

HOUSE BILL 1183

Unofficial Copy
M3

2002 Regular Session
2lr0888

By: **Delegates Bozman, Conway, McClenahan, Weir, Cane, Boutin, Owings,
Wood, Taylor, Mitchell, Hixson, Schisler, Stull, Sher, Hammen, Hubbard,
Nathan-Pulliam, Mohorovic, Oaks, Billings, Klausmeier, Frush, Stern,
Busch, Elliott, Doory, and D. Davis**

Introduced and read first time: February 8, 2002

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Coastal Bays Protection Program - Establishment - Worcester County**

3 FOR the purpose of establishing the Coastal Bays Protection Program in a certain
4 area of Worcester County; providing for certain reviews and a certain approval
5 by the Department of Natural Resources; authorizing the Worcester County
6 Commissioners to modify certain State criteria under a certain circumstance;
7 prohibiting the Secretary of Natural Resources from taking certain actions;
8 requiring the Commissioners to have certain powers and to take certain actions;
9 requiring the Program to utilize certain means and to include certain elements;
10 prohibiting the Worcester County Department of Development Review and
11 Permitting from issuing certain permits except under certain circumstances;
12 authorizing the County Department to issue certain permits under certain
13 circumstances; requiring certain permit applications to include certain
14 information; providing for certain procedures in the issuance of certain permits;
15 requiring certain buffers in certain areas under certain circumstances;
16 prohibiting certain activities within certain buffer areas, except under certain
17 circumstances; requiring the County Department to consider certain factors
18 under certain circumstances; requiring certain permit applicants to study and
19 report on certain factors; requiring the County Department to review certain
20 pier addenda and forest stand delineations under certain circumstances;
21 prohibiting a certain conversion to agricultural land, except under certain
22 circumstances; authorizing the agricultural use of certain buffer areas under
23 certain circumstances; requiring certain timber harvest and sediment control
24 plans under certain circumstances; prohibiting certain surface mining activities,
25 except under certain circumstances; authorizing the Worcester County Board of
26 Zoning Appeals to grant certain variances under certain circumstances;
27 providing for appeals from certain Board decisions; providing for certain
28 remedies and certain penalties under certain circumstances; declaring certain
29 legislative findings and purposes; defining certain terms; requiring Worcester
30 County to incorporate a certain Plan into the County's Master Water and Sewer
31 Plan by a certain time; requiring Worcester County to authorize the
32 continuation of certain uses and structures, except under certain circumstances;

1 authorizing certain uses and structures under a certain circumstance; making
2 the provisions of this Act severable; and generally relating to the establishment
3 of the Coastal Bays Protection Program in Worcester County.

4 BY adding to

5 Article - Natural Resources

6 Section 8-2201 through 8-2220, inclusive, to be under the new subtitle "Subtitle
7 22. Coastal Bays Protection Program"

8 Annotated Code of Maryland

9 (2000 Replacement Volume and 2001 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article - Natural Resources**

13 **SUBTITLE 22. COASTAL BAYS PROTECTION PROGRAM.**

14 8-2201.

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) "BOARD" MEANS THE WORCESTER COUNTY BOARD OF ZONING APPEALS.

18 (C) (1) "COASTAL BAYS" MEANS ALL THE MARYLAND COASTAL ESTUARIES
19 THAT ARE LOCATED IN THE AREA THAT IS WEST OF FENWICK ISLAND PROCEEDING
20 SOUTH TO THE AREA THAT IS WEST OF ASSATEAGUE ISLAND.

21 (2) "COASTAL BAYS" INCLUDE:

22 (I) ASSAWOMAN BAY;

23 (II) ISLE OF WIGHT BAY;

24 (III) SINEPUXENT BAY;

25 (IV) NEWPORT BAY; AND

26 (V) CHINCOTEAGUE BAY.

27 (D) "COASTAL BAYS WATERSHEDS" INCLUDE ALL TRIBUTARIES THAT FLOW
28 INTO THE COASTAL BAYS AND THE LAND AREA SURROUNDING THOSE TRIBUTARIES.

29 (E) "COMMISSIONERS" MEANS THE WORCESTER COUNTY COMMISSIONERS.

30 (F) "CONSERVATION SERVICE" MEANS THE WORCESTER COUNTY NATURAL
31 RESOURCES CONSERVATION SERVICE.

32 (G) "COUNTY" MEANS WORCESTER COUNTY.

1 (H) "COUNTY DEPARTMENT" MEANS THE WORCESTER COUNTY DEPARTMENT
2 OF DEVELOPMENT REVIEW AND PERMITTING.

3 (I) (1) "PROGRAM" MEANS THE COASTAL BAYS PROTECTION PROGRAM
4 ESTABLISHED UNDER THIS SUBTITLE.

5 (2) "PROGRAM" INCLUDES AN AMENDMENT TO, OR A REFINEMENT OF,
6 THE PROGRAM THAT IS ADOPTED BY THE COMMISSIONERS.

7 (J) "SHORELINE COMMISSION" MEANS THE WORCESTER COUNTY SHORELINE
8 COMMISSION.

9 8-2202.

10 (A) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

11 (1) THE COASTAL BAYS AND THEIR WATERSHEDS ARE IRREPLACEABLE
12 NATURAL RESOURCES OF UNIQUE SIGNIFICANCE TO THE NATION, THE STATE, AND
13 WORCESTER COUNTY;

14 (2) THE COASTAL BAYS AND THEIR WATERSHEDS COMPRISE A VERY
15 SENSITIVE ECOLOGICAL BALANCE, AND ARE THUS EXTREMELY VULNERABLE TO
16 DEVELOPMENT ACTIVITY WHICH OFTEN HAS A MULTITUDE OF ADVERSE EFFECTS
17 ON WATER QUALITY AND NATURAL HABITAT AREAS;

18 (3) IT IS A STATE PRIORITY THAT AGRICULTURAL PROGRAMS BE
19 ESTABLISHED FOR THE COASTAL BAYS AND THEIR WATERSHEDS IN ORDER TO
20 MAINTAIN AGRICULTURAL LANDS IN AGRICULTURAL USE TO THE GREATEST
21 EXTENT POSSIBLE, AND THIS PROTECTIVE LAND USE MUST BE MANAGED PROPERLY
22 SO AS TO MINIMIZE POLLUTANT LOADINGS TO THE BAYS AND THEIR WATERSHEDS;

23 (4) THIS AREA IS PARTICULARLY STRESSED BY CONTINUING
24 POPULATION GROWTH AND ASSOCIATED DEVELOPMENT ACTIVITY, AND ITS
25 PRESERVATION IS DEPENDENT, IN PART, ON MINIMIZING FURTHER ADVERSE
26 IMPACTS TO THE SHORELINE AND ADJACENT LANDS;

27 (5) THE QUALITY OF LIFE FOR THE CITIZENS OF THE STATE AND
28 WORCESTER COUNTY WILL ONLY BE ENHANCED THROUGH THE PRESERVATION AND
29 RESTORATION OF THE WATER QUALITY AND PRODUCTIVITY OF THE COASTAL BAYS
30 AND THEIR WATERSHEDS; AND

31 (6) IT IS, THEREFORE, IN THE BEST INTEREST OF THE STATE, THE
32 COUNTY, AND FUTURE GENERATIONS TO FOSTER RESPONSIBLE DEVELOPMENT
33 ACTIVITY IN A CONSISTENT AND UNIFORM MANNER IN THE COASTAL BAYS
34 WATERSHEDS.

35 (B) IT IS THE PURPOSE OF THE GENERAL ASSEMBLY IN ENACTING THIS
36 SUBTITLE TO:

1 (1) ESTABLISH A COASTAL BAYS PROTECTION PROGRAM TO PROTECT
2 THE COASTAL BAYS AND THEIR WATERSHEDS BY PROVIDING FOR REASONABLE
3 ENFORCEMENT OF BALANCED RESTRICTIONS ON LAND USE IN THE COASTAL BAYS
4 WATERSHEDS; AND

5 (2) IMPLEMENT THIS PROGRAM ON A COLLABORATIVE BASIS BETWEEN
6 THE STATE AND WORCESTER COUNTY, WITH THE COUNTY ESTABLISHING AND
7 ADMINISTERING ITS PROGRAM CONSISTENTLY AND UNIFORMLY, SUBJECT TO THE
8 STATE CRITERIA UNDER THIS SUBTITLE.

9 8-2203.

10 (A) THERE IS A COASTAL BAYS PROTECTION PROGRAM IN WORCESTER
11 COUNTY.

12 (B) UPON REVIEW AND INITIAL APPROVAL OF THE PROGRAM BY THE
13 DEPARTMENT, THE COMMISSIONERS SHALL BE RESPONSIBLE FOR THE
14 IMPLEMENTATION OF THE PROGRAM IN THE COUNTY.

15 (C) (1) THE DEPARTMENT SHALL CONDUCT A REVIEW OF THE COUNTY
16 DEPARTMENT'S PROGRAM AT LEAST ONCE EVERY 2 YEARS FROM THE DATE OF
17 INITIAL DEPARTMENTAL APPROVAL.

18 (2) IN ITS BIENNIAL REVIEW, THE DEPARTMENT SHALL:

19 (I) EVALUATE THE PROGRAM'S LEVEL OF COMPLIANCE WITH
20 REQUIRED PERFORMANCE STANDARDS AND CONSERVATION MEASURES; AND

21 (II) REPORT THE RESULTS OF ITS EVALUATION TO THE
22 COMMISSIONERS AND THE COUNTY DEPARTMENT.

