

HARFORD COUNTY BILL NO. 22-011

Brief Title (Zoning Definitions-Chesapeake Bay Critical Area Program)

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

Mybri A. Dixon
Council Administrator

Date 6/21/22

ENROLLED

Robert J. Vincent
Council President

Date 6/21/22

BY THE COUNCIL

Read the third time.

Passed: LSD 22-020

Failed of Passage: _____

By Order

Mybri A. Dixon
Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 22nd day of June, 2022 at 3:00 p.m.

Mybri A. Dixon
Council Administrator



BY THE EXECUTIVE

[Signature]
COUNTY EXECUTIVE

APPROVED: Date 6/23/2022

BY THE COUNCIL

This Bill No. 22-011 having been approved by the Executive and returned to the Council, becomes law on June 23, 2022.

EFFECTIVE: August 22, 2022 Or as set forth in Section 2

Planning & Zoning received approval from the Maryland Critical Area Commission on October 5, 2022. As set forth in Section 2 EFFECTIVE: October 5, 2022.

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 22-011

Introduced by Council President Vincenti at the request of the County Executive

Legislative Day No. 22-014 Date May 3, 2022

AN ACT to add the definitions of “abatement”, “agricultural best management practice”, “aquaculture”, “boat house”, “borrow pit”, “buffer management plan”, “canopy tree”, “COMAR”, “conforming”, “conservation easement”, “cover crop”, “critical area buffer yard”, “critical area grandfathered parcel or lot”, “developed woodlands”, “disturbance”, “documented breeding bird areas”, “establishment”, “financial assurance”, “fisheries activities”, “forest management”, “forest practice”, “fully established”, “growth allocation envelope”, “habitat protection plan”, “hazardous tree”, “in-kind replacement”, “land clearing”, “landward edge”, “large shrub”, “limit of disturbance”, “living shoreline”, “local significance”, “lot coverage (critical area)”, “minerals”, “modified buffer area (MBA)”, “natural parks”, “natural vegetation”, “nature-dominated”, “new development”, “nonwater-dependent project”, “offsets”, “permanent disturbance”, “plant habitat”, “port”, “program amendment”, “program refinement”, “redevelopment (critical area)”, “restoration”, “riparian habitat”, “shore erosion protection works”, “small shrub”, “soil conservation and water quality plan”, “species, endangered”, “species, in need of conservation”, “species, invasive”, “species, threatened”, “spoil pile”, “steep slopes (critical area)”, “structure, critical area”, “substantial alteration”, “surface mining”, “temporary disturbance”, “thinning”, “transportation facilities”, “understory tree”, “upland boundary”, “vessel”, “water-dependent facilities”, “waterfowl”, “water-use industry” and “wildlife habitat” to Section 267-4, Definitions; to delete the definitions of “buffer exempt area” and “threatened or endangered species or species in need of conservation” in Section 267-4, Definitions; and to repeal and reenact, with amendments, the definitions of “anadromous fish propagation waters”, “colonial nesting water birds”, “critical area”, “critical area buffer”, “development activities”, “forest”, “growth allocation”, “habitat protection area”, “intensely developed areas”, “limited development areas”, “mean high water line”, “natural heritage area”, “natural regeneration”, “nontidal wetlands”, “overburden storage or disposal”, “pier”, “pier, community”, “project approval”, “reclamation”, “resource conservation areas”, “structure”, “tree”, “tributary streams”, “wash plant”, “waterfowl staging and concentration area” and “wildlife corridor” in Section 267-4, Definitions, all of Article I, General Provisions; to repeal and reenact, with amendments, Subsection A of Section 267-11, Variances, of Article II, Administration and Enforcement; and to repeal and reenact, with amendments, Section 267-63, Chesapeake Bay Critical Area Overlay District, of Article VII, District Regulations, all of Part 1, Standards, of Chapter 267, Zoning, of the Harford County Code, as amended; to clarify what constitutes lot coverage in the critical area, to include charts and tables setting forth mitigation requirements in the critical area; to clarify when permit applications are permitted to be accepted and revised when a property contains a current


zoning violation in the critical area; to specify what information shall be included in a zoning violation letter for property in the critical area; to add references to the critical area program manual; to increase the fee-in-lieu for mitigation of disturbance in the critical area; to broaden the options to utilize fee-in-lieu in the critical area; to expand the critical area buffer for nontidal wetlands; to change terminology from buffer exempt area to modified buffer area in the critical area; to prohibit harvesting in the habitat protection area or the associated buffers; to clarify when a variance is acceptable to pursue and when applications will be accepted and reviewed for properties in the critical area; to allow the ability to use dredge spoils to enhance and create wetlands, a living shoreline or replenish an eroding island in the critical area; to allow water-dependent structures and accessory structures thereon in the critical area; to create standards for distinguishing property lines that extend over the waterway in the critical area; to include protections and mitigation standards for forest and developed woodlands located in the critical area; to require shrub removals to be replaced in the critical area; to include the process by which the critical area program can be altered, refined or amended; and generally relating to the Chesapeake Bay Critical Area Program.

By the Council, May 3, 2022

Introduced, read first time, ordered posted and public hearing scheduled

on: June 7, 2022

at: 7:00PM

By Order: , Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on June 7, 2022, and concluded on June 7, 2022.

, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

1 Section 1. Be It Enacted By The County Council of Harford County, Maryland that the
2 definitions of “abatement”, “agricultural best management practice”, “aquaculture”, “boat house”,
3 “borrow pit”, “buffer management plan”, “canopy tree”, “COMAR”, “conforming”, “conservation
4 easement”, “cover crop”, “critical area buffer yard”, “critical area grandfathered parcel or lot”,
5 “developed woodlands”, “disturbance”, “documented breeding bird areas”, “establishment”,
6 “financial assurance”, “fisheries activities”, “forest management”, “forest practice”, “fully
7 established”, “growth allocation envelope”, “habitat protection plan”, “hazardous tree”, “in-kind
8 replacement”, “land clearing”, “landward edge”, “large shrub”, “limit of disturbance”, “living
9 shoreline”, “local significance”, “lot coverage (critical area)”, “minerals”, “modified buffer area
10 (MBA)”, “natural parks”, “natural vegetation”, “nature-dominated”, “new development”, “nonwater-
11 dependent project”, “offsets”, “permanent disturbance”, “plant habitat”, “port”, “program
12 amendment”, “program refinement”, “redevelopment (critical area)”, “restoration”, “riparian
13 habitat”, “shore erosion protection works”, “small shrub”, “soil conservation and water quality
14 plan”, “species, endangered”, “species, in need of conservation”, “species, invasive”, “species,
15 threatened”, “spoil pile”, “steep slopes (critical area)”, “structure, critical area”, “substantial
16 alteration”, “surface mining”, “temporary disturbance”, “thinning”, “transportation facilities”,
17 “understory tree”, “upland boundary”, “vessel”, “water-dependent facilities”, “waterfowl”, “water-
18 use industry” and “wildlife habitat” be, and they are hereby, added to Section 267-4, Definitions, of
19 Article I, General Provisions; that the definitions of “buffer exempt area” and “threatened or
20 endangered species or species in need of conservation” be, and they are hereby, deleted in Section
21 267-4, Definitions, of Article I, General Provisions; that the definitions of “anadromous fish
22 propagation waters”, “colonial nesting water birds”, “critical area”, “critical area buffer”,
23 “development activities”, “forest”, “growth allocation”, “habitat protection area”, “intensely
24 developed areas”, “limited development areas”, “mean high water line”, “natural heritage area”,
25 “natural regeneration”, “nontidal wetlands”, “overburden storage or disposal”, “pier”, “pier,
26 community”, “project approval”, “reclamation”, “resource conservation areas”, “structure”, “tree”,
27 “tributary streams”, “wash plant”, “waterfowl staging and concentration area” and “wildlife
28 corridor” in Section 267-4, Definitions, of Article I, General Provisions, be, and they are hereby,

repealed and reenacted, with amendments; that Subsection A of Section 267-11, Variances, of Article II, Administration and Enforcement, be, and it is hereby, repealed and reenacted, with amendments; and that Section 267-63, Chesapeake Bay Critical Area Overlay District, of Article VII, District Regulations, be, and it is hereby, repealed and reenacted, with amendments, all of Part 1, Standards, of Chapter 267, Zoning, of the Harford County Code, as amended, and all to read as follows:

Chapter 267. Zoning

Part 1. Standards

Article I. General Provisions

§ 267-4. Definitions.

As used in this Part, the following terms shall have the meanings indicated:

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.

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.

1 ANADROMOUS FISH PROPAGATION WATERS - Streams that are tributary to the Chesapeake
2 Bay[, where] AND ATLANTIC COASTAL BAYS IN WHICH THE spawning of
3 anadromous species of fish (e.g., rockfish, STRIPED BASS, yellow perch, white perch, shad
4 and river herring) occurs or has occurred. The [geographic location of such streams has been]
5 STREAMS ARE identified by the [Tidewater Administration, Maryland] Department of
6 Natural Resources.

7 AQUACULTURE - THE COMMERCIAL REARING OF FISH OR AQUATIC PLANTS FOR
8 SALE, TRADE, BARTER OR SHIPMENT.

9 A. FARMING OR CULTURING OF FINFISH, SHELLFISH, OTHER AQUATIC
10 PLANTS OR ANIMALS, OR BOTH, IN LAKES, STREAMS, INLETS,
11 ESTUARIES AND OTHER NATURAL OR ARTIFICIAL WATER BODIES OR
12 IMPOUNDMENTS.

13 B. ACTIVITIES INCLUDE HATCHING, CULTIVATING, PLANTING, FEEDING,
14 RAISING AND HARVESTING OF AQUATIC PLANTS AND ANIMALS AND
15 THE MAINTENANCE AND CONSTRUCTION OF NECESSARY EQUIPMENT,
16 BUILDINGS AND GROWING AREAS.

17 C. CULTIVATION METHODS INCLUDE, BUT ARE NOT LIMITED TO, SEED OR
18 LARVAE DEVELOPMENT AND GROW OUT FACILITIES, FISHPONDS,
19 SHELLFISH RAFTS, RACK AND LONGLINES, SEAWEED FLOATS AND THE
20 CULTURE OF CLAMS AND OYSTERS ON TIDELANDS AND SUBTIDAL
21 AREAS. FOR THE PURPOSE OF THIS DEFINITION, RELATED ACTIVITIES
22 SUCH AS WHOLESALE AND RETAIL SALES, PROCESSING AND PRODUCT
23 STORAGE FACILITIES ARE NOT CONSIDERED AQUACULTURAL
24 PRACTICES.

25 D. AQUACULTURE HAS THE MEANING STATED IN NATURAL RESOURCES
26 ARTICLE, § 4-11A-01(B), ANNOTATED CODE OF MARYLAND.

27 BOAT HOUSE - A STRUCTURE WITH A ROOF OR COVER, OR SIMILAR DEVICE, PLACED
28 OVER OPEN WATER TO PROTECT A BOAT OR OTHER VESSEL.

1 BORROW PIT - AN AREA FROM WHICH SOIL OR OTHER UNCONSOLIDATED
2 MATERIALS ARE REMOVED TO BE USED, WITHOUT FURTHER PROCESSING, AS
3 FILL FOR ACTIVITIES SUCH AS LANDSCAPING, BUILDING CONSTRUCTION OR
4 HIGHWAY CONSTRUCTION AND MAINTENANCE.

5 [BUFFER EXEMPT AREA - Those areas as of December 1, 1985 where it can be demonstrated that
6 the existing pattern of residential, commercial, industrial or recreational development in the
7 critical area prevents the buffer from fulfilling the functions set forth in COMAR
8 27.01.09.01.B for water quality and wildlife habitat and which are mapped buffer exempt by
9 the Department of Planning and Zoning.]

10 BUFFER MANAGEMENT PLAN - A NARRATIVE, GRAPHIC DESCRIPTION OR PLAN OF
11 THE CRITICAL AREA BUFFER THAT IS NECESSARY WHEN AN APPLICANT
12 PROPOSES A DEVELOPMENT ACTIVITY THAT WILL AFFECT A PORTION OF THE
13 CRITICAL AREA BUFFER, AFFECT CRITICAL AREA BUFFER VEGETATION OR
14 REQUIRE THE ESTABLISHMENT OF A PORTION OF THE CRITICAL AREA BUFFER
15 IN VEGETATION. BUFFER MANAGEMENT PLAN INCLUDES A MAJOR BUFFER
16 MANAGEMENT PLAN, A MINOR BUFFER MANAGEMENT PLAN OR A SIMPLIFIED
17 BUFFER MANAGEMENT PLAN AS DESCRIBED IN THIS ORDINANCE.

18 CANOPY TREE - A TREE THAT WHEN MATURE COMMONLY REACHES A HEIGHT OF AT
19 LEAST 35 FEET.

20 [COLONIAL NESTING WATER BIRDS – Herons, egrets, terns and/or glossy ibis, which, for
21 purposes of nesting, congregate (that is, “colonize”) in relatively few areas, at which time the
22 regional populations of these species are highly susceptible to local disturbances.]

23 COLONIAL NESTING WATER BIRDS -

24 A. A SPECIES OF BIRD THAT, FOR THE PURPOSE OF NESTING,
25 CONGREGATES OR COLONIZES IN RELATIVELY FEW AREAS.

26 B. COLONIAL NESTING WATER BIRD INCLUDES EGRETS, GLOSSY IBISES,
27 HERONS AND TERNS.

28 COMAR - THE CODE OF MARYLAND REGULATIONS, AS FROM TIME TO TIME

1 AMENDED, INCLUDING ANY SUCCESSOR PROVISIONS.

2 CONFORMING - IN THE CRITICAL AREA, CONFORMING MEANS A PARCEL OR LOT
3 THAT MEETS ALL CRITICAL AREA REQUIREMENTS. CONFORMING DOES NOT
4 INCLUDE A PARCEL OR LOT FOR WHICH A CRITICAL AREA VARIANCE IS
5 SOUGHT OR HAS BEEN ISSUED; OR THAT IS LOCATED IN THE RESOURCE
6 CONSERVATION AREA AND IS LESS THAN 20 ACRES.

7 CONSERVATION EASEMENT - A NON-POSSESSORY INTEREST IN LAND WHICH
8 RESTRICTS THE MANNER IN WHICH THE LAND MAY BE DEVELOPED IN AN
9 EFFORT TO RESERVE NATURAL RESOURCES FOR FUTURE USE.

10 COVER CROP - THE ESTABLISHMENT OF A VEGETATIVE COVER TO PROTECT SOILS
11 FROM EROSION AND TO RESTRICT POLLUTANTS FROM ENTERING THE
12 WATERWAYS. COVER CROPS CAN BE DENSE, PLANTED CROPS OF GRASSES OR
13 LEGUMES, OR CROP RESIDUES SUCH AS CORN, WHEAT OR SOYBEAN STUBBLE
14 WHICH MAXIMIZE INFILTRATION AND PREVENT RUNOFF FROM REACHING
15 EROSION VELOCITIES.

16 [CRITICAL AREA - All lands and waters designated on the overlay maps to the Official Zoning Map
17 of Harford County as intensely developed areas, limited development areas or resource
18 conservation areas, pursuant to the Maryland Annotated Code, Natural Resources Article, § 8-
19 1802. Defined terms set forth in COMAR 27.01.01.01.01, as the same is amended from time
20 to time, shall apply to Harford County's Critical Area and, if not specifically defined herein,
21 shall have the meanings set forth in COMAR 27.01.01.01.01.

22 CRITICAL AREA BUFFER -

23 A. An area that:

- 24 (1) Based on conditions present at the time of development, is immediately
25 landward from mean high water of tidal waters, the edge of bank of a tributary
26 stream or the edge of a tidal wetland; and
27 (2) Exists or may be established in natural vegetation to protect a stream, tidal
28 wetland, tidal waters or terrestrial environment from human disturbance.

B. “Buffer” includes an area of:

- (1) At least 100 feet, even if that area was previously disturbed by human activity;
- and
- (2) 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 - 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

1 SLOPE, HYDRIC SOIL, HIGHLY ERODIBLE SOIL, NONTIDAL WETLAND OR A
2 NONTIDAL WETLAND OF SPECIAL STATE CONCERN AS DEFINED IN COMAR
3 26.23.01.01.

4 CRITICAL AREA BUFFER YARD - IN THE CRITICAL AREA, BUFFER YARD MEANS AN
5 AREA AT LEAST 25 FEET WIDE, LOCATED BETWEEN DEVELOPMENT ACTIVITY
6 AND TIDAL WATERS, TIDAL WETLANDS OR A TRIBUTARY STREAM, PLANTED
7 WITH VEGETATION CONSISTING OF NATIVE CANOPY TREES, UNDERSTORY
8 TREES, SHRUBS AND PERENNIAL HERBACEOUS PLANTS THAT IS USED IN
9 MODIFIED BUFFER AREAS TO PROVIDE WATER QUALITY AND HABITAT
10 BENEFITS. THIS AREA IS TO BE MANAGED AND MAINTAINED IN A MANNER
11 THAT OPTIMIZES THESE BENEFITS.

12 CRITICAL AREA GRANDFATHERED PARCEL OR LOT - A PARCEL OR LOT OF LAND IN
13 THE CRITICAL AREA THAT WAS CREATED THROUGH THE SUBDIVISION
14 PROCESS AND RECORDED AS A LEGALLY BUILDABLE LOT PRIOR TO
15 DECEMBER 1, 1985.

16 DEVELOPED WOODLANDS - AN AREA OF TREES OR OF TREES AND NATURAL
17 VEGETATION THAT IS INTERSPERSED WITH RESIDENTIAL, COMMERCIAL,
18 INDUSTRIAL, INSTITUTIONAL OR RECREATIONAL DEVELOPMENT.

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

23 DISTURBANCE - AN ALTERATION OR CHANGE TO THE LAND. IT INCLUDES ANY
24 AMOUNT OF CLEARING, GRADING OR CONSTRUCTION ACTIVITY.
25 DISTURBANCE DOES NOT INCLUDE GARDENING OR MAINTENANCE OF AN
26 EXISTING GRASS LAWN.

27 DOCUMENTED BREEDING BIRD AREAS - FORESTED AREAS WHERE THE OCCURRENCE
28 OF INTERIOR DWELLING BIRDS, DURING THE BREEDING SEASON, HAS BEEN

1 DEMONSTRATED AS A RESULT OF ON-SITE SURVEYS USING STANDARD
2 BIOLOGICAL SURVEY TECHNIQUES.

3 ESTABLISHMENT - THE PLANTING OR REGENERATION OF NATIVE VEGETATION
4 THROUGHOUT THE CRITICAL AREA BUFFER.

5 FINANCIAL ASSURANCE - A PERFORMANCE BOND, LETTER OF CREDIT, CASH
6 DEPOSIT, INSURANCE POLICY OR OTHER INSTRUMENT OF SECURITY
7 ACCEPTABLE TO THE COUNTY.

8 FISHERIES ACTIVITIES - COMMERCIAL WATER DEPENDENT FISHERIES FACILITIES
9 INCLUDING STRUCTURES FOR THE PARKING, PROCESSING, CANNING OR
10 FREEZING OF FINFISH, CRUSTACEANS AND MOLLUSKS AND ALSO INCLUDING
11 RELATED ACTIVITIES SUCH AS WHOLESALE AND RETAIL SALES PRODUCT
12 STORAGE FACILITIES, CRAB SHEDDING, OFF-LOADING DOCKS, SHELLFISH
13 CULTURE OPERATIONS AND SHORE-BASED FACILITIES NECESSARY FOR
14 AQUACULTURAL OPERATIONS.

15 [FOREST - A biological community dominated by trees and other woody plants, excluding orchards,
16 covering a land area of 10,000 or more square feet including:

17 A. An area having at least 100 trees per acre, if at least 50% of the trees have a dbh of 2
18 inches or more; and

19 B. That has been cut, but not cleared.]

20 FOREST - A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND OTHER WOODY
21 PLANTS COVERING A LAND AREA OF 10,000 SQUARE FEET OR GREATER.
22 FOREST INCLUDES AREAS THAT HAVE AT LEAST 100 TREES PER ACRE WITH AT
23 LEAST 50% OF THOSE TREES HAVING 2-INCH OR GREATER DIAMETER AT 4.5
24 FEET ABOVE THE GROUND AND FOREST AREAS THAT HAVE BEEN CUT, BUT
25 NOT CLEARED. FOREST DOES NOT INCLUDE ORCHARDS.

26 FOREST MANAGEMENT – THE PROTECTION, MANIPULATION AND UTILIZATION OF
27 THE FOREST TO PROVIDE MULTIPLE BENEFITS, SUCH AS TIMBER HARVESTING,
28 WATER TRANSPIRATION AND WILDLIFE HABITAT, USUALY PRESCRIBED BY A

1 STATE TIMBER HARVEST PERMIT, STATE FORST STEWARDSHIP PLAN OR
2 FEDERAL HABITAT MANAGEMENT PLAN.

3 FOREST PRACTICE - THE ALTERATION OF THE FOREST EITHER THROUGH TREE
4 REMOVAL OR REPLACEMENT IN ORDER TO IMPROVE THE TIMBER, WILDLIFE,
5 RECREATIONAL, AESTHETIC OR WATER QUALITY VALUES.

6 FULLY ESTABLISHED - A CONDITION WHERE THE BUFFER CONTAINS AS MUCH
7 DIVERSE, NATIVE VEGETATION AS NECESSARY TO SUPPORT A FIRM AND
8 STABLE RIPARIAN HABITAT CAPABLE OF SELF-SUSTAINING GROWTH AND
9 REGENERATION.

10 [GROWTH ALLOCATION - A finite amount of acreage that may be used by a local jurisdiction to
11 reclassify a less intense Critical Area designation to a more intense Critical Area designation.]

12 GROWTH ALLOCATION - THE NUMBER OF ACRES OF LAND IN THE CRITICAL AREA
13 THAT THE COUNTY MAY USE, OR ALLOCATE TO MUNICIPAL JURISDICTIONS
14 TO USE, TO CREATE NEW INTENSELY DEVELOPED AREAS AND NEW LIMITED
15 DEVELOPMENT AREAS. THE GROWTH ALLOCATION IS 5% OF THE TOTAL
16 RESOURCE CONSERVATION AREA ACREAGE IN THE COUNTY AT THE TIME THE
17 CRITICAL AREA COMMISSION APPROVED THE COUNTY'S ORIGINAL CRITICAL
18 AREA PROGRAM, NOT INCLUDING TIDAL WETLANDS OR LAND OWNED BY THE
19 FEDERAL GOVERNMENT.

