-11; Bill 21-01 as amended; Bill 21-19 as amended; Bill 22-06; Bill 22-08; and Bill 22-11]

ABANDON - To relinquish the right to use or to cease the use of property without the intention to either transfer rights in the property or to resume the use thereof.

ABATEMENT – The act of putting an end to a land alteration or development activity or reducing the degree or intensity of the alteration or activity.

ABUT - To physically touch, border upon or share a common property line.

ACCESS - An unobstructed way or means of approach to provide entry to or exit from a property.

ACCESSORY DWELLING UNIT (ADU) – An independent, self-contained dwelling unit located within a single-family detached dwelling.

ACCESSORY STRUCTURE OR USE - A structure or use of land, or portion thereof, customarily incidental and subordinate to the principal use of the land or building and located on the same lot or parcel of land with such principal use.

ADDITION - Any construction that increases the size of a building.

ADJACENT - Parcels of land that abut one another.

ADULT BOOKSTORE OR ADULT ENTERTAINMENT CENTER - An entity or establishment that, as its principal business purpose, offers for sale, rental, exhibition or viewing, any printed, recorded, digitally analogued or otherwise viewable matter, any kind of sexual paraphernalia or any kind of live performance, entertainment or exhibition, that depicts, describes or relates to sexual conduct, sexual excitement or sadomasochistic abuse. For purposes of this definition: "sexual conduct" means human masturbation, sexual intercourse, or the touching of or contact with genitals, pubic areas or buttocks of a human, the breasts of a female, whether alone or between members of the same or opposite sex, or between humans and others; "sexual excitement" means the condition of human genitals, or the breasts of a female, when in a State of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity; and "sadomasochistic abuse" means flagellation or torture by or upon a human who is nude, or clad in undergarments, or in a revealing or bizarre costume, or the condition of one who is nude or so clothed and is being fettered, bound or otherwise physically restrained. Adult entertainment center includes an adult bookstore.

AFFORESTATION - The creation, in an area that is not presently in forest cover, of a biological community dominated by trees and other woody plants at a density of at least 100 trees per acre with at least 50% of the trees having the capability of growing to a DBH of 2 inches or more within 7 years.

AGRICULTURAL BEST MANAGEMENT PRACTICE –

A. Agricultural Best Management Practice means an agronomic, conservation or pollution control practice, installation or structure that manages soil loss, nutrients, animal wastes or agricultural chemicals so as to minimize their movement into State waters.

- B. Agricultural Best Management Practice includes strip cropping, terracing, cover crops, grass waterways, animal waste management, conservation tillage, riparian buffers, nutrient management and stream protection practices such as fencing, stream crossings and remote watering devices.
- C. Agricultural Best Management Practice does not include a shoreline erosion control measure authorized by the Department of the Environment under COMAR 26.24.04.

**AGRICULTURAL PROCESSED PRODUCT** - An agricultural product that is treated in order to increase its market value, including but not limited to such processes as canning, milling, grinding, freezing, heating and fermenting.

**AGRICULTURAL PRODUCT** - Products grown or raised on a farm, intended for direct human or animal use, such as vegetables, fruits, dairy products, eggs, grains, meat, poultry, fish, honey, jelly, jam, hay, bedding plants, and wool.

**AGRICULTURAL PUBLIC EVENTS** - Events related to agricultural vocations, other than temporary uses already permitted in this Article, including farm tours, animal rodeos, corn mazes, fee fishing and hunting, cross country skiing, sledding, pond ice skating and equestrian trail rentals.

**AGRICULTURAL RESOURCE CENTER** - An agriculturally oriented park which includes uses such as equine competitions and events, livestock sales and auctions, farm fairs, farmer's markets, trail riding and support services.

**AGRICULTURAL RETAIL** - The sale of agricultural products.

**AGRICULTURAL SERVICES** - Uses that serve or support agriculture, including farm equipment service, auction sales of animals, feed and grain mills, farmer's co-ops and agricultural products processing, animal hospitals and veterinary clinics.

**AGRICULTURE** - All methods of production and management of livestock, crops, vegetation and soil. This includes the related activities of tillage, fertilization, pest control, harvesting and marketing. It also includes the activities of feeding, housing and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses and poultry and handling their by-products.

**AIRPORT** - An area on land or water that is used or intended to be used for the landing and takeoff of aircraft and includes its buildings and facilities, if any.

**ALLEY** - A serveway providing a secondary means of access to abutting property and not primarily intended for public access.

**ALTERATION** - Any interior or exterior change that would affect the architectural features of a site or structure.

**ALTERATION, HISTORIC** - Any exterior change that would affect the historic, archeological, or architectural significance of any portion of a designated site or structure, including construction, reconstruction, moving, or demolition.

**ALTERNATE LIVING UNITS** - Residential units for no more than 3 individuals organized to project a distinct family and home-like atmosphere.

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**ANADROMOUS FISH PROPAGATION WATERS** - Streams that are tributary to the Chesapeake Bay and Atlantic Coastal Bays in which the spawning of anadromous species of fish (e.g., rockfish, striped bass, yellow perch, white perch, shad and river herring) occurs or has occurred. The streams are identified by the Department of Natural Resources.

**ANIMAL, DOMESTIC** – An animal that is accustomed to living in or about the habitation of man and is dependent on man for food or shelter, excluding livestock.

**ANIMAL RODEO** - A public performance featuring jousting, fox hunting, polo, horse shows, horse pulling, bronco riding, calf roping, steer wrestling, bull riding, point-to-point races and steeplechases.

**ANIMAL SHELTER** - A non-profit facility, as defined by the Internal Revenue Code as Amended, established for the purpose of providing shelter and care for domestic animals and livestock that have been abandoned or placed in the shelter by the Harford County Government or members of the public for permanent or temporary care. In addition to shelter and care, the facility shall provide evaluative care to determine the adoptability of animals, educational outreach programs on animal care for the community, on-site training programs for staff and volunteers, and areas for animals to exercise and socialize.

**APPLICANT** - A property owner or their designee applying for permits or other approvals required by this Chapter.

**APPURTENANCES AND ENVIRONMENTAL SETTINGS** – All the grounds and structures surrounding a designated Landmark or Historic District to which that Historic Landmark or Historic District relates physically or visually. Appurtenances and environmental settings are unique to each Historic Landmark or Historic District and may include, but are not limited to, walkways and driveways (whether paved or unpaved), trees, landscaping, pastures, croplands, waterways, open space, setbacks, parks, public spaces and rocks.

**AQUACULTURE** - The commercial rearing of fish or aquatic plants for sale, trade, barter or shipment.

- A. Farming or culturing of finfish, shellfish, other aquatic plants or animals, or both, in lakes, streams, inlets, estuaries and other natural or artificial water bodies or impoundments.
- B. Activities include hatching, cultivating, planting, feeding, raising and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings and growing areas.
- C. Cultivation methods include, but are not limited to, seed or larvae development and grow out facilities, fishponds, shellfish rafts, rack and longlines, seaweed floats and the culture of clams and oysters on tidelands and subtidal areas. For the purpose of this definition, related activities such as wholesale and retail sales, processing and product storage facilities are not considered aquacultural practices.
- D. Aquaculture has the meaning stated in Natural Resources Article, §4-11A-01(b), Annotated Code of Maryland.

**AQUIFER** - A permeable geologic formation, either rock or sediment, that when saturated with groundwater is capable of transporting water through the formation.

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ARCADE - A structure housing 3 or more commercial mechanical or electronic devices used for amusement.

AS-BUILT - Scaled and dimensioned drawing done by a licensed surveyor or engineer that accurately depicts the location of all improvements on the property.

ASSEMBLY HALL - See "community center."

ASSISTED LIVING FACILITY - A facility to provide supervision, monitoring or assistance with the activities of daily living for more than 25 elderly or disabled persons in a residential setting.

AVERAGE CONTACT GRADE - The mean elevation of the highest and lowest points of contact of the structure.

BASE FLOOD - The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT - An area of a structure having  $\frac{1}{2}$  or more of its floor-to-ceiling height below the average level of the adjoining ground and with a floor-to-ceiling height of not less than  $6\frac{1}{2}$  feet.

BEST MANAGEMENT PRACTICES (BMP'S) - Conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins and sediment.

BLOCK - A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

BOARDING HOME FOR SHELTERED CARE - A nonprofit home for the sheltered care of more than 8 unrelated persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation.

BOARD OF APPEALS OR BOARD - The administrative body of the County vested and charged with the power set forth in this Part 1.

BOAT HOUSE - A structure with a roof or cover, or similar device, placed over open water to protect a boat or other vessel.

BORROW PIT - An area from which soil or other unconsolidated materials are removed to be used, without further processing, as fill for activities such as landscaping, building construction or highway construction and maintenance.

BREWERY, MICRO - A facility that produces malt based liquors such as beer, ale, porter, stout and similar grain based beverages on the premises and which possesses the appropriate license from the State of Maryland. The facility may brew, bottle, contract, store and enter into temporary delivery agreements with distributors. Products may be brewed onsite and sold for on-premises or off-premises consumption in accordance with the limits of the appropriate license from the State of Maryland. Said facility may also include site tours and product tasting.

BREWERY, PRODUCTION - A facility that produces any amount of malt based liquors such as beer, ale, porter, stout and similar grain based beverages to be sold offsite and which possesses the appropriate license from the State of Maryland. Said facility may also include site tours and product tasting.

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**BREWERY, PUB** – A restaurant that is permitted to produce malt based liquors such as beer, ale, porter, stout and similar grain based beverages on the premises for consumption on the premises and which possesses the appropriate license from the State of Maryland. If the restaurant use ceases, the use of the premises would be considered and subject to the regulations of a Brewery, Micro.

**BUFFER** - Land area left in its natural state or which is vegetated and managed to protect significant and/or sensitive special natural features from the adverse impacts of adjacent land uses or development.

**BUFFER MANAGEMENT PLAN** - A narrative, graphic description or plan of the Critical Area Buffer that is necessary when an applicant proposes a development activity that will affect a portion of the Critical Area Buffer, affect Critical Area Buffer vegetation or require the establishment of a portion of the Critical Area Buffer in vegetation. Buffer Management Plan includes a Major Buffer Management Plan, a Minor Buffer Management Plan or a Simplified Buffer Management Plan as described in this Ordinance.

**BUFFER YARD** - A portion of a lot that may be included within setbacks, improved with plantings, earth berms or fences that acts to soften or mitigate the effects of one land use upon another.

**BUILDING** - Any structure having a roof supported by columns or walls and intended for the shelter, housing, storage or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

**BUILDING COVERAGE** - That portion of a lot that is covered by buildings.

**BUILDING HEIGHT** - The vertical distance of a building or structure measured from the average contact grade to the highest point of the roof.

**BUILDING LINE** - The line that is located at the front yard setback of a lot and at which the required lot width for the district is met.

**BUILDING, PRINCIPAL** - Any building which serves a principal permitted use. Any buildings or structures attached to the "principal building," either directly or by a breezeway, shall be considered part of the "principal building."

**BUSINESS SERVICES** - Establishments primarily engaged in rendering services to businesses on a fee or contract basis, including actuarial services, advertising services, blueprinting and photocopying, catering, credit reporting and collection services, data processing, detective and protection services, direct-mail advertising, disinfecting and exterminating, duplicating and publishing, employment agencies and services, janitorial services, motion-picture distribution services, office or business equipment rental and leasing, photofinishing, secretarial or stenographic, tag and Title service, telecommunications and window cleaning.

**CALIPER** - The diameter of a tree measured:

- A. At 6 inches above grade for trees with a caliper of 4 inches or less; and
- B. At 12 inches above grade for trees with a caliper of more than 4 inches.

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**CAMPGROUND** - An area used for a range of overnight accommodation, from tenting to serviced trailer sites, including accessory facilities which support the use, such as administration offices, laundry facilities, washrooms, support recreational facilities, but not including the use of mobile homes, trailers or other forms of moveable shelter on a permanent year-round basis.

**CANOPY** - A detachable roof like structure supported from the ground, deck, floor, wall or building for the purpose of protection from the sun or weather.

**CANOPY TREE** - A tree that when mature commonly reaches a height of at least 35 feet.

**CERTIFICATE OF APPROPRIATENESS** - A certificate issued by the Department of Planning and Zoning in conjunction with the Historic Preservation Commission indicating its approval of plans for construction, alteration, rehabilitation, restoration, reconstruction, moving, or demolition of a Historic Landmark or of a site or structure within a designated Historic District.

**CHANGE OF USE** - Any use that differs substantially from the previous use of a building or land.

**CIDERY** - A facility that produces hard cider (alcoholic drinks made by fermenting the juice of fruit) on the premises and which possesses the appropriate license from the State of Maryland. The facility may produce, bottle, contract, store and enter into temporary delivery agreements with distributors. Products may be produced onsite and sold for on-premises or off-premises consumption in accordance with the limits of the appropriate license from the State of Maryland and the Harford County Liquor Control Board. The facility may also include site tours and product testing.

**CLEAR AND CLEARING** - Cutting or removing trees, ground cover, stumps, and roots, including the movement of topsoil prior to grading.

**CLEARCUTTING** - The removal of the entire stand of trees in 1 cutting with subsequent reforestation obtained by natural seeding from adjacent stands or from trees that were cut, from advanced regeneration or stump sprouts or from planting of seeds or seedlings by man.

**CLINIC** - A place for the treatment of outpatients by 3 or more health professionals in group practice.

**CLUB, NON-PROFIT** - A social, civic service or fraternal association or corporation which is organized as a non-profit organization and operated exclusively for educational, social, civic, fraternal, patriotic or athletic purposes.

**CLUB, PRIVATE** - A social, civic service or fraternal association or corporation which is organized as a for profit organization for educational, social, civic, fraternal, patriotic or athletic purposes.

**CLUB, RECREATIONAL** - A yacht or boat club, country club, golf club, swim club or tennis club or other similar use and may be organized as a for profit or non-profit organization. Recreational clubs shall not be open to the general public at any time.

**CLUSTER DEVELOPMENT** - A residential development in which dwelling units are concentrated in a selected area or selected areas of the development tract so as to provide natural habitat, forest preservation, agricultural preservation, or other permanent open space uses on the remainder.

**COLLECTOR SYSTEM** - Sewer pipelines, smaller than 24 inches in diameter, which collect sanitary wastewater from a drainage area and conveys it to the interceptor.

**CO-LOCATION** - Placement of an antenna on an existing communications tower, building, light, utility pole or water tower where the antenna and all supports are located on the existing structure.

**COLONIAL NESTING WATER BIRDS** -

- A. A species of bird that, for the purpose of nesting, congregates or colonizes in relatively few areas.
- B. Colonial nesting water bird includes egrets, glossy ibises, herons and terns.

**COMAR** - The Code of Maryland regulations, as from time to time amended, including any successor provisions.

**COMMERCIAL AMUSEMENT AND RECREATION** - Establishments providing commercial amusement, entertainment or recreation, including arcades, bowling alleys, martial arts clubs and schools, miniature golf courses, pool halls, skating rinks, tennis and racquetball clubs.

**COMMERCIAL HARVESTING** - The cutting and removal of trees by companies or private individuals for economic gain.

**COMMERCIAL VEHICLE** - Any self-propelled or towed vehicle used on public roadways to transport passengers or property when:

- A. The vehicle has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds; or
- B. The vehicle is designed to transport more than 15 passengers, including the driver; or
- C. The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding in accordance with the hazardous materials regulations of the United States Department of Transportation; or
- D. A single, full or semi-trailer with a manufacturer's gross vehicle weight rating over 7,000 lbs.

**COMMUNICATIONS ANTENNA** - Any structure or device deployed by or on behalf of any government-licensed or government-permitted entity to collect or radiate electromagnetic waves, including directional antennas, microwave dishes and satellite dishes, and omnidirectional antennas. Communications antenna does not include a radio operator antenna operated by an amateur radio operator who is licensed by the federal communications Commission and whose domicile is on the lot where the antenna and related equipment is placed.

**COMMUNICATIONS TOWER** - A structure erected to support communications antennas. Communications towers include, and are limited to:

- A. A lattice tower is a structure that consists of vertical and horizontal supports and metal crossed strips or bars to support antennas and connecting appurtenances. Lattice towers may be freestanding or supported by guy wires. (see guyed tower.)
- B. A monopole is a structure that consists of a single freestanding pole structure to support antennas and connecting appurtenances.

C. A guyed tower is any communications tower using guy wires connecting above grade portions of a communications tower diagonally with the ground to provide support for tower, antennas and connecting appurtenances.

**COMMUNICATIONS TOWER HEIGHT** - The measurement from the lowest point of the base at ground level on which the tower is mounted to the top of the tower or the top of the highest point, whichever is greater.

**COMMUNITY CENTER** - A building, which has a permitted capacity in excess of 150 people, is used for recreational, social, educational, cultural or religious activities and is owned and operated by a public or nonprofit organization.

**COMMUNITY GREEN** - A primary internal landscaped open space designed and intended for the use and enjoyment of the community.

**COMMUNITY PLAN** - Sub area planning document that further defines the intentional land use and long-range planning objectives adopted by the County Council.

**COMMUNITY SOLAR ENERGY GENERATING SYSTEM (CSEGS)** - Any solar energy generating system that functions as a principal use that uses energy from the sun to produce electricity for delivery through distribution lines to end-users that satisfies the requirements of the Public Utilities Article of the Annotated Code of Maryland, as amended, and does not exceed 2 megawatts of capacity, as measured in alternating current.

**COMMUNITY WATER SYSTEM** - A public water system that uses an average of 10,000 gallons per day and services at least 15 service connections used by year-round residents, or regularly serves at least 25 residents throughout the year.

**CONFORMING** - In the Critical Area, conforming means a parcel or lot that meets all Critical Area requirements. Conforming does not include a parcel or lot for which a Critical Area variance is sought or has been issued; or that is located in the Resource Conservation Area and is less than 20 acres.

**CONSERVATION DEVELOPMENT** - A residential development in which single-family dwelling lots are concentrated in a selected area or selected areas of the parcel.

**CONSERVATION EASEMENT** - a non-possessory interest in land which restricts the manner in which the land may be developed in an effort to reserve natural resources for future use.

**CONSTRUCTION SERVICES AND SUPPLIERS** - The performance of work by or furnishing of supplies to members of the building trades, including building contractors; carpentry and wood flooring services; electrical services; energy systems service and products; general contracting; masonry, stonework, tile setting and plastering services; plumbing, heating and air-conditioning services; roofing and sheet metal services; and septic tanks sales, service and installation.

**CONTAINMENT DEVICE** - A device that is designed to contain an unauthorized release, retain it for cleanup and prevent released materials from penetrating into the ground.

**CONTIGUOUS** - Next to, abutting, or touching and having a boundary, or portion thereof, that is coterminous.

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CONTINUING CARE RETIREMENT COMMUNITY (CCRC) - A building or group of buildings providing a continuity of residential occupancy and health care for elderly persons. This facility includes dwelling units for independent living, assisted living facilities, plus a skilled nursing care facility of a suitable size to provide treatment or care of the residents; it may include ancillary facilities for the further employment, service or care of the residents. The facility is restricted to persons 60 years of age or older or couples where either the husband or wife is 60 years of age or older. Such facilities must meet the current standards as set forth in the Human Services Article of the Annotated Code of Maryland, as amended.

CONTRIBUTING AREA - The entire area around a well or wellfield that is recharging or contributing water to the well or wellfield.

CONVENIENCE GOODS STORES - Retail establishments of less than 7,500 gross square feet which accommodate neighborhood needs, including retail bakeries, candy, nut and confection shops, dairy products stores, delicatessens, doughnut shops, drugstores, fruit and vegetable stores, meat and fish stores and grocery and food stores.

COPY - The wording, logo or other representation on a sign surface.

CORPORATE OFFICES - Facilities where administrative or clerical operations are performed as the principal use for corporations, businesses, companies, partnerships and associations. The term "corporate offices" does not include professional services as defined in this Subsection unless such professional services are providing assistance solely for the use of the corporate offices and not the general public.

COUNTRY INN - An historic building used for the lodging of 3 or more transients and managed by an owner or resident.

COURT - A fully or partially enclosed area which admits unobstructed light and air, bounded on 2 or more sides by buildings.

COVER CROP - The establishment of a vegetative cover to protect soils from erosion and to restrict pollutants from entering the waterways. Cover crops can be dense, planted crops of grasses or legumes, or crop residues such as corn, wheat or soybean stubble which maximize infiltration and prevent runoff from reaching erosive velocities.

CREAMERY - An establishment in which dairy products are processed and produced, including incidental retail sales.

CRITICAL AREA - All lands and waters defined in §8-1807 of the Natural Resources Article, Annotated Code of Maryland. Critical Area includes all waters of and lands under the Chesapeake Bay and Atlantic Coastal Bays and their tributaries to the head of tide, all State and private wetlands designated under Title 16 of the Environment Article, Annotated Code of Maryland, all land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 16 of the Environment Article, Annotated Code of Maryland, and modification to these areas through inclusions or exclusions proposed by local jurisdictions and approved by the Commission as specified in §8-1807 of the Natural Resources Article, Annotated Code of Maryland.

**CRITICAL AREA BUFFER** - An area that, based on conditions at the time of development, is immediately landward from mean high water of tidal waterways, the edge of bank of a tributary stream or the edge of a tidal wetland; and the area exists, or may be established in, natural vegetation to protect a stream, tidal wetland, tidal waters or terrestrial environments from human disturbance. The Buffer includes an area of at least 100 feet, even if that area was previously disturbed by human activity, and also includes any expansion for contiguous areas, including a steep slope, hydric soil, highly erodible soil, nontidal wetland or a nontidal wetland of special State concern as defined in COMAR 26.23.01.01.

**CRITICAL AREA BUFFER YARD** - In the Critical Area, Buffer Yard means an area at least 25 feet wide, located between development activity and tidal waters, tidal wetlands or a tributary stream, planted with vegetation consisting of native canopy trees, understory trees, shrubs and perennial herbaceous plants that is used in modified buffer areas to provide water quality and habitat benefits. This area is to be managed and maintained in a manner that optimizes these benefits.

**CRITICAL AREA GRANDFATHERED PARCEL OR LOT** - A parcel or lot of land in the Critical Area that was created through the subdivision process and recorded as a legally buildable lot prior to December 1, 1985.

**CRITICAL HABITAT AREA** - A habitat that:

- A. Is occupied by an endangered species, as determined or listed under the Natural Resources Article, §4-2A-04 or 10-2A-04 of the Annotated Code of Maryland.
- B. Is likely to contribute to the long-term survival of the species;
- C. Is likely to be occupied by the species for the foreseeable future; and
- D. Constitutes habitat deemed critical under the Natural Resources Article, §10-2A-06 of the Annotated Code of Maryland.

**CUSTOM MADE WOOD HOUSEHOLD FURNITURE** - An establishment engaged in on-site production of individually crafted wood furniture commonly used in dwellings, excluding upholstered furniture.

**CUT** -

- A. Removing trees without removing stumps and roots; or
- B. A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below the original ground surface or excavated surface.

**DATA PROCESSING CENTER** - A facility equipped with, or connected to, one or more computers, used for processing or transmitting data.

**DAY-CARE CENTER** - A facility operated for the purpose of providing nonresidential group care as defined by State law for a specific number of unrelated minor or dependent persons.

**DAY-CARE HOME, FAMILY** - A residence that is registered by the State in which family day care is provided pursuant to State regulations.

**DENSITY** - The number of dwelling units per acre of land.

DEPARTMENT - The Department of Planning and Zoning.

DESIGN GUIDELINES/STANDARDS - A set of guidelines defining parameters to be followed in site and/or building design and development.

DEVELOPABLE AREA - The maximum portion of a parcel that may be developed with residential uses under the Conservation Development Standards.

DEVELOPED WOODLANDS - An area of trees or of trees and natural vegetation that is interspersed with residential, commercial, industrial, institutional or recreational development.

DEVELOPMENT - The construction, reconstruction, conversion, erection, alteration, relocation, or enlargement of any building or structure; any mining, excavation or landfill; and any land disturbance in preparation for any of the above. For the purposes of this section, development does not include the construction, reconstruction, conversion, erection, alteration, relocation, enlargement, or installation of poles, wires, cables, conduits, transformers, and similar equipment by a:

- A. Gas and electric company regulated by the Maryland Public Service Commission; or
- B. Cable television company operating under a franchise granted by the County Council.

DEVELOPMENT ACTIVITIES - The construction or substantial alteration of residential, commercial, industrial, institutional, transportation or utility facilities or structures. In the Critical Area, means human activity that results in disturbance to land, natural vegetation or a structure. Development includes redevelopment.

DEVELOPMENTAL DISABILITY - A severe, chronic disability that:

- A. Is attributed to a mental or physical impairment or combination of mental and physical impairments;
- B. Is manifested before the person attains the age of 21;
- C. Is likely to continue indefinitely;
- D. Results in substantial functional limitations in 3 or more of the following major life activity areas: self care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self sufficiency; and
- E. Reflects the person's need for a combination and sequence of special and interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration and individually planned and coordinated.

DIAMETER AT BREAST HEIGHT (DBH) - The diameter of a tree measured at 4½ feet above grade.

DISABILITY - A disabling physical or mental condition.

DISTILLERY, FULL - The establishment and operation of a plant for distilling, rectifying and blending an unlimited amount of brandy, rum, whiskey, alcohol and neutral spirits and which possesses the appropriate license from the State of Maryland. The sale and delivery of the alcoholic beverages to a person in the state or outside the state that is authorized to acquire the beverages, the manufacturing of alcoholic beverages in the name of certain other persons, acquiring alcoholic beverages from certain persons, conducting guided tours of the premises and selling or serving

limited quantities of products manufactured on the premises shall be permitted. The sale of the manufactured product for off-premises consumption to a person on a guided tour of the distillery in accordance with regulations of the State of Maryland shall be permitted.

**DISTILLERY, LIMITED** – The establishment and operation of a plant for distilling, rectifying and bottling brandy, rum, whiskey, alcohol and neutral spirits which shall be operated in conjunction with a restaurant or bar and which possesses the appropriate license from the State of Maryland. Said operation may also include retail sales for on-premises or off-premises consumption as permitted by the State of Maryland.

**DISTRICT** - A zoning district.

**DISTURBANCE** - An alteration or change to the land. It includes any amount of clearing, grading or construction activity. Disturbance does not include gardening or maintenance of an existing grass lawn.

**DOCUMENTED BREEDING BIRD AREAS** - Forested areas where the occurrence of interior dwelling birds, during the breeding season, has been demonstrated as a result of on-site surveys using standard biological survey techniques.

**DRIPLINE** - An imaginary vertical line that extends down from the outermost branches of a tree to the ground.

**DRIVEWAY** - A private drive providing access to a street or highway.

**DWELLING** - A building or portion thereof used primarily for human habitation or, where applicable, a single dwelling unit within such building.

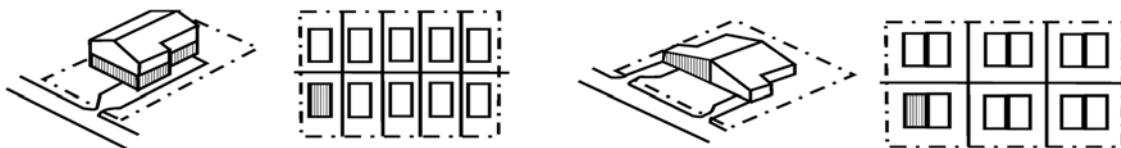
**DWELLING, ATTACHED** - A dwelling unit attached to 1 or more dwelling units by walls or roof.