23 (D) AFTER REVIEW BY THE DEPARTMENT OF A PROPOSED PROGRAM
24 AMENDMENT OR REFINEMENT AND THE COMMISSIONER'S RECEIPT OF THE
25 DEPARTMENT'S COMMENTS, THE COMMISSIONERS MAY MODIFY THE STATE
26 CRITERIA UNDER THIS SUBTITLE IF THE MODIFIED COUNTY CRITERIA ARE MORE
27 STRINGENT THAN THOSE OF THE STATE.

28 (E) REVIEW BY THE DEPARTMENT UNDER THIS SECTION SHALL BE, AS NEAR
29 AS POSSIBLE, IN TANDEM WITH THE REVIEW PROCESS AND CRITERIA ESTABLISHED
30 UNDER TITLE 5, SUBTITLE 16 OF THIS ARTICLE AND REGULATIONS ADOPTED UNDER
31 THE AUTHORITY OF THAT SUBTITLE.

32 (F) EXCEPT AS PROVIDED UNDER THIS SECTION AND NOTWITHSTANDING
33 ANY OTHER PROVISION OF LAW, THE SECRETARY MAY NOT:

34 (1) APPROVE, ALTER, AMEND, OR REFINES THE POLICIES OR PROGRAMS
35 OF THE COMMISSIONERS;

36 (2) TRANSFER, ASSIGN, OR REASSIGN STATUTORY FUNCTIONS OR
37 ACTIVITIES TO OR FROM THE COMMISSIONERS; OR

1 (3) ADOPT, APPROVE, AMEND, REFINE, OR OTHERWISE REVISE
2 ORDINANCES OF THE COMMISSIONERS.

3 8-2204.

4 (A) THE COMMISSIONERS SHALL:

5 (1) DELEGATE ENFORCEMENT AUTHORITY UNDER, AND
6 ADMINISTRATIVE RESPONSIBILITY FOR, THE PROGRAM TO THE WORCESTER COUNTY
7 DEPARTMENT OF DEVELOPMENT REVIEW AND PERMITTING; AND

8 (2) DETERMINE THE STAFF, BUDGET, LEGAL COUNSEL, AND ANY OTHER
9 ASSISTANCE THAT IS NECESSARY FOR THE COUNTY DEPARTMENT TO ADMINISTER
10 THE PROGRAM.

11 (B) THE COMMISSIONERS SHALL HAVE ALL POWERS NECESSARY TO CARRY
12 OUT THE PURPOSES OF THIS SUBTITLE, INCLUDING:

13 (1) ADOPTION OF ORDINANCES AND CRITERIA IN ACCORDANCE WITH
14 TITLE 2, SUBTITLE 5 AND TITLE 10, SUBTITLE 1 OF THE STATE GOVERNMENT
15 ARTICLE;

16 (2) CONDUCTING HEARINGS IN CONNECTION WITH POLICIES AND
17 PROPOSED PROGRAM REQUIREMENTS OR MODIFICATIONS; AND

18 (3) HIRING OF INDEPENDENT CONTRACTORS FOR CONSULTATION OR
19 OTHER SERVICES.

20 (C) AS DEEMED NECESSARY AND APPROPRIATE BY THE COUNTY
21 DEPARTMENT, THE COUNTY DEPARTMENT MAY DELEGATE DUTIES AND
22 RESPONSIBILITIES IN CONNECTION WITH THE ADMINISTRATION AND
23 ENFORCEMENT OF THIS SUBTITLE TO ITS OWN PERSONNEL AND TO ANY OTHER
24 QUALIFIED PERSON.

25 8-2205.

26 (A) IN THIS SECTION "PLANNED UNIT DEVELOPMENT" HAS THE MEANING
27 STATED IN § 5-1601 OF THIS ARTICLE.

28 (B) EXCEPT AS EXEMPTED UNDER SUBSECTION (C) OF THIS SECTION, THE
29 PLANNING AREA FOR DETERMINATION OF THE COASTAL BAYS SHALL CONSIST OF
30 ALL WATERS AND LANDS OF THE COASTAL BAYS AND THEIR WATERSHEDS, AS
31 DESIGNATED BY MAPS APPROVED BY THE COMMISSIONERS.

32 (C) THE PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO:

33 (1) ASSATEAGUE ISLAND;

34 (2) A MUNICIPAL CORPORATION; AND

1 (3) A RESIDENTIAL PLANNED COMMUNITY OR, IN ACCORDANCE WITH
2 THE CURRENT WORCESTER COUNTY ZONING AND SUBDIVISION CONTROL
3 ORDINANCE, A PLANNED UNIT DEVELOPMENT FOR WHICH A VALID STEP II
4 APPROVAL HAS BEEN ISSUED PRIOR TO JUNE 1, 2002.

5 8-2206.

6 (A) THE PROGRAM SHALL UTILIZE ALL PRACTICABLE MEANS TO:

7 (1) MINIMIZE ADVERSE IMPACTS ON WATER QUALITY THAT RESULT
8 FROM POLLUTANTS THAT ARE DISCHARGED FROM STRUCTURES OR RUNOFF FROM
9 SURROUNDING LANDS;

10 (2) CONSERVE FISH, WILDLIFE, AND PLANT HABITAT; AND

11 (3) ESTABLISH LAND USE POLICIES FOR DEVELOPMENT IN THE
12 COASTAL BAYS WATERSHEDS THAT ACCOMMODATE GROWTH AND ADDRESS THE
13 POTENTIALLY ADVERSE ENVIRONMENTAL IMPACTS OF INCREASED POPULATION.

14 (B) AT A MINIMUM THE PROGRAM SHALL INCLUDE:

15 (1) A MAP DESIGNATING THE COASTAL BAYS AND THEIR WATERSHEDS;

16 (2) A WORCESTER COUNTY ZONING MAP; AND

17 (3) AS APPROPRIATE, AMENDED SUBDIVISION REGULATIONS,
18 COMPREHENSIVE OR MASTER PLANS, ZONING ORDINANCES OR REGULATIONS, AND
19 ENFORCEMENT PROVISIONS.

20 8-2207.

21 (A) THE PROVISIONS OF THIS SECTION APPLY TO:

22 (1) ANY SUBDIVISION; OR

23 (2) EXCEPT FOR SINGLE FAMILY DWELLING PARCELS, A DEVELOPMENT
24 PROJECT THAT EXCEEDS 10,000 SQUARE FEET OF DISTURBANCE.

25 (B) THE COUNTY DEPARTMENT MAY ISSUE A PERMIT FOR A SUBDIVISION OR
26 DEVELOPMENT PROJECT IMPACTING A TIDAL OR NONTIDAL WETLAND IF THE
27 IMPACT IS THE SUBJECT OF A PERMIT ISSUED BY THE U.S. ARMY CORPS OF
28 ENGINEERS OR THE STATE DEPARTMENT OF THE ENVIRONMENT.

29 (C) A HOLDER OF A PERMIT FOR A SUBDIVISION OR A DEVELOPMENT
30 PROJECT SHALL DISPLAY THE FEDERAL OR STATE PERMIT IDENTIFICATION
31 NUMBER ON THE RECORD PLAT OF THE SUBDIVISION OR PROJECT.

32 8-2208.

33 (A) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO:

1 (1) A CONDITION THAT EXISTED PRIOR TO JUNE 1, 2002 FOR WHICH THE
2 PERMIT IS CURRENT;

3 (2) AN AREA SERVED OR TO BE SERVED BY A PUBLIC SEWER SYSTEM
4 THAT HAS THE PRESENT CAPACITY TO SERVE ITS INTENDED AREA AND:

5 (I) IS PERMITTED; OR

6 (II) HAS A VALID DISCHARGE PERMIT ISSUED BY THE DEPARTMENT
7 OF THE ENVIRONMENT;

8 (3) A PROJECT OR SUBDIVISION FOR WHICH AN APPLICATION FOR AN
9 ONSITE WASTEWATER DISPOSAL SYSTEM WAS FILED WITH WORCESTER COUNTY
10 ENVIRONMENTAL PROGRAMS BEFORE JANUARY 1, 2002;

11 (4) A PARCEL OF LAND FOR WHICH A PRELIMINARY PLAT APPROVAL OR
12 SITE PLAN APPROVAL IS CURRENT OR A BUILDING OR ZONING PERMIT HAS BEEN
13 ISSUED BY JUNE 1, 2002;

14 (5) A PARCEL OF LAND THAT IS THE SUBJECT OF A BOUNDARY LINE
15 ADJUSTMENT OR RESUBDIVISION IF NO ADDITIONAL LOTS ARE CREATED; OR

16 (6) A PARCEL OF LAND IN EXISTENCE AND RECORDED IN THE LOCAL
17 LAND RECORDS OFFICE BY JUNE 1, 2002.

18 (B) THERE SHALL BE A BUFFER OF AT LEAST 100 FEET FROM:

19 (1) THE LANDWARD LIMIT OF TIDAL WETLANDS; OR

20 (2) ON NONVEGETATED SHORELINE AREA, THE MEAN HIGH WATER
21 LINE.

22 (C) (1) (I) THE BUFFER SHALL BE MAINTAINED IN NATURAL
23 VEGETATION, BUT MAY INCLUDE PLANTED VEGETATION WHERE NECESSARY TO
24 PROTECT, STABILIZE, OR ENHANCE THE SHORELINE.