20 GROWTH ALLOCATION ENVELOPE - ALL OF THE PROPOSED COMPONENTS OF A
21 GROWTH ALLOCATION THAT ARE NECESSARY TO SERVE THE PROPOSED
22 DEVELOPMENT, INCLUDING AN INDIVIDUALLY OWNED LOT, LOT COVERAGE,
23 A ROAD, A UTILITY, A STORMWATER MANAGEMENT MEASURE, AN ON-SITE
24 SEWAGE DISPOSAL MEASURE, AN ACTIVE RECREATION AREA AND
25 ADDITIONAL ACREAGE NEEDED TO MEET THE DEVELOPMENT REQUIREMENTS
26 OF THE CRITICAL AREA CRITERIA.

27 [HABITAT PROTECTION AREA -

28 A. An area that is designated for protection:

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

(2) By the Secretary of the Department of Natural Resources.

B. It includes any existing area of open water, tidal or nontidal wetland, stream or river channel, stream or river bank or upland area of any type and size, including a reasonable protective area, within Harford County's Chesapeake Bay Critical Area which has been determined to be of significant natural value because it contains at least one of the following:

(1) A buffer area adjacent to tidal waters, tidal wetlands or tributary streams.

(2) Nontidal wetlands.

(3) The habitat of a species of plant or animal listed by state or federal authorities as endangered, threatened or in need of conservation or a designated natural heritage area.

(4) A plant or wildlife habitat which is determined to be of local significance.

(5) A forest interior dwelling bird habitat.

(6) A colonial water bird nesting habitat.

(7) A habitat for the feeding, resting or grouping of wintering and migrating waterfowl species.

(8) Anadromous fish propagation waters.]

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.

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).

IN-KIND REPLACEMENT - THE REMOVAL OF A STRUCTURE AND THE CONSTRUCTION

1 OF ANOTHER STRUCTURE THAT IS SMALLER THAN OR IDENTICAL TO THE
2 ORIGINAL STRUCTURE IN USE, FOOTPRINT AREA, WIDTH AND LENGTH.

3 [INTENSELY DEVELOPED AREAS - Those areas within the Chesapeake Bay Critical Area
4 (CBCA) where residential, commercial, institutional and/or industrial developed land uses
5 predominate and where relatively little natural habitat occurs. Such areas are to be at least 20
6 acres in size and have at least 1 of the following features:

7 A. Housing density is equal to or greater than 4 dwelling units per acre.

8 B. Industrial, institutional or commercial uses are concentrated in the area.

9 C. Public sewer and water collection and distribution systems are currently serving the
10 area and housing density is greater than 3 dwelling units per acre.]

11 INTENSELY DEVELOPED AREA - AN AREA OF AT LEAST 20 ACRES OR THE ENTIRE
12 UPLAND PORTION OF THE CRITICAL AREA WITHIN A MUNICIPAL
13 CORPORATION, WHICHEVER IS LESS, WHERE RESIDENTIAL, COMMERCIAL,
14 INSTITUTIONAL OR INDUSTRIAL DEVELOPED LAND USES PREDOMINATE AND
15 A RELATIVELY SMALL AMOUNT OF NATURAL HABITAT OCCURS. THESE
16 AREAS INCLUDE: AN AREA WITH A HOUSING DENSITY OF AT LEAST 4
17 DWELLING UNITS PER ACRE; AN AREA WITH PUBLIC WATER AND SEWER
18 SYSTEMS WITH A HOUSING DENSITY OF MORE THAN 3 DWELLING UNITS PER
19 ACRE.

20 LAND CLEARING - ANY ACTIVITY THAT REMOVES THE VEGETATIVE GROUND
21 COVER.

22 LANDWARD EDGE - THE LIMIT OF A SITE FEATURE THAT IS FARTHEST AWAY FROM A
23 TIDAL WATER, TIDAL WETLAND OR TRIBUTARY STREAM.

24 LARGE SHRUB - A SHRUB THAT, WHEN MATURE, REACHES A HEIGHT OF AT LEAST 6
25 FEET.

26 LIMIT OF DISTURBANCE - THE AREA OF A DEVELOPMENT OR REDEVELOPMENT
27 ACTIVITY THAT INCLUDES TEMPORARY DISTURBANCE AND PERMANENT
28 DISTURBANCE.

[LIMITED DEVELOPMENT AREAS - Those areas within the Chesapeake Bay Critical Area that are currently developed in low- or moderate-intensity uses. They also contain areas of natural plant and animal habitats, and the quality of runoff from these areas has not been substantially altered or impaired. These areas shall have at least 1 of the following features:

- A. Housing density ranging from 1 dwelling unit per 5 acres up to 4 dwelling units per acre.
- B. Areas not dominated by agriculture, wetland, forest, barren land, surface water or open space.
- C. Areas having public sewer or public water, or both.
- D. Areas meeting the definition of intensely developed areas except for being less than 20 acres in size.]

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.

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 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

1 OF THE COUNTY AND IS NOT CONSIDERED TO BE MAJOR DEVELOPMENT AS
2 DEFINED IN THIS CHAPTER.

3 LOT COVERAGE (CRITICAL AREA) - THE PERCENTAGE OF A TOTAL LOT OR PARCEL
4 THAT IS OCCUPIED BY A STRUCTURE, ACCESSORY STRUCTURE, PARKING
5 AREA, DRIVEWAY, WALKWAY OR ROADWAY OR COVERED WITH A PAVER,
6 WALKWAY GRAVEL, STONE, SHELL, IMPERMEABLE DECKING, PERMEABLE
7 PAVEMENT OR ANY OTHER MANMADE MATERIAL. LOT COVERAGE INCLUDES
8 THE GROUND AREA COVERED OR OCCUPIED BY A STAIRWAY OR
9 IMPERMEABLE DECK BUT DOES NOT INCLUDE: A FENCE OR WALL THAT IS
10 LESS THAN 1 FOOT IN WIDTH THAT HAS NOT BEEN CONSTRUCTED WITH A
11 FOOTER; A WALKWAY IN THE BUFFER OR EXPANDED BUFFER, INCLUDING A
12 STAIRWAY, THAT PROVIDES DIRECT ACCESS TO A COMMUNITY OR PRIVATE
13 PIER; A WOOD MULCH PATHWAY; OR A DECK WITH GAPS TO ALLOW WATER
14 TO PASS FREELY.

15 MEAN HIGH WATER LINE (MHWL) - The average level of high tides at a given location [along
16 the shoreline].

17 MINERALS - ANY SOLID MATERIAL, AGGREGATE OR SUBSTANCE OF COMMERCIAL
18 VALUE, WHETHER CONSOLIDATED OR LOOSE, FOUND IN NATURAL DEPOSITS
19 ON OR IN THE EARTH, INCLUDING CLAY, DIATOMACEOUS EARTH, GRAVEL,
20 MARL, METALLIC ORES, SAND, SHELL, SOIL AND STONE. THE TERM DOES NOT
21 INCLUDE COAL.

22 MODIFIED BUFFER AREA (MBA) - AN AREA OFFICIALLY MAPPED BY THE COUNTY
23 AND APPROVED BY THE CRITICAL AREA COMMISSION AS A MODIFIED BUFFER
24 AREA, WHERE IT HAS BEEN SUFFICIENTLY DEMONSTRATED THAT THE
25 EXISTING PATTERN OF RESIDENTIAL, INDUSTRIAL, COMMERCIAL,
26 INSTITUTIONAL OR RECREATIONAL DEVELOPMENT PREVENTS THE BUFFER
27 FROM FULFILLING ITS WATER QUALITY AND HABITAT FUNCTIONS, AND
28 WHERE DEVELOPMENT IN ACCORDANCE WITH SPECIFIC MBA PROVISIONS

CAN BE PERMITTED IN THE BUFFER WITHOUT A VARIANCE.

[NATURAL HERITAGE AREA - An area that has been designated by the Secretary of the Department of Natural Resources in accordance with COMAR 08.03.08 as a natural community which meets the following criteria:

A. Contains 1 or more threatened or endangered species or wildlife species in need of conservation;

B. Is a unique blend of geological, hydrological, climatological or biological features; and

C. Is considered to be among the best statewide examples of its kind.]

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 [of a density of] WITH at least 400 [woody,] free-to-grow seedlings per acre which are capable of [growing to] 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.

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.

[NONTIDAL WETLANDS - All palustrine aquatic bed, palustrine emergent, palustrine forested and

1 palustrine scrub-shrub wetlands as defined by the United States Fish and Wildlife Service,
2 except tidal wetlands regulated under Title 9 of the Natural Resources Article, Annotated Code
3 of Maryland. These nontidal wetlands are lands that are inundated or saturated by surface or
4 groundwater at a frequency and duration sufficient to support, and that under normal
5 circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil
6 conditions. Wetlands generally include swamps, marshes, bogs and similar areas. The
7 technical guidelines for determining the 3 parameters of nontidal wetlands (vegetation, soils
8 and hydrology) shall be followed in accordance with the U.S. Army Corps of Engineers 1987
9 Wetland Delineation Manual.]

10 NONTIDAL WETLANDS - THOSE AREAS REGULATED UNDER SUBTITLE 26 OF COMAR
11 THAT ARE INUNDATED OR SATURATED BY SURFACE WATER OR
12 GROUNDWATER AT A FREQUENCY AND DURATION SUFFICIENT TO SUPPORT,
13 AND THAT UNDER NORMAL CIRCUMSTANCES DOES SUPPORT, A PREVALENCE
14 OF VEGETATION TYPICALLY ADAPTED FOR LIFE IN SATURATED SOIL
15 CONDITIONS, COMMONLY KNOWN AS HYDROPHYTIC VEGETATION. THE
16 DETERMINATION OF WHETHER AN AREA IS A NONTIDAL WETLAND SHALL BE
17 MADE IN ACCORDANCE WITH THE PUBLICATION KNOWN AS THE "FEDERAL
18 MANUAL FOR IDENTIFYING AND DELINEATING JURISDICTIONAL WETLANDS,"
19 PUBLISHED IN 1989 AND AS MAY BE AMENDED. NONTIDAL WETLANDS DO
20 NOT INCLUDE TIDAL WETLANDS REGULATED UNDER TITLE 16 OF THE
21 ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

22 NONWATER-DEPENDENT PROJECT - A TEMPORARY OR PERMANENT STRUCTURE
23 THAT, BY REASON OF ITS INTRINSIC NATURE, USE OR OPERATION, DOES NOT
24 REQUIRE LOCATION IN, ON OR OVER STATE OR PRIVATE WETLANDS.

25 A. NONWATER-DEPENDENT PROJECTS INCLUDE:

26 (1) A DWELLING UNIT ON A PIER.

27 (2) A RESTAURANT, A SHOP, AN OFFICE OR ANY OTHER
28 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.

(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.

OFFSETS - STRUCTURES OR ACTIONS THAT COMPENSATE FOR UNDESIRABLE
IMPACTS.

[OVERBURDEN STORAGE OR DISPOSAL - Any residual soil, rock, mineral, scrap or other
material displaced by the extraction use.]

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.

PERMANENT DISTURBANCE - A MATERIAL, ENDURING CHANGE IN THE

1 TOPOGRAPHY, LANDSCAPE OR STRUCTURE THAT OCCURS AS PART OF A
2 DEVELOPMENT OR REDEVELOPMENT ACTIVITY. PERMANENT DISTURBANCE
3 INCLUDES:

- 4 A. CONSTRUCTION OR INSTALLATION OF ANY MATERIAL THAT WILL
5 RESULT IN LOT COVERAGE.
- 6 B. CONSTRUCTION OF A DECK.
- 7 C. GRADING OR CLEARING (EXCEPT WHERE IT MEETS THE DEFINITION OF
8 TEMPORARY DISTURBANCE).
- 9 D. THE INSTALLATION OF A SEPTIC SYSTEM, IN A FOREST OR DEVELOPED
10 WOODLAND ON A GRANDFATHERED LOT, IF CLEARING IS REQUIRED.
11 PERMANENT DISTURBANCE DOES NOT INCLUDE INSTALLATION OF A
12 SEPTIC SYSTEM ON A GRANDFATHERED LOT IF LOCATED IN EXISTING
13 GRASS OR CLEARING IS NOT REQUIRED.

14 [PIER - A structure, usually of open construction, extending out into the water from the shore, to serve
15 as a landing place, recreational facility, etc., rather than to afford coastal protection.

16 PIER, COMMUNITY - A noncommercial boat docking or mooring facility that is owned by and
17 operated for the benefit of the residents of a platted riparian subdivision or condominium,
18 apartment or other multiple-family dwelling unit; the term does not include an individual
19 private pier maintained by a riparian landowner.]

20 PIER - ANY PIER, WHARF, DOCK, WALKWAY, BULKHEAD, BREAKWATER, PILES OR
21 OTHER SIMILAR STRUCTURE. PIER, EXCLUDING ITSELF, DOES NOT INCLUDE
22 ANY STRUCTURE ON PILINGS OR STILTS THAT WAS ORIGINALLY
23 CONSTRUCTED BEYOND THE LANDWARD BOUNDARIES OF STATE OR PRIVATE
24 WETLANDS.

25 PIER, COMMUNITY - A BOAT DOCKING FACILITY ASSOCIATED WITH A SUBDIVISION
26 OR SIMILAR RESIDENTIAL AREA, OR WITH CONDOMINIUMS, APARTMENTS OR
27 OTHER MULTIPLE-FAMILY DWELLING UNITS; DOES NOT INCLUDE A PRIVATE
28 PIER OR A MOORING.

1 PLANT HABITAT - A COMMUNITY OF PLANTS COMMONLY IDENTIFIABLE BY THE
2 COMPOSITION OF ITS VEGETATION AND ITS PHYSIOGRAPHIC
3 CHARACTERISTICS, AS COVERED IN COMAR 27.01.09.04.

4 PORT - A FACILITY OR AREA ESTABLISHED OR DESIGNATED BY THE STATE OR
5 LOCAL JURISDICTION FOR PURPOSES OF WATERBORNE COMMERCE.

6 PROGRAM AMENDMENT - ANY CHANGE OR PROPOSED CHANGE TO AN ADOPTED
7 CRITICAL AREA PROGRAM THAT IS NOT DETERMINED BY THE CHAIRMAN OF
8 THE CRITICAL AREA COMMISSION TO BE A PROGRAM REFINEMENT.

9 PROGRAM REFINEMENT - ANY CHANGE OR PROPOSED CHANGE TO AN ADOPTED
10 CRITICAL AREA PROGRAM THAT THE CHAIRMAN OF THE CRITICAL AREA
11 COMMISSION DETERMINES WILL RESULT IN A USE OF LAND OR WATER IN THE
12 CHESAPEAKE BAY CRITICAL AREA OR ATLANTIC COASTAL BAYS CRITICAL
13 AREA IN A MANNER CONSISTENT WITH THE ADOPTED PROGRAM, OR THAT
14 WILL NOT SIGNIFICANTLY AFFECT THE USE OF LAND OR WATER IN THE
15 CRITICAL AREA. PROGRAM REFINEMENT MAY INCLUDE:

16 A. A CHANGE TO AN ADOPTED PROGRAM THAT RESULTS FROM STATE
17 LAW.

18 B. A CHANGE TO AN ADOPTED PROGRAM THAT AFFECTS LOCAL
19 PROCESSES AND PROCEDURES.

20 C. A CHANGE TO A LOCAL ORDINANCE OR CODE THAT CLARIFIES AN
21 EXISTING PROVISION.

22 D. A MINOR CHANGE TO AN ELEMENT OF AN ADOPTED PROGRAM THAT IS
23 CLEARLY CONSISTENT WITH THE PROVISIONS OF STATE CRITICAL
24 AREA LAW AND ALL THE CRITERIA OF THE COMMISSION.

25 [PROJECT APPROVAL - The approval of development activities, other than developments
26 undertaken by a state or local government agency, in the Chesapeake Bay Critical Area by the
27 Harford County Department of Planning and Zoning or other approving agency of Harford
28 County. The term includes approval of subdivision plans, plats and site plans; mapping of

1 areas under floating zone or overlay zone provisions; the issuance of variances, special
2 exceptions; and the issuance of other zoning-related approvals. Project approval does not
3 include building permits.]

4 PROJECT APPROVALS - THE APPROVAL OF DEVELOPMENT, OTHER THAN
5 DEVELOPMENT BY A STATE OR LOCAL GOVERNMENT AGENCY, IN THE
6 CRITICAL AREA BY THE APPROPRIATE LOCAL APPROVAL AUTHORITY.
7 PROJECT APPROVALS INCLUDE APPROVAL OF SUBDIVISION PLATS AND SITE
8 PLANS, INCLUSION OF AREAS WITHIN FLOATING ZONES, ISSUANCE OF
9 VARIANCES, SPECIAL EXCEPTIONS AND CONDITIONAL USE PERMITS AND
10 ISSUANCE OF ZONING PERMITS. PROJECT APPROVALS DO NOT INCLUDE
11 BUILDING PERMITS.

12 RECLAMATION - The reasonable rehabilitation of [disturbed] AFFECTED land for A useful
13 purpose[s, which provides] AND THE protection [to] OF the natural resources [found on or
14 adjacent to the site, including water bodies] OF THE SURROUNDING AREAS,
15 INCLUDING PONDS.

16 REDEVELOPMENT (CRITICAL AREA) - A DEVELOPMENT ACTIVITY THAT TAKES
17 PLACE ON PROPERTY WITH PRE-DEVELOPMENT IMPERVIOUSNESS (IN IDA) OR
18 LOT COVERAGE (IN LDA AND RCA) OF 15% OR GREATER.

19 [RESOURCE CONSERVATION AREAS - Those areas in the Chesapeake Bay Critical Area that are
20 characterized by nature-dominated environments (that is, wetlands, forests and abandoned
21 fields) and resource-utilization activities (that is, agriculture, forestry, fisheries activities or
22 aquaculture). Such areas shall have at least 1 of the following features:

23 A. Density is less than 1 dwelling unit per 5 acres.

24 B. Dominant land use is in agriculture, wetland, forest, barren land, surface water or open
25 space.]

26 RESOURCE CONSERVATION AREA - AN AREA THAT IS CHARACTERIZED BY NATURE
27 DOMINATED ENVIRONMENTS, SUCH AS WETLANDS, SURFACE WATER,
28 FORESTS AND OPEN SPACE, AND BY RESOURCE-BASED ACTIVITIES, SUCH AS

1 AGRICULTURE, FORESTRY, FISHERIES OR AQUACULTURE. RESOURCE
2 CONSERVATION AREAS INCLUDE AREAS WITH A HOUSING DENSITY OF LESS
3 THAN 1 DWELLING PER 5 ACRES.

4 RESTORATION - THE ACT OF RETURNING A SITE OR AREA TO AN ORIGINAL STATE OR
5 ANY ACTION THAT ESTABLISHES ALL OR A PORTION OF THE ECOLOGICAL
6 STRUCTURE AND FUNCTIONS OF A SITE OR AREA.

7 RIPARIAN HABITAT - A HABITAT THAT IS STRONGLY INFLUENCED BY WATER AND
8 WHICH OCCURS ADJACENT TO STREAMS, SHORELINES AND WETLANDS.

9 SHORE EROSION PROTECTION WORKS - THOSE STRUCTURES OR MEASURES
10 CONSTRUCTED OR INSTALLED TO PREVENT OR MINIMIZE EROSION OF THE
11 SHORELINE IN THE CRITICAL AREA.

12 SMALL SHRUB - A SHRUB THAT, WHEN MATURE, REACHES A HEIGHT NO GREATER
13 THAN 6 FEET.

14 SOIL CONSERVATION AND WATER QUALITY PLAN - AN AGRICULTURAL PLAN
15 APPROVED BY A LOCAL SOIL CONSERVATION DISTRICT TO MINIMIZE SOIL
16 EROSION AND THE MOVEMENT OF SEDIMENT, ANIMAL WASTE, NUTRIENTS OR
17 AGRICULTURAL CHEMICALS INTO WATERS OF THE STATE AND IS A LAND-USE
18 PLAN FOR FARMS THAT SHOW FARMERS HOW TO MAKE THE BEST POSSIBLE
19 USE OF THEIR SOIL AND WATER RESOURCES WHILE PROTECTING AND
20 CONSERVING THOSE RESOURCES FOR THE FUTURE. IT IS A DOCUMENT
21 CONTAINING A MAP AND RELATED PLANS THAT INDICATE:

- 22 A. HOW THE LANDOWNER PLANS TO TREAT A FARM UNIT;
- 23 B. WHICH BEST MANAGEMENT PRACTICES THE LANDOWNER PLANS TO
24 INSTALL TO TREAT UNDESIRABLE CONDITIONS; AND
- 25 C. THE SCHEDULE FOR APPLYING THOSE BEST MANAGEMENT PRACTICES.

26 SPECIES, ENDANGERED - A SPECIES OF FLORA AND FAUNA WHOSE CONTINUED
27 VIABILITY IS DETERMINED TO BE IN JEOPARDY, IN ACCORDANCE WITH THE
28 PROVISIONS OF:

- 1 A. THE FEDERAL ENDANGERED SPECIES ACT OF 1973, 16 U.S.C. §§ 1531-1544;
- 2 B. NATURAL RESOURCES ARTICLE, TITLE 4, SUBTITLE 2A, OR TITLE 10,
- 3 SUBTITLE 2A, ANNOTATED CODE OF MARYLAND; OR
- 4 C. COMAR.

5 SPECIES, IN NEED OF CONSERVATION - A SPECIES OF FAUNA DETERMINED BY THE
6 SECRETARY OF NATURAL RESOURCES TO BE IN NEED OF CONSERVATION
7 MEASURES FOR ITS CONTINUED ABILITY TO SUSTAIN ITSELF SUCCESSFULLY,
8 IN ACCORDANCE WITH THE PROVISIONS OF:

- 9 A. NATURAL RESOURCES ARTICLE, TITLE 4, SUBTITLE 2A, OR TITLE 10,
- 10 SUBTITLE 2A, ANNOTATED CODE OF MARYLAND; OR
- 11 B. COMAR.

12 SPECIES, INVASIVE - A TYPE OF PLANT THAT IS NON-NATIVE TO THE ECOSYSTEM
13 UNDER CONSIDERATION AND WHOSE INTRODUCTION CAUSES, OR IS LIKELY
14 TO CAUSE, ECONOMIC OR ENVIRONMENTAL HARM OR HARM TO HUMAN
15 HEALTH.