**DWELLING, CARRIAGE COURT** - A building containing 4 or more dwelling units, each with a separate entrance.

**DWELLING, CLUSTER TOWNHOUSE** - A building containing 4 or more attached dwelling units, not more than 2 stories, sharing common walls and designed to orient the building units around a central court.

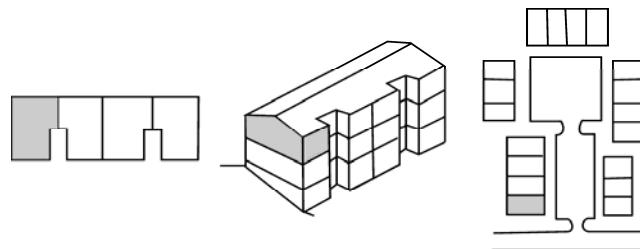
**DWELLING, DETACHED** - A dwelling unit that is not attached to any other dwelling by any means.

**DWELLING, DUPLEX** - A building on a single lot containing 2 dwelling units, which do not share a common entry.



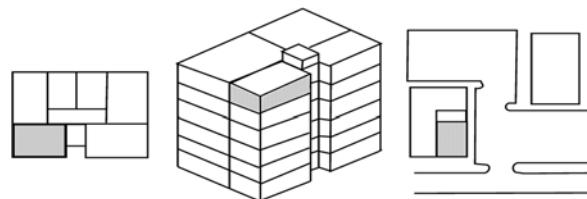
**Figure 1 duplex dwelling**

**DWELLING, GARDEN APARTMENT** - A building containing 4 or more dwelling units off a common entry and not more than 3 stories.



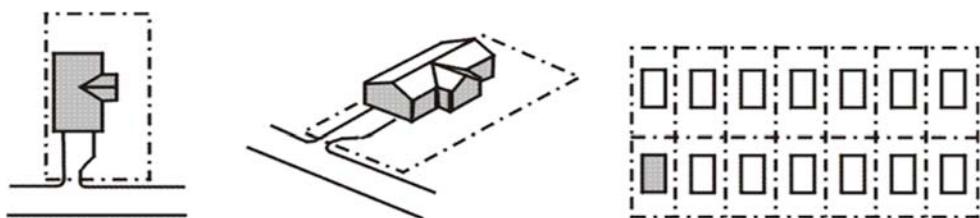
**Figure 2 garden apartment**

**DWELLING, HIGH-RISE APARTMENT** - A building containing 8 or more dwelling units, containing 6 stories, with a common entry.



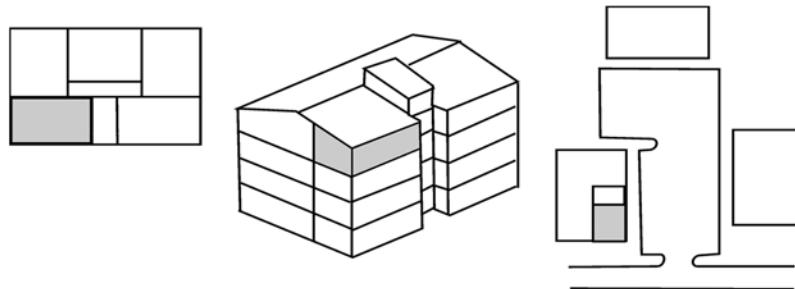
**Figure 3 high-rise apartment**

**DWELLING, LOT-LINE** - A building on a single lot containing 1 dwelling unit, located with 1 side on or near 1 side lot line and designed to orient interior living space to the other 3 yards.



**Figure 4 lot line dwelling**

**DWELLING, MID-RISE APARTMENT** - A building containing 8 or more dwelling units off a common entry with either 4 or 5 stories.

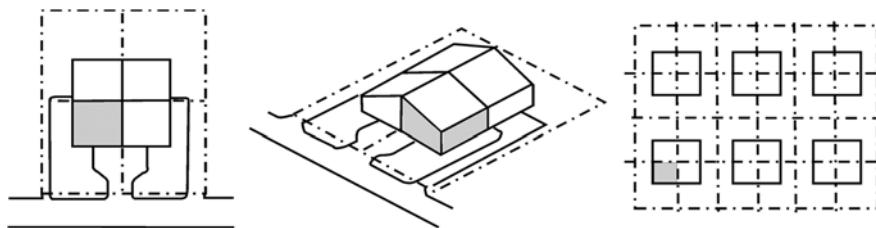


**Figure 5 mid-rise apartment**

**DWELLING, MOBILE HOME** - A structure that is transportable in one or more sections, built on a permanent chassis, designed for use with or without a permanent foundation when attached to the required utilities, and if built after 1974, was constructed to the federal mobile home construction and safety standards and rules and regulations promulgated by the U.S. Department of Housing and Urban Development.

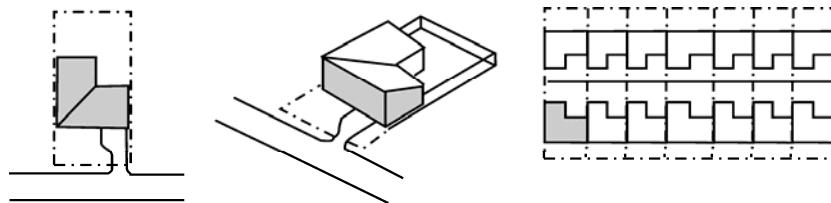
**DWELLING, MULTI-FAMILY** - Two or more dwelling units constructed on a permanent foundation, designed for 2 or more families and located on a single lot or parcel.

**DWELLING, MULTIPLEX** - A building containing 3 or more attached dwelling units having common walls and/or roof and a separate entry for each unit. For buildings containing more than 4 units, interior units access from the front and rear of the dwelling. End units are oriented to the area away from the interior units.



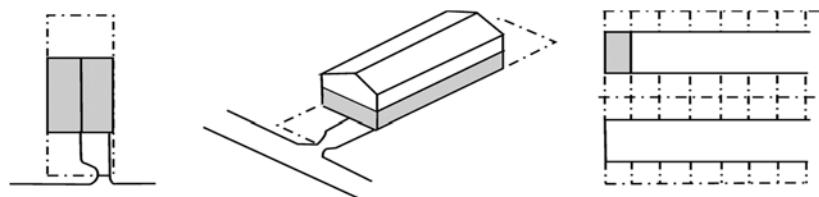
**Figure 6 multiplex dwelling**

**DWELLING, PATIO, ATRIUM OR COURT** - A building containing 2 or more attached dwelling units, not more than 1½ stories in height, sharing common walls, and designed to orient interior living space to a court or private open space.



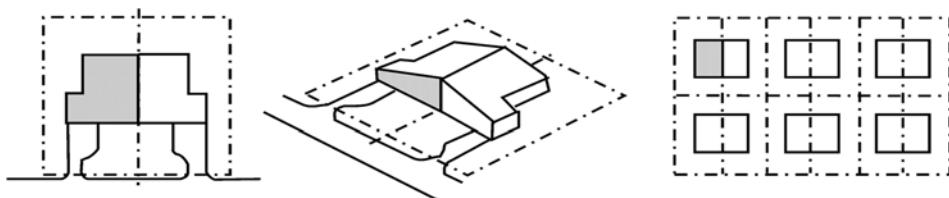
**Figure 7 patio, atrium or court dwelling**

**DWELLING, ROW DUPLEX** - A duplex dwelling that shares 1 or more common walls with other duplex or townhouse dwellings.



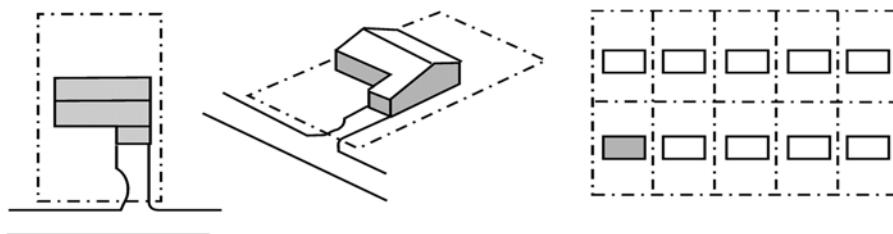
**Figure 8 row duplex dwelling**

**DWELLING, SEMIDETACHED** - A building containing 2 attached dwelling units which share a common wall at the lot line and which are on separate lots.



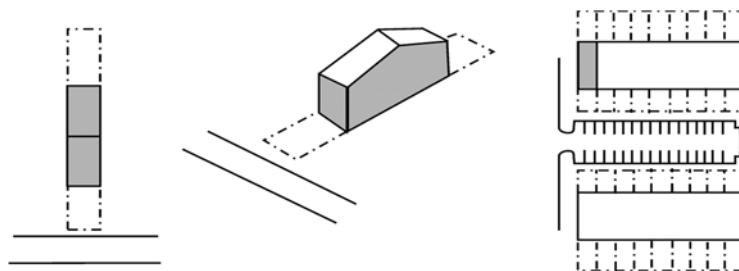
**Figure 9 semi-detached dwelling**

**DWELLING, SINGLE-FAMILY DETACHED** - A building containing 1 dwelling unit on 1 lot and detached from any other dwelling. This does not include a mobile home.



**Figure 10 single-family detached dwelling**

**DWELLING, TOWNHOUSE** - A building containing 3 or more attached dwelling units in a row having access from the front and rear of the dwelling.



**Figure 11 townhouse dwelling**

**DWELLING, TRANSIENT** - Accommodations that shall not serve as a permanent residence.

**DWELLING UNIT** - A dwelling designed for 1 or more individuals who function as a single household unit or family.

**DWELLING UNIT, EFFICIENCY** - A dwelling unit consisting of not more than 1 habitable room, together with kitchen or kitchenette and sanitary facilities.

**EASEMENT** - A grant of 1 or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity for a specific purpose.

**EGRESS** - An exit.

**ELECTRIC VEHICLE** - A vehicle that uses electricity for propulsion.

**ELECTRIC VEHICLE CHARGING STATION** - A structure that hosts a connected point in an electrical wiring installation at which current is taken to charge an electric vehicle.

**ENFORCEMENT OFFICER** - The Director of the Department of Planning and Zoning or the Director's designee.

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ENTERTAINMENT AND EVENTS CENTER – An integrated venue for indoor and/or outdoor amusement, recreation and social activities with a combination of amusement, recreation, social, retail, office and service uses.

EPA - United States Environmental Protection Agency.

EPA STORMWATER NPDES PERMIT - A permit meeting the requirements of the National Pollution Discharge Elimination System Permit Applications Regulations for Stormwater Discharges issued by the EPA on November 16, 1990.

ESTABLISHMENT - The planting or regeneration of native vegetation throughout the Critical Area Buffer.

EQUIPMENT BUILDING - Any structure, cabinet or box, accessory to a communications tower or communications antenna which houses equipment related to the wireless transmission of voice, data or other signal.

EXPECTED PEAK GRAVITY FLOW - The projected average flow peaked in accordance with the Maryland Department of the Environment Design Guidelines for Sewerage Facilities Peaking Curve.

EXTERIOR FEATURES, HISTORIC – Include:

- A. Any exterior design, composition or surface of a site or structure, including the architectural style and general design and arrangement of the site or structure;
- B. The finish, appearance, material and texture of any exterior building material on a site or structure; and
- C. The type, formation and style of a site or structure's windows, doors, light fixtures, siding, roofs, chimneys, signs and any other character-defining exterior components of the site or structure.

EXTRACTION - Removal or recovery of soil, rock, minerals, mineral substances or organic substances, other than vegetation, from water or land, on or beneath the surface of either, whether exposed or submerged.

FAMILY - A social unit living together.

FARM - As defined for purposes of the census of agriculture since 1978, any place that has, or has the potential to produce, \$1,000 or more in annual gross sales of agricultural products.

FARM BREWERY – An agricultural processing and manufacturing facility located on a parcel with equipment, components and supplies used for the processing, production and packaging of malt based liquors such as beer, ale, porter, stout and similar grain based beverage on the premises with ingredients being grown on the property on which the facility is located. Said facility shall also include product tasting and may include, among other things, product sales and site tours. Other farm brewer activities may include, but not be limited to, associated cooking, fermenting, bottling, storage, aging, shipping and receiving.

FARM MARKET, PRIVATE - A market held on private property by multiple vendors selling agricultural and agricultural processed products on a limited basis, not exceeding 1 event per crop season.

FARMERS CO-OP - An enterprise that is collectively owned by a group of farmers, is operated for their mutual benefit and provides goods or services in support of agricultural activities.

**FENCE** - An artificially constructed barrier of any material or combination of materials erected to enclose or buffer areas of land.

**FINANCIAL ASSURANCE** - A performance bond, letter of credit, cash deposit, insurance policy or other instrument of security acceptable to the County.

**FIRE STATION ASSEMBLY HALL** - A building that is owned by a fire company and that under the State Fire Prevention Code has a permitted capacity of more than 150 persons.

**FISHERIES ACTIVITIES** - Commercial water dependent fisheries facilities including structures for the parking, processing, canning or freezing of finfish, crustaceans and mollusks and also including related activities such as wholesale and retail sales product storage facilities, crab shedding, off-loading docks, shellfish culture operations and shore-based facilities necessary for aquacultural operations.

**FLOODPLAIN** - The channel and a contiguous area of a stream, river or other water body that has been or may reasonably expect to be flooded by the 1% annual storm.

**FLOOR AREA, GROSS** - The sum of the gross horizontal areas of all floors of a building measured from the exterior face of exterior walls or from the center line of a wall separating 2 buildings, but not including interior parking spaces, loading space for motor vehicles or any space where the floor-to-ceiling height is less than 6 feet.

**FOREST** - A biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. Forest includes areas that have at least 100 trees per acre with at least 50% of those trees having 2-inch or greater diameter at 4.5 feet above the ground and forest areas that have been cut, but not cleared. Forest does not include orchards.

**FOREST MANAGEMENT** - The protection, manipulation and utilization of the forest to provide multiple benefits, such as timber harvesting, water transpiration and wildlife habitat, usually prescribed by a State Timber Harvest Permit, State Forest Stewardship Plan or Federal Habitat Management Plan.

**FOREST PRACTICE** - The alteration of the forest either through tree removal or replacement in order to improve the timber, wildlife, recreational, aesthetic or water quality values.

**FORESTED AREA** - A biological community dominated by trees and other woody plants covering a land area of 1 acre or more. This also includes areas that have been cut, but not cleared. It also includes areas of 1 acre or more in size that have been designated as developed woodlands not only because they predominantly contain trees and natural vegetation, but also contain residential, commercial or industrial structures and uses. Such areas can further be characterized by the presence of at least 400 seedlings per acre, which are vigorous, well-distributed throughout and free to grow to at least 25% tree canopy cover.

**FOREST INTERIOR DWELLING BIRDS** - The species of birds identified by the Maryland Department of Natural Resources, that require relatively large forested tracts in order to breed successfully, such as various species of flycatchers, hawks, owls, warblers, vireos and woodpeckers.

**FORESTRY** - The clearing or harvesting of forested or wooded areas, including temporary logging and milling operations, and selective cutting or clearing for commercial purposes.

**FRONTAGE** - That portion of a lot that abuts a road or road right-of-way.

**FULLY ESTABLISHED** - A condition where the Buffer contains as much diverse, native vegetation as necessary to support a firm and stable riparian habitat capable of self-sustaining growth and regeneration.

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**GARAGE** - A building or part thereof used or intended to be used for the parking and storage of motor vehicles.

**GAS STATION** - Any business whose primary function is the dispensation of gasoline for vehicles.

**GENERAL MERCHANDISE** - Any use characterized by the sale of bulky items and/or outside display/storage of merchandise or equipment, such as lumber and building materials, farm and garden supplies, marine equipment sales and service and stone monument sales.

**GREENHOUSES AND NURSERIES, COMMERCIAL** - A retail business for the cultivation and sale of plants grown on the premises in greenhouses or as nursery stock and accessory items directly related to their care and maintenance, such as pots, soil, mulch, fertilizer, insecticides, rakes or shovels. This use includes the storage and sale of mulch incidental to the nursery operation, but does not include the processing or grinding of mulch.

**GROUNDWATER** - The water contained within the earth's surface that has penetrated from precipitation and from infiltration by streams, ponds and lakes.

**GROUNDWATER CONTAMINATION** - Presence of any substance, designated by the U.S. EPA or the State of Maryland as a primary or secondary water quality parameter, in excess of the maximum allowable contaminant level (MCL).

**GROUNDWATER TRAVEL TIME** - The distance groundwater will travel in a given time.

**GROUP HOME FOR SHELTERED CARE** - A home for the sheltered care of more than 8 unrelated persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services and transportation.

**GROUP PARKING** - A hard-surfaced area designed to provide parking for 3 or more dwelling units, for business uses requiring more than 10 parking spaces or any other parking area designed for 20 or more motor vehicles.

**GROWTH ALLOCATION** - The number of acres of land in the Critical Area that the County may use, or allocate to municipal jurisdictions to use, to create new Intensely Developed Areas and new Limited Development Areas. The growth allocation is 5% of the total Resource Conservation Area acreage in the County at the time the Critical Area Commission approved the County's original Critical Area Program, not including tidal wetlands or land owned by the Federal Government.

**GROWTH ALLOCATION ENVELOPE** - All of the proposed components of a growth allocation that are necessary to serve the proposed development, including an individually owned lot, lot coverage, a road, a utility, a stormwater management measure, an on-site sewage disposal measure, an active recreation area and additional acreage needed to meet the development requirements of the Critical Area criteria.

**HABITAT AREAS OF LOCAL SIGNIFICANCE** - Areas whose geographic location has been mapped by the Harford County Department of Planning and Zoning that have been determined to be important to the County because they contain species uncommon or of limited occurrence in the County or because the species are found in unusually high concentration or because they contain an unusual diversity of species.

**HABITAT PROTECTION AREA** -

A. Habitat Protection Area means an area that is designated for protection:

- (1) Under Natural Resources Article, §8-1806, Annotated Code of Maryland regulations adopted under that authority, or a local program; or

(2) By the Secretary of Natural Resources.

B. Habitat Protection Area includes:

- (1) The Critical Area Buffer.
- (2) A nontidal wetland as defined in COMAR 26.24.01.02b.
- (3) A habitat of a threatened species as defined in COMAR 27.01.09.03a.
- (4) A habitat of an endangered species as defined in COMAR 27.01.09.03a.
- (5) A habitat of a species in need of conservation as defined in COMAR 27.01.09.03a.
- (6) A plant habitat as defined in COMAR 27.01.09.04a.
- (7) A wildlife habitat as defined in COMAR 27.01.09.04a.
- (8) Anadromous fish propagation waters as defined in COMAR 27.01.09.05a.

**HABITAT PROTECTION PLAN** - A plan that provides for the protection and conservation of the species and habitats identified as Habitat Protection Areas in the Critical Area. The plan shall be specific to the site or area where the species or its habitat is located and shall address all aspects of a proposed development activity that may affect the continued presence of the species. These include, but are not limited to, cutting, clearing, alterations of natural hydrology and increases in lot coverage. In developing the plan, an applicant shall coordinate with the Department of Natural Resources to ensure that the plan is adequate to provide for long-term conservation and can be effectively implemented on the specific site.

**HAWKER AND PEDDLER** - Any person engaged in the business of selling goods, wares or merchandise, who must be licensed by the State as a "hawker" or "peddler."

**HAZARDOUS MATERIAL** - Any substance that:

- A. Conveys toxic, lethal, or other injurious effects or which causes sublethal alterations to plant, animal or aquatic life; or
- C. May be injurious to human beings. Hazardous materials include any matter identified as a "hazardous waste" by the Environmental Protection Agency or a "controlled hazardous substance" by the Maryland Department of the Environment.

**HAZARDOUS TREE** - A tree with a structural defect that decreases the structural integrity of the tree and that because of its location, is likely to fall and cause injury or damage to property (see COMAR 27.01.09.01).

**HEALTH SERVICES** - Establishments providing support to the medical profession and patients, including medical and dental labs, blood banks, oxygen and miscellaneous types of medical supplies and services.

**HIGH-DENSITY RESIDENTIAL USE** - Land zoned for densities of more than 1 dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities and water and sewer service.

**HIGHLY ERODIBLE SOILS** - Soils with a slope greater than 15% or soils with a K factor greater than .35 and with slopes greater than 5%.

**HISTORIC DISTRICT** – A significant concentration, linkage or continuity of sites, structures or objects that are united historically, architecturally, archeologically, culturally or aesthetically by plan or physical development.

**HISTORIC LANDMARK/LANDMARK** – A site, structure, building, Historic District or object designated by Harford County for its historic, architectural, archaeological or cultural significance and which is worthy of preservation, listed in the Harford County Historic Landmarks List pursuant to §267-112 (Designated Historic Landmarks).

**HISTORIC PRESERVATION COMMISSION** - The Commission as set forth in Chapter 9, Boards, Commissions, Councils and Agencies, of the Harford County Code, as amended.

**HOME OCCUPATION** - Any business activity regularly conducted by a resident as an accessory use within the dwelling or an accessory building which meets the standards specified in this Part 1 for such use.

**HOMEOWNERS' ASSOCIATION** - An association or other legal entity comprised of owners of land or dwellings, organized to own, operate or maintain open space or facilities used in common by such owners.

**HOSPITAL** - An institution providing inpatient health-care services and medical or surgical care to persons suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related activities, such as laboratories or training facilities.

**HOTEL** - A building offering transient lodging accommodations to the general public which may provide as accessory uses, restaurants, meeting rooms and recreation facilities.

**HOUSING FOR THE ELDERLY** - A building which is designed for the needs of elderly persons and which is subject to management or other legal restrictions that require that the project shall be occupied by households wherein at least one person is aged 55 or over.

**HYDRIC SOILS** - Soils that are wet frequently enough to periodically produce anaerobic conditions, thereby influencing the species composition or growth, or both, of plants on those soils, as identified by the United States Department of Agriculture Soil Conservation Service.

**HYDROPHYTIC VEGETATION** - Those plants cited in "Vascular Plant Species Occurring in Maryland Wetlands" (Dawson and Burke 1985), which are described as growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (plants typically found in water habitats).

**IMPACT FEE** - A fee imposed to help finance the cost of improvements or services.

**IMPERVIOUS SURFACE** - Any surface or material that does not absorb water or substantially reduces the infiltration of stormwater. Impervious surfaces include roofs, streets, sidewalks and parking areas paved with asphalt, concrete, compacted sand, compacted gravel or clay.

**INDIRECT RECHARGE AREA** - The area contributing water to surface watercourses up gradient of the aquifer or wellfield area of contribution.

**INGRESS** - An entry.

**IN-KIND REPLACEMENT** - the removal of a structure and the construction of another structure that is smaller than or identical to the original structure in use, footprint area, width and length.

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**INTENSELY DEVELOPED AREA** - An area of at least 20 acres or the entire upland portion of the Critical Area within a municipal corporation, whichever is less, where residential, commercial, institutional or industrial developed land uses predominate and a relatively small amount of natural habitat occurs. These areas include: an area with a housing density of at least 4 dwelling units per acre; an area with public water and sewer systems with a housing density of more than 3 dwelling units per acre.

**INTERCEPTOR** - Sewer pipe lines 24 inches or larger in diameter.

**INTERMITTENT STREAM** - A stream that has been confirmed to be an intermittent stream through field verification utilizing the most recently accepted investigation methods of the United States Army Corp of Engineers.

**INTERSECTION** - The crossing of 2 or more roads at grade.

**ISOLATED NONTIDAL WETLANDS** - A nontidal wetland that is not hydrologically connected, through surface or subsurface flow to streams, tidal or nontidal wetlands or tidal waters.

**JUNK** - Any scrap, waste, reclaimable material or debris, either stored or used in conjunction with dismantling, processing, salvage, storage, bailing, disposal or other use or disposition.

**JUNK- OR SALVAGE YARD** - Any land or structure used for the storage and/or sale of junk or the collection, dismantlement, storage or salvage of 3 or more untagged or inoperative motor vehicles, including a salvaging operation, but excluding wrecked motor vehicles stored for a period of not more than 90 calendar days.

**KENNEL** - Any establishment, not part of an agricultural use, in which 6 or more domestic animals, such as cats, dogs and other pets, more than 6 months old are kept, groomed, bred, boarded, trained or sold.

**LAND CLEARING** - Any activity that removes the vegetative ground cover.

**LANDSCAPING** - The improvement of property with lawns, trees, plants and other natural or decorative features.

**LANDWARD EDGE** - The limit of a site feature that is farthest away from a tidal water, tidal wetland or tributary stream.

**LARGE SHRUB** - A shrub that, when mature, reaches a height of at least 6 feet.

**LEACHABLE MATERIAL** - Material, including salt and certain components of concrete, asphalt, tar, coal, etc., which is readily soluble in water and thus easily removed and transported in solution by meteoric and/or groundwater.

**LIMIT OF DISTURBANCE** - The area of a development or redevelopment activity that includes temporary disturbance and permanent disturbance.

**LIMITED DEVELOPMENT AREA** - An area: with a housing density ranging from 1 dwelling unit per 5 acres up to 4 dwelling units per acre; with a public water or sewer system; that is not dominated by agricultural land, wetland, forests, barren land, surface water or open space; or that is less than 20 acres and otherwise qualifies as an Intensely Developed Area under the definitions in this Chapter.

**LIVE/WORK UNITS** - Structures that have professional offices or retail services on the first floor with residential uses on the second floor. The property owner or business operator must occupy the residence.

**LIVESTOCK** - Generally accepted outdoor farm animals (i.e., cows, goats, horses, pigs, barnyard fowl, etc.) not to include cats, dogs and other domestic animals.

**LIVING SHORELINE** - A suite of stabilization and erosion control measures that preserve the natural shoreline and are designed to minimize shoreline erosion, maintain coastal process and provide aquatic habitat. Measures must include marsh plantings and may include the use of sills, sand containment structures, breakwaters or other natural components.

**LOCAL DELIVERY** - An establishment primarily engaged in providing local messenger and delivery services of small items within a geographical regional center. These establishments generally provide point-to-point pickup and delivery and do not operate as part of an intercity courier network.

**LOCAL SIGNIFICANCE** - Development of a minor scale, which causes environmental or economic consequences that are largely confined to the immediate area of the parcel of land on which it is located, does not substantially affect the Critical Area Program of the County and is not considered to be major development as defined in this Chapter.

**LODGING HOUSE** - A building offering transient dwelling accommodations where the facilities are multifaceted with a distinguished style, including marked upgrades in the quality of physical attributes, amenities and Level of Service and comfort provided. At a minimum, the lodging house shall include a lobby, a concierge, personal services, business center, pool and wireless internet in the common areas. Wireless internet shall be offered to each unit in the lodging house.

**LOFT** - An intermediate level located between the floor and ceiling of a story, open on at least 1 side to the room in which it is located.

**LOT** - A designated area of land established by plat, subdivision or as otherwise permitted by law to be used, developed or built upon as a unit.