25 (II) HORTICULTURAL PRACTICES ARE PERMISSIBLE WITHIN THE
26 BUFFER WHEN USED TO MAINTAIN THE HEALTH OF AN INDIVIDUAL TREE.

27 (2) THE PROGRAM MAY NOT ALLOW NEW DEVELOPMENT ACTIVITY
28 WITHIN THE BUFFER, INCLUDING A STRUCTURE, ROAD, PARKING AREA OR ANY
29 IMPERVIOUS SURFACE, SEPTIC TANK, OR MINING AND RELATED FACILITIES, UNLESS
30 THE ACTIVITY IS:

31 (I) NECESSARILY ASSOCIATED WITH A WATER-DEPENDENT
32 FACILITY THAT HAS BEEN APPROVED BY THE COUNTY DEPARTMENT; OR

33 (II) AN OUTFALL ASSOCIATED WITH AN APPROVED STORMWATER
34 MANAGEMENT PLAN.

1 (3) A PROPOSAL FOR NEW DEVELOPMENT OR CONVERSION TO A NEW
2 USE THAT INVOLVES A BUFFER AREA SHALL INCLUDE MEASURES TO PROVIDE A
3 FOREST VEGETATION COVER IN THE BUFFER AREA.

4 (D) A PERSON MAY NOT CUT OR CLEAR TREES OR OTHER VEGETATION WITHIN
5 THE BUFFER UNLESS:

6 (1) THE CUTTING OR CLEARING IS NECESSARY IN ORDER TO:

7 (I) PROVIDE ACCESS TO A PRIVATE PIER;

8 (II) INSTALL OR CONSTRUCT A SHORE EROSION PROTECTION
9 DEVICE OR MEASURE OR A WATER-DEPENDENT FACILITY THAT HAS BEEN
10 APPROVED FOR ALL REQUIRED FEDERAL AND STATE PERMITS; OR

11 (III) CONTROL STATE RECOGNIZED INVASIVE SPECIES.

12 (2) AN INDIVIDUAL TREE IS CUT OR REMOVED:

13 (I) FOR PERSONAL USE AND ENJOYMENT OF THE PROPERTY, IF:

14 1. THIS CUTTING OR REMOVAL DOES NOT IMPAIR WATER
15 QUALITY, EXISTING HABITAT VALUE, OR OTHER FUNCTIONS OF THE BUFFER; AND

16 2. EACH TREE THAT IS REMOVED IS REPLACED ON AN
17 EQUAL BASIS; OR

18 (II) BECAUSE THE TREE IS IN DANGER OF FALLING AND CAUSING:

19 1. DAMAGE TO DWELLINGS OR OTHER STRUCTURES;

20 2. THE BLOCKAGE OF A STREAM; OR

21 3. ACCELERATED SHORE EROSION; OR

22 (3) THE CUTTING OR CLEARING IS:

23 (I) UNDERTAKEN WITH THE ADVICE AND GUIDANCE OF A
24 FORESTRY EXPERT WITHIN THE COUNTY DEPARTMENT OR THE STATE DEPARTMENT
25 OF AGRICULTURE; AND

26 (II) NECESSARY TO PRESERVE THE FOREST AREA FROM DISEASE,
27 PEST INFESTATION, OR THE THREAT OF FIRE.

28 8-2209.

29 (A) THE PROVISIONS OF THIS SECTION SHALL APPLY TO A PROJECT LOCATED
30 ON A PARCEL THAT HAS ANY PORTION ABUTTING TIDAL WATERS OR TIDAL
31 WETLANDS.

32 (B) THE COUNTY DEPARTMENT MAY NOT ISSUE A PERMIT FOR:

1 (1) THE CUMULATIVE CUTTING, CLEARING, OR GRADING OF FOREST
2 THAT:

3 (I) IMPACTS 20,000 SQUARE FEET OR MORE OF THE PARCEL; OR

4 (II) IS SUBJECT TO THE REQUIREMENTS OF A PREVIOUS FOREST
5 CONSERVATION PLAN APPROVED BY THE COUNTY DEPARTMENT; OR

6 (2) AN ACTIVITY THAT IS THE SUBJECT OF A DECLARATION OF INTENT
7 FILED WITH THE COUNTY DEPARTMENT THAT PROVIDES THAT THE PARCEL WILL
8 NOT BE THE SUBJECT OF A REGULATED ACTIVITY WITHIN 5 YEARS OF THE CUTTING,
9 CLEARING, OR GRADING OF THE FOREST.

10 (C) (1) IN THIS SUBSECTION, "MINOR SUBDIVISION" MEANS THE DIVISION
11 OF A SINGLE PARCEL OF LAND INTO FIVE OR FEWER LOTS OR PARCELS FOR THE
12 PURPOSE, WHETHER IMMEDIATE OR FUTURE, OF TRANSFER OF OWNERSHIP, SALE,
13 LEASE, OR DEVELOPMENT.

14 (2) THE COUNTY DEPARTMENT MAY NOT ISSUE A PERMIT FOR A MINOR
15 SUBDIVISION UNLESS THE PERMIT APPLICANT PREPARES A FULL FOREST STAND
16 DELINEATION AND FOREST CONSERVATION PLAN IN ACCORDANCE WITH TITLE 5,
17 SUBTITLE 16 OF THIS ARTICLE AND REGULATIONS ADOPTED UNDER THE AUTHORITY
18 OF THAT SUBTITLE.

19 8-2210.

20 (A) (1) (I) EXCEPT AS REQUIRED UNDER §§ 8-2214 THROUGH 8-2216 AND §
21 8-2218 OF THIS SUBTITLE AND IN ACCORDANCE WITH THE REQUIREMENTS OF THIS
22 SECTION, A BUFFER OF AT LEAST 25 FEET SHALL BE ESTABLISHED AND MAINTAINED
23 ALONGSIDE A NONTIDAL WETLAND, INCLUDING A FARMED WETLAND OR ANY
24 NONTIDAL WATERS THAT HAVE BEEN DELINEATED AS A REGULATED WETLAND.

25 (II) A BUFFER OF AT LEAST 25 FEET SHALL BE ESTABLISHED AND
26 MAINTAINED ON BOTH SIDES OF A NONTIDAL DITCH.

27 (2) FOR A WETLAND, THE WIDTH OF THE BUFFER SHALL BE MEASURED
28 FROM THE REGULATED LINE OF THE WETLAND INTO THE UPLAND.

29 (3) THE BUFFER SHALL BE:

30 (I) MAINTAINED IN VEGETATION, EITHER NATURALLY
31 OCCURRING OR PLANTED WITH NATIVE SPECIES; AND

32 (II) MANAGED UNDER THE REQUIREMENTS OF TITLE 5, SUBTITLE 9
33 OF THE ENVIRONMENT ARTICLE AND REGULATIONS ADOPTED UNDER THE
34 AUTHORITY OF THAT SUBTITLE.

35 (B) (1) A BUFFER ALONGSIDE A NONTIDAL WETLAND, INCLUDING A
36 FARMED WETLAND, MAY BE REDUCED OR ELIMINATED IF:

1 (I) ALL NECESSARY FEDERAL AND STATE PERMITS ARE
2 OBTAINED; AND

3 (II) ELSEWHERE ON THE PROPERTY BUT ADJACENT TO THE
4 WETLAND, THE SAME OR A GREATER AMOUNT OF BUFFER, AS MEASURED IN SQUARE
5 FEET, IS CREATED.

6 (2) (I) IF IT IS NOT FEASIBLE TO REPLACE ALL OR A PORTION OF A
7 BUFFER AREA REDUCED OR ELIMINATED UNDER THE TERMS OF A FEDERAL OR
8 STATE PERMIT, THE BOARD MAY GRANT A VARIANCE OF THE REQUIREMENT UNDER
9 PARAGRAPH (1)(II) OF THIS SUBSECTION IF THE AMOUNT OF BUFFER THAT IS NOT
10 CREATED IS COVERED BY A MITIGATION PAYMENT TO THE COUNTY FORESTRY
11 CONSERVATION FUND.

12 (II) PAYMENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH
13 SHALL BE CALCULATED ON THE SAME BASIS AS THE CALCULATION OF A MITIGATION
14 PAYMENT UNDER TITLE 5, SUBTITLE 16 OF THIS ARTICLE AND REGULATIONS
15 ADOPTED UNDER THE AUTHORITY OF THAT SUBTITLE.

16 (C) (1) A NONTIDAL DITCH MAY BE RELOCATED AND ITS BUFFER MAY BE
17 REDUCED OR ELIMINATED IF:

18 (I) ALL NECESSARY FEDERAL AND STATE PERMITS ARE
19 OBTAINED; AND

20 (II) ELSEWHERE ALONG THE SAME DITCH, THE SAME OR A
21 GREATER AMOUNT OF BUFFER, AS MEASURED IN SQUARE FEET, IS CREATED.

22 (2) A BUFFER ON ONE OR BOTH SIDES OF A DITCH MAY BE REDUCED BY
23 ONE-HALF IF THE BUFFER IS:

24 (I) GRADED DOWN TO THE SAME BOTTOM ELEVATION AS THE
25 DITCH; AND

26 (II) 1. ALLOWED TO REVEGETATE; OR

27 2. PLANTED WITH NATIVE SPECIES AT A DENSITY APPROVED
28 BY THE COUNTY DEPARTMENT.

29 (3) GRADING UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION MAY NOT
30 OCCUR IN A BUFFER AREA THAT IS CONSIDERED A FOREST UNDER § 5-1601 OF THIS
31 ARTICLE.