16 SPECIES, THREATENED - A SPECIES OF FLORA OR FAUNA THAT APPEARS LIKELY
17 WITHIN THE FORESEEABLE FUTURE TO BECOME ENDANGERED, INCLUDING A
18 SPECIES DETERMINED TO BE A THREATENED SPECIES, IN ACCORDANCE WITH
19 THE PROVISIONS OF:

- 20 A. THE FEDERAL ENDANGERED SPECIES ACT OF 1973, 16 U.S.C. §§ 1531-1544;
- 21 B. NATURAL RESOURCES ARTICLE, TITLE 4, SUBTITLE 2A, OR TITLE 10,
- 22 SUBTITLE 2A, ANNOTATED CODE OF MARYLAND; OR
- 23 C. COMAR 08.03.03.

24 SPOIL PILE - THE OVERBURDEN AND REJECT MATERIALS AS PILED OR DEPOSITED IN
25 SURFACE MINING.

26 STEEP SLOPES (CRITICAL AREA) - SLOPES OF 15% OR GREATER INCLINE.

27 STRUCTURE - Anything constructed or erected on the ground or which is attached to something
28 located on the ground. Structures include buildings, radio and TV towers, sheds, swimming

1 pools, tennis courts, gazebos, decks and boathouses. [In the Critical Area, structure means
2 building materials that are purposely joined together on or over land or water, including those
3 that do not result in lot coverage, per COMAR 27.01.09.01.01B(17).]

4 **STRUCTURE, CRITICAL AREA - BUILDING OR CONSTRUCTION MATERIALS, OR A**
5 **COMBINATION OF THOSE MATERIALS, THAT ARE PURPOSELY ASSEMBLED OR**
6 **JOINED TOGETHER ON OR OVER LAND OR WATER, INCLUDING A TEMPORARY**
7 **OR PERMANENT FIXED OR FLOATING PIER, PILING, DECK, WALKWAY,**
8 **DWELLING, BUILDING, BOATHOUSE, PLATFORM, GAZEBO AND A SHELTER FOR**
9 **THE PURPOSE OF MARINE ACCESS, NAVIGATION, WORKING, EATING, SLEEPING**
10 **OR RECREATING.**

11 **SUBSTANTIAL ALTERATION - ANY REPAIR, RECONSTRUCTION OR IMPROVEMENT OF**
12 **A PRINCIPAL STRUCTURE, WHERE THE PROPOSED TOTAL FOOTPRINT IS AT**
13 **LEAST 50% GREATER THAN THAT OF THE EXISTING PRINCIPAL STRUCTURE.**

14 **SURFACE MINING -**

15 **A. SURFACE MINING MEANS:**

- 16 (1) THE BREAKING OF SURFACE SOIL LOCATED IN THE CRITICAL
17 AREA IN ORDER TO EXTRACT OR REMOVE A MINERAL;
18 (2) AN ACTIVITY OR PROCESS THAT IS PART OF THE METHOD OF
19 EXTRACTION OR REMOVAL OF A MINERAL FROM ITS ORIGINAL
20 LOCATION IN THE CRITICAL AREA; AND
21 (3) THE EXTRACTION OR REMOVAL OF SAND, GRAVEL, ROCK,
22 STONE, EARTH OR FILL FROM A BORROW PIT FOR THE PURPOSE
23 OF CONSTRUCTING A ROAD OR ANOTHER PUBLIC FACILITY.

24 **B. SURFACE MINING INCLUDES:**

- 25 (1) AN ACTIVITY RELATED TO THE PROCESSING OF A MINERAL AT
26 THE SITE OF EXTRACTION OR REMOVAL.
27 (2) EXTRACTION OR REMOVAL OF OVERBURDEN AND MINING OF A
28 LIMITED AMOUNT OF A MINERAL WHEN DONE FOR THE PURPOSE

1 OF PROSPECTING, TO THE EXTENT NECESSARY, FOR THE
2 PURPOSE OF DETERMINING THE LOCATION, QUANTITY OR
3 QUALITY OF A NATURAL DEPOSIT.

4 (3) A MINING ACTIVITY.

5 C. SURFACE MINING DOES NOT INCLUDE AN ACTIVITY OR PROCESS THAT
6 IS EXCLUDED UNDER THE PROVISIONS OF ENVIRONMENT ARTICLE, § 15-
7 807, ANNOTATED CODE OF MARYLAND, OR COMAR 26.21.01.08.

8 TEMPORARY DISTURBANCE - A SHORT-TERM CHANGE IN THE LANDSCAPE THAT
9 OCCURS AS PART OF A DEVELOPMENT OR REDEVELOPMENT ACTIVITY.

10 TEMPORARY DISTURBANCE INCLUDES:

11 A. STORAGE MATERIALS THAT ARE NECESSARY FOR THE COMPLETION OF
12 THE DEVELOPMENT OR REDEVELOPMENT ACTIVITY.

13 B. CONSTRUCTION OF A ROAD OR OTHER PATHWAY THAT IS NECESSARY
14 FOR ACCESS TO THE SITE OF THE DEVELOPMENT OR REDEVELOPMENT
15 ACTIVITY, IF THE ROAD OR PATHWAY IS REMOVED IMMEDIATELY
16 AFTER COMPLETION OF THE DEVELOPMENT OR REDEVELOPMENT
17 ACTIVITY AND THE AREA IS RESTORED TO ITS PREVIOUS VEGETATIVE
18 CONDITION.

19 C. GRADING OF A DEVELOPMENT SITE, IF THE AREA IS RESTORED TO ITS
20 PREVIOUS VEGETATIVE CONDITION IMMEDIATELY AFTER COMPLETION
21 OF THE DEVELOPMENT OR REDEVELOPMENT ACTIVITY.

22 D. LOCATING A SEPTIC SYSTEM ON A LOT CREATED BEFORE LOCAL
23 PROGRAM APPROVAL IF THE SEPTIC SYSTEM IS LOCATED IN EXISTING
24 GRASS OR CLEARING IS NOT REQUIRED. TEMPORARY DISTURBANCE
25 DOES NOT INCLUDE A VIOLATION.

26 THINNING - A FOREST PRACTICE USED TO ACCELERATE TREE GROWTH OF QUALITY
27 TREES IN THE SHORTEST INTERVAL OF TIME.

28 [THREATENED OR ENDANGERED SPECIES OR SPECIES IN NEED OF CONSERVATION - A

1 plant or wildlife species designated by the State Department of Natural Resources in
2 accordance with COMAR 08.03.08 as worthy of protection because of its rare or unusual
3 occurrence in the State of Maryland.]

4 TRANSPORTATION FACILITIES - ANYTHING THAT IS BUILT, INSTALLED OR
5 ESTABLISHED TO PROVIDE A MEANS OF TRANSPORT FROM ONE PLACE TO
6 ANOTHER.

7 TREE - A large, woody plant [with at least 1] HAVING 1 OR SEVERAL self-supporting STEMS OR
8 trunkS and numerous branches [capable of growing to] THAT REACH a height of at least 20
9 feet at maturity.

10 [TRIBUTARY STREAMS - Those perennial and intermittent streams as mapped on the most recent
11 United States Geological Survey 7 1/2 minute topographic quadrangle maps [scale: 1:24,000],
12 the Harford County soil survey or as may be identified through site inspection.]

13 TRIBUTARY STREAM - A PERENNIAL STREAM OR AN INTERMITTENT STREAM WITHIN
14 THE CRITICAL AREA THAT HAS BEEN IDENTIFIED BY SITE INSPECTION OR IN
15 ACCORDANCE WITH LOCAL PROGRAM PROCEDURES APPROVED BY THE
16 CRITICAL AREA COMMISSION.

17 UNDERSTORY TREE - A TREE THAT, WHEN MATURE, REACHES A HEIGHT BETWEEN 12
18 AND 35 FEET.

19 UPLAND BOUNDARY- THE LANDWARD EDGE OF A TIDAL WETLAND OR NONTIDAL
20 WETLAND.

21 VESSEL - EVERY DESCRIPTION OF WATERCRAFT, INCLUDING AN ICE BOAT BUT NOT
22 INCLUDING A SEAPLANE, THAT IS USED OR CAPABLE OF BEING USED AS A
23 MEANS OF TRANSPORTATION ON WATER OR ICE. VESSEL INCLUDES THE
24 MOTOR, SPARS, SAILS AND ACCESSORIES OF A VESSEL.

25 WASH PLANT - A facility where sand and gravel is washed during processing. WASH PLANT
26 INCLUDES, BUT IS NOT LIMITED TO, A STOCKPILE, A WASH POND AND
27 RELATED WASHING EQUIPMENT.

28 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.

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.

WATER-USE INDUSTRY - AN INDUSTRY THAT REQUIRES LOCATION NEAR THE
 SHORELINE BECAUSE IT UTILIZES SURFACE WATERS FOR COOLING OR OTHER
 INTERNAL PURPOSES.

WILDLIFE CORRIDOR - A strip of land having vegetation that provides habitat and a safe
 passageway for wildlife [across a site].

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.

Article II. Administration and Enforcement

§ 267-11. Variances.

1 A. Except as provided in [§ 267-63H (Chesapeake Bay Critical Area Overlay District, Variances)]
2 § 267-63.12 (CHESAPEAKE BAY CRITICAL AREA PROGRAM, VARIANCES),
3 variances from the provisions or requirements of this Part 1 may be granted if the Board finds
4 that:

5 (1) By reason of the uniqueness of the property or topographical conditions, the literal
6 enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.

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

9
10 **Article VII. District Regulations**

11 **[§ 267-63. Chesapeake Bay Critical Area Overlay District.**

12 A. Purpose and intent. The State of Maryland has recognized the Chesapeake Bay as an estuarine
13 system of great importance to the state and to the nation as a whole. As such, it has enacted the
14 Chesapeake Bay Critical Area Act (Chapter 794, Laws of 1984, as amended) and the
15 Chesapeake Bay Critical Area Program development criteria pursuant to that Act, which
16 require that local jurisdictions implement a management and resource protection program for
17 those areas within 1,000 feet of tidal waters and tidal wetlands and any additional areas that a
18 local jurisdiction deems important to carry out the purpose of the Act. Harford County also
19 recognizes the importance of protecting the resources of the Chesapeake Bay and hereby
20 establishes that the goals of this management program are to:

21 (1) Minimize adverse impacts on water quality resulting from sedimentation and
22 stormwater runoff from development in the coastal areas of the County.

23 (2) Conserve fish, wildlife and plant habitat.

24 (3) Maintain and, if possible, increase the amount of forested area in the County's coastal
25 areas because of its benefits to water quality and plant and wildlife habitat.

26 (4) Minimize the adverse secondary impacts of development occurring in the coastal areas
27 of the County.

28 (5) Monitor and control development in the County's Critical Area so that the natural

resources of the Chesapeake Bay, its tidal tributaries and their shoreline areas will be protected and preserved for future generations.

B. Creation. 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. The regulations of the 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 Chesapeake Bay Critical Area. The management program developed for land areas lying within the overlay district shall be the County's Master Plan for such areas.

C. Application. The requirements of the Critical Area Overlay District shall apply to all areas shown on each Zoning Map overlay, to include, at a minimum, all areas within 1,000 feet of tidal waters and state or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, and such additional areas as designated to meet the purpose of the district. The overlay district as shown on each Zoning Map overlay is further divided into 3 separate land use management categories for the purposes of planning, regulating and monitoring the type and intensity of land use development and redevelopment activities occurring within the County's Critical Area. The 3 land use management categories are as follows:

- (1) Intensely developed areas (IDA).
- (2) Limited development areas (LDA).
- (3) Resource conservation areas (RCA).

D. Soil types. Soil types in Harford County's Critical Area with development constraints are set forth in Table 63-1.

E. Prohibited uses.

- (1) The following uses shall be prohibited within this overlay district:
 - (a) New or expanded sanitary landfills and rubble landfills.

- 1 (b) New or expanded solid or hazardous waste collection or disposal facilities.
- 2 (c) New storage tanks for vehicle fuels on residential lots.
- 3 (2) Certain new development, or redevelopment activities or facilities, because of their
- 4 intrinsic nature, or because of their potential for adversely affecting habitats or water
- 5 quality, may not be permitted in the Critical Area except in intensely developed areas
- 6 and only after the activity or facility has demonstrated to all appropriate local and state
- 7 permitting agencies that there will be a net improvement in water quality to the
- 8 adjacent body of water. These activities include the following:
- 9 (a) Nonmaritime heavy industry;
- 10 (b) Transportation facilities and utility transmission facilities, except those
- 11 necessary to serve permitted uses, or where regional or interstate facilities must
- 12 cross tidal waters (utility transmission facilities do not include power plants);
- 13 or
- 14 (c) Permanent sludge handling, storage and disposal facilities, other than those
- 15 associated with wastewater treatment facilities. However, agricultural or
- 16 horticultural use of sludge under appropriate approvals when applied by an
- 17 approved method at approved application rates may be permitted in the Critical
- 18 Area, except in the 100-foot buffer.
- 19 (3) All existing facilities of these types shall be operated in conformance with all
- 20 applicable County, state and federal regulations.
- 21 F. Regulation of uses in the Critical Area Overlay District.
- 22 (1) Existing zoning. Unless otherwise specified in this section, the rights and limitations
- 23 pertaining to the use of the land as specified in this Zoning Code shall remain in effect,
- 24 subject to compliance with any additional requirements of this section.
- 25 (2) This section supplements existing County zoning and other regulations governing
- 26 development in the Critical Area and is superimposed upon all existing zones and land
- 27 use activity specified in this section. All development or redevelopment activity must
- 28 conform to the existing zoning regulations, to the development regulations specified in

1 the Subdivision Regulations and to the special conditions and regulations set forth in
2 this section. In the event of conflicts between existing zoning regulations, subdivision
3 regulations and other overlay district regulations and this section, the more restrictive
4 provision shall apply.

- 5 (3) Development activities. Permitted development activities are regulated in accordance
6 with § 267-63 (Chesapeake Bay Critical Area Overlay District) and the following
7 standards for the specific management area categories within which such activities are
8 proposed:

9 (a) Intensely developed areas (IDA).

10 [1] Pollutant loadings associated with new development or redevelopment
11 in an IDA shall be reduced by a minimum of 10% from
12 predevelopment levels through the use of on-site stormwater
13 management/best management practices or similar measures located
14 off site within the same watershed and within the Critical Area.
15 Stormwater management/best management practice sites will only be
16 considered outside of the Critical Area and outside of the same
17 watershed if the County Department of Planning and Zoning
18 determines that no feasible alternative within the Critical Area can be
19 provided. The procedures contained in the technical report entitled
20 “Critical Area 10% Rule Guidance Manual, Fall 2003” (Appendix B of
21 the Harford County Chesapeake Bay Critical Area Management
22 Program, as amended) shall be used to determine the amount of
23 reduction required and what specific measures are needed to meet this
24 requirement, except where environmental site design practices as
25 permitted under storm water management laws and regulations provide
26 for greater water quality protection.

27 [2] Pollutant loadings associated with residential construction outside of
28 the Critical Area buffer, including accessory structures and minor

1 additions that disturb greater than 250 square feet and result in the
2 permanent construction of an impervious surface area greater than 250
3 square feet , in the IDA shall be mitigated by the use of stormwater
4 management/best management practices (BMPs) as specified in
5 Appendix B of the Harford County Chesapeake Bay Critical Area
6 Management Program, as amended, and/or through the use of
7 additional landscaping plantings on that lot or parcel. If the cumulative
8 total square footage exceeds 250 square feet, then mitigation must be
9 provided for that area above 250 square feet.

10 [a] BMPs are specified in the “Critical Area 10% Rule Guidance
11 Manual, Fall 2003” (Appendix B of the Harford County
12 Chesapeake Bay Critical Area Management Program, as
13 amended). However, environmental site design practices as
14 specified under storm water management laws and regulations
15 should be used as well, when environmental site design
16 practices provide greater water quality protection.

17 [b] Mitigative plantings shall be located on permeable areas equal
18 to or greater in area than the increase of impervious surfaces,
19 shall be planted with at least one 1-inch caliper tree per 100
20 square feet and/or one 3-5 gallon containerized shrub per 50
21 square feet of impervious surface added to the lot and shall be
22 established and maintained in accordance with a landscaping
23 plan and covenant as approved by the Department of Planning
24 and Zoning. Where possible, such new plantings should be
25 located between the new construction and surface waters. Tree
26 and shrub plantings shall be of native species.

27 [c] If mitigative landscaping and/or BMPs are not feasible as
28 determined by the Director of Planning, the applicant is

required to pay a fee in lieu of \$1.20 per square foot of additional impervious surfaces. Monies contributed under this section shall be deposited in a separate account, shall be used according to Subsection G(4)(a)[11][a][ix][E] of this section and shall not revert to the general fund.

[d] Construction of accessory structures which disturb less than 250 square feet are exempt from mitigative planting requirements.

[3] Unless determined to be technically infeasible by the Director of Planning, permeable areas shall be established and maintained in vegetation in accordance with a landscaping plan approved by the Department of Planning and Zoning.

[4] Development shall be designed and constructed so as to minimize the destruction of existing forest vegetation. Any forest removed must meet the replacement standards set forth in § 267-63F(3)(b)[7][b]-[f] and be mitigated on a 1:1 square-footage basis.

[5] Low impact development techniques are encouraged to be utilized in the IDA to maintain predevelopment hydrological conditions.

[6] Existing areas of public access to the shoreline shall be maintained. If possible, the establishment of new areas of public access to the shoreline shall be included in the plans for development or redevelopment of shoreline areas.

[7] Cluster development shall be used in developing in the IDA as a means of minimizing the amount of impervious surface area and the destruction of existing natural vegetation unless it is determined by the Director of Planning to be infeasible or inappropriate for a specific site. This requirement does not supersede the requirements of § 267-70 pertaining to conventional with open space (COS) and planned

1 residential development (PRD).

2 (b) Limited development areas (LDA).

3 [1] For new subdivisions in the LDA, Pollutant loadings associated with
4 development in the LDA are to be maintained at predevelopment levels
5 through the use of stormwater management/best management practices
6 specified in “Critical Area 10% Rule Guidance Manual, Fall 2003”
7 (Appendix B of the Harford County Chesapeake Bay Critical Area
8 Management Program, as amended).

9 [2] Lot coverage on a parcel is limited in accordance with the following
10 maximums.

11 [a] When a site is mapped entirely as a LDA 15% of the total site;

12 [b] When a portion of a lot or parcel is mapped as a LDA, 15% of
13 that portion of the lot or parcel; and

14 [c] In the case of a growth allocation award:

15 [i] 15% of the growth allocation development envelope;

16 or

17 [ii] 15% of the acreage proposed for growth allocation
18 deduction.

19 [3] If a lot or parcel has two non-contiguous areas of LDA, the lot
20 coverage of one LDA area may be transferred to the other LDA area
21 on the same lot or parcel subject to the following conditions:

22 [a] The development is clustered in the LDA area receiving the lot
23 coverage;

24 [b] The LDA area receiving the additional lot coverage must
25 provide a 10% improvement in water quality; and

26 [c] The LDA area from which the lot coverage was taken must be
27 limited to a corresponding lesser amount of lot coverage, such
28 that the overall lot or parcel inside the Critical Area maintains a

15% lot coverage limitation.

[4] Lot coverage may exceed 15% for the following:

[a] If a parcel or lot 1/2 acre or less in size existed on or before December 1, 1985, then lot coverage may not exceed 25% of the portion of the parcel or lot within the Critical Area.

[b] If a parcel or lot greater than 1/2 acre and less than 1 acre in size existed on or before December 1, 1985, then lot coverage is limited to 15% of the portion of the parcel or lot within the Critical Area.

[c] Lot coverage in a subdivision approved after December 1, 1985 in the Critical Area may not exceed 15%. However, the total lot coverage on an individual lot one acre or less in size may exceed 15%.

[d] Subsection F(3)(b)[2] - [4] does not apply to a mobile home park in residential use on or before December 1, 1985.

[e] Limitations on lot coverage provided in Subsection F(3)(b)[4][a] and [b] of this section may be exceeded if the following conditions exist:

[i] For a lot or parcel 1/2 acre or less in size, total lot coverage does not exceed lot coverage limits in Subsection F(3)(b)[4][a] of this section by more than 25% of the lot coverage limitation or 500 square feet, whichever is greater.

[ii] For a lot or parcel greater than 1/2 acre and less than 1 acre in size, lot coverage does not exceed lot coverage limits in Subsection F(3)(b)[4][b] of this section or 5,445 square feet, whichever is greater.

[iii] Water quality impacts associated with runoff from new

1 development activities that contribute to lot coverage
2 can be and have been minimized through mitigative
3 plantings or use of best management practices listed in
4 Appendix B of the Harford County Chesapeake Bay
5 Critical Area Management Program, as amended.

6 [iv] Mitigative plantings shall be located in permeable
7 areas equal to or greater in area than the increase of lot
8 coverage. These areas shall be planted with at least
9 one 1-inch caliper tree per 100 square feet or one 3-5
10 gallon containerized shrub per 50 square feet of lot
11 coverage added to the lot or parcel and established and
12 maintained in accordance with a landscaping plan as
13 approved by the Department of Planning and Zoning.
14 Where possible, such new plantings should be located
15 between the new development contributing to lot
16 coverage and surface waters. Mitigative plantings shall
17 be of native species.

18 [v] If mitigative plantings and/or BMPs are not feasible as
19 determined by the Director of Planning, the applicant is
20 required to pay a fee in lieu of \$1.20 per square foot of
21 additional impervious surfaces. Monies contributed
22 under this section shall be deposited in a separate
23 account and shall be used according to Subsection
24 G(4)(a)[11][a][ix][E] of this section. These monies
25 shall not revert to the general fund.

26 [5] No development shall be permitted on slopes 15% or greater.

27 [6] Development on soils with development constraints, i.e., highly
28 erodible soils, hydric soils, soils with severe septic constraints and soils

1 with hydric inclusions as listed in Table 63-1 of this section, shall be
2 restricted. The Director of Planning may permit development on such
3 soils if adequate mitigation measures are applied to address the
4 identified constraints and to avoid significant adverse impacts on water
5 quality or fish, plant and wildlife habitats.