**LOT, ADJACENT RESIDENTIAL** - A lot that abuts another lot or parcel of land and is either within a residential district or is a lot of 2 acres or less intended for residential use.

**LOT, AGRICULTURAL** - A lot that is zoned agricultural and is 2 acres or more.

**LOT AREA** - The total area within the lot lines of a lot, excluding any road right-of-way or reservation.

**LOT, CORNER** - A lot abutting upon 2 or more roads at their intersection or upon 2 parts of the same road forming an interior angle of less than 135°.

**LOT COVERAGE** - The percent of a total lot or parcel that is:

- A. Occupied by a structure, accessory structure, parking area, driveway, walkway or roadway;
- B. Covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement or any manmade material; or
- C. Covered or occupied by a stairway or impermeable deck.

Lot coverage does not include:

- A. A fence or wall that is less than 1 foot in width that has not been constructed with a footer;
- B. A walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier;

- C. A wood mulch pathway; or
- D. A deck with gaps to allow water to pass.

**LOT COVERAGE (CRITICAL AREA)** - The percentage of a total lot or parcel that is occupied by a structure, accessory structure, parking area, driveway, walkway or roadway or covered with a paver, walkway gravel, stone, shell, impermeable decking, permeable pavement or any other manmade material. Lot coverage includes the ground area covered or occupied by a stairway or impermeable deck but does not include: a fence or wall that is less than 1 foot in width that has not been constructed with a footer; a walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier; a wood mulch pathway; or a deck with gaps to allow water to pass freely.

**LOT FRONTRAGE** - The length of the frontage.

**LOT LINE** - A line of record bounding a lot which divides 1 lot from another lot or from any road right-of-way or from any other public space.

**LOT LINE, FRONT** - The lot line separating a lot from a road right-of-way.

**LOT LINE, REAR** - The lot line opposite and most distant from the front lot line; in the case of triangular or otherwise irregularly shaped lots, a line at least 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

**LOT LINE, SIDE** - Any lot line other than a front or rear lot line.

**LOT, MINIMUM AREA OF** - The smallest area established by this Part 1 on which a use, structure or building may be located in a particular district.

**LOT, PANHANDLE** - A lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes an access strip connecting the main building site with the frontage street.

**LOT, RESIDENTIAL** - A lot which is zoned RR, R1, R2, R3, or R4 or is less than 2 acres and is intended for residential use.

**LOT, THROUGH** - A lot which fronts upon 2 parallel roads or which fronts upon 2 roads which do not intersect at the boundary of the lot and which has no rear lot line.

**LOT WIDTH** - The horizontal distance between the lot lines along a straight line parallel to the front lot line at the minimum required building setback line.

**LOW- AND MODERATE-INCOME HOUSING** - Housing which is categorized as for low- or moderate-income families by the United States Department of Housing and Urban Development or an appropriate State agency.

**LOW-DENSITY RESIDENTIAL USE** - Undeveloped land zoned for densities of less than or equal to 1 dwelling unit per 5 acres.

**MAIN STREET DISTRICT** - Area designated in a Community Plan that has identified commercial uses within walkable distances and allows a mix of office, retail and residential uses.

**MARINA** - Any facility for the mooring, berthing, storing or securing of watercraft, but not including community piers and other noncommercial boat docking and storage facilities.

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**MARQUEE** - Any covering of permanent construction projecting from the wall of a building above an entrance.

**MASTER PLAN** - The Master Plan of the County adopted in accordance with Sections 701 and 702 of the Charter, including the most recently adopted Master Plan and associated Element Plans.

**MEAN HIGH WATER LINE (MHWL)** - The average level of high tides at a given location.

**MEDIUM-DENSITY RESIDENTIAL USE** - Land zoned for density of more than 1 dwelling unit per 5 acres, and less than or equal to 1 dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities and water and sewer service.

**METEOROLOGICAL TOWER (MET TOWER)** - Includes the tower; base plate; anchors; guy wires and hardware; anemometers (wind speed indicators); wind direction vanes; booms to hold equipment, anemometers and vanes; data logger; instrument wiring and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

**MINERALS** - Any solid material, aggregate or substance of commercial value, whether consolidated or loose, found in natural deposits on or in the earth, including clay, diatomaceous earth, gravel, marl, metallic ores, sand, shell, soil and stone. The term does not include coal.

**MINI-WAREHOUSING** - A building or group of buildings that contains varying sizes of individual compartmentalized and controlled access stalls for the storage of customers' goods or wares.

**MIXED USE CENTER** - A mixture of office, retail, recreational, hotel and residential uses within a single structure or within multiple structures, but physically and functionally integrated.

**MOBILE HOME PARK** - A parcel of land used, designed, developed and maintained to accommodate 2 or more mobile homes for long-term residential occupancy by rental of space or condominium ownership.

**MOBILE HOME SUBDIVISION** - A parcel of land subdivided into 2 or more lots to accommodate 2 or more mobile homes for residential occupancy.

**MODIFIED BUFFER AREA (MBA)** - An area officially mapped by the County and approved by the Critical Area Commission as a Modified Buffer Area, where it has been sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional or recreational development prevents the Buffer from fulfilling its water quality and habitat functions, and where development in accordance with specific MBA provisions can be permitted in the Buffer without a variance.

**MOTEL** - See "hotel."

**MOTOR VEHICLE** - A self-propelled, free-moving vehicle with 2 or more wheels primarily for conveyance on a road.

**MOTOR VEHICLE RECREATION** - The use of land for vehicle competition involving automobiles, motorcycles, tractors, trucks or other self-propelled vehicles.

**MULCH STORAGE AND SALES** - An operation for the storage of natural wood mulch for landscaping and other uses and for sale of the product, either wholesale or retail. Mulch storage and sales includes composting, but does not include the processing or grinding of mulch.

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**NATIVE VEGETATION** - Trees, shrubs and herbaceous plants that naturally occur in the State of Maryland.

**NATURAL HERITAGE AREA** – Any communities of plants or animals which are considered to be among the best statewide examples of their kind and are designated by regulation by the Secretary of the Department of Natural Resources.

**NATURAL PARKS** - Areas of natural habitat that provide opportunities for those recreational activities that are compatible with the maintenance of natural conditions.

**NATURAL REGENERATION** - The natural establishment of trees and other vegetation with at least 400 free-to-grow seedlings per acre which are capable of reaching a height of at least 20 feet at maturity.

**NATURAL VEGETATION** - Those plant communities that develop in the absence of human activities.

**NATURE-DOMINATED** - A condition where landforms or biological communities, or both, have developed by natural processes in the absence of human intervention.

**NEIGHBORHOOD MARKET** - Establishments primarily engaged in the provision of frequently or recurrently needed goods for household consumption such as prepackaged food and beverages and limited household supplies and hardware. Typical uses include country stores and shall not include fuel pumps or selling of fuel for motor vehicles.

**NET TRACT AREA** -

A. In the AG zoning district, the portion of the parcel for which land use will be changed or that will no longer be used primarily for agriculture, and in all other zoning districts, the total area of the parcel, to the nearest 1/10 acre.

B. "Net tract area" does not include the following areas:

- (1) Any unforested area within the floodplain district established under Chapter 131 of the Harford County Code, as amended;
- (2) Any right-of-way for:
  - (a) An overhead transmission line of a public utility if the line is designed to carry a voltage in excess of 69,000 volts; or
  - (b) An underground pipeline used to transport natural gas or petroleum products, if the right-of-way averages at least 50 feet in width; or
- (3) Any area within the Chesapeake Bay Critical Area Overlay District established pursuant to §267-63 (Chesapeake Bay Critical Area Overlay District).

**NEW DEVELOPMENT** – In the Critical Area, new development (as opposed to redevelopment) means a development activity that takes place on a property with pre-development imperviousness (in IDA) or lot coverage (LDA and RCA) of less than 15% as of December 1, 1985.

**NONCOMPETITIVE RECREATIONAL AMUSEMENT CAR** - A miniature amusement car that is electronically controlled from a central location and is designed and used to carry 1 or 2 persons on a track at a recreational amusement facility and is not designed for use on a road.

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**NONCONFORMING BUILDING OR STRUCTURE** - A building or structure the size, dimension or location of which was lawful prior to the adoption or amendment of this Part 1, but which fails, by reason of adoption or amendment of this Part 1, to conform to the present requirements of the district.

**NONCONFORMING LOT** - A lot which was legally subdivided and recorded among the County Land Records prior to adoption or amendment of this Part 1 and which, after adoption or amendment of this Part 1, fails to comply with the dimensional requirements of this Part 1.

**NONCONFORMING USE** - A use which was lawful prior to adoption or amendment of this Part 1, but which fails, by reason of such adoption or amendment, to conform to the present requirements of the district in which it is located.

**NONTIDAL WETLANDS** - Those areas regulated under Subtitle 26 of COMAR that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. The determination of whether an area is a nontidal wetland shall be made in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended. Nontidal wetlands do not include tidal wetlands regulated under Title 16 of the Environment Article of the Annotated Code of Maryland.

**NONTRANSIENT NONCOMMUNITY WATER SYSTEM** - A public water system that uses an average of 10,000 gallons per day and regularly serves at least 25 of the same individuals over 6 months per year.

**NONWATER-DEPENDENT PROJECT** - A temporary or permanent structure that, by reason of its intrinsic nature, use or operation, does not require location in, on or over State or private wetlands.

**A. Nonwater-Dependent Projects include:**

- (1) A dwelling unit on a pier.
- (2) A restaurant, a shop, an office or any other commercial building or use on a pier.
- (3) A temporary or permanent roof or covering on a pier.
- (4) A pier used to support a nonwater-dependent use.
- (5) A small-scale renewable energy system on a pier, including:
  - (a) A solar energy system and its photovoltaic cells, solar panels or other necessary equipment.
  - (b) A geothermal energy system and its geothermal heat exchanger or other necessary equipment.
  - (c) A wind energy system and its wind turbine, tower, base or other necessary equipment.

**B. Nonwater-Dependent Projects do not include:**

- (1) A fuel pump or other fuel-dispensing equipment on a pier.
- (2) A sanitary sewage pump or other wastewater removal equipment on a pier.

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(3) An office on a pier for managing marina operations, including monitoring vessel traffic, registering vessels, providing docking services and housing electrical or emergency equipment related to marina operations.

**NURSING HOME OR SKILLED CARE FACILITY** - A facility devoted primarily to the long-term treatment and care of the aged or elderly or persons suffering from illnesses, diseases, deformities or injuries which do not require extensive or intensive care such as normally provided in a general or other specialized hospital.

**OFFSETS** – Structures or actions that compensate for undesirable impacts.

**ONE PERCENT ANNUAL FLOOD** - A flood that has a 1% chance of being equaled or exceeded in any given year. This is also referred to as the 100 year flood or the base flood.

**OPEN SPACE** - Any area of land or water set aside, dedicated, designed or reserved for:

- A. Public or private use or enjoyment; or
- B. The use and enjoyment of owners and occupants of land adjoining or neighboring such open space; or
- C. The preservation of significant/special natural features.

**OUTDOOR DINING AREA** – An accessory outdoor dining area of an existing restaurant. The tables and chairs must be removable and the area must be unenclosed.

**OVERBURDEN** – The strata or material overlying a mineral deposit, or in between mineral deposits in its natural state, and before its removal by surface mining.

**OVERLAY DISTRICT OR OVERLAY ZONE** - Any specially mapped district that is subject to supplementary regulations or requirements.

**PAD SITE** - A separate lot or leased site that is located within a shopping center site. The pad site is subject to any conditions established by the Zoning Code or the Board of Appeals.

**PALUSTRINE WETLANDS** - All nontidal wetlands dominated by trees, shrubs, persistent emergent plants or emergent mosses or lichens and all such wetlands that occur in tidal areas where the salinity due to ocean-derived salts is below  $\frac{1}{2}$  part per 1,000 parts of water.

**PARAPET** - A low wall protecting the edge of a roof.

**PARCEL** - Any contiguous area, site or portion of land under common ownership.

**PARKING AREA** - An area, other than sales lots, designed for the parking of 3 or more motor vehicles and available to the public, either for a fee or as an accommodation to clients or customers.

**PASSIVE RECREATION** - Outdoor recreation that does not require significant maintenance or facilities, such as walking, picnicking, viewing and environmental education activities.

**PERCOLATION RATE** - The rate at which water flows or trickles through porous soils as determined by a percolation test.

**PERENNIAL STREAM** - A stream that has been confirmed to be a perennial stream through field verification utilizing the most recently accepted investigation methods of the United States Army Corp of Engineers.

**PERMANENT DISTURBANCE** - A material, enduring change in the topography, landscape or structure that occurs as part of a development or redevelopment activity. Permanent disturbance includes:

- A. Construction or installation of any material that will result in lot coverage.
- B. Construction of a deck.
- C. Grading or clearing (except where it meets the definition of temporary disturbance).
- D. The installation of a septic system, in a forest or developed woodland on a grandfathered lot, if clearing is required. Permanent disturbance does not include installation of a septic system on a grandfathered lot if located in existing grass or clearing is not required.

**PERMANENT FOUNDATION** - A foundation as required by the Harford County Building Code or the manufacturer's specifications, in the case of manufactured homes, to provide for complete enclosure with a material which is compatible with the structure.

**PERSONAL CARE BOARDING HOME** - Any premises which provides personal care to adults, for consideration, and provides these services to a minimum of 3 adults not related to the provider or owner.

**PERSONAL SERVICES** - Services rendered to an individual, including beauty and barber shops, clothing alterations, dance and music studios, interior decorating, laundromats, general dry cleaning, linen supply, photography studios, rug cleaning and repair services (in-home cleaning), shoe repair services and watch and jewelry repair services.

**PERVIOUS SURFACE** - Any surface that allows for the infiltration of water.

**PIER** - any pier, wharf, dock, walkway, bulkhead, breakwater, piles or other similar structure. Pier, excluding itself, does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of State or private wetlands.

**PIER, COMMUNITY** - a boat docking facility associated with a subdivision or similar residential area, or with condominiums, apartments or other multiple-family dwelling units; does not include a private pier or a mooring.

**PLANNED EMPLOYMENT CENTER** - Development option designed to permit and promote major economic development opportunities such as corporate offices, educational/training facilities, research and development facilities or other uses that create significant job opportunities and investment benefits.

**PLANT HABITAT** - A community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics, as covered in COMAR 27.01.09.04.

**POLLUTANT TRAVEL TIME** - The time required by pollutants to travel from one point to another.

**PORT** - A facility or area established or designated by the State or local jurisdiction for purposes of waterborne commerce.

**PRIVATE HARVESTING** - The cutting and removal of trees for personal, noncommercial use.

**PROFESSIONAL SERVICES** - Service by members of any profession, including accountants, architects, chiropractors, dentists, doctors, engineers, lawyers, optometrists, osteopaths or social workers.

**PROGRAM AMENDMENT** - Any change or proposed change to an adopted Critical Area Program that is not determined by the Chairman of the Critical Area Commission to be a Program Refinement.

**PROGRAM REFINEMENT** - Any change or proposed change to an adopted Critical Area Program that the Chairman of the Critical Area Commission determines will result in a use of land or water in the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in a manner consistent with the adopted program, or that will not significantly affect the use of land or water in the Critical Area. Program refinement may include:

- A. A change to an adopted program that results from State law.
- B. A change to an adopted program that affects local processes and procedures.
- C. A change to a local ordinance or code that clarifies an existing provision.
- D. A minor change to an element of an adopted program that is clearly consistent with the provisions of State Critical Area law and all the criteria of the Commission.

**PROJECT APPROVALS** - The approval of development, other than development by a State or local government agency, in the Critical Area by the appropriate local approval authority. Project Approvals include approval of subdivision plats and site plans, inclusion of areas within floating zones, issuance of variances, special exceptions and conditional use permits and issuance of zoning permits. Project approvals do not include building permits.

**PROVIDER** - Any person or persons who have primary responsibility for and who receive consideration for the operation of the home.

**PUBLIC EVENT** - A temporary event, conducted by a private or public entity, including carnivals, circus, festivals, craft shows and concerts.

**PUBLIC UTILITY** - A gas and electric company regulated by the Maryland Public Service Commission or a cable television company operating under a franchise granted by the County Council.

**PUBLIC UTILITY FACILITY** - A utility facility owned by a governmental agency or private organization, maintained and operated for benefit of the general public, but excluding highway maintenance facilities, sewage treatment plants, sewage pumping stations and solid waste transfer stations.

**PUBLIC WATER-ORIENTED RECREATION** - Shore-dependent recreation facilities or activities provided by public agencies which are available to the general public.

**RECHARGE AREA** - An area where water flows into the ground to re-supply a water body or aquifer.

**RECLAMATION** - The reasonable rehabilitation of affected land for a useful purpose and the protection of the natural resources of the surrounding areas, including ponds.

**RECREATIONAL BUFFER** - An area where a path is created for recreational use.

**RECREATIONAL VEHICLE** - A vehicular-type portable structure without a permanent foundation, which can be towed, hauled or driven and which is primarily designed as temporary living accommodation for recreational, camping and travel use, including travel trailers, truck campers, camping trailers and self-propelled motor homes.

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**RECYCLING** - The series of activities by which discarded materials are collected, sorted, processed and converted into raw materials and used in the production of new products.

**RECYCLING CENTER** - A building in which only recyclable material is collected, processed, and/or baled in preparation for shipment to others who will use those materials to manufacture new products.

**REDEVELOPMENT** - Construction activities in previously developed areas, which include the demolition of existing structures and building new structures or the substantial renovation of existing structures, often changing form and function. Redevelopment may involve existing property owners and businesses or new owners and tenants.

**REDEVELOPMENT (CRITICAL AREA)** - A development activity that takes place on property with pre-development imperviousness (in IDA) or lot coverage (in LDA and RCA) of 15% or greater.

**REFORESTATION** - The creation of a biological community dominated by trees and other woody plants at a density of at least 100 trees per acre with at least 50% of the trees having the capability of growing to a DBH of 2 inches or more within 7 years.

**RELATIVE** - A spouse, father, mother, son, daughter, step-son, step-daughter, brother, sister, grandparent, great-grandparent, grandchild, step-father, step-mother, aunt, uncle, mother-in-law and father-in-law, sister-in-law and brother-in-law, whether natural or adopted.

**REPAIR SHOP, AUTOMOTIVE** - Any building, premises and land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of motor vehicles is conducted or rendered.

**REPAIR SHOP, SMALL ENGINE** - Any building, premises and land in which or upon which a business, service or industry involving the maintenance, servicing or repair of engines for equipment such as lawnmowers, go-carts, weed trimmers, chainsaws or electric motors is rendered.

**RESORT** - A facility for 3 or more transients, which provides special recreational amenities or is designed for access to a unique natural amenity for the recreation or relaxation of the users and not primarily oriented to single-night lodging.

**RESOURCE CONSERVATION AREA** - An area that is characterized by nature dominated environments, such as wetlands, surface water, forests and open space, and by resource-based activities, such as agriculture, forestry, fisheries or aquaculture. Resource Conservation Areas include areas with a housing density of less than 1 dwelling per 5 acres.

**RESTAURANT** - An establishment where food and drink are prepared, served and consumed primarily within the principal building.

**RESTAURANT, TAKE-OUT** - An establishment where food and drink are sold in a form ready for consumption, where the consumption is designed to take place outside the confines of the restaurant.

**RESTORATION** - The act of returning a site or area to an original state or any action that establishes all or a portion of the ecological structure and functions of a site or area.

**RETAINING WALL** - A wall that is constructed to hold a mass of earth in place or prevent erosion of an embankment.

**REVITALIZATION** - Efforts to improve residential and business areas, which include the physical enhancement of existing streetscapes and structures, marketing or other efforts to fill vacancies and boost business. Revitalization generally focuses on current property owners and businesses.

**RIGHT-OF-WAY** - A strip of land acquired by reservation, dedication, prescription or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, sanitary storm sewer and other similar uses.

**RIPARIAN HABITAT** – A habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines and wetlands.

**ROAD** - A right-of-way which has been improved and is intended for motor vehicle traffic and provides the principal means of access to property.

**ROAD, ARTERIAL** - A road which serves as a major traffic way and is identified in the Transportation Element Plan as an urban or rural principal or minor arterial road.

**ROAD, BUSINESS DISTRICT** - Usually wider than most County roads and built to support heavy truck traffic that performs the following:

- A. Provides interconnection between highly developed commercial or industrial property to arterial roads.
- B. Provides access to individual properties comprising a commercial complex.
- C. Carries heavy volumes of truck traffic within or adjacent to any land which has been approved for any class of commercial or industrial use.

**ROAD, COLLECTOR** - A road which serves to carry traffic to or from local streets and connects them to other collector streets or to arterial highways and is identified in the Transportation Element Plan as either an urban collector road or rural major or minor collector road.

**ROAD, LOCAL** - A road which collects and distributes traffic within subdivisions and provides direct access to individual land uses. “Local road” may include primary and minor residential roads, as well as business/industrial roads as defined by the Harford County Road Code.

**ROAD, MINOR RESIDENTIAL** - A local road distributing and collecting traffic within residential subdivisions or neighborhoods, and performing the following:

- A. Provides direct driveway access to abutting properties.
- B. Distributes traffic generated within a neighborhood to primary residential roads.
- C. Carries little or no through traffic.

**ROAD, PARKWAY** - A road which acts as a major corridor between several communities and employment centers mostly in the urbanized areas. The appearance of a parkway is intended to be very scenic and environmentally sensitive, with formal landscaping, and it is not intended to provide direct access to individual properties or businesses. A parkway could include pedestrian and bicycle accommodations, an exclusive right-of-way, and skywalk facilities are often provided. A substantial right-of-way is required.

**ROAD, PRIMARY RESIDENTIAL** - A major local road distributing and collecting traffic within larger residential subdivisions or neighborhoods, and performing the following:

- A. Provides direct access between minor residential roads and collectors and minimal direct driveway access to abutting properties.
- B. Distributes traffic generated within a neighborhood to collector roads.
- C. Carries a limited amount of through traffic.

**ROAD, PRIVATE** - Any road that has not been accepted by the County or other government entity, and is not owned and/or maintained by the County or other government entity.

**ROAD, STUB** - Those roads projecting from a development road, to the property line of an adjacent property, typically ending in a T-turnaround.

**ROOFLINE** - The part of the roof or parapet which covers the major area of the building.

**ROUTINE MAINTENANCE, HISTORIC** – An undertaking that:

- A. Does not change or alter an exterior feature of a Historic Landmark or a site or structure within a Historic District; and
- B. Will not materially impair the historic, archeological, architectural or cultural significance of a Historic Landmark or a site or structure within a Historic District.

**RUBBLE LANDFILL** - A sanitary landfill required to be permitted as a rubble landfill under Title 26 of the Code of Maryland regulations.

**SANITARY LANDFILL** - A sanitary landfill, as defined in Chapter 109 of the Harford County Code, as amended, that is in the County Solid Waste Management Plan. “Sanitary landfill” includes a rubble landfill.

**SEEDLING** - An unbranched woody plant of less than 24 inches in height and less than ½ inch in diameter at a point 2 inches above the root collar.

**SELECTIVE CLEARING** - The planned removal of trees, shrubs and plants using specific standards and protection measures under an approved Forest Conservation Plan.

**SELECTIVE CUTTING** - The removal of single, scattered, mature trees or other trees from forested areas by periodic cutting operations.

**SETBACK** - Unless otherwise provided, the line which is the required minimum distance from the road right-of-way or any lot line that establishes the area within which principal buildings or structures must be erected or placed.

**SHOPPERS' MERCHANDISE** - Commodities which tend to be purchased on a comparison basis, including apparel and accessories, automobile supplies, business equipment sales and service, china and glassware, commercial art, communications equipment sales and service, draperies, fabrics and reupholstery, floor coverings, furniture, hardware, home appliances and furnishings, luggage and leather goods, musical instruments and supplies, paint and wall coverings, party supplies, photographic equipment sales and service, radios, compact discs, digital video discs secondhand merchandise, sporting goods, television and stereo sales and service and toy and game shops. Establishments commonly referred to as “catalog showrooms,” “department stores,” “discount stores,” “variety stores” and “supermarkets” shall be regulated as “shoppers’ merchandise.”

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**SHOPPING CENTER** - A concentrated grouping of retail uses or retail and services uses designed, developed and managed as an integral entity, providing common vehicle access and group parking.

**SHOPPING CENTER, INTEGRATED COMMUNITY** - A shopping center that contains a gross floor area of more than 75,000 square feet.

**SHORE EROSION PROTECTION WORKS** – Those structures or measures constructed or installed to prevent or minimize erosion of the shoreline in the Critical Area.

**SIGN** - A permanent or temporary device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose or identify the purpose of a person or entity, or to communicate information of any kind to the public.

**SIGN, AGRICULTURAL SEASONAL** - A sign which advertises, on a seasonal, temporary basis, an agricultural product as defined in this section.

**SIGN AREA** - The area surfaces, including the outer extremities of all letters, figures, characters and delineations or surface area making contact with the outer extremities of the framework or background of the sign, whichever is greater. The support for the sign background, such as columns, pylons or buildings or part thereof, shall not be included in the "sign area" unless used for advertising purposes.

**SIGN, BILLBOARD** - Any outdoor advertising sign which promotes or advertises products, services, activities or businesses not related to the site or building or use on which it is located and is not a tenant identification sign.

**SIGN, CANOPY** - A wall sign that is affixed or displayed on a canopy.

**SIGN, DIRECTIONAL** - Any sign on a site for the purpose of directing traffic to another use, service or area.

**SIGN, DIRECTORY** - Informational sign utilized to identify name, address and occupants of a building or nonresidential development.

**SIGN, ELECTRONIC MESSAGE Board** - A sign with a fixed or changing display, or message composed of a series of lights that may be changed through electronic means.

**SIGN, FACE OR SURFACE** - The surface of a sign upon, against or through which a message is displayed or illustrated.

**SIGN, FREESTANDING** - A sign supported by uprights or braces placed upon the ground and not attached to any building.

**SIGN, IDENTIFICATION** - Any sign identifying or advertising a business, person, activity, product or service located on the premises where the sign is located.

**SIGN, ILLUMINATED** - Any sign which has characters, letters, figures, designs or an outline illuminated by electric lights or luminous tubes as a part of the sign.

**SIGN, MARQUEE** - A wall sign that is affixed or displayed on a marquee.

**SIGN, PROJECT DEVELOPMENT** - A temporary sign erected on the premises on which a development project is taking place, during the period of such construction, indicating the type of development, space and/or price of units and contact information.

**SIGN, PROJECTING** - Any sign which is attached to a building and extends beyond the line of said building or beyond the surface of that portion of the building to which it is attached.

**SIGN, ROOF** - Any sign erected, constructed and maintained upon or over the roof of any building with the principal support on the roof structure.

**SIGN, TEMPORARY** - Temporary signs include any portable sign or any other sign, banner, pennant, valance or advertising display constructed of cloth, canvas, fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a limited period of time only.

**SIGN, TENANT IDENTIFICATION** - A sign giving the nature, logo, trademark or other identifying symbol, address or any combination of the name, symbol and address of a building, business development or establishment on the premises where it is located.

**SIGN, VARIABLE MESSAGE Board** - A sign with a display, that changes by electronic or mechanical means, other than electronic message Boards.