32 8-2211.

33 (A) IN THIS SECTION "WATER DEPENDENT FACILITY" INCLUDES A PORT,
34 WATER-USE INDUSTRY, PIER AND ANY OTHER BOAT DOCKING STRUCTURE, A PUBLIC
35 BEACH AND ANY OTHER PUBLIC WATER-ORIENTED RECREATION AREA, FISHERIES
36 ACTIVITY, AN INTAKE OR OUTFALL STRUCTURE OF A POWER PLANT, AND AN

1 OUTFALL STRUCTURE ASSOCIATED WITH AN APPROVED STORMWATER
2 MANAGEMENT PLAN.

3 (B) THE COUNTY DEPARTMENT SHALL:

4 (1) LIMIT DEVELOPMENT ACTIVITY IN THE APPLICABLE BUFFER AREA
5 TO WATER DEPENDENT FACILITIES; AND

6 (2) PROVIDE CRITERIA, BY DESIGN AND LOCATION, SO THAT THESE
7 FACILITIES HAVE MINIMAL INDIVIDUAL AND CUMULATIVE IMPACT ON WATER
8 QUALITY AND FISH, WILDLIFE, AND PLANT HABITAT IN THE COASTAL BAYS
9 WATERSHEDS.

10 (C) THE COUNTY DEPARTMENT MAY NOT ISSUE A PERMIT FOR A NEW OR
11 EXPANDED DEVELOPMENT ACTIVITY WITHIN THE BUFFER UNLESS:

12 (1) THE FACILITY IS WATER DEPENDENT;

13 (2) THE PROJECT MEETS A RECOGNIZED PRIVATE RIGHT OR PUBLIC
14 NEED;

15 (3) ADVERSE EFFECTS ON WATER QUALITY, AND FISH, PLANT AND
16 WILDLIFE HABITAT ARE MINIMIZED;

17 (4) INsofar AS POSSIBLE, ANY STRUCTURE OR OPERATION THAT IS NOT
18 IN ITSELF WATER DEPENDENT, BUT IS ASSOCIATED WITH A WATER DEPENDENT
19 FACILITY, IS LOCATED OUTSIDE THE BUFFER; AND

20 (5) THE FACILITY IS CONSISTENT WITH THE CURRENT COMPREHENSIVE
21 DEVELOPMENT PLAN OF WORCESTER COUNTY.

22 (D) WHEN EVALUATING A PROPOSAL FOR A NEW OR EXPANDED WATER
23 DEPENDENT FACILITY, THE COUNTY DEPARTMENT SHALL CONSIDER THE
24 FOLLOWING FACTORS:

25 (1) THE DEGREE TO WHICH THE DEVELOPMENT ACTIVITY WILL
26 SIGNIFICANTLY ALTER EXISTING WATER CIRCULATION PATTERNS OR SALINITY
27 REGIMES;

28 (2) THE ADEQUACY OF THE WATER BODY'S FLUSHING
29 CHARACTERISTICS IN THE AREA OF THE FACILITY;

30 (3) MINIMIZATION OF DISTURBANCE TO WETLANDS, SUBMERGED
31 AQUATIC PLANT BEDS, OR OTHER AREAS OF IMPORTANT AQUATIC HABITATS;

32 (4) MINIMIZATION OF ADVERSE WATER QUALITY IMPACTS, INCLUDING
33 NONPOINT SOURCE RUNOFF, SEWAGE DISCHARGE FROM VESSELS OR LAND
34 ACTIVITIES, AND POLLUTION CAUSED BY VESSEL CLEANING AND MAINTENANCE
35 OPERATIONS, THAT MAY OCCUR AS A RESULT OF THE DEVELOPMENT ACTIVITY;

1 (5) PROTECTION OF SHELLFISH BEDS FROM DISTURBANCE OR
2 DISCHARGES THAT WILL RENDER THEM UNSUITABLE FOR HARVESTING;

3 (6) (I) THE POTENTIAL NEED FOR DREDGING; AND

4 (II) IF DREDGING IS NECESSARY, THE METHOD THAT WILL CAUSE
5 THE LEAST DISTURBANCE TO WATER QUALITY AND AQUATIC AND TERRESTRIAL
6 HABITATS IN THE AREA IMMEDIATELY SURROUNDING THE DREDGING OPERATION
7 AND WITHIN THE COASTAL BAYS; AND

8 (7) MINIMIZATION OF INTERFERENCE WITH THE NATURAL TRANSPORT
9 OF SAND.

10 (E) DREDGED MATERIAL MAY NOT BE PLACED WITHIN THE BUFFER OR ANY
11 OTHER SENSITIVE AREA EXCEPT AS NECESSARY FOR:

12 (1) BACKFILL FOR PERMITTED SHORE EROSION PROTECTION
13 MEASURES;

14 (2) USE IN APPROVED VEGETATED SHORE EROSION PROJECTS;

15 (3) PLACEMENT ON PREVIOUSLY APPROVED CHANNEL MAINTENANCE
16 SPOIL DISPOSAL AREAS;

17 (4) BEACH NOURISHMENT; OR

18 (5) MAINTENANCE OF A DREDGE SPOIL DISPOSAL SITE IN EXISTENCE
19 ON OR BEFORE JUNE 1, 2002.

20 (F) THE COUNTY DEPARTMENT MAY ISSUE A PERMIT FOR A NEW, EXPANDED,
21 OR REDEVELOPED PIER IN THE BUFFER, SUBJECT TO THE REQUIREMENTS OF THIS
22 SECTION, IF THE ACTIVITY:

23 (1) WILL NOT ADVERSELY AFFECT WATER QUALITY; AND

24 (2) WILL RESULT IN AN OVERALL NET IMPROVEMENT IN WATER
25 QUALITY AT, OR LEAVING THE SITE OF, THE PIER.

26 (G) THE COUNTY DEPARTMENT MAY ISSUE A PERMIT FOR THE IN-BUFFER
27 LOCATION OF:

28 (1) A PUBLIC BEACH OR OTHER PUBLIC WATER-ORIENTED RECREATION
29 OR EDUCATION AREA, INCLUDING A PUBLICLY OWNED FISHING PIER, BOAT
30 LAUNCHING, OR DOCKING FACILITY, IF:

31 (I) ADEQUATE SANITARY FACILITIES EXIST;

32 (II) SERVICE FACILITIES ARE, TO THE EXTENT POSSIBLE, LOCATED
33 OUTSIDE THE BUFFER;

1 (III) IF NO DEGRADATION OF GROUNDWATER WOULD RESULT,
2 PERMEABLE SURFACES ARE USED TO THE EXTENT PRACTICABLE; AND

3 (IV) DISTURBANCE TO NATURAL VEGETATION IS MINIMIZED;

4 (2) A PUBLIC AREA INTENDED FOR EDUCATION OR RECREATION,
5 INCLUDING NATURE STUDY, HUNTING, AND TRAPPING, IF ALL SERVICE FACILITIES
6 FOR THE PERMITTED USE ARE LOCATED OUTSIDE THE BUFFER; AND

7 (3) A WATER-DEPENDENT RESEARCH FACILITY OR ACTIVITY THAT IS
8 OPERATED BY THE FEDERAL, STATE, OR LOCAL GOVERNMENT OR AN EDUCATIONAL
9 INSTITUTION IF ALL NONWATER DEPENDENT STRUCTURES OR FACILITIES
10 ASSOCIATED WITH THE FACILITY OR ACTIVITY ARE, TO THE EXTENT POSSIBLE,
11 LOCATED OUTSIDE THE BUFFER.

12 (H) (1) THE COUNTY DEPARTMENT MAY NOT PROHIBIT THE IN-BUFFER
13 LOCATION OF A COMMERCIAL WATER-DEPENDENT FISHERY FACILITY, INCLUDING A
14 STRUCTURE FOR CRAB SHEDDING OR FISH OFF-LOADING, A SHELLFISH CULTURE
15 OPERATION, AND A SHORE-BASED FACILITY NECESSARY FOR AQUACULTURE OR
16 FISHERY OPERATIONS.

17 (2) (I) UPON RECEIPT OF AN APPLICATION FOR A NEW OR EXPANDED
18 FISHERY OR AQUACULTURE FACILITY TO BE LOCATED IN THE BUFFER, THE COUNTY
19 DEPARTMENT, IN COOPERATION WITH THE STATE, SHALL IDENTIFY LAND AND
20 WATER AREAS WITH STRONG POTENTIAL FOR FISHERY AND AQUACULTURE USES.

21 (II) THE COUNTY DEPARTMENT SHALL:

22 1. PROTECT AN AREA IDENTIFIED UNDER SUBPARAGRAPH
23 (I) OF THIS PARAGRAPH FROM DEGRADATION BY ADJACENT LAND OR WATER USE;
24 AND

25 2. ENCOURAGE USE OF THAT AREA FOR FISHERY AND
26 AQUACULTURE PURPOSES.

27 (I) THE COUNTY DEPARTMENT SHALL:

28 (1) EVALUATE EACH APPLICATION FOR A NEW OR EXPANDED WATER
29 DEPENDENT FACILITY ON A CASE BY CASE BASIS; AND

30 (2) WORK WITH APPROPRIATE GOVERNMENT AGENCIES TO ENSURE
31 COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS.

32 8-2212.