6 [7] The removal and replacement of existing forest cover and developed
7 woodlands for development in an LDA area shall meet the following
8 conditions:

9 [a] Area to be cleared. On a wooded development site, no more
10 than 20% of the forest or developed woodland cover may be
11 cleared provided that the remaining 80% is maintained through
12 recorded restrictive covenants or similar instruments. This
13 cover must be replaced on a 1:1 square-footage basis, rounded
14 to the nearest 100 square feet. An additional 10% of the forest
15 or developed woodland cover may be cleared, provided that
16 replacement of the total forested or developed woodland area
17 disturbed is made on 1:1.5 square-footage basis. Unless no
18 forest will be disturbed by the development, a forest stand
19 delineation is required for any development within the Critical
20 Area in which forest covers an area greater than 40,000 square
21 feet. The forest stand delineation shall be prepared according
22 to the standards presented in Chapter 4 of the Harford County
23 Forest Cover Conservation and Replacement Manual.

24 [b] Replacement of forest or developed woodland cover. The
25 forest cover removed shall be replaced elsewhere on the same
26 site or on another parcel within the Critical Area. If the
27 replacement is not practical at the time of removal, the Director
28 of Planning may approve the payment of a forest replacement

1 fee of \$0.40 per square foot area of forest or developed
2 woodland cleared and not otherwise mitigated in lieu of the
3 actual planting. Monies contributed under this section shall be
4 deposited in a separate account, shall be used according to
5 Subsection G(4)(a)[11][a][ix][E] of this section and shall not
6 revert to the general fund.

7 [c] Forest conservation plan. The removal and replacement of
8 forest and developed woodland cover for development must be
9 undertaken as specified in an approved forest conservation plan
10 developed in accordance with procedures specified in the
11 Forest Management Guide (Appendix C of the Harford County
12 Chesapeake Bay Critical Area Management Program, as
13 amended). For properties requiring subdivision approval,
14 forest conservation plans shall be submitted along with the
15 preliminary plan. For all other projects, forest conservation
16 plans shall be submitted to the Department of Planning and
17 Zoning for review and approval prior to application for a
18 grading permit.

19 [d] Performance guarantee required. To ensure that all afforested
20 or reforested areas required by this section are completed in
21 accordance with approved forest conservation plans and are
22 adequately preserved and maintained after installation, a surety
23 shall be deposited and a covenant recorded with Harford
24 County. Grading permits will not be issued until the covenant
25 and surety have been accepted by the County. The covenant
26 shall be established between the County and the owner of the
27 property which shall establish and protect the afforested or
28 reforested areas from future development activities. The

1 amount of the surety shall be equal to 110% of the value of
2 \$0.40 per square foot of planting required. The surety will be
3 held until the forested area established meets or exceeds
4 standards specified in the Forest Management Guide. If more
5 than 25% of the plantings in the afforested or reforested area
6 die within the first 2 growing seasons after planting, these must
7 be replaced with new stock. If after 2 complete growing
8 seasons from the time of planting, all components of the
9 project meet or exceed the standards as determined by an
10 inspection by the Department of Planning and Zoning and at
11 least 75% of the planted trees have survived, 2/3 of the surety
12 will be returned. The remainder will be released if, after the
13 third growing season, all standards are met. If however,
14 additional plantings are required to replace more than 25% of
15 the original plantings which did not survive, the surety shall be
16 held an additional 3 years from the time of the last planting.

17 [e] Timing of payment. The forest replacement fees shall be paid
18 prior to any clearing of the forest or developed woodland cover
19 on a development site. If not paid previously, the forest
20 replacement fee shall be due and payable at the time of
21 issuance of a grading permit for a site.

22 [f] Trust fund. Forest replacement fees shall be paid to the
23 Harford County Department of the Treasury and maintained in
24 a separate account, which shall be administered by the Harford
25 County Department of Planning and Zoning. Expenditure of
26 such funds shall be solely for the purpose of afforestation and
27 reforestation of areas in the Critical Area, whether on public or
28 private lands.

1 [8] If a development site is unforested, a minimum of 15% of the site shall
2 be afforested. If the afforestation comprises an area of 1 acre or
3 greater, a forest conservation plan, financial surety and covenant as
4 specified in Subsection F(3)(b)[7][c] and [d] of this section shall be
5 required. For afforestation of areas less than 1 acre in size, plantings
6 shall be installed according to the guidelines contained in the forest
7 management guide (Appendix C).

8 [9] All development plans shall incorporate a wildlife corridor system that
9 connects the largest, most undeveloped or most vegetated tracts of land
10 within and adjacent to the site, thereby providing a continuity of
11 existing on-site and off-site plant and wildlife habitats.

12 [10] Cluster development shall be used for developing in the LDA as a
13 means of minimizing the amount of lot coverage and the destruction of
14 existing natural vegetation, unless it is determined by the Director of
15 Planning to be infeasible or inappropriate for a specific site. This
16 requirement does not supersede the requirements of § 267-70
17 pertaining to conventional with open space (COS) and planned
18 residential development (PRD).

19 (c) Resource Conservation Areas (RCA).

20 [1] Agriculture, forestry and areas of natural habitat shall be considered
21 preferred land uses within this area.

22 [2] New industrial, commercial and institutional, except for County-owned
23 parks and recreation facilities, development shall be prohibited.

24 [3] New residential development shall be permitted at a maximum density
25 of 1 dwelling unit per 20 acres. One residential structure shall be
26 permitted on any existing undeveloped parcel or lot of record as of
27 December 1, 1985, regardless of the density requirement, provided that
28 all other provisions of this section are met. For purposes of this

subsection, “dwelling unit” means 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 living quarters for a domestic, other employee, tenant or in-law, or an accessory apartment, a guesthouse or a caretaker residence.

[4] The requirements and standards for development activities in the RCA designation shall be the same as for developments in the LDA designation.

[5] Limitations on lot coverage on a parcel shall be in accordance with the following maximums:

[a] When a site is mapped entirely as a RCA, 15% of the total site; and

[b] When a portion of a lot or parcel is mapped as a RCA, 15% of that portion of the lot or parcel.

[c] Lot coverage may exceed 15% in accordance with § 267-63F(3)(b)[4].

[6] Certain uses may be permitted in the RCA if it is determined by the Director of Planning, with the concurrence of the Critical Area Commission, that the impacts of the proposed use on plant and wildlife habitat and water quality would be minimized and that the proposed use would be consistent with the intent of the RCA classification and the County’s Critical Area Program.

(d) Forest clearing violation. Clearing of forested areas anywhere within the Critical Area, other than as set forth in this section, and in the buffer as specified in § 267-63 (Chesapeake Bay Critical Area Overlay District) prior to issuance of a grading permit, or of areas exceeding the maximum amount allowed by this section, constitutes a violation of this section in addition to any

1 other applicable County regulations. Afforestation/reforestation of an area 3
2 times the extent of the area cleared in violation will be required as mitigation
3 for such clearing. All standards and requirements of § 267-63 (Chesapeake
4 Bay Critical Area Overlay District) must be met, including the preparation of
5 forest conservation plans and the posting of the required surety and covenant.

6 (e) Routine vegetative maintenance/emergency repairs. Routine vegetative
7 maintenance and/or emergency repairs may occur in existing public utility
8 rights-of-way in the Critical Area provided:

9 [1] The minimum disturbance necessary occurs;

10 [2] Mechanical methods are used whenever feasible as opposed to
11 chemical means; and

12 [3] Notification and coordination with the Department of Planning and
13 Zoning occurs prior to commencement of activity.

14 (4) Agriculture. Agricultural activities as otherwise permitted by the Zoning Code shall
15 meet the following additional requirements:

16 (a) Each agricultural operation in the Critical Area shall have and be implementing
17 a soil and water conservation plan, approved by the Harford Soil Conservation
18 District Office, to protect the productivity of the land base, preserve or enhance
19 water quality and conserve fish, wildlife and plant habitat, by incorporating
20 best management practices which protect areas identified as habitat protection
21 areas and adequately address the control of nutrients, animal wastes, pesticides
22 and sediment runoff. Best management practices shall include a requirement
23 for the implementation of a grassland and manure management program,
24 where appropriate.

25 (b) Prior to the development of soil and water conservation plans as required in
26 Subsection F(4)(a), a 25-foot vegetated filter strip comprised of trees with a
27 dense ground cover or a thick sod grass shall be maintained adjacent to tidal
28 waters, tidal wetlands or tributary streams so as to provide water quality

benefits and habitat protection. The width of this strip shall be increased by a distance of 4 feet for every 1% increase in slope over 6%. Measures approved by the Harford County Soil Conservation District may be used within this filter strip and elsewhere in the Critical Area to control noxious weeds and invasive plants and animals.

(c) The feeding or watering of livestock is not permitted within 50 feet of tidal waters, tidal wetlands or tributary streams.

(d) Agricultural activities, including the grazing of livestock, shall not disturb stream banks, tidal shorelines or other habitat protection areas.

(e) Agricultural activities shall not be expanded in the Critical Area by:

[1] The destruction of nontidal wetlands by diking, dredging or filling operations.

[2] Clearing of forest or woodland on soils with a slope greater than 15% or on highly erodible soils.

[3] Clearing of lands identified as habitat protection areas, including the clearing of natural vegetation within the buffer.

(f) Timber harvesting operations on agricultural lands shall be done in accordance with the requirement of this section.

(5) Forestry operations. Forests are to be considered a protective land use in the Critical Area and, thus, should be managed to protect their value for plant and wildlife habitat and water quality protection.

(a) Timber harvesting affecting 1 acre or more of forested area in the Critical Area, including timber harvesting on agricultural land and that described above in Subsection F(3)(b)[7] of this section, shall be undertaken in accordance with a forest management or forest conservation plan prepared by a forester registered in the State of Maryland and approved by the Department of Natural Resources based upon recommendations of the Harford County Forestry Board and the Department of Planning and Zoning.

1 [1] Plans in accordance with the provisions in Appendix C of the Harford
2 County Chesapeake Bay Critical Area Management Program, as
3 amended, which do not involve cutting in the buffer or other identified
4 habitat protection areas may be conditionally approved by the project
5 forester. Copies of such conditionally approved plans shall be sent to
6 the Forestry Board and the Department of Planning and Zoning. If no
7 adverse comments are received within 2 weeks after submittal of the
8 plans to the Board and the Department, such plans are formally
9 approved.

10 [2] For plans involving disturbance to the buffer or other habitat protection
11 areas, a pre-harvest meeting must be held with the landowner and/or
12 his designee, the Department of Planning and Zoning and the
13 Department of Natural Resources before approval of the timber harvest
14 may be granted. Forest management plans must be approved by the
15 Harford County Department of Planning and Zoning, the Harford
16 County Forestry Board and the Department of Natural Resources
17 before an applicant may proceed with a timber harvest involving
18 disturbance to a habitat protection area.

19 [3] Separate copies of forest management plans shall be submitted to the
20 Department of Natural Resources, the Department of Planning and
21 Zoning and the Forestry Board for their review and approval. Plans
22 approved by the Department of Planning and Zoning and the Forestry
23 Board shall be submitted by these agencies to the Department of
24 Natural Resources. If any of the 3 reviewing agencies find the forest
25 management plan to be inadequate, that agency must contact the
26 applicant in writing as to what additional information is required. The
27 Department of Natural Resources shall notify the applicant that the
28 timber harvest has been approved, and the applicant may proceed with

the harvest.

[4] Forest management plans shall include measures to protect surface and ground water quality, identified habitat protection areas and the continuity of plant and wildlife habitat and shall include a copy of the timber harvest plan, which is the plan describing a proposed timber harvest that is required to be submitted to the Department of Natural Resources for a harvest of timber within the State of Maryland. Forest management plans shall show all buffers and other habitat protection areas. Forest management plans shall also show all proposed: stream crossings, culverts, landing areas, log decks, stockpile areas, skidder trails and haul roads to the nearest public road, and the limits of disturbance.

(b) Sediment control plans shall be developed for all timber harvesting in the Critical Area involving 5,000 square feet or more, including those undertaken on agricultural land. Such plans shall be approved by the Harford County Soil Conservation District based upon recommendations of the Department of Natural Resources and the Department of Planning and Zoning. Plans shall be submitted according to the procedures contained in the Forest Management Guide. The timber harvesting operation covered by such plans shall be implemented in accordance with the specifications contained in the document, Standard Erosion and Sediment Control Plan for Forest Harvest Operations, and any additional specifications established by the Department of Natural Resources.

(c) Timber harvesting within the Critical Area buffer shall be subject to the requirements set forth in Subsection G(4)(a)[9] of this section. Timber harvesting within the Critical Area buffer requires that a buffer management plan be included in the forest management plan.

(6) Water-dependent facilities. Those structures associated with industrial, maritime,

1 recreational, educational or fishery activities requiring a location at or near the
2 shoreline shall be considered water-dependent facilities and, thus, may be allowed
3 within the Critical Area buffer, subject to the additional conditions of this subsection.
4 An activity is water dependent if it cannot exist outside the buffer and is dependent on
5 the water by the intrinsic nature of its operation.

6 (a) Except as otherwise provided in this regulation, new or expanded water-
7 dependent activities may not be permitted in those portions of the buffer which
8 occur in the RCA. Except as otherwise provided below, development activities
9 or uses may be permitted in the Critical Area buffer in IDA and LDA provided
10 that it can be shown:

11 [1] That they are water dependent;

12 [2] That the project meets a recognized private right or public need;

13 [3] That adverse effects on water quality and fish, plant and wildlife
14 habitat are minimized; and

15 [4] That, insofar as possible, non-water-dependent structures or operations
16 associated with water-dependent projects or activities are located
17 outside of the buffer.

18 (b) Except for a designated buffer exemption area or for a variance granted in
19 accordance with Subsection H, lot coverage in the buffer may not exceed the
20 minimum amount necessary for water-dependent facilities, regardless of the
21 Critical Area classification or the size of the parcel or lot.

22 (c) Expansion of an existing water-dependent facility includes: expansion of
23 services, extension or construction of additional slips or piers, construction of
24 new buildings, expansion of existing impervious surfaces or installation of new
25 or additional boat storage facilities. Expansion does not include maintenance
26 or repair or replacement of existing bulkheads, piers or buildings, or
27 maintenance dredging. All new or expanded water-dependent facilities shall
28 be located and operated in accordance with the following conditions:

- [1] The activities shall not significantly alter existing water circulation patterns or salinity regimes.
- [2] The water body upon which the facility and associated activities are proposed must have adequate flushing characteristics in the area for natural dispersal of and removal of pollution.
- [3] Disturbance to wetlands, submerged aquatic vegetation or other areas identified as important aquatic habitats shall be minimized.
- [4] Adverse impacts to water quality occurring as a result of the facility and associated activities, such as nonpoint source runoff, sewage discharge from land activities or vessels or pollutant runoff from boat cleaning and maintenance operations, shall be minimized.
- [5] Shellfish beds shall not be disturbed or made subject to discharge which would render them unsuitable for harvesting.
- [6] Dredging associated with the facility and associated activities shall utilize the method which causes the least disturbance to water quality and aquatic and terrestrial habitats in the immediate vicinity of the dredging operation or within the Critical Area.
- [7] Dredged material shall not be placed within the Critical Area buffer or elsewhere in designated habitat protection areas except in previously approved channel maintenance disposal areas, shore erosion protection measures or beach nourishment.
- [8] Interference with the natural transport of sand shall be minimized.
- [9] Location of such facilities in or adjacent to waterfowl staging and concentration areas shall be avoided to the maximum extent possible. The use of new or existing water-dependent facilities in waterfowl staging and concentration areas shall be minimized during the period of November through March to avoid disturbance to waterfowl wintering there or using the areas as migratory staging areas.

1 [10] A building permit for any construction in or over tidal waters is not
2 valid without a concurrent state wetlands license or permit and
3 Sections 404/10 permits (as appropriate) from the Army Corps of
4 Engineers.

5 [11] Construction of a non-water-dependent structure on new or existing
6 pilings or pier over state or private wetlands in the Critical Area shall
7 not be permitted. New boathouses located over state or private
8 wetlands in the Critical Area shall not be permitted. "Boathouse"
9 means a structure with a roof or cover, or similar device, placed over
10 open water to protect a boat or other vessel.

11 (d) All applications for new or expanded water-dependent facilities shall be
12 required to submit such pertinent information and materials as are listed in the
13 technical document, Program Requirements for Water-Dependent Facilities
14 (Appendix E of the Harford County Chesapeake Bay Critical Area
15 Management Program, as amended), and as determined necessary by the
16 Director of Planning. Based on the project size and scope, environmental
17 sensitivity of the project site and potential adverse impacts to water quality,
18 aquatic habitats or terrestrial habitats, the Director of Planning may require a
19 comprehensive water-dependent facility plan as detailed in Appendix E of the
20 Harford County Chesapeake Bay Critical Area Management Program, as
21 amended. This plan must be approved by the Director of Planning. It is
22 recommended that an applicant consult with the Department of Planning and
23 Zoning before developing and submitting this information.

24 (e) Conditions relating to specific types of water-dependent uses. The
25 development of the following water-dependent uses shall be subject to the
26 following conditions:

27 [1] Commercial marinas, community marinas and piers, private piers,
28 industrial water-dependent facilities and other associated maritime

1 uses, including boating, docking and storage facilities.

2 [a] New commercial marinas and related maritime facilities shall
3 not be permitted in resource conservation areas. Expansion of
4 existing commercial marinas located in the RCA is allowed
5 only if it is determined by the Director of Planning that the
6 expansion will result in an overall net improvement in water
7 quality at or leaving the marina site or a reduction in the
8 pollutant loading from the marina.

9 [b] New or expanded commercial marinas and related maritime
10 facilities in areas designated as limited or intensely developed
11 areas must meet the following conditions:

12 [i] The best management practices cited in the technical
13 report, Program Requirements for Water-Dependent
14 Facilities in the Critical Area (Appendix E of the
15 Harford County Chesapeake Bay Critical Area
16 Management Program, as amended), shall be applied to
17 the location and operation of new or expanded marinas
18 and related maritime facilities, where applicable.

19 [ii] State sanitary requirements for such facilities are
20 complied with.

21 [c] New or expanded community marinas and other
22 noncommercial boating, docking and storage facilities may be
23 located in the Critical Area buffer in the RCA, LDA and IDA
24 if they meet the following conditions:

25 [i] The facilities do not offer food, fuel or other goods and
26 services for sale and adequate sanitary facilities shall
27 be provided.

28 [ii] The facilities are community-owned and established

and operated for the benefit of the residents of a platted and recorded subdivision.

[iii] The facilities are associated with a residential development approved by the County for the Critical Area and are consistent with all the standards and regulations for the Critical Area as set forth in this section.

[iv] Any disturbance of the Critical Area buffer is the minimum necessary to provide a single point of access to the proposed facilities.

[v] If community piers or slips are provided as part of a development built or constructed after June 24, 1988, private piers in the development shall not be permitted.

[vi] The number of slips or piers permitted at the facility shall be the lesser of [A] and [B] below:

[A] One slip for each 50 feet of shoreline in a subdivision in the intensely and limited development areas and 1 slip for each 300 feet of shoreline in a subdivision in the resource conservation area; or

[B] A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

Platted Lots or Dwellings	
in the Critical Area	Slips and Dwellings
Up to 15	1 for each lot
16 to 40	15 or 75%,

Platted Lots or Dwellings	
in the Critical Area	Slips and Dwellings
	whichever is greater
41 to 100	30 or 50%, whichever is greater
101 to 300	50 or 25%, whichever is greater
Over 300	75 or 15%, whichever is greater

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

- [d] No structure connected to the shoreline, such as a dock, pier or boathouse, 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.
- [e] New or expanded private water-dependent facilities for residential lots must meet the following conditions:
 - [i] New or expanded private water-dependent facilities will accommodate no more than 4 boats.
 - [ii] Non-water-dependent facilities shall not be constructed on piers.
- [f] New, expanded or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of IDA exempted from the Critical Area buffer and are subject to the provisions of Subsection F(6)(a).
- [2] Public beaches or other public water-oriented recreation or education

areas. Public beaches or other public water-oriented recreation or education areas, including publicly owned boat launching and docking facilities and fishing piers, are allowed in the Critical Area buffer in the RCA, LDA and IDA, provided that the following conditions are met:

- [a] Adequate sanitary facilities shall be provided.
- [b] Service facilities shall be located outside the buffer.
- [c] Permeable surfaces shall be used as the primary surfacing material if no degradation of groundwater would result.
- [d] Disturbance to natural vegetation shall be minimized.
- [e] Habitat protection areas shall be protected as consistent with provisions in Subsection G below.
- [f] Areas for passive recreation such as nature study, hunting and fishing, and for education may be permitted in the buffer if non-water-dependent structures or facilities associated with these projects are located outside of the buffer.

[3] Water-dependent scientific research and fishery-related facilities. Water-dependent scientific research facilities operated by governmental agencies or educational institutions and commercial water-dependent fishery facilities, such as structures for crab-shedding, fish off-loading, docks and shore-based facilities necessary for fishery activities, can be located in the Critical Area buffer, provided that associated non-water-dependent structures or facilities are located outside the buffer. Commercial water-dependent fishery activities and shore-based facilities necessary for aquaculture operations may be located in the buffer in RCA, LDA and IDA.

(7) Surface mining.

- (a) The establishment of new surface mining operations within the Critical Area shall be prohibited.

- 1 (b) Existing operations, including roads, accessory improvements, equipment and
2 storage areas, may be continued within the Critical Area, provided that all such
3 operations shall be conducted in a manner which:
- 4 [1] Does not adversely impact water quality, identified habitat protection
5 areas or contiguous properties.
- 6 [2] Permits the rapid reclamation of the site, including any wash pond,
7 when the operation has terminated.
- 8 [3] Retains the Critical Area buffer of natural vegetation between the
9 operation and tidal waters, tidal wetlands and tributary streams.
- 10 (c) The expansion of existing surface mining operations in the Critical Area shall
11 be reviewed and may be permitted as a special exception. Prior to accepting
12 any application for Board of Appeals review, the Director of Planning shall
13 review the application and shall forward the application to the Board only upon
14 making findings that such expansion shall have met the following conditions.
- 15 [1] The operation shall not have an adverse impact on identified habitat
16 protection areas.
- 17 [2] The operation shall not be located on lands which are within 100 feet
18 of the mean high water line of tidal waters, tidal wetlands or the edge
19 of streams.
- 20 [3] The operation shall not be located on land with highly erodible soils.
- 21 [4] The operation shall not be permitted if the mining activity would
22 prevent the use of the site for agricultural or forestry purposes for more
23 than 25 years.
- 24 [5] Wash plants, including ponds, spoil piles, related equipment, roads,
25 parking areas and other impervious surfaces, shall not be located
26 within the Critical Area buffer.
- 27 [6] An adequate reclamation plan has been developed.
- 28 (8) Shore erosion control measures. All development activities conducted on lands

1 immediately adjacent to tidal waters or where existing developments are experiencing
2 shoreline erosion problems shall be required to meet the following standards regarding
3 the control of shoreline erosion:

4 (a) Other than in areas designated by MDE as appropriate for structural shoreline
5 stabilization measures, improvements to protect a property against erosion
6 shall consist of nonstructural shoreline stabilization measures that preserve the
7 natural environment, such as marsh creation, except in areas where it can be
8 demonstrated to the satisfaction of MDE that these measures are not feasible,
9 including areas of excessive erosion, areas subject to heavy tides and areas too
10 narrow for effective use of nonstructural shoreline stabilization measures.