**SIGN, WALL** - All flat signs which are attached to the exterior of the building or other structure.

**SIGNIFICANT/SPECIAL NATURAL FEATURES** - Sensitive environmental areas to be left undisturbed, including water bodies, tidal and nontidal wetlands, forested areas to be retained and plant or wildlife habitat identified as of State or County importance.

**SIGNIFICANTLY ERODING AREAS** - Those shoreline areas eroding 2 feet or more per year.

**SITE** - Any tract, lot or parcel of land or combination of tracts, lots or parcels of land which are in 1 ownership or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision or project.

**SITE, HISTORIC** - The location of an event of historic significance or a structure which possesses historic, archeological, architectural or cultural significance.

**SITE PLAN** - A plan, prepared to scale, showing accurately and with complete dimensioning, all of the buildings, structures and uses and the exact manner of development proposed for a specific parcel of land.

**SMALL SHRUB** - A shrub that, when mature, reaches a height no greater than 6 feet.

**SMALL WIND ENERGY SYSTEM** - Equipment, including any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, guy wire or other component used in the system, that converts and then stores or transfers energy from the wind into usable forms of energy and that:

- A. Is used to generate electricity;
- B. Has a rated nameplate capacity of 50 kilowatts or less; and
- C. Has a total height of 150 feet or less.

**SOIL CONSERVATION AND WATER QUALITY PLAN** - An agricultural plan approved by a local Soil Conservation District to minimize soil erosion and the movement of sediment, animal waste, nutrients or agricultural chemicals into waters of the State and is a land-use plan for farms that show farmers how to make the best possible use of their soil and water resources while protecting and conserving those resources for the future. It is a document containing a map and related plans that indicate:

- A. How the landowner plans to treat a farm unit;
- B. Which Best Management Practices the landowner plans to install to treat undesirable conditions; and
- C. The schedule for applying those Best Management Practices.

**SOILS WITH SIGNIFICANT DEVELOPMENT CONSTRAINTS** - Highly erodible soils, hydric soils less than 40,000 square feet in extent, soils with hydric inclusions and soils with severe septic constraints. See Table 63-1, Soil Types in Harford County Critical Area with Development Constraints, §267-63 (Chesapeake Bay Critical Area Overlay District).

**SOLID WASTE TRANSFER STATION** - An intermediate destination for solid waste. Transfer stations may include separation of different types of waste and aggregation of smaller shipments with large ones. It may also include compaction to reduce the bulk of the waste.

**SPECIAL DEVELOPMENTS** - Projects that utilize innovations in design by permitting a variety of type, use and layout of buildings.

**SPECIAL EXCEPTION** - A use which may be permitted by the Board in a particular district only upon a showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in this Part 1.

**SPECIALTY SHOP** - A retail store which carries only 1 type of interrelated goods, including bookstores, candle shops, cosmetic shops, florist shops, gift shops, hobby and craft supply shops, import shops, jewelry shops, key shops, newspaper and magazine shops, novelty shops, pet shops, photographic shops, souvenir shops, stationery shops, tack shops, tobacco shops and wine and cheese shops.

**SPECIES, ENDANGERED** - A species of flora and fauna whose continued viability is determined to be in jeopardy, in accordance with the provisions of:

- A. The Federal Endangered Species Act of 1973, 16 U.S.C. §§ 1531-1544;
- B. Natural Resources Article, Title 4, Subtitle 2A, or Title 10, Subtitle 2A, Annotated Code of Maryland; or
- C. COMAR.

**SPECIES, IN NEED OF CONSERVATION** - A species of fauna determined by the Secretary of Natural Resources to be in need of conservation measures for its continued ability to sustain itself successfully, in accordance with the provisions of:

- A. Natural Resources Article, Title 4, Subtitle 2A, or Title 10, Subtitle 2A, Annotated Code of Maryland; or
- B. COMAR.

**SPECIES, INVASIVE** - A type of plant that is non-native to the ecosystem under consideration and whose introduction causes, or is likely to cause, economic or environmental harm or harm to human health.

**SPECIES, THREATENED** - A species of flora or fauna that appears likely within the foreseeable future to become endangered, including a species determined to be a threatened species, in accordance with the provisions of:

- A. The Federal Endangered Species Act of 1973, 16 U.S.C. §§ 1531-1544;
- B. Natural Resources Article, Title 4, Subtitle 2A, or Title 10, Subtitle 2A, Annotated Code of Maryland; or
- C. COMAR 08.03.03.

**SPOIL PILE** - The overburden and reject materials as piled or deposited in surface mining.

**STABILIZED SURFACE** - Any material that can be compacted in such a manner that will provide a suitable dustless surface for vehicular movement and storage and not result in erosion or create the potential for flooding.

**STABLE, COMMERCIAL RIDING** - Any facility used primarily for the commercial hiring out of horses or ponies or instruction in riding where 5 or more horses are kept for these purposes.

**STABLE, PRIVATE** - An accessory structure to the principal residential use that shelters horses for the exclusive use of the residents of the premises.

**STEEP SLOPES (CRITICAL AREA)** - Slopes of 15% or greater incline.

**STORY** - That portion of a building between the surface of any floor and the surface of the floor next above it, if there is no floor above it, then the space between the floor and the ceiling next above it, excluding basements.

**STREET** - See "road."

**STREETSCAPE** - An area that may either abut or be contained within a public or private street right-of-way or access way that may contain sidewalks, street furniture or landscaping and similar features.

**STRUCTURE** - Anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, radio and TV towers, sheds, swimming pools, tennis courts, gazebos, decks and boathouses.

**STRUCTURE, CRITICAL AREA** - Building or construction materials, or a combination of those materials, that are purposely assembled or joined together on or over land or water, including a temporary or permanent fixed or floating pier, piling, deck, walkway, dwelling, building, boathouse, platform, gazebo and a shelter for the purpose of marine access, navigation, working, eating, sleeping or recreating.

**STRUCTURE, HISTORIC** - An assembly of materials that forms a stable construction and includes by way of illustration and not limitation, a building, structures accessory to a building, platform, tower, dam, bridge, pier, shed, shelter, ruin, fountain, statuary, survey markers, fences or display sign of historical, cultural or architectural significance.

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**STRUCTURED PERVIOUS SURFACE** - Any approved porous pavement or modular pavers that allow the infiltration of water and resist compaction due to associated vehicular activities. Such structured surfaces may include porous asphalt on concrete, modular block systems and grass or gravel pavers.

**SUBDIVIDER** - An individual, partnership or corporation (or their legal designee) that undertakes the activities covered by these regulations.

**SUBDIVISION** - The term "subdivision" shall have the following meaning:

- A. Any division or redivision of a tract, parcel or lot of land into 2 or more parts by means of mapping, platting, conveyancing, change or rearrangement of boundaries;
- B. All subdivisions are also developments;
- C. Subdivision includes resubdivision or replat.

**SUBDIVISION AGREEMENT** - An agreement between a subdivider and Harford County to be executed and recorded in the office of the Clerk of the Circuit Court of Harford County, for the purpose of permitting the recordation of a final plat prior to completion and/or acceptance of a performance bond or other guarantee.

**SUBSTANTIAL ALTERATION** – Any repair, reconstruction or improvement of a principal structure, where the proposed total footprint is at least 50% greater than that of the existing principal structure.

**SUNROOM** - A 1-story addition added to an existing dwelling with a glazing area in excess of 40% of the gross area of the structure's exterior walls and roof.

**SURFACE MINING** –

- A. Surface mining means:
  - (1) The breaking of surface soil located in the Critical Area in order to extract or remove a mineral;
  - (2) An activity or process that is part of the method of extraction or removal of a mineral from its original location in the Critical Area; and
  - (3) The extraction or removal of sand, gravel, rock, stone, earth or fill from a borrow pit for the purpose of constructing a road or another public facility.
- B. Surface mining includes:
  - (1) An activity related to the processing of a mineral at the site of extraction or removal.
  - (2) Extraction or removal of overburden and mining of a limited amount of a mineral when done for the purpose of prospecting, to the extent necessary, for the purpose of determining the location, quantity or quality of a natural deposit.
  - (3) A mining activity.

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- C. Surface mining does not include an activity or process that is excluded under the provisions of Environment Article, § 15-807, Annotated Code of Maryland, or COMAR 26.21.01.08.

**TEMPORARY DISTURBANCE** - A short-term change in the landscape that occurs as part of a development or redevelopment activity. Temporary disturbance includes:

- A. Storage materials that are necessary for the completion of the development or redevelopment activity.
- B. Construction of a road or other pathway that is necessary for access to the site of the development or redevelopment activity, if the road or pathway is removed immediately after completion of the development or redevelopment activity and the area is restored to its previous vegetative condition.
- C. Grading of a development site, if the area is restored to its previous vegetative condition immediately after completion of the development or redevelopment activity.
- D. Locating a septic system on a lot created before local program approval if the septic system is located in existing grass or clearing is not required. Temporary disturbance does not include a violation.

**TEMPORARY USE** - A use permitted for a fixed period of time as specified in this Part 1 with the intent to discontinue such use upon the expiration of a period of time, or a use that occurs on a periodic basis and is not continuous.

**TENANT FARMER/TENANT OPERATOR** - An individual or business entity that is actively producing or managing livestock, crops or other agricultural products and is not the owner of the property being farmed. Agreement for this use is usually compensated by a contract for rent, lease or on a crop sharing basis.

**TENANT HOUSE** - A dwelling unit located on agricultural property that is used either for occupancy by immediate members of the family owning or operating the agricultural use or by employees engaged in agricultural activities on the property.

**THINNING** - A forest practice used to accelerate tree growth of quality trees in the shortest interval of time.

**TIDAL WETLANDS** - Any land bordering on or lying beneath tidal waters, which is subject to regular or periodic tidal action and supports aquatic growth, including lands identified as "tidal wetlands" on the most current Department of Natural Resources Tidal Wetlands Boundaries Maps.

**TOURIST HOME** - A building in which lodging or meals are provided for compensation to 3 or more guests on a temporary basis.

**TRAIL** - A pedestrian linkage between uses.

**TRANSFER OF DEVELOPMENT RIGHTS** - A transaction involving the removal of the right to develop or build from one lot or parcel and placing it with another lot or parcel.

**TRANSPORTATION ELEMENT PLAN** - An Element of the Harford County Master Plan which identifies future roads, major road improvements, designates arterial collector and local roads and identifies possible public transportation enhancements, the feasibility of a public airpark and bicycle routes.

**TRANSPORTATION FACILITIES** – Anything that is built, installed or established to provide a means of transport from one place to another.

**TREE** - A large, woody plant having 1 or several self-supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.

**TREE, CHAMPION** - The largest tree of its species in the United States, Maryland or Harford County, as appropriate.

**TREE, SIGNIFICANT INDIVIDUAL** - Tree with a DBH greater than 36 inches, or which has been identified as a State Champion Tree.

**TRIBUTARY STREAM** - A perennial stream or an intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local program procedures approved by the Critical Area Commission.

**ULTIMATE PEAK GRAVITY FLOW** - The average flow of the entire drainage area, assuming complete build-out of the Development Envelope using existing zoning densities, peaked in accordance with the Maryland Department of the Environment Design Guidelines for Sewerage Facilities Peaking Curve, or using actual measured peak flow factors, whichever is higher.

**UNDERSTORY TREE** - A tree that, when mature, reaches a height between 12 and 35 feet.

**UPLAND BOUNDARY** - The landward edge of a tidal wetland or nontidal wetland.

**URBAN FORESTRY** - A specialized branch of forestry concerned with the management, protection and conservation of forest, trees and other woody vegetation in urban and semi-urban areas.

**USE** - The purpose or activity for which land, buildings or structures are designed, arranged or intended or for which land, buildings or structures are occupied or maintained.

**USE, AGRICULTURAL** - The use of any tract of land for the production of animal or vegetable life. The uses include the pasturing, grazing and watering of livestock, and the cropping, cultivation and harvesting of plants.

**USE, BUSINESS** - Any use listed on the Principal Permitted Use Charts under the categories of Amusements, Motor Vehicle and Related Services, Retail Trade, Services or Transportation, Communications and Utilities (TCU).

**USE, EXISTING** - The lawful use of a building, lot or structure at the time of the enactment of this Part 1.

**USE, INDUSTRIAL** - Any use listed on the Principal Permitted Use Charts, under the categories of Industrial uses or Warehousing, Wholesaling and Processing.

**USE, INSTITUTIONAL** - Any use listed on the Principal Permitted Use Charts, under the category of Institutional uses.

**USE, NONRESIDENTIAL** - Any dwelling unit or use listed on the Principal Permitted Use Charts, under the category of Business, Industrial, Institutional, Transient Housing or Natural Resources uses with the exception of agriculture, forestry or wildlife refuge uses.

**USE, PRINCIPAL** - The primary or predominate use of any lot or parcel.

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USE, RESIDENTIAL - Any dwelling unit or use listed on the Principal Permitted Use Charts, under the category of Residential uses.

UTILITY TRANSMISSION FACILITIES - Fixed structures that convey or distribute resources, wastes or both, including electric lines, water conduits and sewer lines.

VARIANCE - A departure from the terms of this Part 1 authorized pursuant to the provisions of this Part 1.

VESSEL – Every description of watercraft, including an ice boat but not including a seaplane, that is used or capable of being used as a means of transportation on water or ice. Vessel includes the motor, spars, sails and accessories of a vessel.

VETERINARY PRACTICE, LARGE ANIMALS - A facility wherein a doctor of veterinary medicine treats animals that are not domestic animals and of a general matured weight in excess of 50 pounds.

VIEWSHED – An area of land, water or other environmental element that is visible from a fixed vantage point. In context with historic preservation, viewsheds may be described as areas of particular scenic or historic value that are deemed worthy of preservation against impacts resulting from development or other forms of change.

WASH PLANT - A facility where sand and gravel is washed during processing. Wash Plant includes, but is not limited to, a stockpile, a wash pond and related washing equipment.

WATER-DEPENDENT FACILITIES - Those structures or works associated with industrial, maritime, recreational, educational or fisheries activities that require location at or near the shoreline within the Critical Area Buffer. An activity is water-dependent if it cannot exist outside the Critical Area Buffer and is dependent on the water by reason of the intrinsic nature of its operation. Such activities include, but are not limited to, ports, the intake and outfall structures of power plants, water-use industries, marinas and other boat docking structures, public beaches and other public water-oriented recreation areas and fisheries activities.

WATER-USE INDUSTRY – An industry that requires location near the shoreline because it utilizes surface waters for cooling or other internal purposes.

WATERBODY - The part of the earth's surface covered with water (such as a river, lake or ocean).

WATERFOWL – Birds that frequent and often swim in water, nest and raise their young near water and derive at least part of their food from aquatic plants and animals.

WATERFOWL STAGING AND CONCENTRATION AREA - An area of open water and adjacent marshes where, as documented by the Department of Natural Resources, waterfowl gather during migration and throughout the winter season.

WATERSOURCE PROTECTION DISTRICT - The surface and subsurface area surrounding a well or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such well or wellfield.

WELL - A hole or shaft sunk into the earth to tap an underground supply of water.

WELL, PRIVATE - A well that provides a water supply for an individual residence or a single industrial, agricultural or commercial operation and that is not designed or used for general public consumption.

WHIP - An unbranched woody plant with a height of 24 inches or more and a diameter of less than 1 inch at a point 2 inches above the root collar.

**WILDLIFE CORRIDOR** - A strip of land having vegetation that provides habitat and a safe passageway for wildlife.

**WILDLIFE HABITAT** - Those plant communities and physiographic features that provide food, water, cover and nesting areas, as well as foraging and feeding conditions necessary to maintain populations of animals.

**WIND ENERGY SYSTEM OWNER** - The person that owns, or intends to own, the property upon which a Small Wind Energy System will be operated in accordance with §267-27C(9) of the Harford County Code, as amended.

**WIND GENERATOR** - Blades and associated mechanical and electrical conversion components mounted on top of the wind tower.

**WIND TOWER** - The monopole, freestanding or guyed structure that supports a wind generator.

**YARD** - An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this Part 1. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

**YARD, FRONT** - A yard extending the full width of the lot, which includes the area between the front building setback line and the road right-of-way.

**YARD, REAR** - A yard extending across the full width of the lot between the rear building setback line and the rear lot line.

**YARD, SIDE** - A yard extending from the front yard to the rear yard between the side building setback line and the side lot line.

**ZONING CASE** - Any matter brought before the Board under the provisions of this Part 1.

**ZONING CERTIFICATE** - An approval issued by the Director of Planning pursuant to §267-8 (Zoning Certificates) of this Part 1.

**ZONING DISTRICT OR DISTRICT** - An area within the County within which certain zoning regulations apply.

### **§ 267-5. Applicability.**

This Part 1 shall apply to all lands, structures, buildings, properties and their uses within the territorial limits of the County, including land owned or leased by the County, and outside the incorporated towns or municipalities therein and to all owners of land and the tenants or occupants thereof, including land owned by municipal corporations, counties and state and local governments.

### **§ 267-6. Construal of Provisions; Word Usage.**

- A. The terms and provisions of this Part 1 shall be liberally construed to effectuate the general purposes of this Chapter.
- B. In addition to rules generally applicable to the construction of zoning ordinances and codes and the interpretation requirements of the Harford County Code, the following rules of construction shall apply to the text of this Part 1:

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- (1) The particular shall control the general.
- (2) In case of conflict between the text of this Part 1 and any caption, illustration, summary table or illustrative table, the text shall control.
- (3) The phrase "used for" includes arranged for, designed for, intended for, maintained for or occupied for.
- (4) The word "person" includes an individual, sole proprietorship, corporation, partnership or incorporated association and any recognized legal entity.
- (5) Unless it is plainly evident from the context that a different meaning is intended, in a regulation which involves 2 or more items, conditions, provisions or events connected by the conjunction "and ... or" or "either ... or," the use of the conjunction is defined as follows:
  - (a) "And" means that all the connected items, conditions, provisions and events apply together and not separately.
  - (b) "Or" means that the connected items, conditions, provisions or events shall apply separately or in any combination.
  - (c) "Either ... or" means that the connected items, conditions, provisions or events shall apply separately but not in combination.
- (6) The word "includes" or "including" does not limit a term to the specified examples but is intended to extend the term's meaning to all other instances or circumstances of similar kind or character.
- (7) When a term is defined in the County Subdivision Regulations or the County Building Code, as noted in this Part 1, it shall have the meanings specified in the Subdivision Regulations or Building Code unless specifically defined in this Part 1.
- (8) The word "County" means Harford County, Maryland. The word "State" means the State of Maryland. The term "Charter" refers to the Harford County Charter, approved by the voters of the County, and all amendments thereto.
- (9) The terms "County Council," "Board of Appeals," "Director of Planning," "Planning Advisory Board," "County Attorney," "Health Officer" and "Sediment Control Inspector" mean the respective Council, Boards, Officers and Department heads of the County.
- (10) Throughout this Part 1, all words, other than the terms specifically defined herein, shall have the meanings inferred from their context in this Part 1 and their commonly accepted definitions.

C. The provisions of this Part 1 shall be held to be minimum requirements. Where this Part 1 imposed a greater restriction than is imposed or required by other provisions of law or other rules, regulations, ordinances or by private restrictions, the provisions of this Part 1 shall control.

- D. Notwithstanding the provisions of this Part 1, any development shall be subject to the provisions of the Subdivision Regulations, and any other activity requiring the issuance of a permit, license, grant or approval shall be subject to the applicable law.
- E. The purpose clauses noted herein are for guidance only. In the event that any purpose clause conflicts with the specific provisions of this Part 1, the specific provisions shall control.

**§ 267-63. Chesapeake Bay Critical Area Program**

## A. Purpose and scope.

- (1) The State of Maryland recognizes the Chesapeake Bay as an estuarine system of great importance to the State and to the nation as a whole. As such, it has enacted the Chesapeake Bay Critical Area Act (Chapter 794, Laws of 1984, as amended) and the Chesapeake Bay Critical Area Program development criteria pursuant to that Act, which require that local jurisdictions implement a management and resource protection program for those areas within 1,000 feet of tidal waters, tidal wetlands and any additional areas that a local jurisdiction deems important to carry out the purpose of the Act.
- (2) Harford County also recognizes the importance of protecting the resources of the Chesapeake Bay and has created the Chesapeake Bay Critical Area Program which encompasses §267-63 through §267-63.21 of the Harford County Zoning Code, the Harford County Chesapeake Bay Critical Area Program Manual and Appendices thereto and Critical Area maps (collectively "the County Critical Area Program"), all of which are incorporated by reference as though they were fully stated herein, and the County Critical Area Program is hereby declared to be part of the official Harford County Master Plan, *HarfordNEXT*, for the following purposes:
  - (a) To establish a resource protection program for the Chesapeake Bay and Atlantic Coastal Bays and their tributaries by fostering more sensitive development activity for certain shoreline areas so as to minimize impacts to water quality and natural habitats, as stated in Natural Resources Article § 8-1801; and
  - (b) To implement a resource protection program on a cooperative basis between the State and affected local governments, with local governments establishing and implementing their programs in a consistent and uniform manner subject to State criteria and oversight.

## B. Goals. The goals of the County Critical Area Program are to accomplish the following:

- (1) Minimize adverse impacts on water quality resulting from sedimentation and stormwater runoff from development in the coastal areas of the County;
- (2) Conserve fish, wildlife and plant habitat;
- (3) Maintain and, where possible, increase the amount of forested area in the County's coastal areas because of its benefits to water quality and plant and wildlife habitat;
- (4) Minimize the adverse secondary impacts of development occurring in the coastal areas of the County; and
- (5) Monitor and control development in the County's Critical Area so that the natural resources of the Chesapeake Bay, its tidal tributaries and its shoreline areas will be protected and preserved for future generations.

**§ 267-63.1. Implementation.**

A. Critical Area Overlay District.

- (1) The County adopted its Critical Area Program on June 24, 1988. The Harford County Critical Area Program consists of §267-63 through §267-63.21 of the Harford County Zoning Code and the Official Critical Area Map(s), and the Harford County Chesapeake Bay Critical Area Program Manual and Appendices thereto. Related provisions may also be found in Chapter 268 of the Harford County Code, as amended.
- (2) In order to carry out the provisions of this resource protection and management program, a Critical Area Overlay District is hereby established, in conjunction with existing zoning regulations and districts, which shall apply to all development and redevelopment within the County's Critical Area.
- (3) The regulations of the Critical Area Overlay District are intended to foster environmentally sensitive development within the County's Critical Area by setting forth standards requiring the minimization of adverse impacts on water quality and protection of the natural plant, fish and wildlife habitats in the County's Critical Area.
- (4) Notwithstanding any provisions of the Harford County Chesapeake Bay Critical Area Program, or the lack of a provision therein, all of the requirements of §8-1801 through §8-1817 of the Natural Resources Article of the Annotated Code of Maryland, as the same may be amended, and Title 27 of COMAR shall apply.
- (5) In the case of conflicting provisions, the more restrictive provision applies.

B. Critical Area map and application.

- (1) The requirements of the Critical Area Overlay District and the County Chesapeake Bay Critical Area Program shall apply to all areas in the County shown on the Critical Area Map. The Critical Area Map is maintained as part of the official zoning map for Harford County and delineates the extent of the Chesapeake Bay Critical Area that shall include all land and water areas located within 1,000 feet beyond the landward boundaries of the Chesapeake Bay and its tributaries to the head of tide, and all state or private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland.
- (2) Within the Critical Area, all land is assigned one of the following designations based on land use and development in existence on December 1, 1985.
  - (a) Intensely Developed Area.
  - (b) Limited Development Area.
  - (c) Resource Conservation Area.
- (3) The Critical Area Map may be amended by the County Council in compliance with amendment provisions of the County Critical Area Program, the Chesapeake Bay Critical Area Act and Title 27 of the Code of Maryland regulations.

- C. Regulated uses.
  - (1) The requirements of §8-1801 through §8-1817 of the Natural Resources Article of the Annotated Code of Maryland, as the same may be amended and Title 27 of COMAR shall apply to the Harford County Critical Area Program as minimum standards. The Critical Area Zoning Overlay District is superimposed upon all other existing zones and land use activities specified in the Zoning Code. All development or redevelopment activity shall conform to the existing Zoning Code, Subdivision Regulations and the provisions set forth in the County Chesapeake Bay Critical Area Program.
  - (2) The rights and limitations pertaining to the use of land as set forth in the Zoning Code shall remain in effect, unless otherwise set forth in the County Critical Area Program.
- D. Notification of project approval.
  - (1) An application shall be accompanied by a completed "Project Notification Application" from the Critical Area Commission's website.
  - (2) The County may not approve an application that has been sent to the Critical Area Commission for notification until it has received notice of receipt by the Critical Area Commission.
  - (3) The County shall send copies of applications for developments, subdivisions and site plans, wholly or partially within the Critical Area, to the Critical Area Commission for review and comment, unless otherwise noted in §267-63.4 (Intensely Developed Areas) through §267-63.6 (Resource Conservation Areas) pertaining to each designation of the Critical Area. Mitigation plans shall be included as part of the project submission.
  - (4) The Department of Planning and Zoning shall make written findings documenting that all of the criteria in the County Chesapeake Bay Critical Area Program are met, including that any disturbance to the buffer or other habitat protection area is the least intrusion necessary.
- E. Responsible agencies. The County Chesapeake Bay Critical Area Program and all applicable provisions thereof shall be implemented and enforced by the Department of Planning and Zoning.

#### **§ 267-63.2. Administrative Enforcement.**

- A. Consistency. Sections 267-63 through 267-63.21, in accordance with the Chesapeake Bay Critical Area Act and criteria, supersede any inconsistent law, rule or regulation. In the case of conflicting provisions, the stricter provisions shall apply.
- B. Violations.
  - (1) Any development or disturbance activity undertaken contrary to the provisions of the County Chesapeake Bay Critical Area Program or without the required permits or approvals shall constitute a violation of the Zoning Code.

- (2) No person shall violate any provision of the County Chesapeake Bay Critical Area Program. Each violation that occurs and each calendar day that a violation continues shall be a separate offense.
- (3) Each person who violates a provision of the County Chesapeake Bay Critical Area Program may be subject to separate criminal charges, abatement and restoration orders and mitigation for each offense.
- (4) Non-compliance with any permit or order issued by the Department of Planning and Zoning related to the Critical Area shall be a violation of the County Chesapeake Bay Critical Area Program and shall be enforced as provided herein.

C. Responsible persons. The following persons may each be held jointly or individually responsible for any violations:

- (1) Persons who apply for or obtain any permit or approval.
- (2) Contractors.
- (3) Subcontractors.
- (4) Property owners.
- (5) Managing agents.
- (6) Any person who has committed, assisted or participated in the violation.

D. Required enforcement action. The enforcement actions available to the Department of Planning and Zoning pursuant to the County Chesapeake Bay Critical Area Program are cumulative and not alternative or exclusive, and the decision to pursue one enforcement action shall not prevent the pursuit of others. In the case of violations of the County Chesapeake Bay Critical Area Program, the Department of Planning and Zoning shall take enforcement action including:

- (1) Issuance of abatement, restoration and mitigation orders as necessary to:
  - (a) Stop unauthorized activity; and
  - (b) Restore and stabilize the site to its condition prior to the violation, or to a condition that provides the same water quality and habitat benefits.
- (2) Requiring the implementation of mitigation measures, in addition to restoration activities, to offset the environmental damage and degradation or loss of environmental benefit resulting from the violation.