33 (A) (1) THE COUNTY DEPARTMENT MAY NOT ISSUE A PERMIT FOR A NEW
34 SUBDIVISION WITHIN THE COASTAL BAYS WATERSHEDS IF THE DEVELOPMENT
35 PLAN PROPOSES WATER ACCESS VIA A PIER OR PIERS FOR THE NEWLY CREATED
36 PARCELS UNLESS THE PERMIT APPLICANT UNDERTAKES A STUDY OF THE TIDAL
37 WATER IMMEDIATELY ADJACENT TO THE SUBDIVISION IN ORDER TO:

- 1 (I) ASCERTAIN WATER DEPTHS AT PROPOSED PIER LOCATIONS;
2 (II) LOCATE AREAS OF SUBMERGED AQUATIC VEGETATION; AND
3 (III) SHOW THE EXTENT AND CONDITION OF ANY TIDAL MARSH TO
4 BE DISTURBED.

5 (2) THE COUNTY DEPARTMENT SHALL REVIEW THE PIER ADDENDUM IN
6 COORDINATION WITH ITS REVIEW OF THE FOREST STAND DELINEATION REQUIRED
7 UNDER TITLE 5, SUBTITLE 16 OF THIS ARTICLE.

8 (3) IN ADDITION TO THE AREAS OF STUDY REQUIRED BY THE PIER
9 ADDENDUM UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE PERMIT APPLICANT
10 SHALL REPORT TO THE COUNTY DEPARTMENT REGARDING:

11 (I) THE LENGTH AND WIDTH OF THE PROPOSED PIER OR PIERS;

12 (II) PROPOSED CONSTRUCTION METHODS AND MATERIALS,
13 INCLUDING A DETAILED EXPLANATION OF HOW THE CONSTRUCTION MATERIALS
14 AND METHODS WILL ALLOW LIGHT TO REACH THE UNDERLYING VEGETATION; AND

15 (III) THE OVERALL EXPECTED IMPACT OF THE PIER OR PIERS ON
16 THE SURROUNDING AQUATIC ENVIRONMENT.

17 (4) (I) AS MUCH AS IS PRACTICABLE, A SINGLE COMMUNITY PIER
18 THAT AVOIDS UNNECESSARY DETRIMENTAL IMPACT TO THE AQUATIC
19 ENVIRONMENT SHALL BE THE FIRST CHOICE FOR PROVIDING WATER ACCESS FOR
20 THE SUBDIVISION.

21 (II) IF A SINGLE COMMUNITY PIER IS NOT POSSIBLE, THE COUNTY
22 DEPARTMENT MAY ISSUE A PERMIT FOR MORE THAN ONE COMMUNITY PIER IF EACH
23 PIER IS LOCATED SO AS TO AVOID UNNECESSARY DETRIMENTAL IMPACT TO THE
24 AQUATIC ENVIRONMENT.

25 (5) IF A SUBDIVISION HAS MORE THAN FIVE LOTS OR PARCELS, A
26 PERMIT APPLICANT SHALL ENSURE THAT, IF PRACTICABLE, SUFFICIENT
27 ELECTRICAL CAPACITY IS AVAILABLE AT EACH COMMUNITY PIER SO AS TO ALLOW
28 FOR THE INSTALLATION OF A BOAT LIFT AT EACH SLIP.

29 (B) A NEW OR EXPANDED COMMUNITY PIER OR OTHER NON-COMMERCIAL
30 DOCKING OR STORAGE FACILITY MAY BE PERMITTED IN A SUBDIVISION WITHIN THE
31 100-FOOT TIDAL BUFFER ESTABLISHED UNDER § 8-2208 OF THIS SUBTITLE IF:

32 (1) THE PIER OR OTHER FACILITY:

33 (I) DOES NOT OFFER FOOD, FUEL, OR OTHER GOODS AND
34 SERVICES FOR SALE; AND

1 (II) IS COMMUNITY-OWNED AND ESTABLISHED AND OPERATED
2 ONLY FOR THE BENEFIT OF THE RESIDENTS OF A PLATTED AND RECORDED
3 RIPARIAN SUBDIVISION;

4 (2) DISTURBANCE TO THE BUFFER AND TIDAL WETLANDS IS THE
5 MINIMUM NECESSARY TO PROVIDE A SINGLE POINT OF ACCESS TO THE COMMUNITY
6 OR FACILITY; AND

7 (3) PRIVATE PIERS ARE PROHIBITED IN THE SUBDIVISION.

8 (C) (1) IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, SLIPS
9 MAY BE PERMITTED AT A NEW OR EXPANDED PIER OR OTHER FACILITY.

10 (2) (I) IF THE SLIPS ARE STATIONARY, THE NUMBER OF SLIPS MAY
11 NOT EXCEED THE NUMBER OF WATERFRONT LOTS IN THE SUBDIVISION.

12 (II) 1. EXCEPT AS AUTHORIZED UNDER SUB-SUBPARAGRAPH 2
13 OF THIS SUBPARAGRAPH, IF THE SLIP IS A FLOATING OR FIXED PLATFORM USED BY
14 ALL SUBDIVISION RESIDENTS TO LAUNCH OR RETRIEVE NONMOTORIZED CRAFT:

15 A. THE SIZE OF THE PLATFORM MAY NOT EXCEED 200
16 SQUARE FEET; AND

17 B. THE NUMBER OF PLATFORMS MAY NOT EXCEED FIVE FOR
18 EACH COMMUNITY PIER.

19 2. THE COUNTY DEPARTMENT MAY GRANT A VARIANCE FOR
20 MORE THAN FIVE PLATFORMS PER PIER IF THE PERMIT APPLICANT DEMONSTRATES
21 THAT THE INCREASED NUMBER OF PLATFORMS IS NECESSARY TO MEET THE NEEDS
22 OF THE SUBDIVISION.

23 (D) (1) THE DEPARTMENT SHALL MAKE A PRELIMINARY
24 RECOMMENDATION REGARDING THE APPROVAL OF THE PROPOSED PIER OR PIERS
25 TO THE SHORELINE COMMISSION.

26 (2) THE SHORELINE COMMISSION SHALL MAKE THE FINAL
27 DETERMINATION REGARDING THE ISSUANCE OF A PERMIT.

28 8-2213.

29 (A) IN ORDER TO PREVENT INTRUSION ON FRAGILE VEGETATED SHORELINE
30 AREAS AND TO CONSERVE PLANT, FISH, AND WILDLIFE HABITAT, THE COUNTY
31 SHALL ENCOURAGE AS PRIORITIES:

32 (1) THE PROTECTION OF RAPIDLY ERODING PORTIONS OF THE COASTAL
33 BAYS SHORELINE BY BOTH PUBLIC AND PRIVATE LANDOWNERS; AND

34 (2) THE USE OF A NON-STRUCTURAL EROSION CONTROL, INCLUDING
35 THE CREATION OF MARSHES, THE MAINTENANCE OF BUFFER ZONES, AND THE
36 ESTABLISHMENT OF NATURAL BARRIERS, OVER THE USE OF A STRUCTURAL

1 CONTROL THAT OFTEN DISTURBS THE AQUATIC ENVIRONMENT AND INCREASES
2 EROSION.

3 (B) REQUIREMENTS RELATED TO SHORE EROSION PROTECTION UNDER THIS
4 SECTION DO NOT APPLY TO A STRUCTURE THAT IS NECESSARILY ASSOCIATED WITH
5 A WATER DEPENDENT FACILITY UNDER § 8-2211 OF THIS SUBTITLE.

6 (C) IN CONSIDERING AN APPLICATION FOR THE CONSTRUCTION OR
7 EXPANSION OF A STRUCTURAL EROSION CONTROL, THE COUNTY DEPARTMENT
8 SHALL COMPLY WITH THE FOLLOWING CRITERIA IN THE ORDER OF THEIR PRIORITY:

9 (1) A NONSTRUCTURAL CONTROL MEASURE SHALL BE UTILIZED IN AN
10 AREA WHERE IT WOULD BE AN EFFECTIVE AND PRACTICAL METHOD OF EROSION
11 CONTROL;

12 (2) A STRUCTURAL CONTROL MEASURE MAY BE USED ONLY WHERE:

13 (I) SIGNIFICANT EROSION OCCURS; AND

14 (II) A NONSTRUCTURAL MEASURE WOULD NOT BE EFFECTIVE OR
15 PRACTICAL IN CONTROLLING EROSION;

16 (3) IF A STRUCTURAL CONTROL IS NECESSARY, IT SHALL BE THE
17 MEASURE THAT, IN THE FOLLOWING ORDER:

18 (I) BEST PROVIDES FOR CONSERVATION OF FISH AND PLANT
19 HABITAT;

20 (II) IS MOST EFFECTIVE; AND

21 (III) IS MOST PRACTICAL; AND

22 (4) IF A SIGNIFICANT ALTERATION IN SHORELINE CHARACTERISTICS
23 OCCURS, THE CONTROL MEASURE THAT BEST FITS THE ALTERED CHARACTERISTICS
24 MAY BE USED.

25 (D) (1) AN APPLICATION FOR A PERMIT TO CONSTRUCT OR EXPAND A
26 STRUCTURAL EROSION CONTROL MEASURE SHALL INCLUDE:

27 (I) A CURRENT PHOTOGRAPH OF THE EROSION SITE;

28 (II) THE SPECIFIC LOCATION OF THE SITE ON THE MOST RECENT
29 7.5 MINUTE TOPOGRAPHIC QUADRANGLE PUBLISHED BY THE UNITED STATES
30 GEOLOGIC SURVEY;

31 (III) THE SOIL TYPE AND DEGREE OF ERODIBILITY;

32 (IV) CURRENT AND PROPOSED LAND USES; AND

33 (V) AS APPROPRIATE, APPROVALS BY THE U.S. ARMY CORPS OF
34 ENGINEERS, THE DEPARTMENT OF THE ENVIRONMENT, AND THE DEPARTMENT.