11 (b) Where nonstructural measures are ineffective or impractical, as demonstrated
12 to the satisfaction of MDE, stone revetments or riprap shall be used whenever
13 possible to conserve fish and plant habitat. Bulkheads and other structural
14 measures shall be used only where the use of revetments is infeasible or where
15 their use is needed as part of a water-dependent facility.

16 (c) Erosion control plan. Where structural measures must be used, these must be
17 established as specified in an erosion control plan approved by the Department
18 of Planning and Zoning. The approved plan must be kept on the project site
19 and be available for inspection upon request of the Zoning Inspector during the
20 construction of the erosion control measures. An approved plan is not valid
21 without all state and federal permits and licenses and an approved buffer
22 management plan required to conduct such erosion control measures. The
23 erosion control plan contains a site sketch of the existing shoreline and a site
24 sketch of the proposed control measures. The erosion control plan also
25 contains a brief description of the proposed methods and materials. The
26 information required by the Army Corps of Engineers and Maryland
27 Department of the Environment/Nontidal Wetlands Division for a 404 joint
28 permit application is sufficient for submission as an erosion control plan.

(d) Slope stabilization. Where erosion of the slope in the buffer is occurring above mean high water, stabilization of the slope may only occur in accordance with an approved buffer management plan and in consultation with the Soil Conservation District and Critical Area Commission.

(9) Natural 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:

(a) 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.

(b) 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 buffer which are presently unvegetated.

(c) All areas listed as identified habitat protection areas in § 267-4 (Definitions) shall be protected on a natural park site.

(d) Forest cover on the site shall be maintained to the maximum extent feasible.

(e) All publicly owned lands leased for agricultural activities shall have current soil and water conservation plans.

G. Habitat protection areas.

(1) The purpose of this subsection is to ensure protection for the following types of areas with significant resource value, called “habitat protection areas,” no matter where they are located within the Critical Area.

(2) The following areas of significant natural value are classified “habitat protection areas” and are so designated on each Zoning Map overlay or herein defined:

(a) Critical Area buffer. An area a minimum 100 feet in width as measured from the mean high water line of tidal waters, edge of tidal wetlands and edge of bank of tributary streams shall be established and maintained in a natural condition. The Critical Area buffer shall be expanded beyond 100 feet to

1 include the following contiguous sensitive areas:

2 [1] Hydric soils, highly erodible soils, wetlands or other aquatic habitats
3 and steep slopes.

4 [2] Steep slopes are defined as slopes which equal or exceed 15% slope.
5 In the case of steep slopes within or contiguous to the Critical Area
6 buffer, the buffer is additionally expanded beyond the expansions for
7 the above-listed sensitive areas 4 feet for every 1% of slope as
8 averaged over the contiguous steeply sloped area or to the top of the
9 contiguous steeply sloped area, whichever is greater. Topographic
10 information contained in Harford County's GIS will be used to
11 determine the presence of steep slopes unless field verifications are
12 provided to detail the locations of these slopes.

13 [3] Within the resource conservation area, any application for subdivision
14 or site plan approval, not involving the use of growth allocation, shall
15 have a minimum buffer of 200 feet from tidal waters or a tidal wetland
16 unless subdivision of the property at a density of one dwelling unit per
17 20 acres would be precluded and all other state and local requirements
18 will be satisfied.

19 (b) Nontidal wetlands. Those areas which meet the definition of nontidal wetlands
20 as set forth in § 267-4 (Definitions), both mapped and located by field survey.

21 (c) Habitats of state-designated threatened or endangered species or species in
22 need of conservation, natural heritage areas and habitats of local significance.

23 (d) Colonial waterbird nesting sites.

24 (e) Riparian forests and other forested areas utilized as breeding habitat by forest
25 interior dwelling species.

26 (f) Anadromous fish propagation waters.

27 (g) Historic waterfowl staging and concentration areas in tidal waters, tributary
28 streams or tidal and nontidal wetlands.

1 (3) General provisions.

2 (a) Development activities or other land disturbances, including commercial tree
3 harvesting and agricultural activities, are prohibited within the boundaries of an
4 identified habitat protection area unless permitted in Subsection G(4) below.

5 (b) The location of roads, bridges or utilities shall be prohibited within the
6 boundaries of a habitat protection area unless there is no feasible alternative, as
7 determined by the Director of Planning in consultation with the Director of the
8 Department of Public Works, in which case they shall be located, designed,
9 constructed and maintained to provide maximum erosion protection, to
10 minimize adverse effects on wildlife, aquatic life and their habitats and to
11 maintain hydrologic processes and water quality.

12 (c) All development activities that must cross or otherwise affect streams shall be
13 designed to:

14 [1] Retain tree canopy so as to maintain stream water temperatures within
15 normal variation;

16 [2] Provide a natural substrate for streambeds; and

17 [3] Minimize adverse water quality and quantity impacts of stormwater.

18 (4) Specific provisions. Activities affecting particular habitat protection areas shall
19 comply with the following requirements:

20 (a) Critical Area buffer.

21 [1] Any activity occurring on a lot or parcel that includes the buffer must
22 comply with COMAR 27.01.09.01-.01-7 as amended, included as
23 Appendix K and incorporated herein by reference.

24 [2] The buffer shall be maintained in natural vegetation and may include
25 planted native vegetation where necessary to protect, stabilize or
26 enhance the shoreline.

27 [a] The buffer shall be expanded to include contiguous sensitive
28 areas such as steep slopes, hydric soils, highly erodible soils

and nontidal wetlands in accordance with the expansion provisions in Appendix K.

[b] In the case of development or redevelopment that occurs on a lot or parcel that includes a buffer to tidal waters, a tidal wetland or a tributary stream, or the approval of a subdivision that includes a buffer to tidal waters, a tidal wetland or a tributary stream, the buffer shall be established in accordance with the requirements set forth in Appendix K.

[3] New development activities, including redevelopment activities, may not be permitted in the buffer, except for:

[a] Those necessarily associated with water-dependent facilities as approved in accordance with Subsection F(6) of this section;

[b] Shore erosion control or slope stabilization measures in accordance with Subsection F(8) of this section;

[c] Those occurring within an approved buffer exempt area in accordance with Subsection G(4) of this section; and

[d] Those occurring on a lot or parcel created before January 1, 2010, where the buffer has been expanded due to a highly erodible soil on a slope less than 15% or a hydric soil, if:

[i] The location of the development activity is in the expanded portion of the buffer for a highly erodible soil on a slope less than 15% or a hydric soil, but not in the 100-foot buffer;

[ii] The buffer for a highly erodible soil on a slope less than 15% or a hydric soil occupies at least 75% of the lot or parcel; and

[iii] Mitigation occurs at a 2:1 ratio based on the lot coverage of the proposed development activity that is

1 in the expanded buffer.

2 [4] The cutting or removal of natural vegetation in the buffer is prohibited
3 with the exception of disturbance necessary for:

4 [a] Access to private piers;

5 [b] Construction of an approved water-dependent facility;

6 [c] Installation of an approved shore erosion protection device or
7 slope erosion control measure;

8 [d] Removal of a dead, diseased or dying tree; or

9 [e] Removal of a tree in danger of falling and causing damage to a
10 dwelling or other structure, causing blockage of a stream or
11 causing accelerated shore erosion.

12 [5] Mitigation. Any disturbance to the buffer shall be mitigated per the
13 requirements specified in Appendix K.

14 [6] Buffer management plan. Prior to any clearing of vegetation or
15 removal of trees within the buffer for activities permitted under
16 Subsection 4(A)[3] and [4] of this section, a buffer management plan
17 must be submitted and approved by the Department of Planning and
18 Zoning prior to any clearing or removal per the specifications
19 contained in Appendix K.

20 [7] Any violation of this section shall require mitigation at a ratio of 4:1.

21 [8] Fee-in-lieu. If the mitigation requirements of Subsection 4(a)[5]
22 cannot be met, a fee-in-lieu of buffer mitigation may be paid at the rate
23 of \$1.50 per square foot of mitigation required. Appendix K specifies
24 reporting requirements for the fee-in-lieu.

25 [9] For any commercial timber harvesting of trees by selection, a buffer
26 management plan shall be prepared by a registered forester and
27 approved by the Maryland Department of Natural Resources based
28 upon recommendations of the Harford County Forestry Board and the

1 Harford County Department of Planning and Zoning. Cutting or
2 clearing operations specified in such plans shall be conducted in
3 accordance with the following requirements:

4 [a] Selective cutting may be permitted to within 50 feet of the
5 mean high water line of tidal waters, perennial tributary
6 streams and the edge of tidal wetlands. Commercial harvesting
7 of trees by any method is permitted to the edge of intermittent
8 streams provided that the requirements of this section are met.

9 [b] Nontidal wetlands and other identified habitat protection areas
10 shall not be disturbed.

11 [c] Disturbance to stream banks and shorelines shall be avoided.

12 [d] The area disturbed or cut shall be replanted or allowed to
13 regenerate in a manner that assures the availability of cover
14 and breeding sites for wildlife and reestablishes the wildlife
15 corridor function of the buffer.

16 [e] The cutting shall not create logging roads and skid trails within
17 the buffer.

18 [10] The requirements of this buffer section are not applicable to:

19 [a] An in-kind replacement of a principal structure; or

20 [b] Land that remains in agricultural use after subdivision in
21 accordance with a buffer management plan per Appendix K.

22 [11] Buffer exempt areas. The following provisions apply to shoreline
23 areas that have been identified as buffer exempt areas in the Harford
24 County Critical Area Program as shown on the buffer exempt area
25 maps attached hereto and incorporated herein by reference. Buffer
26 exempt areas are those lots of record as of December 1, 1985 where the
27 pattern of residential, industrial, commercial or recreational
28 development prevents the buffer from fulfilling its intended purposes

1 as stated in COMAR 27.01.09.01.C. For purposes of this buffer
2 exempt area section, development refers to sites with less than 15%
3 existing impervious surface and redevelopment pertains to sites with
4 15% greater existing impervious surface.

5 [a] For single-family, detached residential areas designated as
6 buffer exempt areas, construction or placement of new or
7 accessory structures, minor additions and associated new
8 impervious surfaces on developed lots or parcels is permitted
9 in the buffer provided that:

10 [i] The applicant can demonstrate that there is no feasible
11 alternative for the location of the new development or
12 redevelopment activities, including structures, roads,
13 parking areas and other impervious surfaces or septic
14 systems.

15 [ii] New development or redevelopment shall minimize the
16 shoreward extent of intrusion into the buffer. New
17 development and redevelopment shall not be located
18 closer to the water (or the edge of tidal wetlands) than
19 principal structures on adjacent properties or the local
20 setback for the zoning district, whichever is greater. In
21 no case shall new development or redevelopment be
22 located less than 25 feet from the water (or the edge of
23 tidal wetlands).

24 [iii] Existing principal or accessory structures in the buffer
25 may be replaced in the same location. Any increase in
26 impervious area within the buffer shall comply fully
27 with the requirements of this section.

28 [iv] New accessory structures may be permitted in the

1 buffer in accordance with the following setback
2 requirements:

3 [A] New accessory structures may be located
4 closer to the water or edge of tidal wetlands
5 than the dwelling only if there are no other
6 locations for the accessory structures;

7 [B] The area of the accessory structures within the
8 buffer shall be minimized and the cumulative
9 total area of all new and existing accessory
10 structures within the buffer shall not exceed
11 500 square feet within 50 feet of the water and
12 1,000 square feet total; and

13 [C] In no case shall new accessory structures be
14 located less than 25 feet from the water or edge
15 of tidal wetlands.

16 [v] Variances to other setback requirements have been
17 considered before additional development within 100
18 feet of mean high tide is approved.

19 [vi] No natural vegetation may be removed in the buffer
20 except that required by proposed construction. The
21 applicant will be required to maintain any other
22 existing natural vegetation in the buffer.

23 [vii] Development does not impact any other habitat
24 protection areas other than the buffer, including
25 nontidal wetlands, other state and federal permits
26 notwithstanding.

27 [viii] Buffer exempt area designations shall not be used to
28 facilitate the filling of tidal wetlands that are

contiguous to the buffer to create additional buildable land for new development or redevelopment.

[ix] Any development in the buffer exempt area requires mitigation in the form of plantings, offsets or fees in lieu.

[A] Natural vegetation of an area twice the extent of the footprint of the development activity within the 100-foot buffer shall be planted on site in the buffer or other location as may be determined by the Director of Planning. If it is not possible to carry out offsets or other mitigation within the Critical Area, any planting or other habitat/water quality improvements should occur within the affected watershed.

[B] Applicants who cannot comply with the planting requirements may use offsets to meet the mitigation requirement. Offsets may include the removal of an equivalent area of existing impervious surfaces in the buffer, the construction of best management practices for stormwater, wetland creation or restoration or other measures approved by the Director of Planning that improve water quality or habitat.

[C] Applicants who cannot comply with either the planting or offset requirements above on site or off site within the Critical Area shall pay a fee in lieu of \$1.20 per square foot for the area to

be planted.

[D] Any required reforestation, mitigation or offset areas must be designated under a development agreement or other instrument and recorded among the land records.

[E] The County may establish regional areas for plantings and/or stormwater management facilities to fulfill the water quality and wildlife habitat functions of the Critical Area buffer for those areas which have been exempted from the buffer exempt area provisions using the fee in lieu paid. Monies contributed under this section shall be deposited in a separate account and shall be used for site identification, acquisition, design, preparation, planting and monitoring of vegetation at selected regional water quality and wildlife improvement areas and shall not revert to the general fund.

[b] For commercial, industrial, institutional, recreational and multi-family residential areas designated as buffer exempt areas, construction or placement of new structures and associated new impervious surfaces on developed parcels in the buffer is permitted provided that:

[i] The applicant can demonstrate that there is no feasible alternative for the location of the new developed or redeveloped activity, including structures, roads, parking areas and other impervious surfaces or septic systems.

1 [ii] The applicant can demonstrate that efforts have been
2 made to minimize buffer impacts by locating activities
3 as far as possible from mean high tide, the landward
4 edge of tidal wetlands or the edge of tributary streams,
5 and variances to other local setback requirements have
6 been considered before additional intrusion into the
7 buffer. Convenience or expense shall not be factors
8 considered when evaluating the extent of allowable
9 impacts to the buffer.

10 [iii] New development, including accessory structures, shall
11 minimize the extent of intrusion into the buffer. New
12 development shall not be located closer to the water (or
13 edge of tidal wetlands) than the zoning district setback
14 or 50 feet, whichever is greater. Structures on adjacent
15 properties shall not be used to determine the setback
16 line. The 50-foot setback shall be maintained for all
17 subsequent development or redevelopment of the
18 property.

19 [iv] Redevelopment, including accessory structures, shall
20 minimize the extent of intrusion into the buffer.
21 Redevelopment shall not be located closer to the water
22 (or edge of tidal wetlands) than the zoning district
23 setback or 25 feet, whichever is greater. Structures on
24 adjacent properties shall not be used to determine the
25 setback line. Existing structures located within the 25-
26 foot setback may remain. A new structure may be
27 constructed on the footprint of an existing structure or
28 impervious surface if it complies with all of the

1 setbacks of this section and other applicable district
2 regulations. Opportunities to establish a 25-foot
3 setback should be maximized.

4 [v] Development and redevelopment may not impact any
5 habitat protection areas other than the buffer, including
6 nontidal wetlands, other state or federal permits
7 notwithstanding.

8 [vi] No natural vegetation may be removed in the buffer
9 except that required by the proposed construction. The
10 applicant will be required to maintain any other
11 existing natural vegetation in the buffer.

12 [vii] Buffer exempt area designation shall not be used to
13 facilitate the filling of tidal wetlands that are
14 contiguous to the buffer or to create additional
15 buildable land for new development or redevelopment.

16 [viii] Any development or redevelopment in the buffer
17 exempt area requires mitigation in the form of
18 plantings, offsets or fees in lieu.

19 [A] A forested or landscaped buffer yard, 25 feet
20 wide, shall be established on the project site
21 between the development and the water. This
22 buffer yard shall be densely planted with trees
23 and shrubs.

24 [B] On redevelopment sites, if existing structures
25 or those rebuilt on an existing footprint limit
26 the area available for planting, then appropriate
27 modifications to the width of the planted buffer
28 yard may be made on a case-by-case basis as

approved by the Director of Planning.

[C] In addition to the 25-foot buffer yard, natural forest vegetation of an area twice the extent of the footprint of the development activity shall be planted within the 100-foot buffer on site or at another location, preferably on site.

[D] Applicants who cannot comply with the planting requirements in Subsection [C] above may use offsets to meet mitigation requirements, such as removal of an equivalent area of existing impervious surfaces in the buffer, the construction of best management practices for stormwater, wetland creation or restoration or other measure approved by the Director of Planning that improve water quality or habitat. If it is not possible to carry out offsets or other mitigation within the Critical Area, any planting or other habitat/water quality improvements should occur within the affected watershed.

[E] Applicants who cannot comply with either the planting or offset requirements shall pay a fee in lieu of \$1.20 per square foot for the area to be planted.

[F] Any required reforestation/mitigation offset areas must be designated under a development agreement or other instrument and recorded among the land records.

1 [G] The County may establish regional areas for
2 plantings and/or stormwater management
3 facilities to fulfill the water quality and wildlife
4 habitat functions of the Critical Area buffer for
5 those areas which have been exempted from
6 the buffer exempt area planting provisions and
7 use the fee in lieu alternative. Monies
8 contributed under this section shall be
9 deposited in a separate account and shall be
10 used for site identification, acquisition, design,
11 preparation, planting and monitoring of
12 vegetation at selected regional water quality
13 and wildlife improvement areas and shall not
14 revert to the general fund.

15 (b) Nontidal wetlands.

16 [1] A 75-foot buffer shall be established adjacent to nontidal wetlands.

17 [2] Development activities shall not be permitted in nontidal wetlands or
18 the 75-foot nontidal wetland buffer, except for permitted development
19 associated with water-dependent facilities as listed in Subsection F(6)
20 of this section.

21 [3] Existing farm ponds and other existing man-made bodies of water for
22 the purpose of impounding water for agriculture, water supply,
23 recreation or waterfowl habitat are specifically excluded from coverage
24 by the provisions of this district.

25 [4] Development activities in the drainage areas to nontidal wetlands shall
26 not adversely affect the quality or quantity of surface or subsurface
27 flow to the nontidal wetland so as to adversely affect its water quality
28 and protection of fish, plant or wildlife habitat value.

[5] The location of stormwater management measures is not allowed in nontidal wetlands and the 75-foot nontidal wetland buffer unless it is demonstrated, and only if the Director of Planning concurs, that there is no other technically feasible location and that the water quality benefits of the measures outweigh the adverse impacts on water quality and plant and wildlife habitat values of the nontidal wetlands affected. In determining the adverse impacts of the location of such facilities, consideration can be given to the compensatory value of mitigation measures proposed to replace the lost water quality and habitat value of the affected nontidal wetlands. All federal and state wetland permits must be obtained.

(c) Habitats of state-designated threatened or endangered species or species in need of conservation, designated natural heritage areas and habitats of local significance.

[1] Development activity and other land disturbances shall be prohibited in state-designated natural heritage areas, state-designated habitats of threatened and endangered species and species in need of conservation or identified habitats of local significance. Subject to the review of a site-specific study prepared in consultation with the Department of Natural Resources, the Director of Planning may approve development activities or disturbances if it can be shown that the proposed activities will not have or cause adverse impacts on the identified habitats.

[2] Forest management plans and soil and water conservation plans developed for forestry or agricultural operations within such protection areas shall include measures to protect the integrity of these habitats.

[3] The process for the designation of new habitats shall be in accordance with COMAR 27.01.09.04C(2)(C).

(d) Colonial waterbird nesting sites.

1 [1] A minimum 1/4-mile protection area buffer shall be established around
2 any identified colonial waterbird nesting sites unless, subject to the
3 review of a site-specific study prepared in conjunction with the
4 Department of Natural Resources, it can be shown that development
5 activity or disturbances will not have or cause adverse impacts on the
6 identified habitats. Any development activities or other disturbances
7 which are allowed should not occur during the nest-building and
8 incubation periods, approximately February through April.

9 [2] Noise from construction or development activities should be
10 minimized during the breeding season of February through April in
11 areas adjacent to the 1/4-mile protection area buffer in order to avoid
12 adverse impacts on nesting colonial waterbirds. The applicant is
13 required to contact the Department of Natural Resources for
14 information on the specific breeding seasons.

15 (e) Riparian forests and other forested areas utilized as breeding habitat by forest
16 interior dwelling species. The following management practices shall be
17 followed in the case of development, forest operations or other activities in
18 areas identified as breeding habitat for forest interior dwelling species in
19 accordance with the procedures specified in the technical report, A Guide to
20 the Conservation of Forest Interior Dwelling Birds in the Critical Area
21 (Appendix J of the Harford County Chesapeake Bay Critical Area
22 Management Program):

23 [1] Minimize disturbance during the May-August breeding season.

24 [2] Locate development or other activities that would cause disturbance to
25 the forested areas such as roads, utility line corridors, structures and
26 intensive timber harvesting on the periphery of the site.

27 [3] To the maximum extent feasible, retain the forest canopy and trees and
28 shrubs underneath the canopy.

[4] Timber harvesting shall be undertaken utilizing techniques which help to maintain or improve habitat for forest interior dwelling species. The Department of Natural Resources shall be consulted for advice on the use of proper techniques prior to any timber harvesting operations.