E. Right to enter property. Except as otherwise authorized and in accordance with the procedures specified herein, and §8-1815 of the Natural Resources Article of the Annotated Code of Maryland, as the same may be amended, the Director of the Department of Planning and Zoning or his or her designee may obtain access to and enter a property in order to perform a routine inspection following the approval and issuance of a permit or zoning certificate, or to identify or verify a suspected violation, restrain a

development activity or issue a notification letter if the Department of Planning and Zoning has probable cause to believe that a violation of the County Chesapeake Bay Critical Area Program has occurred, is occurring or will occur. If entry is denied, the Department of Planning and Zoning may seek a court order to enter the property to pursue an enforcement action.

F. Enforcement procedures.

- (1) Before issuing a Notice of Violation, the person(s) believed to have violated the County Chesapeake Bay Critical Area Program shall receive a notification letter that includes:
  - (a) The name and address of the person(s) charged;
  - (b) The nature of the violation, with reference to the Section of Zoning Code violated;
  - (c) The place and time the violation occurred, or was first observed;
  - (d) A restoration and/or mitigation order to abate water quality and habitat impacts resulting from the violation; and
  - (e) A timeframe for compliance and/or to contact the Department of Planning and Zoning.
- (2) Failure to comply with the requirements of the notification letter shall result in a formal Notice of Violation being sent to the owner's last known address. If the violation is not satisfied within 15 calendar days from the date of the notice, the Department of Planning and Zoning may request adjudication of the case through the District Court of Maryland as a criminal offense. The District Court shall schedule the case for trial and summon the defendant to appear.
- (3) On a proceeding before the District Court, the violation shall be prosecuted in the same manner and to the same extent as set forth for municipal infractions in Title 6 of the Local Government Article of the Annotated Code of Maryland. The State's Attorney for Harford County may prosecute the case.
- (4) In addition to any other penalty applicable under State or County law, every violation of a provision of Title 8, Subtitle 18 of Natural Resources Article of the Annotated Code of Maryland, as the same may be amended, or a provision of the County Chesapeake Bay Critical Area Program shall be punishable by a fine of up to \$10,000 for each calendar day that the violation occurred. The amount of the fine for each violation, including each continuing violation, shall be determined separately. In determining the amount of the fine, the Court shall consider:
  - (a) The gravity of the violation;
  - (b) The presence or absence of good faith of the violator;
  - (c) Any willfulness or negligence involved in the violation including a history of prior violations;

- (d) The environmental impact of the violation; and
- (e) The cost of restoration of the resource affected by the violation and mitigation for damage to that resource, including the cost to the Department for performing, supervising or rendering assistance to the restoration and mitigation.

(5) Payment of all fines assessed shall be a required condition precedent to the issuance of any permit or other approval required by the County Chesapeake Bay Critical Area Program.

(6) The Department of Planning and Zoning is authorized to institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of the Harford County Chesapeake Bay Critical Area Program, an administrative order, a permit, a decision or other imposed condition. The pendency of any judicial review or court action shall not prevent the Department of Planning and Zoning from seeking injunctive relief to enforce an administrative order, permit, decision or other imposed condition, or to restrain a violation pending the outcome of the judicial review or court action.

G. Restoration and mitigation.

- (1) The Department of Planning and Zoning shall issue a restoration order to any person(s) violating the County Chesapeake Bay Critical Area Program, requiring the violator to:
  - (a) Remove any construction materials, equipment, structures or other construction work or development activity built or erected in violation of the County Chesapeake Bay Critical Area Program;
  - (b) Restore any property to its condition as it existed before any violation of the County Chesapeake Bay Critical Area Program; and
  - (c) Perform any condition or obligation required by the County Chesapeake Bay Critical Area Program or by any permit, approval, special exception or variance.
- (2) The Department of Planning and Zoning shall issue a mitigation order to any person who has been cited for a violation of the County Chesapeake Bay Critical Area Program. Mitigation is required for all violations of the County Chesapeake Bay Critical Area Program and shall be in addition to any required abatement or restoration activities.
  - (a) Unapproved disturbance, lot coverage or tree removals outside of the Critical Area Buffer and other Habitat Protection Areas shall be subject to violation mitigation at a ratio of 3:1, unless otherwise Stated in the County Chesapeake Bay Critical Area Program.
  - (b) Unapproved disturbance, lot coverage or tree removals within Habitat Protection Areas, to include the Critical Area Buffers, shall be subject to violation mitigation at a ratio of 4:1.

H. Variances pursuant to a violation. The Department of Planning and Zoning may accept an application for a variance regarding a parcel or lot that is subject to a current violation of the County Chesapeake Bay Critical Area Program or any provisions of an order, permit or plan in accordance with the variance provisions of the County Chesapeake Bay Critical Area Program. However, the application shall not be reviewed or processed until all abatement, restoration and mitigation measures have been implemented and inspected by the Department. The County may not issue a permit for the activity that was the subject of the variance application until all applicable appeal periods have been exhausted. Application for a variance pursuant to a violation constitutes a waiver of the right to appeal the terms of a notice of violation and its final adjudication, including the payment of any penalties and costs assessed.

I. Permits pursuant to a violation.

- (1) The Department of Planning and Zoning shall not issue any permit, zoning certificate or approval unless:
  - (a) All criminal fines or penalties have been fully paid as set forth in Subsection F above;
  - (b) Restoration and/or mitigation has been completed and inspected by the Department, to abate impacts to water quality or natural resources due to the violation;
  - (c) Abatement measures have been performed as set forth in the approved plan, in accordance with the County Chesapeake Bay Critical Area Program; and
  - (d) Any additional mitigation required as a condition of approval for the permit, approval, variance or special exception has been completed.
- (2) Unless an extension of time is approved by the Department of Planning and Zoning because of adverse planting conditions, within 90 days of the issuance of a permit, approval, variance or special exception for the affected property, any additional mitigation required as a condition of approval for the permit, approval, variance or special exception shall be completed.

### **§ 267-63.3. Critical Area Development Requirements.**

A. General requirements.

- (1) All development in the Critical Area, including new lot coverage, shall require a County permit or zoning certificate prior to the start of any work including, but not limited to:
  - (a) Homes, sheds, garages, carports, gazebos and other structures.
  - (b) Driveways, patios and walkways.
  - (c) Stone, gravel, pavers, bricks and cobblestone of any kind, even in decorative flower beds and under decks.

- (d) Concrete, asphalt and marketed "pervious" or "porous" materials.
- (e) Retaining walls, bulkheads, piers, docks and boat lifts.
- (f) Decks, pools and man-made ponds.
- (g) Any other kind of material that would inhibit the natural growth of vegetation or otherwise prevent water from penetrating through to the ground below.

(2) In this Section, a dwelling unit is defined as a single unit providing complete, independent living facilities for at least one person, including permanent provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with daily life. Dwelling unit includes a living quarters for a domestic or other employee or tenant, an in-law or accessory apartment, a guest house, or a caretaker residence.

(3) In this Section, immediate family is defined as a father, mother, son, daughter, grandfather, grandmother, grandson, granddaughter or sibling.

(4) In this Section, intrafamily transfer is defined as a transfer to a member of the owner's immediate family of a portion of the owner's property for the purpose of establishing a residence for that family member.

(5) In this Section, legally developed means all physical improvement to a property that existed before Critical Area Commission approval of the County's Chesapeake Bay Critical Area Program or were properly permitted in accordance with the provisions of the County's Chesapeake Bay Critical Area Program in effect at the time of construction.

(6) Development and redevelopment shall be subject to the requirements as set forth in the County Chesapeake Bay Critical Area Program, including those associated with:

- (a) Habitat Protection Areas and the Critical Area Buffer;
- (b) Water-dependent facilities;
- (c) Forests and developed woodlands; and
- (d) Other mitigation requirements as set forth in the County Critical Area Program.

(7) Cluster development shall be used for developing in the Critical Area as a means of minimizing the amount of lot coverage and the destruction of existing natural vegetation. This requirement does not supersede the requirements of §267-70 (Conventional with Open Space (COS)) pertaining to the Conventional Open Space (COS) and Planned Residential Development (PRD).

(8) Road standards may be modified by the County on a case-by-case basis to reduce potential impacts to the site and Critical Area resources, where the reduced standards do not significantly affect safety.

- (9) All development plans shall incorporate a wildlife corridor system that connects the largest, most undeveloped or most vegetated tracts of land on-site and adjacent to the site, as similarly depicted in the Harford County Green Infrastructure Plan, and shall be:
  - (a) Protected by a County-approved conservation easement, restrictive covenant or similar instrument to ensure maintenance of the wildlife corridor; and
  - (b) Preserved by a public or private group.
- (10) All development activities that must cross or affect streams shall be designed to:
  - (a) Reduce increases in flood frequency and severity that are attributable to development;
  - (b) Retain tree canopy so as to maintain stream water temperature within normal variation;
  - (c) Provide a natural substrate for stream beds; and
  - (d) Minimize adverse water quality and quantity impacts of stormwater.

B. Prohibited activities.

- (1) New or expanded sanitary landfills or rubble landfills, including transfer stations, shall not be permitted in the Critical Area .
- (2) New or expanded solid or hazardous waste collection or disposal facilities shall not be permitted in the Critical Area .
- (3) New storage tanks for vehicle fuels on residential lots shall not be permitted in the Critical Area .

C. Continuation of existing permitted facilities. Existing, permitted facilities of the type noted in Subsection B above shall be subject to the standards and requirements of the Department of the Environment, under Title 26 of the Code of Maryland regulations.

D. Mitigation. Approved Critical Area disturbance and tree/shrub removals shall adhere to the following mitigation requirements:

- (1) Plants shall be of native Maryland species, located in permeable areas equal to or greater than the area of impervious surface increase, between new construction and surface waters.
- (2) Mitigation credit is determined as set forth in the Table in §267-63.7D (the Critical Area Buffer, Mitigation and Planting Credit for the Critical Area Buffer).
- (3) Plantings shall be established and maintained in accordance with a landscaping plan and covenant as approved by the Department of Planning and Zoning. Such new plantings shall be located between new construction and surface waters.

- (4) Mitigation plantings shall ensure a diversified plant community to include canopy trees, understory trees, shrubs and herbaceous plants.
- (5) If mitigation planting and/or offsets, as outlined in Appendix K of the Harford County Chesapeake Bay Critical Area Program Manual, are not feasible as determined by the Director of Planning and Zoning, the applicant shall be required to pay a fee-in-lieu of \$4.00 per square foot of incomplete mitigation, as set forth in §267-63.18D (Forest and Woodland Protection, Fee-in-lieu of Planting Mitigation).
- (6) Mitigation for the Critical Area Buffer shall be required as set forth in § 267-63.7 (the Critical Area Buffer) and § 267-63.8 (Modified Buffer Areas).
- (7) Removal of trees and shrubs outside of the Critical Area Buffer shall be replaced 1:1, except as set forth in § 267-63.18 (Forest and Woodland Protection).
- (8) Removal of forest or developed woodland shall meet the replacement standards set forth in § 267-63.19 (Timber Harvesting).
- (9) All mitigation shall be completed within 1 year from the date of project approval, prior to the issuance of any certificate of occupancy permits.

E. Reasonable accommodations for the needs of disabled citizens. The Director of Planning and Zoning may make reasonable accommodations to avoid discrimination on the basis of a physical disability. Reasonable accommodations for the needs of disabled citizens may be permitted in accordance with the evidentiary requirements set forth in the following paragraphs.

- (1) An applicant shall demonstrate by a preponderance of evidence that:
  - (a) A physical disability exists;
  - (b) The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act;
  - (c) Literal enforcement of the County Chesapeake Bay Critical Area Program would result in discrimination by virtue of such disability or deprive a disabled citizen or user of the reasonable use and enjoyment of the property;
  - (d) A reasonable accommodation would reduce or eliminate the discriminatory effect of the requirements or restore the disabled citizen's reasonable use or enjoyment of the property;
  - (e) The accommodation requested will not substantially impair the purpose, intent or effect of the provisions of the County Chesapeake Bay Critical Area Program as applied to the property; and
  - (f) The accommodation would:

- [1] Be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the County Chesapeake Bay Critical Area Program; or
- [2] Allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant.

(2) The Director of Planning and Zoning shall determine the nature and scope of any accommodation under the County Chesapeake Bay Critical Area Program and may award different or other relief than requested after giving due regard to:

- (a) The standards set forth in the County Chesapeake Bay Critical Area Program;
- (b) The purpose, intent or effect of the requirements from which relief is requested; and
- (c) The size, location, nature and type of accommodation proposed and whether alternatives exist that could accommodate the need with less adverse effect.

(3) The Director of Planning and Zoning may require, as a condition of approval, that the property be restored to comply with all applicable provisions of the County Chesapeake Bay Critical Area Program upon termination of the need for the accommodation. Appropriate bonds may be collected or liens placed in order to ensure the County's ability to restore the property should the applicant fail to do so.

#### **§ 267-63.4. Intensely Developed Areas.**

A. Notification of project approval. The following types of developments, subdivisions and site plans proposed wholly or partially within the Intensely Developed Area do not require review from the Critical Area Commission if the proposed project does not result in a physical disturbance to a Critical Area Buffer or other Habitat Protection Area:

- (1) A single-family dwelling unit.
- (2) An accessory structure to a single-family dwelling unit that may include, but is not limited to, a pool, garage, porch, shed or tennis court.
- (3) Development in which the land disturbance does not exceed 15,000 square feet.
- (4) Subdivisions resulting in 10 lots or less, or 10 dwelling units or less.

B. Activities authorized only in the Intensely Developed Area.

- (1) Construction of accessory structures outside of the Critical Area Buffer and other Habitat Protection Areas that disturb less than 250 square feet are exempt from mitigation planting and 10% pollutant removal requirements.

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- (2) Disturbance 250 square feet or greater that results in the permanent construction of an impervious surface area outside of the Critical Area Buffer and other Habitat Protection Areas shall be mitigated with landscaping plantings at a ratio of 1:1 square foot on that lot or parcel, and/or through the use of Best Management Practices for stormwater management, as specified in Appendix B of Harford County Chesapeake Bay Critical Area Program Manual.
- (3) New, expanded or redeveloped industrial or port-related facilities and the replacement of these facilities shall be permitted only in the Intensely Developed Area, and/or in those portions within the Intensely Developed Area that have been designated as modified buffer areas.
- (4) Certain prohibited development or redevelopment activities, because of their intrinsic nature, may be permitted in the Intensely Developed Area only after demonstrating to the local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water. These activities include the following:
  - (a) Non-maritime heavy industry.
  - (b) Transportation facilities and utility transmission facilities, except those necessary to serve permitted uses, or where regional or Interstate facilities must cross tidal waters (utility transmission facilities do not include power plants).
  - (c) Permanent sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities. Agricultural or horticultural use of sludge may be approved in the Critical Area, except in Habitat Protection Areas as defined in §267-63.9 (Habitat Protection Areas), if applied using an approved method at approved application rates.
- (5) All existing facilities as set forth in paragraph (4) of this Subsection shall be operated in conformance with all applicable County, State and Federal regulations.

C. General policies. New or expanded development or redevelopment shall take place in such a way as to:

- (1) Improve the quality of runoff that enters the Chesapeake Bay or its tributary streams;
- (2) Accommodate additional development of the type and intensity designated by the County in the County Chesapeake Bay Critical Area Program, provided that water quality is not impaired;
- (3) Conserve and enhance fish, wildlife and plant habitats as identified in the Habitat Protection Area as set forth in §267-63.9 (Habitat Protection Areas) to the maximum extent possible within Intensely Developed Areas; and
- (4) Encourage the use of retrofitting measures to address existing stormwater management problems.

D. Development standards. In addition to all of the requirements set forth in §67-63.3 (Critical Area Development Requirements), all development in the Intensely Developed Area shall meet the following standards of environmental protection:

- (1) Stormwater shall be addressed in accordance with the following provisions:
  - (a) All development and redevelopment activities shall include stormwater management Best Management Practices that reduce pollutant loadings by at least 10% below that of pre-development or redevelopment levels, as provided in the *Critical Area 10% Rule Guidance Manual*, as may be subsequently amended in Appendix B of the Harford County Chesapeake Bay Critical Area Program Manual.
  - (b) Stormwater management activities shall also use Environmental Site Design (ESD) practices, as permitted under stormwater management laws and regulations, if ESD practices provide greater water quality protection than procedures for the 10% rule and meets the 10% pollutant removal requirement.
  - (c) Stormwater management to meet the 10% requirement shall be provided on-site to the maximum extent practicable.
  - (d) Where the 10% requirement cannot be met as described in Appendix B of the Harford County Chesapeake Bay Critical Area Program Manual, a fee-in-lieu may be provided at \$35,000 per pound of phosphorus not removed.
  - (e) With other offsets as described in the *Maryland Chesapeake and Atlantic Coastal Bays Critical Area 10% Rule Guidance - Fall 2003* and as may be subsequently amended. Offsets must remove a phosphorus load equal to or greater than the remaining 10% requirement.
  - (f) The County shall track and report annually to the Critical Area Commission all stormwater fee-in-lieu collected and expended, as well as any authorized stormwater offsets.
- (2) Existing areas of public access to the shoreline, such as footpaths, scenic drives and other public recreational facilities, shall be maintained and, if possible, increased within Intensely Developed Areas rather than expanded in the Limited Development Areas or Resource Conservation Areas. New areas of public access to the shoreline shall be included in the plans for development or redevelopment of shoreline areas.
- (3) Ports and industries that use water for transportation and derive economic benefits from shore access shall be located near existing port facilities. The County may identify other sites for planned future port facility development and use if this use will provide significant economic benefit to the State or County and is consistent with the provisions of §267-63.16 (Water-dependent Structures) and other State and Federal regulations.

**§ 267-63.5. Limited Development Areas.**

- A. Notification of project approval. The following types of developments, subdivisions and site plans proposed wholly or partially within the Limited Development Area do not require review from the Critical Area Commission if the proposed project does not result in a physical disturbance to a Critical Area Buffer or other Habitat Protection Area:
  - (1) A single-family dwelling unit.
  - (2) An accessory structure to a single-family dwelling unit that may include, but is not limited to, a pool, garage, porch, shed or tennis court.
  - (3) Development in which the land disturbance does not exceed 15,000 square feet.
  - (4) Subdivisions resulting in 3 lots or less, which do not affect the County's growth allocation.
- B. General policies. New or expanded development or redevelopment shall take place in such a way as to:
  - (1) Maintain or improve the quality of runoff and groundwater entering the Chesapeake Bay and its tributaries;
  - (2) Avoid or otherwise minimize disturbance to natural habitat; and
  - (3) Keep the prevailing density established in the surrounding area in accordance with the Critical Area designations.
- C. Development standards. In addition to all of the requirements set forth in §267-63.3 (Critical Area Development Requirements), all development in the Limited Development Area shall meet the following standards of environmental protection:
  - (1) Except as otherwise provided in this Subsection, lot coverage is limited to 15% of a lot or parcel, or any portions of a lot or parcel, that are designated LDA.
    - (a) If a parcel or lot of one-half acre or less in size existed on or before December 1, 1985, then lot coverage is limited to 25% of the parcel or lot.
    - (b) If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then lot coverage is limited to 15% of the parcel or lot.
    - (c) If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed 15% of the individual lot; however, the total lot coverage for the entire subdivision may not exceed 15%.
    - (d) Lot coverage limits provided in paragraphs (a) and (b) above may be exceeded, upon findings by the Planning Director or his or her designee that the following conditions exist:

- [1] The lot or parcel is legally nonconforming. A lot or parcel legally developed as of July 1, 2008 may be considered legally nonconforming for the purpose of lot coverage requirements.
- [2] Lot coverage associated with new development activities on the property has been minimized.
- (e) For a lot or parcel one-half acre or less in size, total lot coverage does not exceed the lot coverage limits in paragraph (a) by more than 25% or 500 square feet, whichever is greater.
- (f) For a lot or parcel greater than one-half acre and less than 1 acre in size, total lot coverage does not exceed the lot coverage limits in paragraph (b) or 5,445 square feet, whichever is greater.
- (g) The following table summarizes the limits set forth above:

**Table 1. Lot Coverage Limits**

<b>Lot/Parcel Size (square feet)</b>	<b>Lot Coverage Limit</b>
0 – 8,000	25% of parcel + 500 sf
8,001 – 21,780	31.25% of parcel
21,781 – 36,300	5,445 sf
36,301 – 43,560	15% of parcel

- (h) If the Planning Director or his or her designee makes the findings set forth in paragraph (d) above and authorizes an applicant to use the lot coverage limits set forth in that paragraph, the applicant shall:
  - [1] Demonstrate that water quality impacts associated with runoff from the development activities that contribute to lot coverage have been minimized through site design considerations or the use of Best Management Practices to improve water quality; and
  - [2] Provide on-site mitigation in the form of plantings to offset potential adverse water quality impacts from the development activities resulting in new lot coverage. The plantings shall be equal to 2 times the area of the development activity.
  - [3] If the applicant cannot provide appropriate stormwater treatment and plantings due to site constraints, then the County may require the property owner to pay a fee to the County in lieu of performing the on-site mitigation. The amount of the fee shall be \$4.00 per square foot of the required mitigation. The County shall use all fees collected under this provision to fund projects that improve water quality within the Critical Area, consistent with the County Chesapeake Bay Critical Area Program.

(2) If a lot or parcel has 2 non-contiguous areas of Limited Development Area, the lot coverage of 1 Limited Development Area may be transferred to the other Limited Development Area on the same lot or parcel subject to the following conditions:

(a) The development shall be clustered in the Limited Development Area receiving the lot coverage and the Limited Development Area from which the lot coverage was taken shall be limited to a corresponding lesser amount of lot coverage, such that the overall lot or parcel inside the Critical Area maintains a 15% lot coverage limitation.

(b) This provision shall not apply to mobile home parks.

(3) If a Limited Development Area is the result of a growth allocation award, lot coverage shall be limited to 15% of the acreage within the growth allocation envelope (the acreage proposed for growth allocation deduction).

(4) Development on slopes 15% or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards of this Section.

(5) Development may be allowed on soils having development constraints, including highly erodible soils, hydric soils and soils with severe septic constraints if the development includes mitigation measures that adequately address the identified constraints and will not have significant adverse impacts on water quality or plant, fish or wildlife habitat. A list of highly erodible and hydric soils can be found in Table 1 in the Harford County Chesapeake Bay Critical Area Program Manual.

(6) For all permit or zoning certificate applications submitted as described in this Section, the applicant shall:

(a) Demonstrate that water quality impacts associated with runoff from the development activities have been minimized through site design considerations or the use of Best Management Practices to improve water quality; and

(b) Provide planting mitigation at a ratio of 1:1 for all disturbance outside of the Critical Area Buffer and other Habitat Protection Areas in order to offset potential adverse water quality impacts from the development activities, except as set forth in § 267-63.18 (Forest and Woodland Protection).

#### **§ 267-63.6. Resource Conservation Areas.**

A. Notification of project approval. Review from the Critical Area Commission is not required for developments, subdivisions or site plans proposed wholly or partially within the Resource Conservation Area for which the land disturbance does not exceed 5,000 square feet, nor does it result in a physical disturbance to the Critical Area Buffer or other Habitat Protection Area.

B. Development standards. In addition to all of the requirements set forth in §267-63.3 (Critical Area Development Requirements), all development in the Resource Conservation Area shall meet the following standards of environmental protection:

- (1) Preservation of agriculture, forestry and areas of natural habitat shall be considered preferred land uses within this area.
- (2) Nothing in this Section shall limit the ability of a participant in any agricultural easement program to convey real property restricted with such an easement to family members, provided that no such conveyance will result in a density greater than 1 dwelling unit per 20 acres.
- (3) Development activity within the Resource Conservation Area shall be consistent with the policies and standards for the Limited Development Area, as set forth in §267-63.5 (Limited Development Areas), including all mitigation requirements.
- (4) Any application for subdivision or site plan approval, not involving the use of growth allocation, shall have a minimum Critical Area Buffer of 200 feet from tidal waters or a tidal wetland.
  - (a) The 200-foot shoreline development buffer may be reduced if the strict application of the minimum 200-foot buffer would preclude:
    - [1] Subdivision of the property at a density of 1 dwelling unit per 20 acres, provided all other State and local requirements will be satisfied; or
    - [2] A family conveyance as permitted by the Resource Conservation Area standards.
  - (b) The reduced buffer should be the minimum necessary to accommodate a dwelling and a sewage reserve area, as determined by the Planning Director, but no less than 100 feet unless subdivision of the property at a density of 1 dwelling unit per 20 acres would be impossible. All other State and local requirements shall be satisfied.

C. Density.

- (1) New residential development shall be permitted at a maximum density of 1 dwelling unit per 20 acres. In calculating the 1 per 20 acre density of development that is permitted on a parcel located within the Resource Conservation Area, the County:
  - (a) Shall count each dwelling unit;
  - (b) May permit the area of any private wetlands located on the property to be included under the following conditions:
    - [1] The density of development on the upland portion of the parcel may not exceed 1 dwelling unit per 8 acres; and
    - [2] The area of private wetlands shall be estimated on the basis of vegetative information as designated on the State Wetlands Maps or by private survey approved by Harford County, the Critical Area Commission and Maryland Department of the Environment.

(2) One dwelling unit shall be permitted on any existing undeveloped parcel or lot of record as of December 1, 1985, regardless of the density requirement, provided that all other provisions of this Section are met.

D. Land uses.

(1) Existing industrial and commercial facilities, including those that directly support agriculture, forestry, aquaculture or residential development not exceeding the 1 dwelling unit per 20 acre density, shall be allowed in the Resource Conservation Area.

(2) New industrial, commercial and institutional development shall be prohibited.

(3) Passive uses are permitted in County-owned park and recreational facilities.

**§ 267-63.7. The Critical Area Buffer.**

A. Applicability and delineation. Any activity occurring on a lot or parcel that includes the Critical Area Buffer must comply with COMAR 27.01.09.01.01-7, as amended, included as Appendix K to the Harford County Chesapeake Bay Critical Area Program Manual. The Critical Area Buffer shall be delineated in the field and shown on all applications for proposed activities or changes in land use as follows:

(1) A Critical Area Buffer of 100 feet shall be drawn, and expanded as described in paragraph (4) of this Subsection, based on existing field conditions landward from:

(a) The mean high-water line of a tidal water;

(b) The top of each bank of a tributary stream; and

(c) The upland boundary of a tidal wetland.

(2) A Critical Area Buffer of 75 feet shall be drawn based on existing field conditions landward from the upland boundary of a nontidal wetland.

(3) A Critical Area Buffer of at least 200 feet from all tidal waterways and tidal wetlands shall be drawn on all applications for a subdivision or development activity in the Resource Conservation Area. In the following instances, the 200-foot Critical Area Buffer does not apply and the Critical Area Buffer shall be delineated in accordance with paragraph (1) and paragraph (4) of this Subsection:

(a) The application for subdivision or site plan approval was submitted before July 1, 2008, and legally recorded (subdivisions) or received approval (site plans), by July 1, 2010; or

(b) The application involves the use of growth allocation.

