

HB1259/670210/1

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL 1259
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “Junk” in line 2 down through “Regulations” in line 3 and substitute “Prohibition - Junk and Scrap Metal Facilities”; strike beginning with “requiring” in line 4 down through “yards” in line 8 and substitute “requiring certain local critical area programs to, with a certain exception, prohibit the location of junk yards, scrap storage yards, and other scrap metal facilities”; in line 8, after “Area” insert “; and generally relating to a prohibition on the location of junk yards, scrap storage yards, and other scrap metal facilities in the Chesapeake and Atlantic Coastal Bays Critical Area”; and in line 11, strike “8-1806(b)” and substitute “8-1808(c)(1)”.

AMENDMENT NO. 2

On pages 1 through 4, strike in their entirety the lines beginning with line 17 on page 1 through line 22 on page 4, and substitute:

“8-1808.

(c) (1) (i) Notwithstanding any provision in a local law or ordinance, or the lack of a provision in a local law or ordinance, all of the requirements of this subtitle shall apply to, and be applied by, a local jurisdiction as minimum standards for a program sufficient to meet the goals of the Critical Area Program.

(ii) With the approval of the Commission, a local jurisdiction may establish procedures for the granting of an administrative variance.

(iii) At a minimum, a program shall contain all of the following elements, including:

(Over)

1. A map designating the critical area in a local jurisdiction;
2. A comprehensive zoning map for the critical area;
3. As necessary, new or amended provisions of the jurisdiction's:
 - A. Subdivision regulations;
 - B. Comprehensive or master plan;
 - C. Zoning ordinances or regulations;
 - D. Provisions relating to enforcement; and
 - E. Provisions as appropriate relating to grandfathering of development at the time the program is adopted or approved by the Commission, including provisions for bringing lands into conformance with the Program as required under item 12 of this subparagraph;
4. Provisions requiring that:
 - A. Project approvals shall be based on findings that projects are consistent with the standards stated in subsection (b) of this section; and
 - B. The Commission shall receive written notice of local decisions regarding project approvals or denials in accordance with local procedures approved by the Commission;
5. Provisions to limit lot coverage and to require or encourage cluster development, where necessary or appropriate;

6. Establishment of buffer areas along shorelines within which agriculture will be permitted only if best management practices are used, provided that structures or any other use of land which is necessary for adjacent agriculture shall also be permitted in any buffer area;

7. Requirements for minimum setbacks for structures and septic fields along shorelines, including the establishment of a minimum buffer landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands;

8. Designation of shoreline areas, if any, that are suitable for parks, hiking, biking, wildlife refuges, scenic drives, public access or assembly, and water-related recreation such as boat slips, piers, and beaches;

9. Designation of shoreline areas, if any, that are suitable for ports, marinas, and industries that use water for transportation or derive economic benefits from shore access;

10. Provisions requiring that all harvesting of timber in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area be in accordance with plans approved by the district forestry board;

11. Provisions for reasonable accommodations in policies or procedures when the accommodations are necessary to avoid discrimination on the basis of physical disability, including provisions that authorize a local jurisdiction to require removal of a structure that was installed or built to accommodate a physical disability and require restoration when the accommodation permitted by this paragraph is no longer necessary;

12. Procedures, including consolidation or reconfiguration of lots, that shall be approved by the Commission and assure that the following lots and lands are brought into conformance with the Program to the extent possible:

A. In the Chesapeake Bay Critical Area, any legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of December 1, 1985;

B. In the Chesapeake Bay Critical Area, land that was subdivided into recorded legally buildable lots, where the subdivision received the local jurisdiction's final approval before June 1, 1984;

C. In the Atlantic Coastal Bays Critical Area, any legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of June 1, 2002; and

D. In the Atlantic Coastal Bays Critical Area, land that was subdivided into recorded legally buildable lots, where the subdivision received the local jurisdiction's final approval before June 1, 2002;

13. Except as provided in subsection (d) of this section, provisions for granting a variance to the local jurisdiction's critical area program, in accordance with regulations adopted by the Commission concerning variances set forth in COMAR 27.01.11;

14. Penalty provisions establishing that, in addition to any other penalty applicable under State or local law, each person who violates a provision of this subtitle or of a program, including a contractor, property owner, or any other person who committed, assisted, authorized, or participated in the violation is subject to a fine not exceeding \$10,000; [and]

15. Administrative enforcement procedures in accordance with due process principles, including notice and an opportunity to be heard, and establishing that:

A. Each violation of this subtitle or of a regulation, rule, order, program, or other requirement adopted under the authority of this subtitle constitutes a separate offense;

B. Each calendar day that a violation continues constitutes a separate offense;

C. For each offense, a person shall be subject to separate fines, orders, sanctions, and other penalties;

D. Civil penalties for continuing violations shall accrue without a requirement for an additional assessment, notice, or opportunity for hearing for each separate offense;

E. On consideration of all the factors included under this subsection and any other factors in the local jurisdiction's approved program, the local jurisdiction shall impose the amount of the penalty;

F. Satisfaction of all conditions specified under paragraph (4) of this subsection shall be a condition precedent to the issuance of any permit, approval, variance, or special exception for the affected property; and

G. Unless an extension of time is appropriate 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; AND

(Over)

16. EXCEPT FOR THE TRANSFER OF PROCESSED METAL TO OR FROM A DOCKED VESSEL, A PROHIBITION ON THE LOCATION OF A JUNK YARD, SCRAP STORAGE YARD, OR OTHER SCRAP METAL FACILITY IN THE CRITICAL AREA.”;

and in line 23, strike “2.” and substitute “3.”.