(f) Anadromous fish propagation waters. The following management measures shall apply to any streams identified as anadromous fish propagation waters:

[1] 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.

[2] Channelization or other physical alterations which may change the course or circulation of a stream shall be prohibited.

[3] Construction or placement of dams or other structures that would interfere with or prevent the movement of spawning fish or larval forms in streams shall be prohibited.

[4] The construction, repair or maintenance activities associated with bridges or other stream crossings or with utilities and roads which involve disturbance within the Critical Area buffer or which occur in streams shall be prohibited between March 1 and June 15.

[5] All proposed in-stream construction projects shall maintain the natural stream channel bottom and predevelopment conditions.

H. Variances.

(1) Variances from the provisions of this section may only be granted if, due to special features of a site or other circumstances, implementation of this section or a literal enforcement of its provisions would result in unwarranted hardship [See Subsection H(5) below] to an applicant.

(2) All applications for variances shall be reviewed by the Director of Planning for conformance with applicable provisions of this section, and a written report shall be

1 provided to the Board of Appeals.

2 (3) An application for a variance to legalize a violation of this section, including any
3 unpermitted structure or development activity, may not be accepted unless the
4 Department of Planning and Zoning first issues a notice of violation for the violation,
5 per Subsection P.

6 (4) In granting a variance, the Board shall issue written findings demonstrating that the
7 requested approval complies with each of the following conditions:

8 (a) That special conditions or circumstances exist that are peculiar to the land or
9 structure within the County's Critical Area, and a literal enforcement of the
10 Critical Area Program would result in an unwarranted hardship.

11 (b) That a literal interpretation of the provisions of this section will deprive the
12 applicant of rights commonly enjoyed by other properties in similar geographic
13 and land use management areas within the Critical Area.

14 (c) That the granting of a variance will not confer upon the applicant any special
15 privilege that would be denied by this section to other lands or structures
16 within the Critical Area.

17 (d) That the variance request is not based upon conditions or circumstances which
18 are the result of actions by the applicant, nor does the request arise from any
19 condition relating to land or building use, either permitted or nonconforming,
20 on any neighboring property.

21 (e) That the granting of a variance will not adversely affect water quality or
22 adversely impact fish, wildlife or plant habitat within the Critical Area, and the
23 granting of the variance will be in harmony with the spirit and intent of this
24 section.

25 (f) That all identified habitat protection areas on or adjacent to the site have been
26 protected by the proposed development and implementation of either on-site or
27 off-site programs.

28 (g) That the variance will not be substantially detrimental to adjacent properties or

- 1 will not materially impair the purpose of this Part 1 or the public interest.
- 2 (5) For purposes of this subsection, “unwarranted hardship” means that without a variance,
- 3 an applicant would be denied reasonable and significant use of the entire parcel or lot
- 4 for which the variance is requested. In considering whether unwarranted hardship
- 5 exists, the County must consider the following:
- 6 (a) The County shall presume that the specific development activity in the Critical
- 7 Area that is subject to the application and for which a variance is required does
- 8 not conform with the general purpose and intent of the Natural Resources
- 9 Article, Title 8, Subtitle 18, COMAR Title 27, and the requirements of the
- 10 County’s Critical Area Program.
- 11 (b) If the variance request is based on conditions or circumstances that are the
- 12 result of actions by the applicant, the County shall consider that fact.
- 13 (c) An applicant has the burden of proof and the burden of persuasion to overcome
- 14 the presumption of nonconformance established in Subsection H(5)(a) above.
- 15 (d) Based on competent and substantial evidence, the County shall make written
- 16 findings as to whether the applicant has overcome the presumption of
- 17 nonconformance as established above.
- 18 (e) With due regard for the person's experience, technical competence and
- 19 specialized knowledge, the written findings may be based on evidence
- 20 introduced and testimony presented by:
- 21 [1] The applicant;
- 22 [2] The County or any other government agency; or
- 23 [3] Any other person deemed appropriate by the County.
- 24 (6) If an activity or structure for which a variance is requested commenced without
- 25 permits or approvals, and does not meet each of the variance criteria under this
- 26 subsection, the variance request shall be denied and the structure must be removed or
- 27 relocated and the affected resources restored.
- 28 (7) All applications for variance requests shall be filed in writing in accordance with §

267-9D (Board of Appeals, Filings) of the Zoning Code, as amended. Notice of all variance requests and copies of applications filed in accordance with this section shall be sent to the Chesapeake Bay Critical Area Commission within 10 calendar days of filing with the Department of Planning and Zoning. A copy of the recommendation of the hearing examiner or of the Board in acting on the variance shall be sent to the Commission within 10 days.

(8) A permit for the activity that was the subject of the variance application may not be issued until the applicable thirty-day appeal period has elapsed.

I. Special exceptions. All projects requiring approval as special exceptions within the Critical Area must meet the standards of this section. The Director of Planning may require such additional information, studies or documentation deemed necessary to ensure that applicable requirements of this district are met. Applications will not be considered complete for processing until all information as required by the Director of Planning has been received.

J. Nonconforming uses and structures. Subject to those requirements governing nonconforming uses or structures contained in § 267-20 (Nonconforming buildings, structures and uses) of the Harford County Code, as amended, any use or structure in existence, as of the date of the enactment of this section, shall be allowed to continue as originally built and utilized. Any intensification or expansion of such existing nonconforming uses or structures shall only be allowed subject to the approval of a variance along with all necessary findings, as described in Subsection H of this section.

K. Grandfathering provisions. Notwithstanding the density provisions of Subsection F(3)(c) of this section, the following development activities shall be allowed in the Critical Area, provided that the development activity conforms to all applicable provisions for the protection of identified habitat protection areas, for the development of water-dependent facilities and for adequate stormwater management measures, including the limitation of lot coverage in LDA and RCA in accordance with Subsections F(3)(b) and F(3)(c) of this section, and that the development activity conforms to the remaining provisions of this section to the maximum extent possible:

- (1) Construction of a single-family dwelling on an undeveloped, legal parcel of land or lot of record that existed as of December 1, 1985.
 - (2) Construction of subdivisions that received final approval prior to June 1, 1984, provided that lots not individually owned are consolidated or reconfigured to comply with the provisions of Subsection L below.
 - (3) Construction of subdivisions which received final approval between June 1, 1984, and December 1, 1985.
 - (4) Construction of subdivisions which received final approval after December 1, 1985, and prior to the date of approval of this section. Such subdivisions shall be consistent with the provisions of this section, or the development of these areas must utilize a portion of the County's growth allocation.
 - (5) The expansion by no more than 50% of commercial uses on parcels designated as limited development areas because they did not meet the minimum 20-acre size required for IDA designation.
- L. Lot consolidation and reconfiguration. Consolidation or reconfiguration of grandfathered lots, as identified in Subsection K, must comply with the following:
- (1) An application for the consolidation or reconfiguration of lots shall contain at least the following information:
 - (a) The date of recordation of each legal parcel of land or recorded, legally buildable lot to be consolidated or reconfigured;
 - (b) A plan drawn to scale and showing all existing and proposed parcel or lot boundaries;
 - (c) A table that lists the number of all legal parcels of land or recorded, legally buildable lots and the number of proposed parcels or lots to be derived; and
 - (d) Information sufficient to make findings set forth in Subsection L(2) below.
 - (2) An application for lot consolidation or reconfiguration may not be approved unless the following written findings can be made:
 - (a) The proposal will not result in a greater number of lots, parcels or dwelling

units in the Critical Area than the configuration in existence at the time of application would allow;

(b) In the limited development area or resource conservation area, the proposal:

[1] Will not result in greater lot coverage than development activities within the configuration in existence at the time of application would allow; and

[2] Will not result in greater impact to a steep slope than development activities within the lot configuration in existence at the time of application would allow, if that steep slope is located outside the buffer or expanded buffer;

(c) The proposal will not:

[1] Create an additional riparian parcel or lot, waterfront lot or any other parcel or lot deeded with water access; or

[2] Intensify or increase impacts associated with riparian access;

(d) The proposal will not create:

[1] A parcel, lot or portion of a parcel or lot that will serve development activities outside the Critical Area; or

[2] A resource conservation area parcel or lot that will serve development activities in the intensely developed area or limited development area;

(e) The proposal identifies each habitat protection area on site, and, if the proposal impacts a habitat protection area, the proposed protective and restoration measures provide for the least possible adverse impact;

(f) The proposal:

[1] Will not result in a greater impact to a habitat protection area than the impact that would result from development activities within the configuration in existence at the time of application; and

[2] Will minimize adverse impacts to the habitat protection area;

(g) The proposal provides:

- 1 [1] Stormwater management for all proposed development activities; and
- 2 [2] Benefits to fish, wildlife and plant habitat that are clearly identified;
- 3 and
- 4 (h) The proposal fully complies with the afforestation and reforestation
- 5 requirements in this section, unless clearing is necessary to avoid a habitat
- 6 protection area.
- 7 (3) Final written decision or order.
- 8 (a) The Department of Planning and Zoning shall issue a final written decision or
- 9 order granting or denying an application for a consolidation, reconfiguration, a
- 10 modification or a reconsideration of a proposal.
- 11 (b) A copy of the final written decision, and a copy of the approved development
- 12 plan, shall be sent by U.S. Mail to the Critical Area Commission within 10
- 13 business days of the final decision.
- 14 (c) A permit or approval of any type may not be issued by the Department of
- 15 Planning and Zoning on a property affected by the final written decision or
- 16 order until after a thirty-day appeal period afforded the Critical Area
- 17 Commission in accordance with COMAR 27.01.02.08G.
- 18 (4) Minor lot line adjustments of 10 feet or less between two nonconforming lots of record
- 19 are exempt from submittal to the Critical Area Commission.
- 20 (5) The provisions of this section do not apply to a conforming parcel or lot.
- 21 M. Amendments to management area boundaries and general program amendments. As defined
- 22 in this section, the boundaries shown on the Critical Area Maps depicting the Critical Area
- 23 land use management areas (IDA, LDA, RCA), and provisions in the Critical Area Program,
- 24 may require amendment from time to time. All such amendments or changes shall be
- 25 reviewed in accordance with the following procedures and shall conform to the required
- 26 standards as outlined in this subsection:
- 27 (1) For purposes of this section, the following definitions apply:
- 28 PROGRAM AMENDMENT - Any change or proposed change to an adopted program

1 that is not determined by the Chairman of the Critical Area Commission to be a
2 program refinement.

3 PROGRAM REFINEMENT - Any change or proposed change to an adopted program
4 that the Chairman of the Critical Area Commission determines will result in a use of
5 land or water in the Chesapeake Bay Critical Area in a manner consistent with the
6 adopted program or that will not significantly affect the use of land or water in the
7 critical area. Program refinement may include:

- 8 (a) A change to an adopted program that results from state law;
- 9 (b) A change to an adopted program that affects local processes and procedures;
- 10 (c) A change to a local ordinance or code that clarifies an existing provision; and
- 11 (d) A minor change to an element of an adopted program that is clearly consistent
12 with the provisions of state Critical Area Law and all the criteria of the
13 Commission.

14 (2) General procedures.

- 15 (a) The County Council may propose changes or amendments to the boundaries as
16 shown on the Critical Area Maps. The basis for approval of such amendments
17 shall be due to:

18 [1] A mistake in the original designation of a management area; or

19 [2] The periodic review of the overall management program; or

20 [3] A request for a growth allocation.

- 21 (b) All proposed amendments shall be reviewed in accordance with the procedures
22 and standards of this subsection. In addition, all proposed amendments to the
23 County's critical area program, including, but not limited to, the Zoning Code,
24 Subdivision Regulations and Critical Area Maps, shall be consistent with the
25 purposes, policies, goals and provisions of the Critical Area Law and all
26 criteria of the Critical Area Commission.

- 27 (c) Application submittal. All applications for amendments shall be reviewed in
28 the following manner:

1 [1] Amendments involving a growth allocation or other amendment
2 request shall be submitted to the Department of Planning and Zoning.
3 The Department of Planning and Zoning shall hold a pre-application
4 meeting with the applicant and shall notify the applicant in writing of
5 the sufficiency of their application within 30 calendar days of receipt
6 of the application. The Department of Planning and Zoning shall
7 present a report with a recommendation on the proposed amendment to
8 the Planning Advisory Board (PAB) and the Environmental Advisory
9 Board (EAB) within 90 calendar days of the determination of a
10 complete application. The PAB and EAB shall transmit their
11 recommendations on the proposed amendment to the County Council
12 within 90 calendar days of receipt of the Planning and Zoning staff
13 report. The Department of Planning and Zoning shall present a staff
14 report with a recommendation on the amendment to the County
15 Council concurrent with the PAB recommendation.

16 [2] If the Department of Planning and Zoning determines that an
17 application is insufficient, the applicant shall submit whatever
18 additional information the Department requires within 30 calendar
19 days from the time of notification of insufficiency. If the required
20 information is not submitted within 30 calendar days, the application
21 shall be considered void.

22 [3] The County Council shall hold a public hearing on the proposed
23 amendment. The Department of Planning and Zoning shall publish
24 notice of the date, time and place of the hearing at least once in at least
25 2 newspapers published in the County at least 2 weeks prior to the
26 hearing date and shall send notice of the hearing a minimum of 2
27 weeks prior to the hearing to all property owners whose land is
28 immediately adjacent to or lies wholly or in part within the proposed

1 amendment area. At any time after the hearing, the Council may
2 approve or deny these proposed amendments.

3 [4] All amendments approved by the Council shall be forwarded to the
4 Critical Area Commission within 30 calendar days of the Council's
5 final action. No amendment shall be considered final pending action
6 by the State of Maryland Critical Area Commission.

7 [5] The Chairman, and as appropriate, the Commission, shall determine if
8 the requests for program changes are consistent with the purposes,
9 policies, goals and provisions of the Critical Area Law and all criteria
10 of the Commission.

11 [6] In accordance with the determination of consistency as outlined in
12 Subsection M(2)(c)[5] above, the Chairman of the Critical Area
13 Commission, or as appropriate, the Commission, shall approve the
14 proposed program refinement or amendment and notify the County,
15 deny the proposed program refinement or amendment, approve the
16 proposed program refinement or amendment subject to one or more
17 conditions or return the proposed program refinement or amendment to
18 the County with a list of changes to be made.

19 (d) Information required. At a minimum, all applications for amendments shall
20 include the following information:

21 [1] The proposed boundaries of the amendment request showing the
22 existing and proposed boundaries of the management area.

23 [2] A written justification describing how the proposed amendment
24 conforms to the objectives of the County's Critical Area management
25 program and addresses the required findings for the management area
26 where the project is to be located as specified below.

27 [a] The Director of Planning shall require additional materials as
28 may be necessary for the review of the proposed amendments.

For those amendments involving a growth allocation request, submittal requirements can be found in COMAR 27.01.02.05-1 and COMAR 27.01.02.05-2, including factors listed in Subsection N of this section. For amendments involving the correction of a mistake in the original designation, the applicant shall also provide a statement specifying the mistake in the original designation of a land use management area that makes the proposed amendment necessary.

[b] All relevant information necessary for the Chairman of the Commission, and as appropriate, the Commission, to evaluate the changes.

(3) Fees. The following fee schedule shall apply to all applications for amendments to management area boundaries:

(a) Publication and posting fee: \$200.00.

(b) Filing fee (all projects): \$500.00.

(c) Plus \$15.00 per acre or portion of an acre within the Critical Area of Harford County.

(4) If the Council takes action to deny a growth allocation or boundary mistake argument, the applicant may not submit an application for the same request for 2 years following the decision unless a significant change has been made in the ownership or site conditions.

N. Expansion of intensely developed and limited development management areas.

(1) General requirements. The boundaries of the intensely developed and limited development management area, as shown on each Zoning Map overlay, may be expanded in accordance with the following procedures for use of a portion of the County's growth allocation:

(a) Acreage. The total area of expansion shall not exceed an area equal to 5% of that portion of the total land in the County's resource conservation

management area that is not designated tidal wetlands. No more than 1/2 of the allocated expansion shall occur in areas shown in the resource conservation management area.

(b) Location. Expansion of the intensely developed or limited development management areas may be approved subject to the following locational criteria:

[1] New LDA shall be located adjacent to an existing limited development area or intensely developed management area. New intensely developed areas shall be located in a LDA or adjacent to an existing IDA or are an existing grandfathered commercial, industrial or institutional use that existed as of the date of the original local program approval.

[2] Such areas shall be located at least 300 feet from tidal waters or tidal wetlands if the land was originally designated in the original resource conservation management area, unless the Director of Planning proposes, and the Critical Area Commission approves, alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources.

[3] Such areas shall incorporate measures to protect water quality and identified habitat protection areas located on or adjacent to the proposed expansion areas.

[4] Such areas shall minimize impacts to habitat protection areas and lands in resource conservation management areas in proximity to such an expanded limited development or intensely developed area.

(2) Additional requirements. All projects granted a growth allocation shall conform to the following additional standards:

(a) All forested area removed shall be replaced on a square-footage basis in accordance with the procedures specified in § 267-63 (Chesapeake Bay Critical Area Overlay District) of the Zoning Code, as amended, and the Forest

Management Guide. If such replacement is not feasible, fee in lieu must be paid to the County in accordance with the procedures specified in this section.

(b) Pollutant loadings associated with developments granted growth allocations shall be managed according to the levels required for the land use management area amendment. In the case of a new intensely developed area, such loadings shall be reduced 10% from predevelopment levels. The procedures contained in the technical report entitled "Critical Area 10% Rule Guidance Manual, Fall 2003" (Appendix B of the Harford County Critical Area Management Program, as amended) shall be used to determine the amount of reduction required and what specific measures are needed to meet these requirements.

(c) Development on slopes greater than 15% as measured prior to development shall be prohibited.

(d) Development on soils with development constraints, i.e., highly erodible soils, soils with severe septic constraints, hydric soils and soils with hydric inclusions as listed in Table 63-1, shall be restricted. The Director of Planning may permit development on such soils if adequate mitigation measures are applied to address the identified constraints and to avoid significant adverse impacts on water quality or fish, plant or wildlife habitats.

(3) Standards for review of expansion projects.

(a) Project review criteria. In addition to the requirements listed in Subsections N(1) and (2) above, all projects requesting an expansion of the IDA and LDA as a growth allocation shall be reviewed and evaluated for their conformance with the following factors:

[1] Consistency with the Harford County Comprehensive Plan and whether the growth allocation would implement the goals and objectives of the plan;

[2] For new IDA areas, whether the development is:

[a] To be served by a public wastewater system;

[b] To have an allowed average density of at least 3.5 units per acre;

[c] To be located in a priority funding area if the IDA is greater than 20 acres; and

[d] To have a demonstrable economic benefit;

[3] For new LDA areas, whether the development is:

[a] To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;

[b] A completion of an existing subdivision;

[c] An expansion of an existing business;

[d] To be clustered;

[4] The use of existing public infrastructure, where practicable;

[5] Consistency with state and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on or off-site;

[6] Impacts on a priority preservation area, as defined under § 2-518 of the Agriculture Article;

[7] Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal water, tidal wetlands and tributary streams;

[8] Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development;

[9] The amount of forested area and other vegetative cover that is left undisturbed and in a natural state on the site;

[10] Additional public improvements and the specific nature of such improvements that will be provided with the proposed development (Examples of these would include public access facilities to waterfront

1 areas, acceleration of the provision of public water and sewer service to
2 areas with existing health problems, dedication of lands for public park
3 purposes, etc.); and

4 [11] Use of innovative site design and construction design features to
5 minimize the disturbance of natural areas and reduce potential impacts
6 on habitat protection areas and adjacent communities and RCA areas.

7 These features could include, but are not limited to:

8 [a] The use of cluster development;

9 [b] The use of shallow-marsh creation stormwater management
10 measures;

11 [c] The use of buffer areas to minimize impacts on existing
12 habitats and wildlife corridors and protect adjacent natural and
13 developed areas from impacts of the proposed development;

14 [d] The use of appropriate landscaping plans and materials to
15 enhance the establishment of vegetated buffer areas on the
16 project site;

17 [e] The use of conservation easements to permanently protect
18 natural areas; and

19 [f] The use of low-impact development (LID) practices. LID
20 practices are described in the following documents, which are
21 hereby incorporated by reference: U.S. Department of Housing
22 and Urban Development, Office of Policy Development and
23 Research, The Practice of Low Impact Development (July
24 2003); Prince George's County, Maryland Department of
25 Environmental Resources, Low-Impact Development Design
26 Strategies: An Integrated Design Approach (June 1999); and
27 Prince George's County, Maryland Department of
28 Environmental Resources, Low-Impact Development

Hydrologic Analysis (July 1999). Low-impact development techniques are encouraged as environmentally sensitive development credits in the 2000 Maryland Stormwater Management Design Manual, Volumes I and II.

(b) Annexation areas. Any area proposed for annexation by a municipality where the proposed use on the parcel requires a change in the land use management area (i.e., RCA to LDA or IDA, etc.) shall be subject to all the procedures for growth allocation as specified in this section.

(4) Submittal requirements for growth allocation projects -- refer to § 267-63M(2)(D).

O. Comprehensive review of the Critical Area Program.

(1) The Critical Area Program shall be reviewed at least every 6 years, and the County Council shall propose any necessary amendments to the program or its adopted maps. The basis for approval of such amendments shall be due to:

(a) Updated resource inventory.

(b) Refinement of program for better consistency with the State Critical Area Criteria.

(c) Refinement of program for more effective protection of natural resources within the Critical Area.

(2) General procedures. All such amendments or changes shall be reviewed in accordance with the following procedures and shall conform to the required standards as outlined in this subsection:

(a) The Department of Planning and Zoning shall submit program amendments to the Planning Advisory Board (PAB) and the Environmental Advisory Board (EAB) together with a summary of the reasoning for the amendments.

(b) Within 60 calendar days the PAB and the EAB shall transmit their recommendations on the proposed amendment to the County Council.

(c) The County Council shall hold a public hearing on the proposed amendment. Notice of the date, time and place of the hearing shall be published at least 1

time in at least 2 newspapers published in the County at least 2 weeks prior to the hearing date. In addition, notice shall also be sent a minimum of 2 weeks prior to the hearing to all property owners whose land lies wholly or in part within the proposed amendment area for map amendments. At any time after the hearing, the Council must approve or deny these proposed amendments.