1 (2) IN REVIEWING AN APPLICATION FOR A PERMIT UNDER THIS
2 SECTION, THE COUNTY DEPARTMENT MAY REFER THE APPLICATION TO THE
3 CONSERVATION SERVICE OR THE DEPARTMENT OF THE ENVIRONMENT IN ORDER TO
4 OBTAIN A FIELD VERIFICATION OF THE NEED FOR A STRUCTURAL EROSION
5 CONTROL AND ANY RECOMMENDATIONS REGARDING PROPOSED EROSION CONTROL
6 MECHANISMS.

7 8-2214.

8 (A) THE PROVISIONS OF THIS SECTION APPLY TO A STRUCTURE THAT IS:

9 (1) IN EXCESS OF 500 SQUARE FEET; AND

10 (2) LESS THAN OR EQUAL TO 5,000 SQUARE FEET.

11 (B) THE COUNTY DEPARTMENT MAY NOT ISSUE A PERMIT FOR THE
12 CONSTRUCTION OF A NEW STRUCTURE THAT IS TO BE LOCATED WITHIN 100 FEET OF
13 TIDAL OR NONTIDAL WATERS UNLESS THE COUNTY HAS APPROVED A STORMWATER
14 MANAGEMENT PLAN FOR THE CONSTRUCTION PROJECT.

15 (C) THE STORMWATER MANAGEMENT PLAN MAY UTILIZE A WATER GARDEN,
16 SHALLOW POND, VEGETATED SWALE, AND OTHER INNOVATIVE MEASURES.

17 (D) THE COUNTY DEPARTMENT SHALL DEVELOP CRITERIA AND GUIDELINES
18 FOR THE FORMULATION AND IMPLEMENTATION OF STORMWATER MANAGEMENT
19 PLANS UNDER THIS SECTION.

20 8-2215.

21 THE COUNTY DEPARTMENT MAY NOT ISSUE A BUILDING PERMIT FOR THE
22 CONSTRUCTION OR EXPANSION OF A STRUCTURE THAT IS WITHIN 100 FEET OF TIDAL
23 OR NONTIDAL WATERS UNLESS THE COUNTY DEPARTMENT HAS APPROVED A
24 SEDIMENT AND EROSION CONTROL PLAN FOR THE PROJECT.

25 8-2216.

26 (A) WITHIN THE COASTAL BAYS WATERSHEDS, A PERSON MAY NOT CONVERT
27 LAND TO AN AGRICULTURAL USE BY:

28 (1) DIKING, DRAINING, OR FILLING A NONTIDAL WETLAND, UNLESS A
29 PERMIT IS GRANTED IN ACCORDANCE WITH APPLICABLE FEDERAL, STATE, AND
30 COUNTY REQUIREMENTS;

31 (2) CLEARING A FOREST OR WOODLAND THAT IS GROWING:

32 (I) ON A SLOPE GREATER THAN 15%; OR

33 (II) ON A SLOPE GREATER THAN 5% AND IN SOIL WITH A SOIL K
34 VALUE GREATER THAN 0.35; OR

1 (3) EXCEPT AS AUTHORIZED UNDER SUBSECTION (B) OF THIS SECTION,
2 CLEARING EXISTING NATURAL VEGETATION WITHIN THE APPLICABLE BUFFER
3 REQUIRED UNDER THIS SUBTITLE.

4 (B) A PERSON MAY CLEAR A BUFFER AREA OF EXISTING NATURAL
5 VEGETATION FOR THE CONSTRUCTION OR EXPANSION OF AN IRRIGATION
6 INFRASTRUCTURE OR A FARM ROAD IF:

7 (1) THE CONSTRUCTION OR EXPANSION IS NECESSARY FOR THE
8 PERSON'S CONTINUED USE OF THAT PORTION OF THE PROPERTY FOR
9 AGRICULTURAL PURPOSES; AND

10 (2) THERE IS NO ALTERNATIVE SITE WHERE THE IRRIGATION
11 INFRASTRUCTURE OR ROAD COULD BE LOCATED.

12 (C) (1) A PERSON MAY UTILIZE THE BUFFER AREA REQUIRED UNDER THIS
13 SUBTITLE FOR AGRICULTURAL ACTIVITIES IF:

14 (I) AS A MINIMUM BEST MANAGEMENT PRACTICE, A 25-FOOT
15 VEGETATED FILTER STRIP MEASURED LANDWARD FROM THE MEAN HIGH WATER
16 LINE OF TIDAL WATERS OR FROM THE EDGE OF TIDAL WETLANDS, WHICHEVER IS
17 FURTHER INLAND, IS ESTABLISHED AND MAINTAINED; AND

18 (II) THE FILTER STRIP:

19 1. CONSISTS OF TREES AND A DENSE GROUND COVER, A
20 THICK SOD GRASS, OR OTHER VEGETATION, INCLUDING CREATED WETLANDS; AND

21 2. IS MANAGED SO AS TO PROVIDE WATER QUALITY
22 BENEFITS AND HABITAT PROTECTION CONSISTENT WITH THE PROVISIONS OF THIS
23 SUBTITLE.

24 (2) IF NOXIOUS WEEDS, INCLUDING JOHNSON GRASS, CANADA THISTLE,
25 PHRAGMITES, AND MULTIFLORA ROSE, OCCUR ON THE FILTER STRIP, THEY MAY BE
26 CONTROLLED BY ANY MEASURE APPROVED BY A COUNTY AGRICULTURAL AGENT.

27 (D) (1) IN ACCORDANCE WITH THE CONDITIONS UNDER PARAGRAPH (2) OF
28 THIS SUBSECTION, A PERSON SHALL MAINTAIN A VEGETATED FILTER STRIP AT THE
29 REQUIRED WIDTH UNTIL THE PERSON IMPLEMENTS, UNDER AN APPROVED SOIL
30 CONSERVATION AND WATER QUALITY PLAN, A PROGRAM OF BEST MANAGEMENT
31 PRACTICES FOR THE SPECIFIC PURPOSES OF IMPROVING WATER QUALITY AND
32 PROTECTING PLANT AND WILDLIFE HABITAT.

33 (2) THE SOIL CONSERVATION AND WATER QUALITY PLAN SHALL
34 ACHIEVE, AT A MINIMUM, THE EQUIVALENT WATER QUALITY IMPROVEMENTS AND
35 HABITAT PROTECTIONS AS THE VEGETATED FILTER STRIP.

36 (E) (1) IF A PERSON CEASES AN AGRICULTURAL ACTIVITY WITHIN THE
37 BUFFER AND PROPOSES TO CONVERT THE LAND TO ANOTHER USE, THE PERSON
38 SHALL ESTABLISH A 100-FOOT BUFFER MEASURED LANDWARD FROM THE MEAN

1 HIGH WATER LINE OF TIDAL WATERS OR FROM THE EDGE OF TIDAL WETLANDS,
2 WHICHEVER IS FURTHER INLAND.

3 (2) IN ESTABLISHING THE 100-FOOT BUFFER, THE PERSON SHALL
4 UNDERTAKE MANAGEMENT PRACTICES TO PROVIDE FOREST VEGETATION
5 ASSURING BUFFER PROTECTIONS EQUIVALENT TO, OR IN EXCESS OF, THOSE
6 ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION.

7 8-2217.

8 (A) (1) A LANDOWNER PROPOSING TO HARVEST TIMBER ON ONE OR MORE
9 ACRES IN THE COASTAL BAYS WATERSHEDS SHALL, IN ACCORDANCE WITH TITLE 5,
10 SUBTITLE 16 OF THIS ARTICLE AND REGULATIONS ADOPTED UNDER THE AUTHORITY
11 OF THAT SUBTITLE, SUBMIT A TIMBER HARVEST PLAN PREPARED BY A REGISTERED
12 PROFESSIONAL FORESTER OR OTHER QUALIFIED PROFESSIONAL TO THE
13 DEPARTMENT AND THE DISTRICT FORESTRY BOARD FOR REVIEW AND APPROVAL.

14 (2) A TIMBER HARVEST PLAN SHALL INCLUDE:

15 (I) EXCEPT WHERE PLANTING IS NECESSARY TO PROTECT,
16 STABILIZE, OR ENHANCE THE SHORELINE, THE MAINTENANCE IN NATIVE
17 VEGETATION OF A MINIMUM:

18 1. 25-FOOT BUFFER, AS MEASURED FROM THE DELINEATED
19 WETLAND LINE OF NONTIDAL WETLANDS; OR

20 2. 100-FOOT BUFFER, AS MEASURED:

21 A. LANDWARD FROM THE MEAN HIGH WATER LINE OF TIDAL
22 WATERS;

23 B. FROM THE LANDWARD EDGE OF TIDAL WETLANDS; OR

24 C. FROM THE DELINEATED WETLAND LINE OF NONTIDAL
25 WETLANDS OF SPECIAL STATE CONCERN; OR

26 (II) MEASURES TO PROTECT SURFACE AND GROUNDWATER
27 QUALITY; AND

28 (III) PROVISIONS FOR THE CONTINUITY OF HABITAT, INCLUDING
29 AFFORESTATION, REFORESTATION, AND MITIGATION THROUGH FOREST
30 MANAGEMENT TECHNIQUES SUCH AS SCHEDULING THE SIZE, TIMING, AND
31 INTENSITY OF HARVEST CUTS.