(4) A Critical Area Buffer shall be drawn to expand beyond 100 feet as described in paragraph (1) of this Subsection, and beyond 200 feet as described in paragraph (3) of this Subsection, to include the following contiguous land features:

- (a) A steep slope at a rate of 4 feet for every 1% of slope or the entire steep slope to the top of the slope, whichever is greater. Topographic information contained in Harford County's GIS will be used to determine the presence of steep slopes unless field verifications are provided to detail the locations of these slopes.
- (b) A nontidal wetland to the upland boundary of its 75-foot Critical Area Buffer.
- (c) The 100-foot Critical Area Buffer that is associated with a nontidal wetland of special State concern as stated in COMAR 26.23.06.01.
- (d) Hydric soils or highly erodible soils to the lesser of:
  - [1] The landward edge of the hydric or highly erodible soils; or
  - [2] 200 feet beyond the 100-foot Critical Area Buffer, for a total of 300 feet.

B. Authorized disturbance to the Critical Area Buffer. A Buffer Management Plan, as shown in Appendix K of the Harford County Chesapeake Bay Critical Area Program Manual, shall be required by the Department of Planning and Zoning prior to all disturbance activities in the Critical Area Buffer, whether or not a County permit or zoning certificate is required for the activity. Provided that a Buffer Management Plan is approved as required and all mitigation is performed in accordance with this Section, the Department of Planning and Zoning may authorize disturbance to the Critical Area Buffer for the following activities:

- (1) A new development or redevelopment activity associated with a water-dependent facility as set forth in §267-63.15 (Water-dependent Facilities and Activities), where mitigation occurs 2:1.
- (2) A shore erosion stabilization measure permitted by the State in accordance with COMAR 26.24.02.
- (3) The replacement of an existing septic system on a lot created before December 1, 1985, where mitigation occurs 1:1.
- (4) Disturbance for water access, specifically a direct or single pathway no wider than 3 feet (or ADA compliant in width and slope), where mitigation occurs 2:1.
- (5) A development or redevelopment activity approved in accordance with the variance provisions of the County Chesapeake Bay Critical Area Program.
- (6) The planting of native vegetation to protect, stabilize or otherwise enhance the shoreline.
- (7) The removal of invasive plants or other vegetative maintenance such as trimming and pruning, where mitigation occurs 1:1 for vegetation removal.

## C. Critical Area Buffer establishment.

- (1) The Critical Area Buffer shall be established with vegetation in accordance with Table 2 below and Subsection D below, as a requirement for any of the following activities:
  - (a) Approval of a subdivision.
  - (b) Conversion from one land use to another land use on a lot or a parcel.
  - (c) Development or redevelopment on a lot or a parcel created before January 1, 2010.
- (2) The requirements of this Subsection are not applicable to an in-kind replacement of a structure.
- (3) Installation or cultivation of new lawn or turf shall be prohibited in the Critical Area Buffer.
- (4) The applicant shall provide a Buffer Management Plan for all proposed work in the Critical Area Buffer and shall seek County approval prior to the start of all work.
- (5) When the Critical Area Buffer is not fully forested or is not fully established in existing, naturally occurring woody or wetland vegetation, the applicant shall establish the Critical Area Buffer to the extent required in the following table:

**Table 2. Critical Area (CA) Buffer Establishment Requirements.**

Development Category	Lot Created Before December 1, 1985	Lot Created After December 1, 1985
Development on a vacant lot	Establish the CA Buffer based on total square footage of lot coverage outside of the CA Buffer	Fully establish the CA Buffer
Subdivision	Fully establish the CA Buffer	
New lot with an existing dwelling unit	Establish the CA Buffer based on total square footage of lot coverage outside of the CA Buffer	
Conversion of a land use on a parcel or lot to another land use	Fully establish the CA Buffer	
Addition, accessory structure or redevelopment	Establish the CA Buffer based on net square footage increase in lot coverage outside the CA Buffer	
Substantial alteration	Establish the CA Buffer based on total square footage of lot coverage outside the CA Buffer	

- (6) Any lot coverage removed from the Buffer may be deducted from the total cumulative amount of establishment required if:
  - (a) The lot coverage existed before the date of the local program adaption or was allowed by local procedures; and
  - (b) The total area is stabilized.

## D. Mitigation for impacts to the Buffer.

(1) Mitigation and planting credit for the Critical Area Buffer. All authorized activities in the Critical Area Buffer shall require mitigation in the form of plantings or an approved payment of fee in lieu of plantings. Mitigation includes replacing any canopy coverage or shrubs removed in addition to the mitigation required for the disturbance in accordance with the Buffer Mitigation Ratios as set forth in Table 3.

**Table 3. Buffer Mitigation Ratios**

Activity	Mitigation Ratio
Septic on a lot created before local program approval if located in existing grass or if clearing is not required	Not applicable
Septic system in a forest or developed woodland on a lot created before local program approval if clearing is required	1:1
Shore erosion control	1:1
Riparian water access	2:1
Development of a water-dependent facility or activity under COMAR 27.01.03	2:1
Variance	3:1
Violation	4:1

(2) The removal of a dead, diseased, dying, hazardous or invasive tree shall be approved by the Department of Planning and Zoning prior to removal, and shall be replaced with a native canopy tree species of at least 5 feet tall with a caliper of at least 1 inch.

(3) The removal of a dead, diseased, dying, hazardous or invasive shrub shall be approved by the Department of Planning and Zoning prior to removal, and shall be replaced with a native shrub species purchased in a container of a 3-gallon size or larger.

(4) The removal of any vegetation, even those which have been planted by the owner, as well as the installation or cultivation of new lawn or turf is prohibited in the Critical Area Buffer. The vegetation in the Critical Area Buffer is required to be maintained in its natural condition.

(5) Any lot coverage removed from the Buffer may be deducted from the total cumulative amount of mitigation required if:

(a) The lot coverage existed before the date of local program adoption or was allowed by local procedures; and

(b) The total area is stabilized.

- (6) Planting for mitigation shall be planted as set forth in §267-63.18 (Forest and Woodland Protection) and included as Appendix K of the Harford County Chesapeake Bay Critical Area Program Manual.
- (7) A variance to the planting and mitigation standards of the County Chesapeake Bay Critical Area Program shall not be permitted.
- (8) Failing to install or maintain the required mitigation shall constitute a violation of the County Chesapeake Critical Area program. A permit or zoning certificate application for any activity shall not be accepted for a property that has a violation.

E. Buffer planting standards. An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall apply the following planting credits and standards:

- (1) If planting to meet a mitigation requirement, the following combination of plantings may be used:
  - (a) If required to plant less than 1 acre, the entire requirement must be met using landscape stock as noted in Table 4.
  - (b) If required to plant 1 acre or more, at least 50% of the planting requirement may be met in landscape stock per Table 4 and the remainder may be met in flexible stock per Table 5.
- (2) If planting to meet an establishment requirement, the following combination of plantings may be used:
  - (a) If required to plant less than one-quarter acre, the entire requirement must be met using landscape stock per Table 4.
  - (b) If required to plant at least one-quarter acre and up to 1 acre, at least 25% of the requirement must be met using landscape stock per Table 4 and the remainder may be met in flexible stock per Table 5.
  - (c) If required to plant more than 1 acre, at least 10% of the requirement must be met using landscape stock per Table 4 and the remainder may be met in flexible stock per Table 5.
- (3) A variance to the planting and mitigation standards of this Section shall not be permitted.

F. Planting credits.

- (1) If required to plant using landscape stock, the following planting sizes and credit shall be used:

**Table 4. Landscape Stock Credit.**

Vegetation Type	Minimum Size Eligible for Credit	Maximum Credit Allowed (square feet)	Maximum Percentage of Landscape Stock Credit
Canopy tree	2-inch caliper	200	Not applicable
Canopy tree	3/4-inch caliper	100	Not applicable
Understory tree	3/4-inch caliper	75	Not applicable
Large shrub	3 feet high	50	30%
Small shrub	18 inches high	25	20%
Herbaceous perennial	1-quart or based on the area covered by plugs or seed mix	2	10%
Planting cluster A (for less than 1/2 acre of planting)	1 canopy tree; and 3 large shrubs or 6 small shrubs of size listed above	300	Not applicable
Planting cluster B (for less than 1/2 acre of planting)	2 understory trees; and 3 large shrubs or 6 small shrubs of size listed above	350	Not applicable

The Department of Planning and Zoning may authorize an applicant to increase the percentage of large shrubs, small shrubs or herbaceous perennials if:

- (a) The Buffer has existing canopy coverage of at least 50%; or
- (b) There are verified site constraints that preclude canopy plantings, including severely eroding slopes, saltwater intrusion, predominately sandy soils or unconsolidated fill.

(2) The following flexible planting stock may be used if authorized under Subsections E(1) or (2) above :

**Table 5. Flexible Planting Stock.**

Stock Size of Trees Only	Required # of Stems/Acre	Survivability Requirement	Minimum Financial Assurance Period After Planting
Bare-root seedlings or whip	700	50%	5 years
1/2-inch to 1-inch container grown trees	450	75%	2 years
More than 1-inch container grown trees	350	90%	2 years

G. Required submittal of Buffer Management Plans. An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall submit a Buffer Management Plan in accordance with COMAR 27.01.09.01-3. The provisions of this Section do not apply to maintaining an existing grass lawn or an existing garden in the Buffer.

- (1) Any permit for a development activity that requires buffer establishment or buffer mitigation will not be issued until a Buffer Management Plan is approved by the County.
- (2) An applicant may not obtain final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved by the County.
- (3) The County may not approve a Buffer Management Plan unless:
  - (a) The plan clearly indicates that all planting standards under Subsection E above will be met; and
  - (b) Appropriate measures are in place for the long-term protection and maintenance of all Buffer areas.
- (4) For a Buffer Management Plan that is the result of an authorized disturbance to the Buffer, a permit authorizing final certificate of occupancy will not be issued until the applicant:
  - (a) Completes the implementation of a Buffer Management Plan; or
  - (b) Provides financial assurance to cover the costs for:
    - [1] Materials and installation; and
    - [2] If the mitigation or establishment requirement is at least 5,000 square feet, long-term survivability requirements as set forth in COMAR 27.01.09.01-2.
- (5) Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the Buffer.
- (6) If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of the County Chesapeake Bay Critical Area Program. A permit for any development activity will not be issued for a property that has a violation.
- (7) An applicant shall post a subdivision with permanent signs prior to final recordation in accordance with COMAR 27.01.09.01-2.
- (8) Buffer Management Plans that include natural regeneration shall follow the provisions of COMAR 27.01.09.01-4.

H. Fee-in-lieu of Critical Area Buffer Mitigation. If mitigation landscaping and/or offsets, as outlined in the County Chesapeake Critical Area Program and Appendix K of the Harford County Chesapeake Bay Critical Area Program Manual, are not feasible as determined by the Director of Planning and Zoning, the applicant shall be required to pay a fee-in-lieu of \$4.00 per square foot of incomplete mitigation, as set forth in §267-63.18D (Forest and Woodland Protection, Fee-in-lieu of Planting Mitigation).

**§ 267-63.8. Modified Buffer Areas.**

A. Description. In addition to the requirements set forth in §267-63.7B (The Critical Area Buffer, Authorized Disturbance to the Critical Area Buffer), §267-63.7D (The Critical Area Buffer, Mitigation and Planting Credit for the Critical Area Buffer) and §267-63.7E (The Critical Area Buffer, Buffer Planting Standards), the following provisions shall also apply to shoreline areas that have been identified as Modified Buffer Areas, previously known as Buffer Exempt Areas. Modified Buffer Areas are those Critical Area Buffers on lots of record as of December 1, 1985 where the pattern of residential, industrial, commercial or recreational development prevents the Critical Area Buffer from fulfilling its intended purposes as stated in COMAR 27.01.09.01. Modified Buffer Areas are not expanded as described in § 267-63.7 (The Critical Area Buffer). The lots shall be officially designated by the County, and approved by the Critical Area Commission, as Modified Buffer Areas.

B. Requirements for all activities in the Modified Buffer Area. New development or redevelopment activities shall not be permitted in the Modified Buffer Area unless the applicant can demonstrate that there is no feasible alternative and the Department of Planning and Zoning finds that efforts have been made to minimize the impacts to the Modified Buffer Area. The development shall comply with the following standards:

- (1) A Buffer Management Plan shall be submitted for any activity or use that proposes a disturbance to the Critical Area Buffer, including a 25-foot vegetated buffer yard in the Critical Area Buffer as set forth in Subsections C and E below or invasive plant removal, and shall detail the proposed work and the required mitigation to be installed in accordance with COMAR 27.01.09.01-3, as set forth in §267-63.7 (The Critical Area Buffer).
- (2) Development and redevelopment activities are located as far as possible from mean high tide, the landward edge of wetlands and the edge of tributary streams.
- (3) Variances to other setback requirements shall be considered prior to approving additional intrusion into the Modified Buffer Area.
- (4) Convenience or expense are not factors considered when evaluating the extent of allowable impacts to the Modified Buffer Area.
- (5) Development and redevelopment shall not impact any Habitat Protection Area other than the Modified Buffer Area, other State or Federal permits notwithstanding.
- (6) Modified Buffer Area designations shall not be used to facilitate the filling of wetlands, including those that are contiguous to the Critical Area Buffer, or to create additional buildable land for new development or redevelopment.
- (7) No vegetation shall be removed from the Critical Area Buffer except that which is required by the approved activity. The applicant shall be required to maintain any other vegetation in the Critical Area Buffer.

C. Commercial, industrial, institutional, recreational and multi-family residential development and redevelopment standards. In addition to the requirements outlined in Subsection B above, activities in the Modified Buffer Area shall also comply with the following standards:

- (1) New structures shall minimize the extent of intrusion into the Modified Buffer. The new development shall not be located closer to the water (or edge of wetlands) than the setback for the underlying zoning district or 50 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. The 50-foot setback shall be maintained for all subsequent development or redevelopment of the property.
- (2) Redevelopment, including the replacement of accessory structures, shall minimize the extent of intrusion into the Modified Buffer Area. Redevelopment shall not be located closer to the water (or edge of wetlands) than the setback for the underlying zoning district or 25 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. Grandfathered structures located within the setback may remain or a new structure may be constructed in the same footprint of an existing structure or lot coverage. Opportunities to establish a 25-foot vegetated buffer yard should be maximized.

D. Single-family residential development and redevelopment standards. In addition to the requirements outlined in Subsection B above, proposed activities in the Modified Buffer Area shall also comply with the following standards:

- (1) New accessory structures shall minimize the shoreward extent of intrusion into the Modified Buffer Area. New development and redevelopment shall not be located closer to the water (or the edge of wetlands) than 50 feet, or any closer than principal structures on adjacent properties, whichever is greater.
- (2) Grandfathered accessory structures in the Modified Buffer Area may be replaced in the same footprint. Any increase in lot coverage within the Modified Buffer Area shall comply fully with the requirements of the County Chesapeake Bay Critical Area Program.
- (3) New accessory structures may be permitted in the Modified Buffer Area in accordance with the following requirements:
  - (a) The disturbance area of the accessory structure within the Modified Buffer Area shall be minimized.
  - (b) The cumulative total area of all new and existing accessory structures on the property shall not exceed 500 square feet within 50 feet of the water and 1,000 square feet total.

E. Mitigation in the Modified Buffer Area.

- (1) The removal of any vegetation from the Critical Area Buffer, including invasive species, shall require planting mitigation equivalent to the area of canopy coverage removed.
- (2) All development and redevelopment activities in the Modified Buffer Area require mitigation at a rate of 2:1, rounded to the nearest 100 square feet of canopy coverage. Mitigation measures shall be implemented based on the order of preference as listed in Appendix K of the Harford County Chesapeake Bay Critical Area Program Manual.

(3) Additional mitigation for commercial, industrial, institutional, recreational and multi-family residential development or redevelopment shall be required in the Modified Buffer. In addition to implementing the mitigation measures as described in this Subsection, a 25-foot vegetated buffer yard shall also be established as follows:

(a) A forested or landscaped buffer yard of at least 25 feet wide shall be established on site between the development and the water. This vegetated buffer yard shall be densely planted with trees and shrubs in accordance with Table 6, below.

(b) For redevelopment sites where existing structures, or those rebuilt on an existing footprint, limit the area available for planting, appropriate modifications to the width of the planted buffer yard may be made on a case-by-case basis.

**Table 6. Required Buffer Yard Planting.**

Area	Quantity and Stocking	Suggested Species
For every 100 linear feet of buffer yard	5 trees; and	white or red oak, pin oak, willow oak, red maple, American holly, eastern red cedar
	10 understory trees/large shrubs; and	dogwood, mountain laurel, bayberry, shadblush, winterberry
	30 small shrubs; and	pepperbush, chokeberry, strawberry bush, sweetspire
	40 herbaceous plants, grasses	wild columbine, butterflyweed, common milkweed, asters

(4) Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes or other instrument and recorded among the Land Records of Harford County.

(5) Applicants who cannot comply with either the planting or offset requirements above shall pay a fee-in-lieu of \$4.00 per square foot of required mitigation. Fee-in-lieu funding shall be utilized as set forth in §267-63.18D (Forest and Woodland Protection, Fee-in-lieu of Planting Mitigation).

(6) Notification. All new commercial, industrial, institutional, recreational, multi-family residential development or redevelopment projects shall be submitted to the Critical Area Commission in accordance with §267-63.1D (Implementation, Notification of Project Approval). Mitigation Plans shall be included as part of the project submission.

#### **§ 267-63.9. Habitat Protection Areas.**

A. Description. Areas with significant natural resource value are called Habitat Protection Areas no matter where they are located within the Critical Area. To ensure protection of these areas, an applicant for a development activity, redevelopment activity or change in

land use shall identify all applicable Habitat Protection Areas and follow the standards set forth in COMAR 27.01.09, as amended, included in Appendix K of the Harford County Chesapeake Bay Critical Area Program Manual. In addition to the Critical Area Buffer described in §267-63.7 (The Critical Area Buffer) and §267-63.8 (Modified Buffer Areas), other Habitat Protection Areas include:

- (1) Wetlands or other identified aquatic habitats.
- (2) Habitats of State and Federally Designated and Listed Threatened or Endangered Species or Species in Need of Conservation, Natural Heritage Areas and Habitats of Local Significance.
- (3) Colonial water bird nesting sites.
- (4) Riparian forests and other forested areas utilized as breeding habitat by forest interior dwelling species.
- (5) Anadromous fish propagation waters.
- (6) Waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands.
- (7) Other areas that may, in the future, be identified by State and Federal agencies as important plant and wildlife habitat areas. The process for designation of new habitats shall be in accordance with COMAR 27.01.09.04C(2)(c).

B. Process.

- (1) The disturbance of a Habitat Protection Area shall be prohibited unless permitted as set forth in Subsection C below.
- (2) An applicant for a proposed activity within a Habitat Protection Area shall request review by the Department of Natural Resources Wildlife and Heritage Service, and, as necessary, the United States Fish and Wildlife Service, for comment and technical advice.
- (3) An applicant shall coordinate with the Department of Natural Resources to develop a Habitat Protection Plan that provides for the protection and conservation of the species and habitats identified.

C. Special conditions.

- (1) The location of roads, bridges or utilities shall be prohibited within the boundaries of a Habitat Protection Area unless there is no feasible alternative, as determined by the Director of Planning and Zoning in consultation with the Director of the Department of Public Works, in which case they shall be located, designed, constructed and maintained to provide maximum erosion protection, minimize adverse effects on wildlife and aquatic life and their habitats and maintain hydrologic processes and water quality.

- (2) Existing farm ponds and other existing man-made bodies of water for the purpose of impounding water for agriculture, water supply, recreation or waterfowl habitat are specifically excluded from coverage by the provisions of this Section.
- (3) Any activity that occurs in a free-flowing stream with a watershed of 400 acres or more (or 100 acres or more in the case of trout streams) requires a Waterways Construction/Obstruction Permit from the Maryland Department of the Environment.
- (4) An applicant shall demonstrate how development activities that must cross or otherwise affect streams will be designed to:
  - (a) Reduce increases in flood frequency and severity that are attributable to development;
  - (b) Retain tree canopy so as to maintain stream water temperatures within normal variation;
  - (c) Provide a natural substrate for streambeds; and
  - (d) Minimize adverse water quality and quantity impacts of stormwater.

D. Threatened and endangered species and species in need of conservation. If a threatened or endangered species, or species in need of conservation, is identified on a development site, the Habitat Protection Plan shall include a designated protection area around the habitat occurring on site, unless the applicant can demonstrate development impacts have been minimized, as determined by the Department of Natural Resources.

E. Plant and Wildlife Habitat Protection Areas.

- (1) Plant and wildlife habitats in the Critical Area include:
  - (a) Colonial water bird nesting sites;
  - (b) Waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands;
  - (c) Existing riparian forests (e.g., relatively mature forests of at least 300 feet in width which occur adjacent to streams, wetlands or the bay shoreline and which are documented breeding areas);
  - (d) Forest areas utilized as breeding areas by forest interior dwelling birds and other wildlife species (e.g., relatively mature forested areas within the Critical Area of 100 acres or more, or forest connected with such areas);
  - (e) Other areas which may, in the future, be identified by the State and Federal agencies as important plant and wildlife habitat areas;
  - (f) Other plant and wildlife habitats determined to be of local significance; and
  - (g) Natural Heritage Areas which have been designated.

(2) The policies of the County regarding plant and wildlife habitat in the Critical Area shall be to:

- (a) Conserve wildlife habitat in the Critical Area ;
- (b) Protect those wildlife habitats that tend to be least abundant or which may become so in the future if current land-use trends continue;
- (c) Protect those wildlife habitat types which are required to support the continued presence of various species; and
- (d) Protect those wildlife habitat types and plant communities which are determined by the County to be of local significance.

(3) If a plant or wildlife habitat is identified on a development site, the Habitat Protection Plan shall include a designated protection area around the habitat occurring on site, unless the applicant can demonstrate development impacts have been minimized, as determined by the Department of Natural Resources.

(4) When proposing development activities within riparian forests or forest areas utilized as breeding areas by forest interior dwelling birds, applicants shall utilize the guidance found in the Critical Area Commission publication entitled "*A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area*" dated June 2000, and as may be subsequently amended. In addition, the Department of Natural Resources may make specific recommendations based on an evaluation of the site and the proposed development.

(5) For development activities in Resource Conservation Areas and Limited Development Areas, wildlife corridors shall be established and used to connect areas left in forest cover with any large forest tracts which are located outside of the area of the property being developed or subdivided. The area left in forest cover (at least 70% of the tract in LDAs or RCAs as required by the County Chesapeake Bay Critical Area Program) shall be adjacent to larger forest, not left as an isolated island of trees. Planting required as a mitigation measure shall also be adjacent to other habitat.

(6) Buffer areas for nesting sites of colonial nesting water birds shall be established so that these sites are protected from the adverse impacts of development activities and from disturbance during the breeding season.

(7) New water-dependent facilities shall be located to prevent disturbance to sites of significance to wildlife such as historic, aquatic staging and concentration areas for waterfowl.

(8) Protection measures, including a buffer area, shall be established where appropriate for other plant and wildlife habitat sites identified in this ordinance.

(9) Forested areas required to support wildlife species identified as threatened and endangered, or in need of conservation, shall be protected and conserved by developing management programs which have as their objective conserving the wildlife that inhabit or use the areas. Development activities, or the clearing or

cutting of trees which might occur in the areas, shall be conducted so as to conserve riparian habitat, forest interior wildlife species and their habitat. Management measures may include incorporating appropriate wildlife protection elements into timber harvest plans, forest management plans, cluster zoning or other site design criteria which provide for the conservation of wildlife habitat. Measures may also include soil conservation plans which have wildlife habitat protection provisions appropriate to the areas defined above and incentive programs which use the acquisition of easements and other similar techniques.

- (10) When development activities, or the cutting or clearing of trees, occur in forested areas, to the extent practical, corridors of existing forest or woodland vegetation shall be maintained to provide effective connections between wildlife habitat areas.
- (11) Those plant and wildlife habitats considered to be of local significance by the County shall be protected. Examples of these are those whose habitat values may not be of Statewide significance but are of importance locally or regionally because they contain species uncommon or of limited occurrence in the jurisdiction or because the species are found in unusually high concentrations.
- (12) Natural Heritage Areas shall be protected from alterations due to development activities, or cutting or clearing, so that the structure and species composition of the areas are maintained.

F. Anadromous fish propagation waters.

- (1) The Department of Natural Resources has identified and mapped anadromous fish propagation waters as defined in this Section 267-4 (Definitions) and these maps are available by contacting the Department.
- (2) The policies of the County with regard to anadromous fish propagation waters shall be to:
  - (a) Protect the instream and streambank habitat of anadromous fish propagation waters;
  - (b) Promote land use policies and practices in the watershed of spawning streams within the Critical Area which will minimize the adverse impacts of development on the water quality of the streams; and
  - (c) Provide for the unobstructed movement of spawning and larval forms of anadromous fish in streams.
- (3) Within anadromous fish propagation watersheds, the following measures are required:
  - (a) The installation or introduction of concrete riprap or other artificial surfaces onto the bottom of natural streams shall be prohibited unless it can be demonstrated that water quality and fisheries habitat can be improved.

- (b) Channelization or other physical alterations which may change the course or circulation of a stream and thereby interfere with the movement of fish shall be prohibited.
- (c) The County shall require each development activity that occurs within a watershed draining to anadromous fish propagation waters to fulfill the following objectives:
  - [1] Minimize development activities or land disturbances within the watershed;
  - [2] Maintain, or if practicable, improve water quality in affected streams or other water bodies;
  - [3] Minimize to the extent possible the discharge of sediments into affected streams or other water bodies; and
  - [4] Maintain, or if practicable, increase the natural or native vegetation of the watershed and tree canopy over the streams.
- (4) The County shall ensure coordination and compliance with complementary State laws and regulations and shall:
  - (a) Prohibit the construction or placement of dams or other structures that would interfere with or prevent the movement of spawning fish or larval forms in streams or other designated water bodies. If practical, existing structures shall be removed.
  - (b) Ensure that the construction, repair or maintenance activities associated with bridges, or other stream crossing or with utilities and roads, which involve disturbance within the Buffer or which occur instream, as described in COMAR 08.05.03.11B(5), shall be prohibited between March 1 and June 15 of each year.

#### **§ 267-63.10. Grandfathering.**

- A. Continuation of existing uses and structures.
  - (1) Any use or structure in existence as of December 1, 1985 shall be allowed to continue as originally built and utilized, but the intensification or expansion of that use beyond the maximum lot coverage allowed shall not be permitted without a variance.
  - (2) If an existing use or structure has been abandoned for more than 1 year or is otherwise restricted by the current Zoning Code, the County may determine that such a use is no longer grandfathered and must conform to the regulations of the current Zoning Code.
  - (3) When new construction or additional improvements to a grandfathered structure take place outside of the existing footprint or foundational footprint, that structure shall no longer be considered as grandfathered and must conform to the

regulations of the current Zoning Code. Such a structure that serves as the primary structure or residence on the property shall require a new property survey.