(d) All amendments approved by the Council shall be forwarded to the Critical Area Commission within 30 calendar days of the Council's final action. No amendment shall be considered final until approved by the State of Maryland Critical Area Commission.

P. Enforcement.

(1) Any development activity undertaken contrary to the provisions of this section or any development activity undertaken without required permits or approvals constitutes a violation of this section of the Code.

(2) Enforcement action shall be taken by the Code Enforcement Officer upon the determination of a violation of this section.

(3) The following persons may each be held jointly or severally responsible for a violation:

(a) Persons who apply for or obtain any permit or approval;

(b) Contractors;

(c) Subcontractors;

(d) Property owners;

(e) Managing agents; or

(f) Any person who has committed, assisted or participated in the violation.

(4) Each violation that occurs and each calendar day that a violation continues constitutes a separate offense.

(5) The Code Enforcement Officer shall issue a notification letter to a person believed to be committing a zoning violation. The notification letter shall contain:

(a) The name and address of the person charged;

(b) The nature of the violation, with reference to the section of the Code violated;

- 1 (c) The place where and the time that the violation occurred;
- 2 (d) Restoration order and mitigation order to abate water quality and habitat
- 3 impacts resulting from the violation; and
- 4 (e) A timeframe for compliance.
- 5 (6) Failure to comply with the requirements of the notification letter will result in a formal
- 6 notice of violation being sent to the owner's last known address. If the violation is not
- 7 satisfied within 15 calendar days from the date of the notice, the Code Enforcement
- 8 Officer may request adjudication of the case through the District Court as a criminal
- 9 offense. The District Court shall schedule the case for trial and summon the defendant
- 10 to appear.
- 11 (7) In a proceeding before the District Court, the violation shall be prosecuted in the same
- 12 manner and to the same extent as set forth for municipal infractions in Article 23A, §
- 13 3(b)(8) through (15) of the Annotated Code of Maryland. The County Attorney may
- 14 prosecute the case.
- 15 (8) In addition to any other penalty applicable under state or County law, each person who
- 16 violates a provision of the Maryland Natural Resources Article, Title 8, Subtitle 18,
- 17 COMAR Title 27, or this section, is subject to a fine not exceeding \$10,000 per
- 18 violation. The court may impose a fine of up to \$10,000 for each calendar day of a
- 19 violation, after considering:
- 20 (a) The willfulness for the violation;
- 21 (b) The harm to the environment or the community in which the violation
- 22 occurred; and
- 23 (c) The cost to the County of enforcing the violation case.
- 24 (9) Permits pursuant to a violation. The Department may not issue any permit, approval,
- 25 variance or special exception, unless the person seeking the permit, approval, variance
- 26 or special exception has:
- 27 (a) Prepared a restoration and/or mitigation plan, approved by the Department, to
- 28 abate impacts to water quality or natural resources as a result of the violation;

- 1 (b) Performed the abatement measures in the approved plan in accordance with
2 local Critical Area requirements; and
- 3 (c) Unless an extension of time is approved by the Department because of adverse
4 planting conditions, within 90 days of the issuance of a permit, approval,
5 variance or special exception for the affected property, completed any
6 additional mitigation required as a condition of approval for the permit,
7 approval, variance or special exception.
- 8 (10) The Code Enforcement Officer may issue a restoration order to any person violating
9 the Critical Area Program compelling the violator to:
- 10 (a) Remove any construction materials, equipment, any structure or other
11 construction work or development activity built or erected in violation of the
12 Critical Area Program;
- 13 (b) Restore any property to its condition as it existed before any violation of, the
14 Critical Area Program; and
- 15 (c) Perform any condition or obligation required by the Critical Area Program or
16 by any permit, approval, special exception or variance.
- 17 (11) The Code Enforcement Officer shall issue a mitigation order to any person who has
18 been cited for a violation of the Critical Area Program. Mitigation is required for all
19 violations of the County's Critical Area Program and shall be in addition to any
20 required abatement or restoration activities.
- 21 Q. Reasonable accommodations for the needs of disabled citizens.
- 22 (1) An applicant seeking relief from the Critical Area standards contained in this ordinance
23 in order to accommodate the reasonable needs of disabled citizens shall have the
24 burden of demonstrating the following:
- 25 (a) The existence of a physical disability;
- 26 (b) Literal enforcement of the provisions of this ordinance would result in
27 discrimination by virtue of such disability;
- 28 (c) A reasonable accommodation would reduce or eliminate the discriminatory

effect of the provisions of this ordinance;

(d) The accommodation requested will not substantially impair the purpose, intent or effect of the provisions of this ordinance as applied to the property; and

(e) Environmental impacts associated with the accommodation are the minimum necessary to address the needs resulting from the particular disability of the applicant.

(2) The Director of Planning shall determine the nature and scope of any accommodation under this ordinance and may award different or other relief than requested after giving due regard to the purpose, intent or effect of the applicable provisions of this ordinance. The Director of Planning may also consider the size, location and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.

(3) The Director of Planning may require, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this ordinance. 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.

R. The Chesapeake Bay Critical Area Management Program, as enacted by Bill 01-36, along with all maps and appendices, is incorporated herein by reference as though were fully stated herein, and the Chesapeake Bay Critical Area Management Program is hereby declared to be part of the official Harford County Master Plan.]

§ 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

1 CONSISTENT AND UNIFORM MANNER SUBJECT TO STATE
2 CRITERIA AND OVERSIGHT.

3 B. GOALS. THE GOALS OF THE COUNTY CRITICAL AREA PROGRAM ARE TO
4 ACCOMPLISH THE FOLLOWING:

- 5 (1) MINIMIZE ADVERSE IMPACTS ON WATER QUALITY RESULTING FROM
6 SEDIMENTATION AND STORMWATER RUNOFF FROM DEVELOPMENT IN
7 THE COASTAL AREAS OF THE COUNTY;
- 8 (2) CONSERVE FISH, WILDLIFE AND PLANT HABITAT;
- 9 (3) MAINTAIN AND, WHERE POSSIBLE, INCREASE THE AMOUNT OF
10 FORESTED AREA IN THE COUNTY'S COASTAL AREAS BECAUSE OF ITS
11 BENEFITS TO WATER QUALITY AND PLANT AND WILDLIFE HABITAT;
- 12 (4) MINIMIZE THE ADVERSE SECONDARY IMPACTS OF DEVELOPMENT
13 OCCURRING IN THE COASTAL AREAS OF THE COUNTY; AND
- 14 (5) MONITOR AND CONTROL DEVELOPMENT IN THE COUNTY'S CRITICAL
15 AREA SO THAT THE NATURAL RESOURCES OF THE CHESAPEAKE BAY,
16 ITS TIDAL TRIBUTARIES AND ITS SHORELINE AREAS WILL BE
17 PROTECTED AND PRESERVED FOR FUTURE GENERATIONS.

18 **§ 267-63.1. IMPLEMENTATION.**

19 A. CRITICAL AREA OVERLAY DISTRICT.

- 20 (1) THE COUNTY ADOPTED ITS CRITICAL AREA PROGRAM ON JUNE 24, 1988.
21 THE HARFORD COUNTY CRITICAL AREA PROGRAM CONSISTS OF § 267-
22 63 THROUGH § 267-63.21 OF THE HARFORD COUNTY ZONING CODE AND
23 THE OFFICIAL CRITICAL AREA MAP(S), AND THE HARFORD COUNTY
24 CHESAPEAKE BAY CRITICAL AREA PROGRAM MANUAL AND
25 APPENDICES THERETO . RELATED PROVISIONS MAY ALSO BE FOUND IN
26 CHAPTER 268 OF THE HARFORD COUNTY CODE, AS AMENDED.
- 27 (2) IN ORDER TO CARRY OUT THE PROVISIONS OF THIS RESOURCE
28 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 ANNOATED 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

1 TO THE DEPARTMENT OF PLANNING AND ZONING PURSUANT TO THE COUNTY
2 CHESAPEAKE BAY CRITICAL AREA PROGRAM ARE CUMULATIVE AND NOT
3 ALTERNATIVE OR EXCLUSIVE, AND THE DECISION TO PURSUE ONE
4 ENFORCEMENT ACTION SHALL NOT PREVENT THE PURSUIT OF OTHERS. IN
5 THE CASE OF VIOLATIONS OF THE COUNTY CHESAPEAKE BAY CRITICAL AREA
6 PROGRAM, THE DEPARTMENT OF PLANNING AND ZONING SHALL TAKE
7 ENFORCEMENT ACTION INCLUDING:

8 (1) ISSUANCE OF ABATEMENT, RESTORATION AND MITIGATION ORDERS AS
9 NECESSARY TO:

10 (A) STOP UNAUTHORIZED ACTIVITY; AND

11 (B) RESTORE AND STABILIZE THE SITE TO ITS CONDITION PRIOR TO
12 THE VIOLATION, OR TO A CONDITION THAT PROVIDES THE SAME
13 WATER QUALITY AND HABITAT BENEFITS.

14 (2) REQUIRING THE IMPLEMENTATION OF MITIGATION MEASURES, IN
15 ADDITION TO RESTORATION ACTIVITIES, TO OFFSET THE
16 ENVIRONMENTAL DAMAGE AND DEGRADATION OR LOSS OF
17 ENVIRONMENTAL BENEFIT RESULTING FROM THE VIOLATION.

18 E. RIGHT TO ENTER PROPERTY. EXCEPT AS OTHERWISE AUTHORIZED AND IN
19 ACCORDANCE WITH THE PROCEDURES SPECIFIED HEREIN, AND § 8-1815 OF
20 THE NATURAL RESOURCES ARTICLE OF THE ANNOTATED CODE OF
21 MARYLAND, AS THE SAME MAY BE AMENDED, THE DIRECTOR OF THE
22 DEPARTMENT OF PLANNING AND ZONING OR HIS OR HER DESIGNEE MAY
23 OBTAIN ACCESS TO AND ENTER A PROPERTY IN ORDER TO PERFORM A
24 ROUTINE INSPECTION FOLLOWING THE APPROVAL AND ISSUANCE OF A
25 PERMIT OR ZONING CERTIFICATE, OR TO IDENTIFY OR VERIFY A SUSPECTED
26 VIOLATION, RESTRAIN A DEVELOPMENT ACTIVITY OR ISSUE A NOTIFICATION
27 LETTER IF THE DEPARTMENT OF PLANNING AND ZONING HAS PROBABLE
28 CAUSE TO BELIEVE THAT A VIOLATION OF THE COUNTY CHESAPEAKE BAY

1 CRITICAL AREA PROGRAM HAS OCCURRED, IS OCCURRING OR WILL OCCUR.
2 IF ENTRY IS DENIED, THE DEPARTMENT OF PLANNING AND ZONING MAY SEEK
3 A COURT ORDER TO ENTER THE PROPERTY TO PURSUE AN ENFORCEMENT
4 ACTION.

5 F. ENFORCEMENT PROCEDURES.

6 (1) BEFORE ISSUING A NOTICE OF VIOLATION, THE PERSON(S) BELIEVED TO
7 HAVE VIOLATED THE COUNTY CHESAPEAKE BAY CRITICAL AREA
8 PROGRAM SHALL RECEIVE A NOTIFICATION LETTER THAT INCLUDES:

9 (A) THE NAME AND ADDRESS OF THE PERSON(S) CHARGED;

10 (B) THE NATURE OF THE VIOLATION, WITH REFERENCE TO THE
11 SECTION OF ZONING CODE VIOLATED;

12 (C) THE PLACE AND TIME THE VIOLATION OCCURRED, OR WAS FIRST
13 OBSERVED;

14 (D) A RESTORATION AND/OR MITIGATION ORDER TO ABATE WATER
15 QUALITY AND HABITAT IMPACTS RESULTING FROM THE
16 VIOLATION; AND

17 (E) A TIMEFRAME FOR COMPLIANCE AND/OR TO CONTACT THE
18 DEPARTMENT OF PLANNING AND ZONING.

19 (2) FAILURE TO COMPLY WITH THE REQUIREMENTS OF THE NOTIFICATION
20 LETTER SHALL RESULT IN A FORMAL NOTICE OF VIOLATION BEING
21 SENT TO THE OWNER'S LAST KNOWN ADDRESS. IF THE VIOLATION IS
22 NOT SATISFIED WITHIN 15 CALENDAR DAYS FROM THE DATE OF THE
23 NOTICE, THE DEPARTMENT OF PLANNING AND ZONING MAY REQUEST
24 ADJUDICATION OF THE CASE THROUGH THE DISTRICT COURT OF
25 MARYLAND AS A CRIMINAL OFFENSE. THE DISTRICT COURT SHALL
26 SCHEDULE THE CASE FOR TRIAL AND SUMMON THE DEFENDANT TO
27 APPEAR.

28 (3) IN A PROCEEDING BEFORE THE DISTRICT COURT, THE VIOLATION

1 SHALL BE PROSECUTED IN THE SAME MANNER AND TO THE SAME
2 EXTENT AS SET FORTH FOR MUNICIPAL INFRACTIONS IN TITLE 6 OF THE
3 LOCAL GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF
4 MARYLAND. THE STATE'S ATTORNEY FOR HARFORD COUNTY MAY
5 PROSECUTE THE CASE.

- 6 (4) IN ADDITION TO ANY OTHER PENALTY APPLICABLE UNDER STATE OR
7 COUNTY LAW, EVERY VIOLATION OF A PROVISION OF TITLE 8,
8 SUBTITLE 18 OF NATURAL RESOURCES ARTICLE OF THE ANNOTATED
9 CODE OF MARYLAND, AS THE SAME MAY BE AMENDED, OR A
10 PROVISION OF THE COUNTY CHESAPEAKE BAY CRITICAL AREA
11 PROGRAM SHALL BE PUNISHABLE BY A FINE OF UP TO \$10,000 FOR EACH
12 CALENDAR DAY THAT THE VIOLATION OCCURRED. THE AMOUNT OF
13 THE FINE FOR EACH VIOLATION, INCLUDING EACH CONTINUING
14 VIOLATION, SHALL BE DETERMINED SEPARATELY. IN DETERMINING
15 THE AMOUNT OF THE FINE, THE COURT SHALL CONSIDER:

- 16 (A) THE GRAVITY OF THE VIOLATION;
17 (B) THE PRESENCE OR ABSENCE OF GOOD FAITH OF THE VIOLATOR;
18 (C) ANY WILLFULNESS OR NEGLIGENCE INVOLVED IN THE
19 VIOLATION INCLUDING A HISTORY OF PRIOR VIOLATIONS;
20 (D) THE ENVIRONMENTAL IMPACT OF THE VIOLATION; AND
21 (E) THE COST OF RESTORATION OF THE RESOURCE AFFECTED BY
22 THE VIOLATION AND MITIGATION FOR DAMAGE TO THAT
23 RESOURCE, INCLUDING THE COST TO THE DEPARTMENT FOR
24 PERFORMING, SUPERVISING OR RENDERING ASSISTANCE TO THE
25 RESTORATION AND MITIGATION.

- 26 (5) PAYMENT OF ALL FINES ASSESSED SHALL BE A REQUIRED CONDITION
27 PRECEDENT TO THE ISSUANCE OF ANY PERMIT OR OTHER APPROVAL
28 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

1 MITIGATION ORDER TO ANY PERSON WHO HAS BEEN CITED FOR A
2 VIOLATION OF THE COUNTY CHESAPEAKE BAY CRITICAL AREA
3 PROGRAM. MITIGATION IS REQUIRED FOR ALL VIOLATIONS OF THE
4 COUNTY CHESAPEAKE BAY CRITICAL AREA PROGRAM AND SHALL BE
5 IN ADDITION TO ANY REQUIRED ABATEMENT OR RESTORATION
6 ACTIVITIES.

7 (A) UNAPPROVED DISTURBANCE, LOT COVERAGE OR TREE
8 REMOVALS OUTSIDE OF THE CRITICAL AREA BUFFER AND OTHER
9 HABITAT PROTECTION AREAS SHALL BE SUBJECT TO VIOLATION
10 MITIGATION AT A RATIO OF 3:1, UNLESS OTHERWISE STATED IN
11 THE COUNTY CHESAPEAKE BAY CRITICAL AREA PROGRAM.

12 (B) UNAPPROVED DISTURBANCE, LOT COVERAGE OR TREE
13 REMOVALS WITHIN HABITAT PROTECTION AREAS, TO INCLUDE
14 THE CRITICAL AREA BUFFERS, SHALL BE SUBJECT TO VIOLATION
15 MITIGATION AT A RATIO OF 4:1.

16 H. VARIANCES PURSUANT TO A VIOLATION. THE DEPARTMENT OF PLANNING
17 AND ZONING MAY ACCEPT AN APPLICATION FOR A VARIANCE REGARDING A
18 PARCEL OR LOT THAT IS SUBJECT TO A CURRENT VIOLATION OF THE COUNTY
19 CHESAPEAKE BAY CRITICAL AREA PROGRAM OR ANY PROVISIONS OF AN
20 ORDER, PERMIT OR PLAN IN ACCORDANCE WITH THE VARIANCE PROVISIONS
21 OF THE COUNTY CHESAPEAKE BAY CRITICAL AREA PROGRAM. HOWEVER,
22 THE APPLICATION SHALL NOT BE REVIEWED OR PROCESSED UNTIL ALL
23 ABATEMENT, RESTORATION AND MITIGATION MEASURES HAVE BEEN
24 IMPLEMENTED AND INSPECTED BY THE DEPARTMENT. THE COUNTY MAY
25 NOT ISSUE A PERMIT FOR THE ACTIVITY THAT WAS THE SUBJECT OF THE
26 VARIANCE APPLICATION UNTIL ALL APPLICABLE APPEAL PERIODS HAVE
27 BEEN EXHAUSTED. APPLICATION FOR A VARIANCE PURSUANT TO A
28 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 MARKETING “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.

- 1 (5) IN THIS SECTION, LEGALLY DEVELOPED MEANS ALL PHYSICAL
2 IMPROVEMENT TO A PROPERTY THAT EXISTED BEFORE CRITICAL
3 AREA COMMISSION APPROVAL OF THE COUNTY'S CHESAPEAKE BAY
4 CRITICAL AREA PROGRAM OR WERE PROPERLY PERMITTED IN
5 ACCORDANCE WITH THE PROVISIONS OF THE COUNTY'S CHESAPEAKE
6 BAY CRITICAL AREA PROGRAM IN EFFECT AT THE TIME OF
7 CONSTRUCTION.
- 8 (6) DEVELOPMENT AND REDEVELOPMENT SHALL BE SUBJECT TO THE
9 REQUIREMENTS AS SET FORTH IN THE COUNTY CHESAPEAKE BAY
10 CRITICAL AREA PROGRAM, INCLUDING THOSE ASSOCIATED WITH:
11 (A) HABITAT PROTECTION AREAS AND THE CRITICAL AREA BUFFER;
12 (B) WATER-DEPENDENT FACILITIES;
13 (C) FORESTS AND DEVELOPED WOODLANDS; AND
14 (D) OTHER MITIGATION REQUIREMENTS AS SET FORTH IN THE
15 COUNTY CRITICAL AREA PROGRAM.
- 16 (7) CLUSTER DEVELOPMENT SHALL BE USED FOR DEVELOPING IN THE
17 CRITICAL AREA AS A MEANS OF MINIMIZING THE AMOUNT OF LOT
18 COVERAGE AND THE DESTRUCTION OF EXISTING NATURAL
19 VEGETATION. THIS REQUIREMENT DOES NOT SUPERSEDE THE
20 REQUIREMENTS OF § 267-70 (CONVENTIONAL WITH OPEN SPACE (COS))
21 PERTAINING TO THE CONVENTIONAL OPEN SPACE (COS) AND PLANNED
22 RESIDENTIAL DEVELOPMENT (PRD).
- 23 (8) ROAD STANDARDS MAY BE MODIFIED BY THE COUNTY ON A CASE-BY-
24 CASE BASIS TO REDUCE POTENTIAL IMPACTS TO THE SITE AND
25 CRITICAL AREA RESOURCES, WHERE THE REDUCED STANDARDS DO
26 NOT SIGNIFICANTLY AFFECT SAFETY.
- 27 (9) ALL DEVELOPMENT PLANS SHALL INCORPORATE A WILDLIFE
28 CORRIDOR SYSTEM THAT CONNECTS THE LARGEST, MOST

1 UNDEVELOPED OR MOST VEGETATED TRACTS OF LAND ON-SITE AND
2 ADJACENT TO THE SITE, AS SIMILARLY DEPICTED IN THE HARFORD
3 COUNTY GREEN INFRASTRUCTURE PLAN, AND SHALL BE:

4 (A) PROTECTED BY A COUNTY-APPROVED CONSERVATION
5 EASEMENT, RESTRICTIVE COVENANT OR SIMILAR INSTRUMENT
6 TO ENSURE MAINTENANCE OF THE WILDLIFE CORRIDOR; AND

7 (B) PRESERVED BY A PUBLIC OR PRIVATE GROUP.

8 (10) ALL DEVELOPMENT ACTIVITIES THAT MUST CROSS OR AFFECT
9 STREAMS SHALL BE DESIGNED TO:

10 (A) REDUCE INCREASES IN FLOOD FREQUENCY AND SEVERITY THAT
11 ARE ATTRIBUTABLE TO DEVELOPMENT;

12 (B) RETAIN TREE CANOPY SO AS TO MAINTAIN STREAM WATER
13 TEMPERATURE WITHIN NORMAL VARIATION;

14 (C) PROVIDE A NATURAL SUBSTRATE FOR STREAM BEDS; AND

15 (D) MINIMIZE ADVERSE WATER QUALITY AND QUANTITY IMPACTS
16 OF STORMWATER.

17 B. PROHIBITED ACTIVITIES.

18 (1) NEW OR EXPANDED SANITARY LANDFILLS OR RUBBLE LANDFILLS,
19 INCLUDING TRANSFER STATIONS, SHALL NOT BE PERMITTED IN THE
20 CRITICAL AREA.

21 (2) NEW OR EXPANDED SOLID OR HAZARDOUS WASTE COLLECTION OR
22 DISPOSAL FACILITIES SHALL NOT BE PERMITTED IN THE CRITICAL
23 AREA.

24 (3) NEW STORAGE TANKS FOR VEHICLE FUELS ON RESIDENTIAL LOTS
25 SHALL NOT BE PERMITTED IN THE CRITICAL AREA.