32 (3) IF THE TIMBER HARVEST PLAN IS APPROVED, THE LANDOWNER
33 SHALL SUBMIT THE PLAN TO THE SOIL CONSERVATION DISTRICT FOR REVIEW AND
34 APPROVAL.

35 (B) A LANDOWNER SHALL SUBMIT A SEDIMENT CONTROL PLAN TO THE SOIL
36 CONSERVATION DISTRICT BEFORE HARVESTING:

1 (1) 5,000 SQUARE FEET OF TIMBERLAND OR MORE, INCLUDING ANY
2 AREA CONSIDERED TO BE AGRICULTURAL; OR

3 (2) ANY TIMBER AREA THAT CROSSES A PERENNIAL OR INTERMITTENT
4 STREAM.

5 (C) (1) A LANDOWNER SHALL SUBMIT A SEDIMENT CONTROL PLAN,
6 PREPARED BY A REGISTERED PROFESSIONAL FORESTER, TO THE CONSERVATION
7 SERVICE FOR REVIEW AND APPROVAL IF A TIMBER HARVEST WILL INVOLVE:

8 (I) CUTS AND FILLS OF 3 FEET OR MORE;

9 (II) ROAD GRADES OF 15% OR MORE; OR

10 (III) LANDINGS ON SLOPES OF 10% OR MORE.

11 (2) THE PLAN SHALL INCLUDE CONTROLS NECESSARY TO PREVENT
12 SITE EROSION AND ENSURE SITE STABILIZATION.

13 (3) IF THE CONSERVATION SERVICE APPROVES THE PLAN, THE
14 CONSERVATION SERVICE SHALL SEND NOTICE OF ITS APPROVAL TO THE COUNTY
15 DEPARTMENT.

16 (D) A SEDIMENT CONTROL PLAN OR A CUSTOM SEDIMENT CONTROL PLAN
17 MAY NOT BE ISSUED UNDER SUBSECTION (B) OR (C) OF THIS SECTION,
18 RESPECTIVELY, UNLESS THE LANDOWNER SIGNS A WRITTEN AGREEMENT THAT
19 CERTIFIES THE LANDOWNER'S:

20 (1) UNDERSTANDING OF THE TERMS OF THE PLAN; AND

21 (2) ASSUMPTION OF RESPONSIBILITY FOR PREVENTING EROSION AND
22 SEDIMENTATION DURING THE FOREST HARVEST.

23 8-2218.

24 (A) (1) IN THIS SECTION "SURFACE MINING" MEANS THE EXCAVATION,
25 DIGGING, OR DREDGING FOR SAND, GRAVEL, SOIL, AND OTHER MINERALS.

26 (2) "SURFACE MINING" INCLUDES:

27 (I) SAND AND GRAVEL PITS;

28 (II) BORROW PITS;

29 (III) CLAY PITS;

30 (IV) QUARRIES; AND

31 (V) THE PROCESSING OR COMPOUNDING OF PRODUCTS COMPOSED
32 OF ONSITE MATERIALS.

1 (3) "SURFACE MINING" DOES NOT INCLUDE:

2 (I) A MINING OPERATION THAT HAS AN AFFECTED LAND AREA OF
3 LESS THAN 1 ACRE; OR

4 (II) A CONCRETE OR ASPHALT MIXING PLANT.

5 (B) THE COUNTY DEPARTMENT MAY NOT ISSUE A PERMIT FOR SURFACE
6 MINING UNLESS THE PERMIT APPLICANT PROVIDES VERIFIABLE ASSURANCE THAT,
7 IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBTITLE:

8 (1) ALL AVAILABLE MEASURES WILL BE TAKEN TO PROTECT THE
9 COASTAL BAYS WATERSHEDS FROM ALL SOURCES OF POLLUTION RELATED TO
10 SURFACE MINING OPERATIONS, INCLUDING SEDIMENTATION, SILTATION,
11 CHEMICAL AND PETROCHEMICAL USE AND SPILLAGE, AND STORAGE AND DISPOSAL
12 OF WASTE, DUSTS, AND SPOILS; AND

13 (2) SURFACE MINING WILL BE CONDUCTED SO AS TO PERMIT THE
14 RECLAMATION OF MINING SITES AS SOON AS POSSIBLE AND TO THE MAXIMUM
15 EXTENT POSSIBLE.

16 (C) THE COUNTY MINERAL RESOURCES PLAN AND PROGRAM SHALL BE
17 INCLUDED IN THE WORCESTER COUNTY COMPREHENSIVE PLAN.

18 (D) IN ADDITION TO THE ASSURANCE REQUIRED UNDER SUBSECTION (B) OF
19 THIS SECTION, THE COUNTY DEPARTMENT MAY NOT ISSUE A PERMIT FOR SURFACE
20 MINING UNLESS THE PERMIT APPLICATION INCLUDES:

21 (1) A FOREST STAND DELINEATION AND FOREST CONSERVATION PLAN
22 THAT:

23 (I) ARE IN ACCORDANCE WITH THE CURRENT EDITION OF THE
24 "STATE FOREST CONSERVATION TECHNICAL MANUAL" AS TO THE DESCRIPTION OF
25 ENVIRONMENTAL LAND FEATURES AND THE PRIORITIZATION OF FOREST LAND;

26 (II) HAVE A REFORESTATION THRESHOLD OF 25%, IN ACCORDANCE
27 WITH THE PROVISIONS OF TITLE 5, SUBTITLE 16 OF THIS ARTICLE AND REGULATIONS
28 ADOPTED UNDER THE AUTHORITY OF THAT SUBTITLE; AND

29 (III) INCLUDE MITIGATION OPTIONS, POLICIES, AND PROCEDURES,
30 THAT ARE IN COMPLIANCE WITH ALL PROVISIONS OF TITLE 5, SUBTITLE 16 OF THIS
31 ARTICLE AND REGULATIONS ADOPTED UNDER THE AUTHORITY OF THAT SUBTITLE;

32 (2) A RECLAMATION PLAN SPECIFYING:

33 (I) THE PROPOSED USE OF THE SITE FOLLOWING RECLAMATION;

34 (II) THE MANNER IN WHICH THE SOIL AND SUBSOIL ARE TO BE
35 CONSERVED AND RESTORED;

1 (III) DETAILED CRITERIA FOR SURFACE GRADIENT RESTORATION
2 SUITABLE FOR THE PROPOSED SUBSEQUENT USE;

3 (IV) THE PROPOSED MANNER AND TYPE OF REVEGETATION OR
4 OTHER SURFACE TREATMENT OF AFFECTED AREAS; AND

5 (V) AN ACCEPTABLE SCHEDULE FOR THE IMPLEMENTATION OF
6 RECLAMATION MEASURES, INCLUDING THE RECLAMATION OF EACH SEGMENT OF A
7 SITE AS THE MINING IS COMPLETED ON THAT SITE;

8 (3) VERIFIABLE EVIDENCE THAT THE OPERATION WILL NOT HAVE AN
9 UNDULY ADVERSE EFFECT ON WILDLIFE, FORESTS, OR FRESH WATER, ESTUARINE,
10 OR MARINE FISHERIES; AND

11 (4) PROOF OF ISSUANCE OF ALL AIR, WATER, AND SEDIMENT CONTROL
12 PERMITS REQUIRED UNDER FEDERAL, STATE, AND LOCAL LAW.

13 (E) IN REVIEWING AN APPLICATION UNDER THIS SECTION, THE COUNTY
14 DEPARTMENT SHALL CONSIDER:

15 (1) THE ENVIRONMENTAL EFFECTS OF THE PROPOSED MINING
16 ACTIVITY, INCLUDING BENEFICIAL AND ADVERSE ENVIRONMENTAL EFFECTS THAT
17 ARE REASONABLY LIKELY IF THE PERMIT IS ISSUED OR NOT ISSUED;

18 (2) ADDITIONAL MEASURES TO MAXIMIZE POTENTIAL BENEFICIAL
19 ENVIRONMENTAL EFFECTS AND MINIMIZE POTENTIAL ADVERSE ENVIRONMENTAL
20 EFFECTS, INCLUDING MONITORING, MAINTENANCE, REPLACEMENT, OPERATION,
21 AND OTHER FOLLOW-UP ACTIVITIES; AND

22 (3) THE APPLICANT'S PREVIOUS PERFORMANCE IN SIMILAR ACTIVITIES
23 THAT INDICATE THE LIKELIHOOD OF THE PROPOSED ACTIVITY RESULTING IN A
24 LANDSLIDE, THE DEPOSIT OF A SUBSTANTIAL AMOUNT OF SEDIMENT IN A STREAM
25 BED OR LAKE, OR ANY OTHER CAUSE OF WATER POLLUTION.

26 (F) THE COUNTY DEPARTMENT MAY NOT ISSUE A PERMIT FOR A NEW
27 SURFACE MINING OPERATION UNLESS APPROPRIATE POST EXCAVATION USES FOR
28 THE LAND, INCLUDING RECREATION, HABITAT RESTORATION, OPEN SPACE USE, OR
29 DEVELOPMENT, ARE PLANNED IN ACCORDANCE WITH THE APPROPRIATE LAND
30 MANAGEMENT CLASSIFICATION AND ANY OTHER APPLICABLE FEDERAL, STATE, OR
31 LOCAL LAW.