- (4) Mitigation or removal of lot coverage shall be required for proposed intensification or expansion of grandfathered lots or parcels, as set forth in §267-63.5C(2) (Limited Development Areas, Development Standards), provided that all regulations of the County Chesapeake Bay Critical Area Program, including density requirements, have been met.
- (5) If any existing use does not conform with the provisions of this Section, or §267-20 (Nonconforming Buildings, Structures and Uses) and §267-21 (Enlargement or Extension of Nonconforming, Nonresidential Buildings, Structures or Uses), a variance shall be required for its intensification or expansion, in accordance with the procedures in §267-63.12 (Variances).

B. Implementation.

- (1) Nothing in this Section shall be interpreted as altering any requirements of the County Chesapeake Bay Critical Area Program, including those related to water-dependent facilities and Habitat Protection Areas.
- (2) Refer to Appendix D of the Harford County Chesapeake Bay Critical Area Program Manual for additional requirements and development regulations pertaining to grandfathered lots and parcels.

**§ 267-63.11. Lot Consolidation and Reconfiguration.**

A. Applicability.

- (1) The provisions of this Section shall apply to a consolidation or a reconfiguration of any nonconforming grandfathered parcel or lot.
- (2) In this Section, consolidation means a combination of any legal parcels of land or recorded legally buildable lots into fewer lots or parcels than originally existed. Consolidation includes any term used by the County for a development application that proposes to combine legal parcels of land or recorded legally buildable lots into fewer parcels or lots than the number that existed before the application, a lot line abandonment, a boundary line adjustment, a replatting request, and a lot line adjustment.
- (3) In this Section, reconfiguration means a change of the configuration of an existing lot or parcel line of any legal parcel of land or recorded legally buildable lot. Reconfiguration includes a lot line adjustment, a boundary line adjustment, and a replatting request.
- (4) These provisions do not apply to grandfathered parcels or lots that are conforming, or those that meet all of the County Chesapeake Bay Critical Area Program requirements.
- (5) Nonconforming parcels or lots include:
  - (a) Those for which a Critical Area variance is sought or has been issued.

- (b) Those located in the Resource Conservation Area and are less than 20 acres in size.
- (c) Those with grandfathered lot coverage that exceeds the maximum amount allowed.

B. Procedure.

- (1) An applicant seeking a consolidation or reconfiguration shall provide the required information outlined in Subsection C below.
- (2) A consolidation or reconfiguration shall not be approved without making written findings in accordance with Subsection D below and COMAR 27.01.02.08.F.
- (3) The Department of Planning and Zoning shall issue a final written decision or order granting or denying an application for a consolidation or reconfiguration.
  - (a) After a final written decision or order is issued, the Department of Planning and Zoning shall send a copy of the decision or order with a copy of any approved development plan to the Critical Area Commission's business address within 10 business days.
  - (b) Minor lot line adjustments of 10 feet or less between 2 nonconforming lots of record are exempt from submittal to the Critical Area Commission.
- (4) The Department of Planning and Zoning shall not issue a building permit or approval of any kind until the 30-day appeal timeframe has expired pursuant to COMAR 27.01.02.08.H.

C. Process for submittal. An application for the consolidation or reconfiguration of any nonconforming parcel of land or recorded legally buildable lot shall be submitted following the procedure set forth in the County's Subdivision Regulations contained in Chapter 268 of the Harford County Code and shall contain at least the following information:

- (1) The date of recordation for each legal parcel of land or legally buildable lot to be consolidated or reconfigured.
- (2) A plan drawn to scale that shows all existing and proposed lot or parcel boundaries.
- (3) A table that lists the number of all legal parcels or recorded legally buildable lots and the number of proposed lots, parcels or dwelling units to be derived.
- (4) Information sufficient to make the findings set forth in Subsection D below.

D. Standards. The Department of Planning and Zoning shall review an application for a proposed lot consolidation or reconfiguration and in order to approve said application shall make written findings that each one of the following standards has been met:

- (1) The proposed consolidation or reconfiguration shall result in no greater number of

lots, parcels or dwelling units in the Critical Area than the existing configuration would allow.

(2) The proposed lot consolidation or reconfiguration shall result in no greater lot coverage than the existing configuration would allow.

(3) The proposed consolidation or reconfiguration shall not:

(a) Create an additional riparian lot or parcel, waterfront lot or any other lot or parcel deeded with water access; or

(b) Intensify or increase impacts associated with riparian access.

(4) The proposed consolidation or reconfiguration shall not create:

(a) A lot, parcel or portion of a lot or parcel that will serve development activities outside of the Critical Area; or

(b) A Resource Conservation Area lot or parcel that serves development activities in the Intensely Developed Area or Limited Development Area.

(5) The proposed consolidation or reconfiguration plan shall identify steep slopes and Habitat Protection Areas. If impacts to a steep slope or Habitat Protection Area are proposed, the application shall demonstrate that:

(a) No greater impact to a steep slope or Habitat Protection Area will result than the impact that would have resulted from the existing lot configuration; and

(b) Protective measures and restoration measures are implemented as recommended by the Maryland Department of Natural Resources, the United States Fish and Wildlife Service or other agency or organization where applicable.

(6) The proposed consolidation or reconfiguration shall provide:

(a) Stormwater management for all proposed development activities;

(b) Benefits to fish, wildlife and plant habitats that are clearly identified;

(c) Critical Area Buffer establishment as set forth in §267-63.7 (The Critical Area Buffer) and §267-63.8 (Modified Buffer Areas); and

(d) Afforestation and reforestation requirements as set forth in §267-63.18 (Forest and Woodland Protection).

### **§ 267-63.12. Variances.**

In addition to the regulations set forth in §267-11 (Variances), the provisions of this Section shall also apply to variances in the Critical Area .

A. Applicability. Variances as described in this Section shall only be granted if, due to special features of a site or other circumstances, implementation of the County Chesapeake Bay Critical Area Program or a literal enforcement of its provisions would result in an unwarranted hardship to an applicant.

(1) Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

(2) The County shall presume that the specific development activity in the Critical Area for which a variance is required does not conform with the general purpose and intent of Title 8, Subtitle 18 of the Natural Resources Article of the Annotated of Code of Maryland, as the same may be amended, Title 27 of the Code of Maryland Regulations and the requirements of the County Chesapeake Bay Critical Area Program.

(3) In accordance with Section 8-1808(D)(2) of the Natural Resources Article of the Annotated Code of Maryland, as the same may be amended, in this Section, if a person meets the threshold under Federal law, the person shall have standing to participate as a party in the administrative proceeding.

B. Standards. In granting a variance, the Board of Appeals shall find that the following standards have been met:

(1) Due to special features of the site or special conditions or circumstances peculiar to the land or structure involved, a literal enforcement of provisions and requirements of the County Chesapeake Bay Critical Area Program would result in an unwarranted hardship.

(2) A literal interpretation of the provisions of the County Chesapeake Bay Critical Area Program will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area.

(3) The granting of a variance will not confer upon an applicant any special privilege that would be denied to other lands or structures within the Critical Area by the County Chesapeake Bay Critical Area Program.

(4) The variance request is not based upon conditions or circumstances that are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed.

(5) The variance request does not arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.

(6) The granting of a variance shall not adversely affect water quality, fish, wildlife or plant habitat within the Critical Area .

(7) The granting of the variance will be in harmony with the general spirit and intent of the Chesapeake Bay Critical Area Act and the County Chesapeake Bay Critical Area Program.

(8) All identified Habitat Protection Areas on or adjacent to the site shall be protected

from the proposed development by implementation of either on-site or off-site measures.

(9) The variance request will not be substantially detrimental to adjacent properties or materially impair the purpose of this Part 1 or the public interest.

C. Process.

(1) Applications for a variance shall be made in accordance with §267-9D (Board of Appeals, Filings), and a copy shall be provided to the Critical Area Commission. The Department of Planning and Zoning shall follow its established procedures for preparing its staff report and for advertising and notification to affected landowners as set forth in the Zoning Board of Appeals Rules of Procedure contained in Chapter A274 of the Harford County Code.

(2) The Department of Planning and Zoning shall require additional information, studies or documentation deemed necessary to ensure that all applicable requirements are met. Applications shall not be considered complete for processing until all information as required by the Department of Planning and Zoning has been received.

(3) After a hearing on an application for a variance from the County Chesapeake Bay Critical Area Program, the Board of Appeals shall make written findings reflecting analysis of each standard. With due regard for the person's technical competence and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:

- (a) The applicant;
- (b) The County or any other government agency; or
- (c) Any other person deemed appropriate by the Department of Planning and Zoning.

(4) The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in Subsection A(2) above.

(5) If an activity or structure for which a variance is requested commenced without permits or approvals and does not meet each of the variance criteria under this Section, the variance request shall be denied and the structure must be removed or relocated and the affected resources restored.

(6) The Department of Planning and Zoning shall notify the Critical Area Commission of the findings and decision to grant or deny the variance request within 10 business days of the issuance of the decision.

(7) The Department of Planning and Zoning shall not issue a permit or zoning certificate for the activity that was the subject of the variance application until all applicable appeal timeframes have expired.

## D. After-the-fact requests.

- (1) The County shall not accept an application for a variance to legalize a violation of the County Chesapeake Bay Critical Area Program, including an unpermitted structure or other development activity, until the County issues a Notice of Violation.
- (2) The Board of Appeals shall not approve an after-the-fact variance unless an applicant has:
  - (a) Fully paid all criminal fines and penalties imposed under §§ 8-1808(C)(1)(iii)14-15 and (2)(i) of the Natural Resources Article of the Annotated Code of Maryland, as the same may be amended;
  - (b) Prepared a restoration or mitigation plan, approved by the Department of Planning and Zoning, to abate impacts to water quality or natural resources as a result of the violation;
  - (c) Performed the abatement measures in the approved plan in accordance with the County Chesapeake Bay Critical Area Program; and
  - (d) Agreed to install any additional mitigation required within 90 days of the issuance of a permit, approval or variance for the affected property. An extension of planting time may be approved by the Department of Planning and Zoning in case of adverse planting conditions.
- (3) If the Board of Appeals denies the requested after-the-fact variance, then the County shall:
  - (a) Order removal or relocation of any structure; and
  - (b) Order restoration of the affected resources.

## E. Conditions and mitigation. The Board of Appeals shall impose the following conditions on the use or development of a property that is granted a variance to ensure that the spirit and intent of the County Chesapeake Bay Critical Area Program is maintained:

- (1) Mitigation shall be required at a ratio of 3:1 per square foot, or as recommended by the Department of Planning and Zoning, to offset potential adverse impacts resulting from the granting of the variance; and
- (2) New or expanded structures or lot coverage shall be located the greatest possible distance from mean high water, the landward edge of all wetlands, tributary streams, nontidal wetlands and steep slopes.

**§ 267-63.13. Local Development Projects.**

## A. Applicability. For all development in the Critical Area resulting from, or initiated by, any County department or agency, the County shall comply with the provisions set forth in COMAR 27.02.02, COMAR 27.02.04 and COMAR 27.02.06.

B. Procedures. The sponsoring department or agency of any development project within the County's Critical Area shall work with the Department of Planning and Zoning to determine compliance with the County Chesapeake Bay Critical Area Program.

- (1) If the project meets the provisions of the County Chesapeake Bay Critical Area Program and is locally significant, the Department of Planning and Zoning shall:
  - [a] Prepare a consistency report; and
  - [b] Submit a copy of the report with relevant plans and information about the project to the Critical Area Commission pursuant to the requirements set forth in COMAR 27.02.02.
- (2) If the project does not meet the provisions of the County Chesapeake Bay Critical Area Program, or if development in the Critical Area is unavoidable because of water dependency or other locational requirements that cannot be satisfied outside of the Critical Area, the Department of Planning and Zoning shall:
  - [a] Seek conditional approval by the Critical Area Commission per the requirements of COMAR 27.02.06;
  - [b] Submit information as required in the Critical Area Commission's *Local Project Submittal Instructions and Application Checklist*;
- (3) New major development by a County agency shall, to the extent practical, be located outside the Critical Area. If the siting of the development in the Critical Area is unavoidable because of water dependency or other locational requirements that cannot be satisfied outside the Critical Area, the Department of Planning and Zoning shall request approval from the Critical Area Commission per the Commission's *Local Project Submittal Instructions and Application Checklist* and provide the following information:
  - [a] Provide any findings and supporting documentation showing the extent to which the project or development is consistent with the provisions and requirements of the County Chesapeake Bay Critical Area Program; and
  - [b] Provide an evaluation of the effects of the project on the County Chesapeake Bay Critical Area Program.

C. Critical Area Commission public notice requirements. Public notice is required for all development projects that qualify under COMAR 27.03.01.03. Public notice shall be the responsibility of the County agency proposing the project, and the agency shall provide evidence as part of its submittal to the Critical Area Commission that:

- (1) Public notice was published for 1 business day in a newspaper of general circulation in the geographic area where the proposed development would occur, including the following information:
  - (a) The identity of the sponsoring local agency as well as any other local or State agencies affiliated with the project.
  - (b) A description of the proposed development.

- (c) The street address of the affected land and a statement that its location is in the Critical Area.
- (d) The name and contact information of the person within the sponsoring State agency or local agency designated to receive public comment, including a fax number and email address, and the deadline for receipt of public comment.

(2) A sign was posted on the property no later than the date of which the notice was published in the newspaper. The sign shall meet the following requirements:

- (a) The display area of the sign is a minimum of 30 inches by 40 inches in size.
- (b) The same information is displayed on the sign as set forth in paragraph (1) of this Subsection.
- (c) The sign is located in a conspicuous area on the development site and will remain there until after the Critical Area Commission has voted on the development.
- (d) For development that extends more than 1,000 linear feet in road frontage, at least 1 sign is posted at each end of the affected land for which the development is proposed.

(3) In addition to the public notice required in paragraphs (1) and (2) of this Subsection, the County may also provide public notice by electronic posting on the County website, on the website of a newspaper of general circulation in the geographic area where the proposed development would occur or by notification to a neighborhood association or citizens of a particular geographic area.

(4) Additional evidence of public notice to include the following documentation:

- (a) The name of the newspaper and the date on which the notice was published.
- (b) A copy of the public notice as it was published in the newspaper.
- (c) A copy of each written comment received during the required 14-day response period following the public notice.

#### **§ 267-63.14. Program Changes.**

A. Description. The Department of Planning and Zoning may see the need to amend the County Chesapeake Bay Critical Area Program. County Critical Area Program changes may include, but are not limited to, amendments, refinements, revisions and modifications to zoning regulations, subdivision regulations, Critical Area Maps, the Harford County Chesapeake Bay Critical Area Program Manual, implementation procedures and local policies that affect the County Chesapeake Bay Critical Area Program.

(1) All requirements as stated in this Section and in the County Chesapeake Bay Critical Area Program shall be applied to any proposed change to the Critical

Area designation boundaries, or the management thereof, including:

- (a) A request for growth allocation.
- (b) A mistake in the mapping of the original designation area.
- (c) The periodic review of the overall County Chesapeake Bay Critical Area Program.

(2) All proposed changes to the County Chesapeake Bay Critical Area Program as set forth in this Section shall adhere to the process and submittal requirements, where applicable, as outlined in Subsection B below. This shall be done prior to submission for approval to the Critical Area Commission.

(3) All proposed changes shall also be approved by the Critical Area Commission as established in §8-1809 of the Natural Resources Article of the Annotated Code of Maryland, as may be amended. No change shall be implemented without approval of the Critical Area Commission.

(4) Standards and procedures for Critical Area Commission approval of proposed changes are as set forth in the Chesapeake Bay Critical Area Act, codified in §8-1809(l) and (D), respectively, of the Natural Resources Article of the Annotated Code of Maryland, as may be amended.

B. Process. All changes to the County Chesapeake Bay Critical Area Program shall be reviewed in accordance with the following procedures and shall conform to the required standards as outlined in this Section:

- (1) The following fees shall apply to all applications for changes to the Critical Area designation boundaries:
  - (a) \$200 for publication and posting.
  - (b) \$500 for filing.
  - (c) \$15 per requested acre, or portion of an acre, within the Critical Area.
- (2) The Department of Planning and Zoning shall submit all proposed amendments to the Planning Advisory Board and the Environmental Advisory Board for review, accompanied by written reasoning for the changes.
- (3) The Planning Advisory Board and the Environmental Advisory Board shall transmit their written recommendations regarding the proposed amendments to the Department of Planning and Zoning within 60 calendar days.
- (4) The Department of Planning and Zoning shall send the amendments, as revised per the written recommendations received from the boards, to the County Council for consideration.
- (5) Within 30 days of the County Council's approval, the amendments package shall be sent to the Critical Area Commission for review. No amendments shall be considered final until written approval is received from the Critical Area Commission.

Commission. The amendments package shall be accompanied, where applicable, by pertinent findings, plans, environmental reports and studies as described below:

- (a) A written finding that ensures the proposed amendment is consistent with the purposes, policies, goals and provisions of the Chesapeake Bay Critical Area Act and all criteria of the Critical Area Commission.
- (b) A conceptual site plan and environmental features map in accordance with COMAR 27.01.02.06-1.B.
- (c) An environmental report, when applicable, that includes comments from the Maryland Department of the Environment, Maryland Department of Natural Resources, United States Fish and Wildlife Service, Maryland Historical Trust and U.S. Army Corps of Engineers.
- (d) A map that shows the land area where the amendments are proposed.

(6) The County's official Critical Area Maps and County Chesapeake Bay Critical Area Program shall be amended to reflect any approved changes, and a copy of these documents shall be provided to the Critical Area Commission.

C. Growth allocation.

- (1) Growth allocation is the number of acres of land available to the County to reclassify a Critical Area designation as a new Limited Development Area or Intensely Developed Area. Growth allocation is available for use in a Limited Development Area or Resource Conservation Area in order to develop at a higher density or allow a use other than what the current classification allows.
- (2) An annexation by a municipality shall meet all of the requirements of this Section and of the County Chesapeake Bay Critical Area Program when the proposed use on the parcel requires a land use designation change.
- (3) An applicant shall submit a completed application for a growth allocation to the Department of Planning and Zoning that complies with all of the requirements set forth in this Section, the County Chesapeake Bay Critical Area Program and COMAR 27.01.02.06-1.
- (4) Refer to Chapter 2 of the Harford County Chesapeake Bay Critical Area Program Manual for additional information regarding the application review process and associated requirements for the use of growth allocation.
- (5) Consistency with the comprehensive plan under this Section means that a proposal will further, and not be contrary to, the following items in the comprehensive plan:
  - (a) Policies;
  - (b) Timing of implementation, or development, and of rezoning;
  - (c) Development patterns;

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- (d) Land uses; and
- (e) Densities and intensities.

D. Comprehensive reviews. The Department of Planning and Zoning shall review its entire County Chesapeake Bay Critical Area Program and shall propose any necessary changes to any part of the County Chesapeake Bay Critical Area Program at least every 6 years. The changes shall be reviewed and considered by the County Council. The anniversary of the date that the County Chesapeake Bay Critical Area Program became effective shall be used to determine when the review shall be completed. Within 60 days after completion of the County Council's review, the County shall send the following information, in writing, to the Critical Area Commission:

- (1) A statement certifying that the required review has been accomplished.
- (2) All necessary requests for the County Chesapeake Bay Critical Area Program amendments, refinements or other matters that the County wishes the Critical Area Commission to consider.
- (3) An updated resource inventory.
- (4) A statement quantifying acreages within each land classification, the growth allocation used and the growth allocation remaining.

E. Zoning map amendments. Except for amendments or refinements to the County Chesapeake Bay Critical Area Program developed during the 6-year comprehensive review, a zoning map amendment shall only be granted by the County Council upon proof of a mistake in the existing zoning. This requirement does not apply to proposed changes to a zoning map that meet the following criteria:

- (1) Are wholly consistent with the land classifications in the adopted County Chesapeake Bay Critical Area Program; or
- (2) Propose the use of growth allocation in accordance with the growth allocation provisions of the County Chesapeake Bay Critical Area Program.

F. Adoption of a County Chesapeake Bay Critical Area Program change. If approved by the Critical Area Commission, the Department of Planning and Zoning shall incorporate the proposed changes into its adopted County Chesapeake Bay Critical Area Program, including any conditions of approval, within 120 days of receiving notice from the Chairman of the Critical Area Commission.

#### **§ 267-63.15. Water-dependent Facilities and Activities.**

A. Applicability. The provisions of this Section apply to those structures or activities associated with industrial, maritime, recreational, educational, aquaculture or fisheries activities that require location at or near the shoreline within the Critical Area Buffer. An activity is water-dependent if it cannot exist outside of the Critical Area Buffer and is dependent on the water by reason of the intrinsic nature of its operation. These provisions do not apply to silviculture activities.

## B. Identification.

(1) The provisions of this Section are not applicable to:

- (a) A private pier that:
  - [1] Is installed or maintained by a riparian landowner; and
  - [2] Is not part of a residential project that provides a community pier or other community boat-docking or storage facility under Subsection I below; or
- (b) A nonwater-dependent project covered under COMAR 27.01.13; or
- (c) The maintenance, repair or replacement of existing bulkheads, piers, buildings or maintenance dredging.

(2) A water-dependent facility or activity includes:

- (a) A port.
- (b) An intake or outfall structure of power plants.
- (c) A marina, another boat-docking facility or a structure or activity that is essential to the operation of the water-dependent facility, structure or activity.
- (d) A fuel pump or other fuel-dispensing equipment on a pier, a sanitary sewage pump or other wastewater removal equipment on a pier or an office on a pier for managing marina operations such as monitoring vessel traffic, registering vessels, providing docking services and housing electrical or emergency equipment related to marina operations.
- (e) The County shall evaluate on a case-by-case basis all proposals for expansion of existing or new water-dependent facilities. The County shall work with appropriate State and Federal agencies to ensure compliance with applicable regulations.
- (f) A public beach or any other public water-oriented recreation area.
- (g) Any other water-dependent facility or activity that supports water quality restoration in the Chesapeake Bay, the Atlantic Coastal Bays or their watersheds.

C. General policies. The County shall limit development activities in the Critical Area Buffer to those that are water-dependent, as specified in COMAR 27.01.09, and ensure that these activities will have minimal individual and cumulative impacts on water quality, as well as fish, wildlife and plant habitat in the Critical Area, as provided by design and locational criteria.

D. Standards. The following standards shall apply to new or expanded development activities associated with water-dependent facilities and activities:

- (1) In accordance with § 8-1808.3 of the Natural Resources Article of the Annotated Code of Maryland, as the same may be amended, and COMAR 27.01.09, development in the Critical Area Buffer shall be limited to the minimum lot coverage necessary to accommodate each water-dependent facility or activity, regardless of the Critical Area land use classification or the size of the parcel or lot.
- (2) New or expanded development activities may be permitted in the Critical Area Buffer in the Intensely Developed Areas and Limited Development Areas provided that it can be shown that:
  - (a) The project is water-dependent;
  - (b) The project meets a recognized private right or public need;
  - (c) The adverse effects on water quality, fish, plant and wildlife habitat are first avoided or otherwise minimized;
  - (d) The nonwater-dependent structures or operations associated with water-dependent projects or activities are located outside of the Critical Area Buffer as much as possible; and
  - (e) The facilities are consistent with an approved local plan as described in Subsection E below.
- (3) All new or expanded development activities shall not be permitted in those portions of the Critical Area Buffer that occur in Resource Conservation Areas. Applicants for water-dependent facilities in a Resource Conservation Area, other than those specifically permitted herein, shall apply for a portion of the County's growth allocation as set forth in the County Chesapeake Bay Critical Area Program.
- (4) Mitigation shall occur at a 2:1 ratio based on the limit of disturbance of the proposed development activity that is in the Critical Area Buffer or expanded Critical Area Buffer.

E. Evaluating plans for new and expanded water-dependent facilities.

- (1) All applicants for new or expanded water-dependent facilities shall be required to submit pertinent information and materials as listed in Appendix E of the Harford County Chesapeake Bay Critical Area Program Manual.
- (2) Interference with navigation caused by the proximity of a facility near State or Federally maintained channels shall constitute grounds for denial of an application.
- (3) Based on the project size, scope, environmental sensitivity on site and potential adverse impacts to water quality, aquatic habitats or terrestrial habitats on or near the site, the Director of Planning and Zoning may require a comprehensive water-dependent facility plan as detailed in Appendix E of the Harford County Chesapeake Bay Critical Area Program Manual. This plan shall be approved by the Director of Planning and Zoning. It is recommended that the applicant consult with the Department of Planning and Zoning prior to submitting this information.

(4) A building permit or zoning certificate for any construction in or over tidal waters shall not be considered valid without a concurrent State wetlands license or permit from the Maryland Department of the Environment and Section 404/10 permits, as appropriate, from the Army Corps of Engineers.

(5) The application shall demonstrate that all of the following provisions for new or expanded water-dependent facilities have been met:

- (a) The proposed activities shall not significantly alter existing water circulation patterns or salinity regimes.
- (b) The water body upon which these activities are proposed shall have adequate flushing characteristics in the area for natural dispersal and removal of pollution, as determined by Maryland Department of the Environment.
- (c) Disturbance to wetlands, submerged aquatic plant beds or other areas of important aquatic habitats shall be avoided or otherwise minimized.
- (d) Adverse impacts to water quality that may occur as a result of these activities, such as non-point source runoff, sewage discharge from land activities or vessels or pollutant discharge from boat cleaning and maintenance operations shall be avoided or otherwise minimized.
- (e) Shellfish beds shall not be disturbed or be made subject to discharge that will render them unsuitable for harvesting.
- (f) Interference with the natural transport of sand shall be avoided or otherwise minimized.
- (g) Disturbance to sites of known historical significance to wildlife, such as aquatic staging areas and waterfowl concentration or staging areas, shall be prohibited.
- (h) Location of activities adjacent to Habitat Protection Areas as set forth in the County Chesapeake Bay Critical Area Program shall be avoided or otherwise minimized. The use of activities adjacent to these sites shall be minimized during the time of November through March so as to prevent disturbance to wildlife overwintering or using the site as a migratory staging area.
- (i) Dredging shall be conducted and dredged material shall be placed in an area that was approved for the disposal of channel maintenance dredging before June 11, 1988, and shall use a method that causes the least disturbance to water quality and to aquatic and terrestrial habitats in the Critical Area or the area immediately surrounding the dredging operation.
- (j) Dredged spoil shall not be placed within the Critical Area Buffer or in any other designated Habitat Protection Area except as necessary for a beneficial use approved by Maryland Department of the Environment. Mitigation shall be required at a ratio of 1:1 for such beneficial uses, including:

- [1] Backfill for a shoreline stabilization measure.
- [2] Use in a non-structural shoreline stabilization measure, including a living shoreline.
- [3] Beach nourishment.
- [4] Restoration of an island.
- [5] The creation, restoration or enhancement of a wetland, or a fish, wildlife or plant habitat.
- [6] Any other approved beneficial use.

F. Additional provisions for industrial and port-related facilities or activities.

- (1) New, expanded or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of Intensely Developed Areas that have been designated as Modified Buffer Areas as set forth in the County Chesapeake Bay Critical Area Program and are subject to the provisions set forth in § 267-63.8 (Modified Buffer Areas).
- (2) Industrial waterfront facilities shall not extend any waterfront construction over or into waterways beyond the limit of pier or bulkhead lines, as established by the Army Corps of Engineers.

G. Additional provisions for marinas and other commercial maritime facilities or activities. New, expanded or redeveloped marinas may be permitted subject to the requirements as set forth below:

- (1) New, expanded or redeveloped marinas must adhere to all other requirements as outlined in this Section.
- (2) New marinas and related maritime facilities shall not be permitted in Resource Conservation Areas. Expansion of existing marinas may be permitted within Resource Conservation Areas provided that it is sufficiently demonstrated that the expansion shall result in an overall net improvement in water quality at, or leaving the site of, the marina.
- (3) The Best Management Practices cited in Appendix E of the Harford County Chesapeake Bay Critical Area Program Manual shall be applied to the location and operation of new or expanded marinas and related maritime facilities, where applicable.
- (4) New and existing marinas shall meet the sanitary requirements of the Maryland Department of the Environment as required in COMAR 26.04.02. New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.

H. Additional provisions for community piers. New or expanded community marinas and other non-commercial boat-docking and storage facilities may be permitted in the Critical Area Buffer, subject to the requirements in this Subsection or the County Chesapeake Bay Critical Area Program, and provided that the following provisions are met:

- (1) These facilities shall not offer food, fuel or other goods and services for sale in the Buffer.
- (2) These facilities shall provide adequate and clean sanitary facilities.
- (3) The facilities shall be community-owned and established and operated for the benefit of the citizens of a platted and recorded riparian subdivision.
- (4) The facilities shall be associated with a residential development approved by the County and shall be consistent with all State and local program requirements for the Critical Area .
- (5) Disturbance to the Critical Area Buffer shall be the minimum necessary to provide a single point of access to the pier or facility.
- (6) If community piers, slips or moorings are provided as part of the new residential development built or constructed after June 24, 1988, private piers in the residential development shall not be permitted.

I. Slips and piers.

- (1) No structure connected to the shoreline, such as a dock or pier, shall extend outward from the mean high-water line more than 25% of the distance to the mean high-water line on the opposite shore, or more than 250 feet, whichever is less, nor shall it extend into an existing navigational channel.
- (2) New or expanded private water-dependent facilities shall accommodate no more than 4 boats.
- (3) Nonwater-dependent facilities or structures shall not be constructed on pilings or piers, as set forth in §267-63.16D (Water-dependent Structures, Nonwater-dependent Structures on Piers).
- (4) The number of slips or piers permitted at the facility shall be the lesser of (a) or (b) below:
  - (a) One slip for each 50 feet of shoreline in the subdivision of an Intensely Developed Area or a Limited Development Area, and 1 slip for each 300 feet of shoreline in the subdivision of a Resource Conservation Area; or
  - (b) A density of slips or piers according to the following table:

**Table 7. Number of Piers/Slips Permitted.**

Platted Lots or Dwellings in the Subdivision	Piers or Slips
Up to 15	1 for each lot
16 – 40	15 or 75%, whichever is greater
41 – 100	30 or 50%, whichever is greater
101 – 300	50 or 25%, whichever is greater
Over 300	75 or 15%, whichever is greater

J. Additional provisions for public beaches and other public recreation or education areas.

- (1) Public beaches or other public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching, docking facilities and fishing piers may be permitted in the Critical Area Buffer in Intensely Developed Areas.
- (2) The facilities described in paragraph (1) of this Subsection, as well as areas for passive recreation such as hiking, nature study, hunting and trapping and for education may also be permitted within the Critical Area Buffer in Limited Development Areas and Resource Conservation Areas provided that the following conditions are met:
  - (a) Adequate sanitary facilities shall be provided.
  - (b) Service facilities shall be located outside of the Critical Area Buffer.
  - (c) Permeable surfaces shall be used as the primary surfacing material if no degradation of groundwater would result, although such materials shall count toward the calculated lot coverage.
  - (d) Disturbance to any vegetation shall be avoided or otherwise minimized.
  - (e) All nonwater-dependent structures or facilities associated with these projects shall be located outside of the Critical Area Buffer.

K. Additional provisions for research areas. Water-dependent research facilities or activities operated by State, Federal or local agencies or educational institutions may be permitted in the Critical Area Buffer. Nonwater-dependent structures or facilities associated with these projects shall be located outside of the Critical Area Buffer.

L. Additional provisions for fisheries activities.

- (1) Land and water areas with high aquacultural potential shall be identified by the County in cooperation with the State when applications for new or expanded fisheries or aquaculture facilities are submitted to the County. These areas are encouraged for that use and, if so used, shall be protected from degradation by other types of land and water use or by adjacent land and water uses.

(2) Commercial water-dependent fisheries including, but not limited to, structures for crab shedding, fish off-loading docks, shellfish culture operations and shore-based facilities necessary for aquaculture operations and fisheries activities may be permitted in the Critical Area Buffer in Intensely Developed Areas, Limited Development Areas and Resource Conservation Areas.

**§ 267-63.16. Water-Dependent Structures.**

A. Applicability. The provisions of this Section apply to individual private piers installed or maintained by riparian landowners, which are not part of a subdivision that provides community piers, boat lifts, wharves, docks and bulkheads, as well as the maintenance, repair or replacement of these existing structures and maintenance dredging.

B. Standards.

(1) Where proposed construction will conflict with existing facilities, the Department of Planning and Zoning shall specify the limits of construction to conform as closely as possible to the requirements as set forth within this Section so as to cause the least interference with existing and/or possible future construction. Notice of the proposed construction shall be given to the adjoining property owners affected.

(2) Maintenance, repair or replacement of existing bulkheads, piers or maintenance dredging shall require all applicable permits from the Maryland Department of the Environment and the County prior to approval of any proposed work.

(3) Interference with navigation caused by the proximity of a facility near State or Federally maintained channels shall constitute grounds for denial of an application.

(4) Applicants shall meet all of the applicable requirements as set forth in §267-63.15I (Water-dependent Facilities and Activities, Slips and Piers).

C. Construction over waterways.

(1) Waterfront construction shall not extend over or into waterways beyond the limit of pier or bulkhead lines, as established by the Army Corps of Engineers.

(2) Divisional lines shall be established in the following manner for the purpose of defining applicable boundaries for waterfront construction:

(a) Where the shoreline is straight and property lines run parallel, each property line shall be extended in a continuing straight line over the water.

(b) Where the shoreline is straight and property lines are not parallel, property lines shall be extended perpendicular to the shoreline over the water.

(c) Where the shoreline is not straight, draw a straight line between the 2 corners of each lot to form a baseline. Property lines shall be extended perpendicular to the baseline over the water and:

[1] If the intrinsic nature of a curved shoreline causes extended property lines over the water to diverge from one other, the area excluded by both lines shall be equally divided between the 2 adjoining lots; and

[2] If the intrinsic nature of a curved shoreline causes extended property lines over the water to converge with one other, the area included by both lines shall be equally divided between the 2 adjoining lots.

(d) No construction, including mooring piles, shall be permitted within 10 feet of the established divisional lines in effort to maintain a 20-foot open access area between the facilities of adjoining lots.

D. Nonwater-dependent structures on piers. The following standards shall apply to all nonwater-dependent structures:

(1) Nonwater-dependent structures, including, but not limited to, boat houses and renewable energy systems such as solar panels and wind turbines, shall not be constructed on existing pilings or on a pier.

(2) Construction of a nonwater-dependent structure shall be prohibited in or over State or private waters in the Critical Area, including wetlands.

(3) Nonwater-dependent structures do not include:

(a) A fuel pump or other fuel-dispensing equipment on a pier;

(b) A sanitary sewage pump or other wastewater removal equipment on a pier; or

(c) A water-dependent facility or activity covered under § 267-63.15 (Water-dependent Facilities and Activities) or COMAR 27.01.03.

#### **§ 267-63.17. Shore Erosion Protection.**

A. Standards. All development activities conducted on lands immediately adjacent to tidal waters or where existing developments are experiencing shoreline erosion problems shall follow and meet the following criteria:

(1) The maps developed and maintained by the Department of the Environment.

(2) In accordance with Environment Article, §16-201(C), Annotated Code of Maryland, and COMAR 26.24.04.01, improvements to protect a property against erosion shall consist of nonstructural shoreline stabilization measures that preserve the natural environment, such as marsh creation or a living shoreline.

(3) Where no significant shore erosion control occurs and nonstructural measures are ineffective or impractical, stone revetments or riprap shall be used whenever possible to conserve fish and plant habitat.

(4) Bulkheads and other structural measures shall only be permitted when the use of nonstructural measures and revetments are deemed infeasible by the Maryland Department of the Environment or where their use is needed as part of a water-dependent facility.

- (5) Performance of mitigation measures applicable to the type of shoreline stabilization measure to be undertaken, as specified in the Shore Erosion Control Buffer Mitigation Form supplied by the Commission.
- (6) In accordance with COMAR 26.24.04.01-3 and 27.01.09.01-3, delivery to the Commission of an approved Buffer Management Plan for each approved shoreline stabilization measure.

B. Process. As part of the application process for a County permit, zoning certificate or authorization for a shoreline erosion protection measure or development activity, the following documents shall be required:

- (1) An approved State wetlands license or permit from the Maryland Department of the Environment that meets all requirements as set forth in COMAR 26.24.02 and COMAR 26.24.04.
- (2) A Buffer Management Plan that meets all requirements of §267-63.7 (the Critical Area Buffer) and §267-63.8 (Modified Buffer Areas) as applicable, and COMAR 27.01.09.
- (3) When structural measures must be used, an erosion control plan shall be submitted that includes a site sketch of the existing shoreline, a site sketch of the proposed control measures and a brief description of the proposed methods and materials. The information required by the Army Corps of Engineers and the Maryland Department of the Environment's Nontidal Wetlands Division for a 404 Joint Permit Application is sufficient for submission as an erosion control plan.
  - (a) The approved plan must be kept on the project site and be available for inspection upon request of the County during the construction of the erosion control measures.
  - (b) An approved plan is not valid without all other documentation as listed in this Section.

C. Shoreline parks. The development and use of areas designated as natural parks shall recognize the limited ability of the natural systems to handle human impacts. The following standards shall apply to the development and use of such areas:

- (1) The ability of a specific site to accommodate human disturbance on a daily or seasonal basis shall be considered in the design of visitor use facilities for natural parks areas.
- (2) The Critical Area Buffer shall be maintained in the development of any natural park site. Trees or other suitable vegetation shall be planted within areas of the Critical Area Buffer that are not vegetated.
- (3) All areas identified as Habitat Protection Areas in §267-63.9 (Habitat Protection Areas) shall be protected on a natural park site.
- (4) Forest cover on the site shall be maintained to the maximum extent feasible and in accordance with §267-63.18 (Forest and Woodland Protection).

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(5) All publicly owned lands leased for agricultural activities shall have current soil conservation and water quality plans.

**§ 267-63.18. Forest and Woodland Protection.**

A. Purpose. Forests and woodlands are recognized for their water quality benefits and sustainable wildlife habitats while accommodating the utilization of forest resources. For these reasons, forest protection and conservation shall be achieved by avoiding or otherwise minimizing the removal of trees associated with development activities. Where such disturbances cannot be avoided, the standards as set forth in this Section shall be met.

B. Process. The following shall be addressed as part of the application process for all proposed projects involving the removal and replacement of any existing forest cover and developed woodlands in the Critical Area :

- (1) A site-specific field investigation shall be conducted prior to forest harvesting or development to determine if sensitive species are present. Applications shall be forwarded to the Department of Natural Resources Wildlife and Heritage Service for environmental review.
- (2) A development plan or timber harvest plan shall be submitted with all information as described in Appendix C of the Harford County Chesapeake Bay Critical Area Program Manual. Appropriate protection measures for sensitive species and recommendations made by the Department of Natural Resources shall also be incorporated into the development plan or timber harvest plan.
- (3) When proposing development activities within riparian forests or forest interior dwelling species habitat, the applicant shall demonstrate that conservation methods will be utilized from *A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area*, as may be amended in Appendix J of the Harford County Chesapeake Bay Critical Area Program Manual.
- (4) The proposed project shall demonstrate that the following standards have been met, where feasible:
  - (a) Avoid or otherwise minimize forest and woodlands disturbance from off-road vehicles, public use or logging from May through August of each year.
  - (b) Focus all development on the periphery of the forest or woodlands, known as edge habitat.
  - (c) Retain the forest canopy as well as the tree and shrub understory.
  - (d) Retain snag and mature seed trees as dens for woodpeckers and as nests for bald eagles.
  - (e) Avoid the creation of small clearings and expansion of forest edge habitats.
  - (f) Re-establish or enhance native forests and woodlands.
  - (g) Adopt harvest techniques to maintain or improve habitat.

(5) A Forest Conservation Plan shall be required for the removal and replacement of forest and developed woodlands and shall adhere to the following requirements:

- (a) The document shall be prepared as specified in Appendix C of the Harford County Chesapeake Bay Critical Area Program Manual.
- (b) For properties requiring subdivision approval, Forest Conservation Plans shall be submitted along with the preliminary or site plan.
- (c) For all other projects, Forest Conservation Plans shall be submitted and approved by the Department of Planning and Zoning prior to application for a grading permit.
- (d) A surety bond shall be deposited and a covenant recorded in the Land Records of Harford County to ensure that all required afforested and reforested areas are completed in accordance with the approved Forest Conservation Plan. The surety amount shall be equal to 110% of the value of \$4.00 per square foot of planting required and shall be held until the established forested area meets or exceeds standards specified in the Forest Conservation Plan.
- (e) Grading permits shall not be issued until the covenant and surety have been accepted by the County. The covenant, which shall be established by the owner of the property, shall establish and protect the afforested or reforested areas from future development activities.
- (f) The following survivability standards shall apply:
  - [1] If more than 25% of the plantings die within the first 2 growing seasons, the plantings shall be replaced with new stock.
  - [2] If more than 25% of the plantings do not survive the first 3 growing seasons, the surety bond shall be held an additional 3 years or until the survivability requirements have been satisfied, as described in this Section.
  - [3] Two-thirds of the surety bond will be returned if all components of the project meet or exceed the standards, as determined by an inspection from the Department of Planning and Zoning, and at least 75% of the plantings survive the first 2 growing seasons.
  - [4] The remaining surety bond will be released if all standards are met after the third growing season.

(6) In addition to all other applicable requirements of this Section, the following requirements shall also be met for all projects in the Limited Development Area and Resource Conservation Area involving the removal and replacement of any existing forest cover or developed woodlands:

- (a) A Forest Stand Delineation shall be required for any development in the Critical Area where forest covers greater than 40,000 square feet, unless no

forest will be disturbed, and shall be prepared according to the standards described in Chapter 4 of the Harford County Forest Cover Conversation and Replacement Manual.

(b) Fifteen percent of an unforested development site shall be afforested. If the afforestation comprises 1 acre or more, a Forest Conservation Plan, financial surety bond and covenant as specified in paragraph (5) of this Subsection shall be required. For afforestation areas less than 1 acre in size, plantings shall be installed according to the Forest Management Guide found in Appendix C of the Harford County Chesapeake Bay Critical Area Program Manual.

C. Mitigation. The removal and replacement of any existing forest cover and developed woodlands shall meet the following standards in the Critical Area :

(1) The replacement or establishment of forest or developed woodlands shall ensure a diversified plant community and should include native species of canopy trees, understory trees, shrubs and herbaceous plants.

(2) Maryland native species shall be planted to the maximum extent possible on-site. If the applicant can demonstrate that the on-site location is not feasible for all required plantings, the applicant shall plant in another permissible location, as described in Appendix K of the Harford County Chesapeake Bay Critical Area Program Manual.

(3) Canopy coverage mitigation shall occur at a 1:1 square foot ratio, rounded to the nearest 100 square feet, except as set forth in paragraphs (4) through (6) of this Subsection.

(4) Mitigation for Critical Area Buffer disturbance shall be fulfilled as set forth in §267-63.7D (The Critical Area Buffer, Mitigation and Planting Credit for the Critical Area Buffer).

(5) Routine vegetative maintenance and/or emergency repairs may occur in existing public utility rights-of-way provided that:

(a) The disturbance that occurs shall be the minimum amount necessary;

(b) Mechanical methods shall be used whenever feasible as opposed to chemical means; and

(c) Notification and coordination with the Department of Planning and Zoning shall occur prior to commencement of activity.

(6) The following mitigation standards shall also apply to any proposed projects in the Limited Development Area and Resource Conservation Area:

(a) The total acreage in forest coverage within the County in the Critical Area shall be maintained or preferably increased.

(b) All forests and developed woodlands that are allowed to be cleared or

developed shall be replaced in the Critical Area on not less than an equal area basis.

- (c) If an applicant is authorized to clear more than 20% of a forest or developed woodlands on a lot or parcel, the applicant shall replace the forest or developed woodlands at 1.5 times the entire areal extent of the forest or developed woodlands cleared, including the first 20% of the forest or developed woodlands cleared.
- (d) An applicant may not clear more than 30% of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance and the applicant replaces forest or developed woodlands at a rate of 3 times the entire areal extent of the forest or developed woodlands cleared. If an applicant is authorized to clear any percentage of forest or developed woodlands, the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by the County.

D. Fee-in-lieu of planting mitigation.

- (1) If the applicant can demonstrate to the director of Planning and Zoning that plantings are not feasible, a payment of \$4.00 per square foot of mitigation will be accepted in lieu of the plantings to be replaced. Fee-in-lieu shall otherwise not be accepted by the County.
- (2) Funds shall be paid to the Harford County Department of Treasury at the time of issuance of a grading permit, prior to any clearing of forest or developed woodland cover on a development site.
- (3) Funds shall be maintained in a separate account from the general fund and administered by the Harford County Department of Planning and Zoning in the following manner:
  - (a) Funds contributed under this Section shall be used for mitigation planting and/or offsets, as described in Appendix K of the Harford County Chesapeake Bay Critical Area Program Manual, to enhance wildlife habitat, improve water quality or otherwise promote the goals of the County Chesapeake Bay Critical Area Program and Green Infrastructure Plan.
  - (b) The funds shall be used for site identification, acquisition, design, preparation, planting or installation and monitoring of vegetation or project success at the selected regional water quality and wildlife improvement areas.
  - (c) The funds shall not be used to accomplish a project or measure that would have been required under existing local, State or Federal laws, regulations, statutes or permits.
  - (d) Fee-in-lieu monies shall be collected and held in a special fund, which may not revert back to Harford County's general fund.

(e) A portion of fee-in-lieu money can be used for management and administrative costs; however, this cannot exceed 20% of the fees collected.

E. Enforcement.

(1) Unauthorized clearing, cutting or removal of vegetation inside or outside of the Critical Area Buffer or other Habitat Protection Areas, as well as clearing, cutting or removal of vegetation in excess of the area permitted to be cleared shall be considered a violation of the County Chesapeake Bay Critical Area Program and shall result in enforcement action as set forth in §267-63.2 (Administrative Enforcement).

(2) A violation that takes place in the Critical Area Buffer or other Habitat Protection Area shall receive mitigation at a ratio of 4:1, rounded to the nearest 100 square feet. In addition, all other requirements and standards shall be met, including the preparation of a Buffer Management Plan and the posting of the surety and recordation of the covenant.

(3) A violation that takes place in the Critical Area, outside of a Habitat Protection Area, shall receive mitigation at a ratio of 3:1, rounded to the nearest 100 square feet. In addition, all other requirements and standards shall be met, including the preparation of Forest Conservation Plans and the posting of the surety and recordation of the covenant.

**§ 267-63.19. Timber Harvesting.**

A. General policies. A goal of the County Chesapeake Bay Critical Area Program is to maintain or increase the lands in forest cover, because forests provide protection of the water quality and habitat values of the Chesapeake Bay and its tributaries.

B. Process.

(1) Landowners proposing to harvest timber within any 1-year interval shall submit a Forest Management Plan. The applicable plan shall be prepared by a Registered Professional Forester in the State of Maryland, and separate copies of the plan shall be submitted to the Department of Planning and Zoning, the Department of Natural Resources and the Harford County Forestry Board for their review.

(2) The Department of Planning and Zoning shall be notified by the Department of Natural Resources or the Forestry Board if any Forest Management Plan is inadequate. If additional information for the plan is required, the applicant will be notified in writing.

(3) Once the Forest Management Plan has been approved by the Department of Planning and Zoning, a copy of the plan shall be sent to the Department of Natural Resources and the Forestry Board. The Department of Planning and Zoning shall notify the applicant in writing when the plan is approved. The plan shall be approved prior to the start of any work.

C. Timber Harvest Plans.

(1) Forest Management Plans shall include measures to protect surface water and ground water quality, as well as any Habitat Protection Areas as identified in §267-63.7 (The Critical Area Buffer) through §267-63.9 (Habitat Protection Areas). To

provide for the continuity of plant and wildlife habitat, a copy of Timber Harvest Plans shall be addressed within the Forest Management Plan, describing the proposed timber harvest. Plans shall be submitted according to the procedures contained in the Forest Management Guide in Appendix C of the Harford County Chesapeake Bay Critical Area Program Manual.

(2) Harvesting operations shall be implemented in accordance with the specifications set forth in the State guidelines contained in the Standard Erosion and Sediment Control Plan for Forest Harvest Operations, as well as any other specification established by the Department of Natural Resources.

D. Erosion and Sediment Control Plans. In the Critical Area, any landowner who plans to harvest timber on an area which will disturb 5,000 square feet or more, including harvesting on agricultural lands, shall submit an Erosion and Sediment Control Plan. This plan is also required for any harvests which will cross perennial or intermittent streams. This plan shall be developed according to the State guidelines contained in the Standard Erosion and Sediment Control Plan for Harvest Operations. The operations shall be implemented in accordance with specifications set out by the Department of Natural Resources and the Department of Planning and Zoning. This plan shall be enforced by the Maryland Department of the Environment and the County.

(1) If cuts and fills are 3 feet or more, if grades for roads are 15% or more or if landings are on slopes of 10% or more, then the landowner must get a Custom Erosion and Sediment Control Plan for the operation. These are prepared by Registered Professional Foresters and include controls necessary to prevent site erosion and to ensure site stabilization.

(2) If a Custom Erosion and Sediment Control Plan is not required, a Standard Erosion and Sediment Control Plan is available through the Harford Soil Conservation District. The landowner shall provide the following information:

- (a) Location description.
- (b) Harvest operation description.
- (c) Sketch map of the property showing acres to be cleared.
- (d) Identification of the landowner, licensed timber harvest operator and other operators or subcontractors.

(3) The Erosion and Sediment Control Plan shall be submitted to the Harford Soil Conservation District for approval and notice of approval shall be sent to the Harford County Department of Inspections, Licenses and Permits.

(4) The applicant shall take responsibility for the implementation of the Erosion and Sediment Control Plan.

(5) The landowner must sign the agreement to certify that he or she understands the terms of the plan and is responsible for preventing erosion and sedimentation during the forest harvesting.

E. Buffer protection standards for timber harvests. No timber harvesting shall be permitted in the Critical Area Buffer or the expanded Critical Area Buffer, nor shall harvesting be permitted within Habitat Protection Areas and their associated buffers.

**§ 267-63.20. Agriculture.**

A. Purpose. Agricultural lands are identified and recognized as a protected land use and are managed in an effort to minimize agricultural pollutant loadings into the Chesapeake Bay and its tributaries. The County works cooperatively with the Harford Soil Conservation District, Agricultural Land Preservation Advisory Boards, the Farm Bureau and other appropriate agencies to promote sound land and water stewardship on agricultural lands.

B. Standards. In addition to all other applicable regulations as set forth in the County Chesapeake Bay Critical Area Program, the applicant shall comply with all of the following standards in regard to agriculture in the Critical Area :

- (1) The creation of new agricultural lands or expansion of agricultural activities shall not be accomplished by:
  - (a) Diking, draining, dredging or filling wetlands;
  - (b) Clearing forests or woodlands on soils with a slope greater than 15%, or on highly erodible soils with a "K" Factor greater than .35 and a slope greater than 5%; or
  - (c) Disturbing lands identified as Habitat Protection Areas, including existing vegetation within the Critical Area Buffer, as set forth in the County Chesapeake Bay Critical Area Program.
- (2) The drainage of nontidal wetlands for the purpose of existing agriculture shall be done in accordance with a Soil Conservation and Water Quality Plan, approved by the Harford Soil Conservation District.
- (3) Existing farm ponds and other existing man-made bodies of water for the purpose of impounding water for agriculture, water supply, recreation or waterfowl habitat are not classified as wetlands.
- (4) Best Management Practices shall be used for the control of nutrients, animal wastes, pesticides and sediment runoff to protect the productivity of the land base and enhance water quality. These practices shall avoid or otherwise minimize the contamination of surface water and ground water, as well as the adverse effects on plants, fish and wildlife resources.
- (5) Animal feeding operations, including retention and storage ponds, feed lot waste storage and manure storage shall avoid or otherwise minimize the contamination of water bodies.
- (6) Agricultural activities permitted in the Critical Area shall use Best Management Practices in accordance with a Soil Conservation and Water Quality Plan and a Nutrient Management Plan approved by the Harford Soil Conservation District. Mitigation is not required for permitted agricultural activities.

(7) Sludge that is used for agricultural or horticultural purposes shall not be applied in the Critical Area Buffer or other Habitat Protection Areas as defined in §267-63.9 (Habitat Protection Areas).

C. Process. The following shall be completed for all lands in agricultural use, or land to be converted to agricultural use, within the Critical Area:

- (1) The agricultural components of the State's Water Quality Management Plan shall be applicable to all agricultural activities in the Critical Area .
- (2) Each agricultural operation in the Critical Area shall develop and comply with a Soil Conservation and Water Quality Plan and Nutrient Management Plan, as approved by the Harford Soil Conservation District. This plan shall incorporate Best Management Practices that demonstrate:
  - (a) Protection of the productivity of the land base;
  - (b) Preservation or enhancement of water quality;
  - (c) Conservation of fish, wildlife and plant habitats;
  - (d) Control of nutrients, animal wastes, pesticides and sediment runoff;
  - (e) Protection and conservation of Habitat Protection Areas as set forth in §267-63.7 (the Critical Area Buffer) through §267-63.9 (Habitat Protection Areas);
  - (f) The implementation of a grassland and manure program, where appropriate; and
  - (g) Other Agricultural Best Management Practices that include, but are not limited to, strip cropping, terracing, contour stripping, cover crops, conservation tillage, riparian buffers, nutrient management, grass waterways, animal waste management, ponds, grass, naturally vegetated filter strips and stream protection practices such as fencing, stream crossings and remote watering devices.
- (3) A Nutrient Management Plan shall be prepared by a Certified Nutrient Management Consultant or Certified Farm Operator in accordance with COMAR 15.20.04, .07 and .08.
- (4) A Forest Management Plan shall be submitted and all requirements as outlined in Appendix C of the Harford County Chesapeake Bay Critical Area Program Manual shall be adhered to for each agricultural operation that harvests timber.
- (5) Landowners who have signed up as Conservation District Operators, but who do not have a Conservation Plan prepared for them by the Harford Soil Conservation District, shall be allowed to continue to farm in the Critical Area until a Conservation Plan is developed provided that the other regulations of the County Chesapeake Bay Critical Area Program are being met.