32 (G) THE COUNTY DEPARTMENT MAY NOT ISSUE A PERMIT FOR SURFACE
33 MINING IN AN AREA:

34 (1) WHERE IMPORTANT NATURAL RESOURCES OF SCIENTIFIC VALUE
35 ARE LOCATED OR ASSEMBLAGES OF RARE SPECIES OCCUR; OR

36 (2) THAT IS WITHIN:

37 (I) 100 FEET OF FORESTED NONTIDAL WETLANDS; OR

1 (II) 500 FEET OF THE MEAN HIGH WATER LINE OF TIDAL WATERS
2 OR TIDAL WETLANDS.

3 (H) A PERSON MAY NOT OPERATE A SURFACE MINING ACTIVITY UNLESS:

4 (1) TO THE FULLEST EXTENT POSSIBLE, AN EXTRACTION ACTIVITY IN
5 AN EXISTING SAND AND GRAVEL OPERATION IS CONDUCTED SO AS TO PROVIDE AT
6 LEAST A 100-FOOT BUFFER OF NATURAL VEGETATION BETWEEN THE OPERATION
7 AND THE MEAN HIGH WATER LINE OF TIDAL WATERS OR THE EDGE OF ANY STREAM
8 OR TIDAL WETLAND, WHICHEVER IS FURTHER INLAND; AND

9 (2) ANY EXISTING WASH POND IS RECLAIMED AS SOON AS POSSIBLE
10 AFTER THE CESSATION OF THE SAND AND GRAVEL OPERATION.

11 8-2219.

12 (A) THE BOARD MAY GRANT A VARIANCE IN THE REQUIREMENTS OF THIS
13 SUBTITLE WHEN AN APPLICANT SUBMITS CONVINCING EVIDENCE THAT:

14 (1) SPECIAL CONDITIONS OR UNUSUAL CIRCUMSTANCES EXIST THAT
15 ARE UNIQUE TO THE LAND OR STRUCTURE INVOLVED;

16 (2) LITERAL ENFORCEMENT OF THE PROVISIONS OF THIS SUBTITLE
17 WOULD RESULT IN UNWARRANTED HARDSHIP TO THE APPLICANT AND DEPRIVE THE
18 APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTY OWNERS IN
19 SIMILAR AREAS WITHIN THE COASTAL BAYS WATERSHEDS;

20 (3) THE GRANTING OF A VARIANCE WOULD NOT CONFER UPON THE
21 APPLICANT ANY SPECIAL PRIVILEGE THAT IS DENIED BY THE PROGRAM TO OWNERS
22 OF OTHER LANDS OR STRUCTURES WITHIN THE COASTAL BAYS WATERSHEDS;

23 (4) THE VARIANCE REQUEST IS NOT BASED UPON CONDITIONS OR
24 CIRCUMSTANCES THAT RESULT FROM ACTIONS BY THE APPLICANT;

25 (5) THE VARIANCE REQUEST DOES NOT ARISE FROM ANY CONDITION
26 RELATING TO LAND OR BUILDING USE, EITHER PERMITTED OR NONCONFORMING,
27 ON ANY OTHER PROPERTY IN THE AREA;

28 (6) THE GRANTING OF A VARIANCE IS NOT EXPECTED TO HAVE AN
29 ADVERSE EFFECT ON WATER QUALITY OR FISH, WILDLIFE, OR PLANT HABITAT
30 WITHIN THE COASTAL BAYS WATERSHEDS; AND

31 (7) THE GRANTING OF A VARIANCE IS IN HARMONY WITH THE GENERAL
32 SPIRIT AND INTENT OF THE PROGRAM.

33 (B) (1) AN APPLICATION FOR A VARIANCE SHALL BE MADE IN WRITING TO
34 THE BOARD ON FORMS PRESCRIBED BY THE COUNTY DEPARTMENT.

35 (2) BEFORE MAKING A DECISION REGARDING A VARIANCE REQUEST,
36 THE BOARD SHALL REVIEW THE COMMENTS OF THE COUNTY DEPARTMENT.

1 (C) (1) THE BOARD SHALL IMPOSE REASONABLE CONDITIONS ON THE USE
2 OR DEVELOPMENT OF A PROPERTY THAT IS GRANTED A VARIANCE IN ORDER TO
3 ENSURE COMPLIANCE WITH THE INTENT OF THIS SUBTITLE, INCLUDING THE
4 PLANTING OF TREES AND SHRUBS ON THE SITE AND A MITIGATION PAYMENT TO THE
5 COUNTY FORESTRY CONSERVATION FUND.

6 (2) PAYMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE
7 CALCULATED ON THE SAME BASIS AS THE CALCULATION OF A MITIGATION
8 PAYMENT UNDER TITLE 5, SUBTITLE 16 OF THIS ARTICLE AND REGULATIONS
9 ADOPTED UNDER THE AUTHORITY OF THAT SUBTITLE.

10 (D) (1) AN APPEAL FROM A BOARD DECISION REGARDING THE GRANTING
11 OR DENIAL OF A VARIANCE UNDER THIS SECTION MAY BE TAKEN BY ANY PERSON,
12 CORPORATION, OR GOVERNMENTAL AGENCY, INCLUDING THE COMMISSIONERS,
13 THAT IS AGGRIEVED OR ADVERSELY AFFECTED BY THE DECISION.

14 (2) AN APPEAL:

15 (I) SHALL BE TAKEN IN ACCORDANCE WITH ALL APPLICABLE
16 LAWS AND PROCEDURES OF THE COUNTY; AND

17 (II) MAY BE FILED IN THE CIRCUIT COURT IN ACCORDANCE WITH
18 THE MARYLAND RULES OF PROCEDURE.

19 8-2220.

20 (A) (1) VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR A REGULATION
21 ADOPTED UNDER THE AUTHORITY OF THIS SUBTITLE IS A CIVIL INFRACTION.

22 (2) EACH DAY ON WHICH A VIOLATION OCCURS SHALL CONSTITUTE A
23 SEPARATE OFFENSE.

24 (B) (1) A VIOLATION SHALL BE SUBJECT TO PROSECUTION OR SUIT BY THE
25 COMMISSIONERS, WHO MAY INVOKE THE SANCTIONS AND REMEDIES AFFORDED BY
26 STATE OR LOCAL LAW.

27 (2) THE COMMISSIONERS MAY INVOKE ANY SANCTION OR REMEDY
28 AVAILABLE IN ANY COURT OF COMPETENT JURISDICTION IN WHICH THE
29 COMMISSIONERS WOULD BE AUTHORIZED TO PROSECUTE OR SUE THE VIOLATOR.

30 (C) IN ADDITION TO ANY OTHER SANCTION OR REMEDY AVAILABLE UNDER
31 LAW, THE COMMISSIONERS MAY BRING AN ACTION IN EQUITY TO:

32 (1) COMPEL COMPLIANCE OR RESTRAIN NONCOMPLIANCE WITH THE
33 REQUIREMENTS OF APPROVED DEVELOPMENT ACTIVITY; AND

34 (2) COMPEL RESTORATION OF LANDS OR STRUCTURES TO THEIR
35 CONDITION PRIOR TO ANY MODIFICATION DONE IN VIOLATION OF APPROVED
36 DEVELOPMENT PLANS.

1 (D) (1) WHEN DEVELOPMENT ACTIVITY IS PROCEEDING IN VIOLATION OF
2 APPROVED PROJECT PLANS AND THREATENS IMMEDIATE AND IRREPARABLE
3 DEGRADATION OF THE QUALITY OF TIDAL WATERS OR FISH, WILDLIFE, OR PLANT
4 HABITAT, THE COMMISSIONERS SHALL BRING AN ACTION IN EQUITY TO RESTRAIN
5 THE VIOLATION AND, AS APPROPRIATE, TO COMPEL RESTORATION OF ANY LAND OR
6 WATER AREAS AFFECTED BY THE DEVELOPMENT.

7 (2) UPON THE FILING OF A CAUSE OF ACTION UNDER PARAGRAPH (1) OF
8 THIS SUBSECTION, THE CIRCUIT COURT SHALL EXPEDITE THE HEARING OF THE
9 CASE.

10 SECTION 2. AND BE IT FURTHER ENACTED, That Worcester County shall
11 incorporate the Area of Special State Concern Plan into the County's Master Water
12 and Sewer Plan within 90 days of the date of State enactment of the Area of Special
13 State Concern Plan.

14 SECTION 3. AND BE IT FURTHER ENACTED, That Worcester County shall
15 authorize the continuation, but not the intensification or expansion, of any permitted
16 use or structure in existence on June 1, 2002, unless the use has been discontinued for
17 more than 1 year or is otherwise restricted by the terms of the Zoning and Subdivision
18 Control Article of the Worcester County Code of Public Local Laws. If an existing use
19 or structure does not conform with the provisions of the Coastal Bays Protection
20 Program, as enacted under Section 1 of this Act, its intensification or expansion may
21 be allowed only in accordance with the variance procedures under § ZS 1-116(c)(4) of
22 the Worcester County Code of Public Local Laws.

23 SECTION 4. AND BE IT FURTHER ENACTED, That if any provision of this
24 Act or the application thereof to any person or circumstance is held invalid for any
25 reason in a court of competent jurisdiction, the invalidity does not affect other
26 provisions or any other application of this Act which can be given effect without the
27 invalid provision or application, and for this purpose the provisions of this Act are
28 declared severable.

29 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 June 1, 2002.