26 C. CONTINUATION OF EXISTING PERMITTED FACILITIES. EXISTING, PERMITTED
27 FACILITIES OF THE TYPE NOTED IN SUBSECTION B ABOVE SHALL BE SUBJECT
28 TO THE STANDARDS AND REQUIREMENTS OF THE DEPARTMENT OF THE

1 ENVIRONMENT, UNDER TITLE 26 OF THE CODE OF MARYLAND REGULATIONS.

2 D. MITIGATION. APPROVED CRITICAL AREA DISTURBANCE AND TREE/SHRUB
3 REMOVALS SHALL ADHERE TO THE FOLLOWING MITIGATION REQUIREMENTS:

4 (1) PLANTS SHALL BE OF NATIVE MARYLAND SPECIES, LOCATED IN
5 PERMEABLE AREAS EQUAL TO OR GREATER THAN THE AREA OF
6 IMPERVIOUS SURFACE INCREASE, BETWEEN NEW CONSTRUCTION AND
7 SURFACE WATERS.

8 (2) MITIGATION CREDIT IS DETERMINED AS SET FORTH IN THE TABLE IN §
9 267-63.7D (THE CRITICAL AREA BUFFER, MITIGATION AND PLANTING
10 CREDIT FOR THE CRITICAL AREA BUFFER).

11 (3) PLANTINGS SHALL BE ESTABLISHED AND MAINTAINED IN
12 ACCORDANCE WITH A LANDSCAPING PLAN AND COVENANT AS
13 APPROVED BY THE DEPARTMENT OF PLANNING AND ZONING. SUCH
14 NEW PLANTINGS SHALL BE LOCATED BETWEEN NEW CONSTRUCTION
15 AND SURFACE WATERS.

16 (4) MITIGATION PLANTINGS SHALL ENSURE A DIVERSIFIED PLANT
17 COMMUNITY TO INCLUDE CANOPY TREES, UNDERSTORY TREES,
18 SHRUBS AND HERBACEOUS PLANTS.

19 (5) IF MITIGATION PLANTING AND/OR OFFSETS, AS OUTLINED IN APPENDIX
20 K OF THE HARFORD COUNTY CHESAPEAKE BAY CRITICAL AREA
21 PROGRAM MANUAL, ARE NOT FEASIBLE AS DETERMINED BY THE
22 DIRECTOR OF PLANNING AND ZONING, THE APPLICANT SHALL BE
23 REQUIRED TO PAY A FEE-IN-LIEU OF \$4.00 PER SQUARE FOOT OF
24 INCOMPLETE MITIGATION, AS SET FORTH IN § 267-63.18D (FOREST AND
25 WOODLAND PROTECTION, FEE-IN-LIEU OF PLANTING MITIGATION).

26 (6) MITIGATION FOR THE CRITICAL AREA BUFFER SHALL BE REQUIRED AS
27 SET FORTH IN § 267-63.7 (THE CRITICAL AREA BUFFER) AND § 267-63.8
28 (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

1 REQUIREMENTS OR RESTORE THE DISABLED CITIZEN'S
2 REASONABLE USE OR ENJOYMENT OF THE PROPERTY;

3 (E) THE ACCOMMODATION REQUESTED WILL NOT SUBSTANTIALLY
4 IMPAIR THE PURPOSE, INTENT OR EFFECT OF THE PROVISIONS OF
5 THE COUNTY CHESAPEAKE BAY CRITICAL AREA PROGRAM AS
6 APPLIED TO THE PROPERTY; AND

7 (F) THE ACCOMMODATION WOULD:

8 [1] BE ENVIRONMENTALLY NEUTRAL WITH NO GREATER
9 NEGATIVE IMPACT ON THE ENVIRONMENT THAN THE
10 LITERAL ENFORCEMENT OF THE COUNTY CHESAPEAKE
11 BAY CRITICAL AREA PROGRAM; OR

12 [2] ALLOW ONLY THE MINIMUM ENVIRONMENTAL CHANGES
13 NECESSARY TO ADDRESS THE NEEDS RESULTING FROM
14 THE PARTICULAR DISABILITY OF THE APPLICANT.

15 (2) THE DIRECTOR OF PLANNING AND ZONING SHALL DETERMINE THE
16 NATURE AND SCOPE OF ANY ACCOMMODATION UNDER THE COUNTY
17 CHESAPEAKE BAY CRITICAL AREA PROGRAM AND MAY AWARD
18 DIFFERENT OR OTHER RELIEF THAN REQUESTED AFTER GIVING DUE
19 REGARD TO:

20 (A) THE STANDARDS SET FORTH IN THE COUNTY CHESAPEAKE BAY
21 CRITICAL AREA PROGRAM;

22 (B) THE PURPOSE, INTENT OR EFFECT OF THE REQUIREMENTS FROM
23 WHICH RELIEF IS REQUESTED; AND

24 (C) THE SIZE, LOCATION, NATURE AND TYPE OF ACCOMMODATION
25 PROPOSED AND WHETHER ALTERNATIVES EXIST THAT COULD
26 ACCOMMODATE THE NEED WITH LESS ADVERSE EFFECT.

27 (3) THE DIRECTOR OF PLANNING AND ZONING MAY REQUIRE, AS A
28 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.
- (2) DISTURBANCE 250 SQUARE FEET OR GREATER THAT RESULTS IN THE

1 PERMANENT CONSTRUCTION OF AN IMPERVIOUS SURFACE AREA
2 OUTSIDE OF THE CRITICAL AREA BUFFER AND OTHER HABITAT
3 PROTECTION AREAS SHALL BE MITIGATED WITH LANDSCAPING
4 PLANTINGS AT A RATIO OF 1:1 SQUARE FOOT ON THAT LOT OR PARCEL,
5 AND/OR THROUGH THE USE OF BEST MANAGEMENT PRACTICES FOR
6 STORMWATER MANAGEMENT, AS SPECIFIED IN APPENDIX B OF
7 HARFORD COUNTY CHESAPEAKE BAY CRITICAL AREA PROGRAM
8 MANUAL.

9 (3) NEW, EXPANDED OR REDEVELOPED INDUSTRIAL OR PORT-RELATED
10 FACILITIES AND THE REPLACEMENT OF THESE FACILITIES SHALL BE
11 PERMITTED ONLY IN THE INTENSELY DEVELOPED AREA, AND/OR IN
12 THOSE PORTIONS WITHIN THE INTENSELY DEVELOPED AREA THAT
13 HAVE BEEN DESIGNATED AS MODIFIED BUFFER AREAS.

14 (4) CERTAIN PROHIBITED DEVELOPMENT OR REDEVELOPMENT ACTIVITIES,
15 BECAUSE OF THEIR INTRINSIC NATURE, MAY BE PERMITTED IN THE
16 INTENSELY DEVELOPED AREA ONLY AFTER DEMONSTRATING TO THE
17 LOCAL AND STATE PERMITTING AGENCIES THAT THERE WILL BE A NET
18 IMPROVEMENT IN WATER QUALITY TO THE ADJACENT BODY OF
19 WATER. THESE ACTIVITIES INCLUDE THE FOLLOWING:

20 (A) NON-MARITIME HEAVY INDUSTRY.

21 (B) TRANSPORTATION FACILITIES AND UTILITY TRANSMISSION
22 FACILITIES, EXCEPT THOSE NECESSARY TO SERVE PERMITTED
23 USES, OR WHERE REGIONAL OR INTERSTATE FACILITIES MUST
24 CROSS TIDAL WATERS (UTILITY TRANSMISSION FACILITIES DO
25 NOT INCLUDE POWER PLANTS).

26 (C) PERMANENT SLUDGE HANDLING, STORAGE AND DISPOSAL
27 FACILITIES, OTHER THAN THOSE ASSOCIATED WITH
28 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 § 267-63.3 (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:

- 1 (A) ALL DEVELOPMENT AND REDEVELOPMENT ACTIVITIES SHALL
2 INCLUDE STORMWATER MANAGEMENT BEST MANAGEMENT
3 PRACTICES THAT REDUCE POLLUTANT LOADINGS BY AT LEAST
4 10% BELOW THAT OF PRE-DEVELOPMENT OR REDEVELOPMENT
5 LEVELS, AS PROVIDED IN THE *CRITICAL AREA 10% RULE*
6 *GUIDANCE MANUAL*, AS MAY BE SUBSEQUENTLY AMENDED IN
7 APPENDIX B OF THE HARFORD COUNTY CHESAPEAKE BAY
8 CRITICAL AREA PROGRAM MANUAL.
- 9 (B) STORMWATER MANAGEMENT ACTIVITIES SHALL ALSO USE
10 ENVIRONMENTAL SITE DESIGN (ESD) PRACTICES, AS PERMITTED
11 UNDER STORMWATER MANAGEMENT LAWS AND REGULATIONS,
12 IF ESD PRACTICES PROVIDE GREATER WATER QUALITY
13 PROTECTION THAN PROCEDURES FOR THE 10% RULE AND MEETS
14 THE 10% POLLUTANT REMOVAL REQUIREMENT.
- 15 (C) STORMWATER MANAGEMENT TO MEET THE 10% REQUIREMENT
16 SHALL BE PROVIDED ON-SITE TO THE MAXIMUM EXTENT
17 PRACTICABLE.
- 18 (D) WHERE THE 10% REQUIREMENT CANNOT BE MET AS DESCRIBED
19 IN APPENDIX B OF THE HARFORD COUNTY CHESAPEAKE BAY
20 CRITICAL AREA PROGRAM MANUAL, A FEE-IN-LIEU MAY BE
21 PROVIDED AT \$35,000 PER POUND OF PHOSPHORUS NOT
22 REMOVED.
- 23 (E) WITH OTHER OFFSETS AS DESCRIBED IN THE *MARYLAND*
24 *CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA 10%*
25 *RULE GUIDANCE – FALL 2003* AND AS MAY BE SUBSEQUENTLY
26 AMENDED. OFFSETS MUST REMOVE A PHOSPHORUS LOAD
27 EQUAL TO OR GREATER THAN THE REMAINING 10%
28 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

LOT/PARCEL SIZE (SQUARE FEET)	LOT COVERAGE LIMIT
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

- 1
- 2 (H) IF THE PLANNING DIRECTOR OR HIS OR HER DESIGNEE MAKES
- 3 THE FINDINGS SET FORTH IN PARAGRAPH (D) ABOVE AND
- 4 AUTHORIZES AN APPLICANT TO USE THE LOT COVERAGE LIMITS
- 5 SET FORTH IN THAT PARAGRAPH, THE APPLICANT SHALL:
- 6 [1] DEMONSTRATE THAT WATER QUALITY IMPACTS
- 7 ASSOCIATED WITH RUNOFF FROM THE DEVELOPMENT
- 8 ACTIVITIES THAT CONTRIBUTE TO LOT COVERAGE HAVE
- 9 BEEN MINIMIZED THROUGH SITE DESIGN
- 10 CONSIDERATIONS OR THE USE OF BEST MANAGEMENT
- 11 PRACTICES TO IMPROVE WATER QUALITY; AND
- 12 [2] PROVIDE ON-SITE MITIGATION IN THE FORM OF
- 13 PLANTINGS TO OFFSET POTENTIAL ADVERSE WATER
- 14 QUALITY IMPACTS FROM THE DEVELOPMENT ACTIVITIES
- 15 RESULTING IN NEW LOT COVERAGE. THE PLANTINGS
- 16 SHALL BE EQUAL TO 2 TIMES THE AREA OF THE
- 17 DEVELOPMENT ACTIVITY.
- 18 [3] IF THE APPLICANT CANNOT PROVIDE APPROPRIATE
- 19 STORMWATER TREATMENT AND PLANTINGS DUE TO SITE
- 20 CONSTRAINTS, THEN THE COUNTY MAY REQUIRE THE
- 21 PROPERTY OWNER TO PAY A FEE TO THE COUNTY IN LIEU
- 22 OF PERFORMING THE ON-SITE MITIGATION. THE AMOUNT
- 23 OF THE FEE SHALL BE \$4.00 PER SQUARE FOOT OF THE
- 24 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.

1 B. DEVELOPMENT STANDARDS. IN ADDITION TO ALL OF THE REQUIREMENTS
2 SET FORTH IN § 267-63.3 (CRITICAL AREA DEVELOPMENT REQUIREMENTS), ALL
3 DEVELOPMENT IN THE RESOURCE CONSERVATION AREA SHALL MEET THE
4 FOLLOWING STANDARDS OF ENVIRONMENTAL PROTECTION:

5 (1) PRESERVATION OF AGRICULTURE, FORESTRY AND AREAS OF NATURAL
6 HABITAT SHALL BE CONSIDERED PREFERRED LAND USES WITHIN THIS
7 AREA.

8 (2) NOTHING IN THIS SECTION SHALL LIMIT THE ABILITY OF A
9 PARTICIPANT IN ANY AGRICULTURAL EASEMENT PROGRAM TO
10 CONVEY REAL PROPERTY RESTRICTED WITH SUCH AN EASEMENT TO
11 FAMILY MEMBERS, PROVIDED THAT NO SUCH CONVEYANCE WILL
12 RESULT IN A DENSITY GREATER THAN 1 DWELLING UNIT PER 20 ACRES.

13 (3) DEVELOPMENT ACTIVITY WITHIN THE RESOURCE CONSERVATION
14 AREA SHALL BE CONSISTENT WITH THE POLICIES AND STANDARDS FOR
15 THE LIMITED DEVELOPMENT AREA, AS SET FORTH IN § 267-63.5 (LIMITED
16 DEVELOPMENT AREAS), INCLUDING ALL MITIGATION REQUIREMENTS.

17 (4) ANY APPLICATION FOR SUBDIVISION OR SITE PLAN APPROVAL, NOT
18 INVOLVING THE USE OF GROWTH ALLOCATION, SHALL HAVE A
19 MINIMUM CRITICAL AREA BUFFER OF 200 FEET FROM TIDAL WATERS
20 OR A TIDAL WETLAND.

21 (A) THE 200-FOOT SHORELINE DEVELOPMENT BUFFER MAY BE
22 REDUCED IF THE STRICT APPLICATION OF THE MINIMUM 200-
23 FOOT BUFFER WOULD PRECLUDE:

24 [1] SUBDIVISION OF THE PROPERTY AT A DENSITY OF 1
25 DWELLING UNIT PER 20 ACRES, PROVIDED ALL OTHER
26 STATE AND LOCAL REQUIREMENTS WILL BE SATISFIED;
27 OR

28 [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

1 PATHWAY NO WIDER THAN 3 FEET (OR ADA COMPLIANT IN WIDTH AND
2 SLOPE), WHERE MITIGATION OCCURS 2:1.

3 (5) A DEVELOPMENT OR REDEVELOPMENT ACTIVITY APPROVED IN
4 ACCORDANCE WITH THE VARIANCE PROVISIONS OF THE COUNTY
5 CHESAPEAKE BAY CRITICAL AREA PROGRAM.

6 (6) THE PLANTING OF NATIVE VEGETATION TO PROTECT, STABILIZE OR
7 OTHERWISE ENHANCE THE SHORELINE.

8 (7) THE REMOVAL OF INVASIVE PLANTS OR OTHER VEGETATIVE
9 MAINTENANCE SUCH AS TRIMMING AND PRUNING, WHERE MITIGATION
10 OCCURS 1:1 FOR VEGETATION REMOVAL.

11 C. CRITICAL AREA BUFFER ESTABLISHMENT.

12 (1) THE CRITICAL AREA BUFFER SHALL BE ESTABLISHED WITH
13 VEGETATION IN ACCORDANCE WITH TABLE 2 BELOW AND SUBSECTION
14 D BELOW, AS A REQUIREMENT FOR ANY OF THE FOLLOWING
15 ACTIVITIES:

16 (A) APPROVAL OF A SUBDIVISION.

17 (B) CONVERSION FROM ONE LAND USE TO ANOTHER LAND USE ON A
18 LOT OR A PARCEL.

19 (C) DEVELOPMENT OR REDEVELOPMENT ON A LOT OR A PARCEL
20 CREATED BEFORE JANUARY 1, 2010.

21 (2) THE REQUIREMENTS OF THIS SUBSECTION ARE NOT APPLICABLE TO AN
22 IN-KIND REPLACEMENT OF A STRUCTURE.

23 (3) INSTALLATION OR CULTIVATION OF NEW LAWN OR TURF SHALL BE
24 PROHIBITED IN THE CRITICAL AREA BUFFER.

25 (4) THE APPLICANT SHALL PROVIDE A BUFFER MANAGEMENT PLAN FOR
26 ALL PROPOSED WORK IN THE CRITICAL AREA BUFFER AND SHALL SEEK
27 COUNTY APPROVAL PRIOR TO THE START OF ALL WORK.

28 (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 ½ 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 ½ 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

1 ACCORDANCE WITH COMAR 27.01.09.01-3, AS SET FORTH IN § 267-63.7
2 (THE CRITICAL AREA BUFFER).

3 (2) DEVELOPMENT AND REDEVELOPMENT ACTIVITIES ARE LOCATED AS
4 FAR AS POSSIBLE FROM MEAN HIGH TIDE, THE LANDWARD EDGE OF
5 WETLANDS AND THE EDGE OF TRIBUTARY STREAMS.

6 (3) VARIANCES TO OTHER SETBACK REQUIREMENTS SHALL BE
7 CONSIDERED PRIOR TO APPROVING ADDITIONAL INTRUSION INTO THE
8 MODIFIED BUFFER AREA.

9 (4) CONVENIENCE OR EXPENSE ARE NOT FACTORS CONSIDERED WHEN
10 EVALUATING THE EXTENT OF ALLOWABLE IMPACTS TO THE MODIFIED
11 BUFFER AREA.

12 (5) DEVELOPMENT AND REDEVELOPMENT SHALL NOT IMPACT ANY
13 HABITAT PROTECTION AREA OTHER THAN THE MODIFIED BUFFER
14 AREA, OTHER STATE OR FEDERAL PERMITS NOTWITHSTANDING.

15 (6) MODIFIED BUFFER AREA DESIGNATIONS SHALL NOT BE USED TO
16 FACILITATE THE FILLING OF WETLANDS, INCLUDING THOSE THAT ARE
17 CONTIGUOUS TO THE CRITICAL AREA BUFFER, OR TO CREATE
18 ADDITIONAL BUILDABLE LAND FOR NEW DEVELOPMENT OR
19 REDEVELOPMENT.

20 (7) NO VEGETATION SHALL BE REMOVED FROM THE CRITICAL AREA
21 BUFFER EXCEPT THAT WHICH IS REQUIRED BY THE APPROVED
22 ACTIVITY. THE APPLICANT SHALL BE REQUIRED TO MAINTAIN ANY
23 OTHER VEGETATION IN THE CRITICAL AREA BUFFER.

24 C. COMMERCIAL, INDUSTRIAL, INSTITUTIONAL, RECREATIONAL AND MULTI-
25 FAMILY RESIDENTIAL DEVELOPMENT AND REDEVELOPMENT STANDARDS. IN
26 ADDITION TO THE REQUIREMENTS OUTLINED IN SUBSECTION B ABOVE,
27 ACTIVITIES IN THE MODIFIED BUFFER AREA SHALL ALSO COMPLY WITH THE
28 FOLLOWING STANDARDS:

1 (1) NEW STRUCTURES SHALL MINIMIZE THE EXTENT OF INTRUSION INTO
2 THE MODIFIED BUFFER. THE NEW DEVELOPMENT SHALL NOT BE
3 LOCATED CLOSER TO THE WATER (OR EDGE OF WETLANDS) THAN THE
4 SETBACK FOR THE UNDERLYING ZONING DISTRICT OR 50 FEET,
5 WHICHEVER IS GREATER. STRUCTURES ON ADJACENT PROPERTIES
6 SHALL NOT BE USED TO DETERMINE THE SETBACK LINE. THE 50-FOOT
7 SETBACK SHALL BE MAINTAINED FOR ALL SUBSEQUENT
8 DEVELOPMENT OR REDEVELOPMENT OF THE PROPERTY.

9 (2) REDEVELOPMENT, INCLUDING THE REPLACEMENT OF ACCESSORY
10 STRUCTURES, SHALL MINIMIZE THE EXTENT OF INTRUSION INTO THE
11 MODIFIED BUFFER AREA. REDEVELOPMENT SHALL NOT BE LOCATED
12 CLOSER TO THE WATER (OR EDGE OF WETLANDS) THAN THE SETBACK
13 FOR THE UNDERLYING ZONING DISTRICT OR 25 FEET, WHICHEVER IS
14 GREATER. STRUCTURES ON ADJACENT PROPERTIES SHALL NOT BE
15 USED TO DETERMINE THE SETBACK LINE. GRANDFATHERED
16 STRUCTURES LOCATED WITHIN THE SETBACK MAY REMAIN OR A NEW
17 STRUCTURE MAY BE CONSTRUCTED IN THE SAME FOOTPRINT OF AN
18 EXISTING STRUCTURE OR LOT COVERAGE. OPPORTUNITIES TO
19 ESTABLISH A 25-FOOT VEGETATED BUFFER YARD SHOULD BE
20 MAXIMIZED.

21 D. SINGLE-FAMILY RESIDENTIAL DEVELOPMENT AND REDEVELOPMENT
22 STANDARDS. IN ADDITION TO THE REQUIREMENTS OUTLINED IN SUBSECTION
23 B ABOVE, PROPOSED ACTIVITIES IN THE MODIFIED BUFFER AREA SHALL ALSO
24 COMPLY WITH THE FOLLOWING STANDARDS:

25 (1) NEW ACCESSORY STRUCTURES SHALL MINIMIZE THE SHOREWARD
26 EXTENT OF INTRUSION INTO THE MODIFIED BUFFER AREA. NEW
27 DEVELOPMENT AND REDEVELOPMENT SHALL NOT BE LOCATED
28 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, SHADBUSH, 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

1 CONSERVATION, NATURAL HERITAGE AREAS AND HABITATS OF LOCAL
2 SIGNIFICANCE.

3 (3) COLONIAL WATER BIRD NESTING SITES.

4 (4) RIPARIAN FORESTS AND OTHER FORESTED AREAS UTILIZED AS
5 BREEDING HABITAT BY FOREST INTERIOR DWELLING SPECIES.

6 (5) ANADROMOUS FISH PROPAGATION WATERS.

7 (6) WATERFOWL STAGING AND CONCENTRATION AREAS IN TIDAL
8 WATERS, TRIBUTARY STREAMS OR TIDAL AND NONTIDAL WETLANDS.

9 (7) OTHER AREAS THAT MAY, IN THE FUTURE, BE IDENTIFIED BY STATE
10 AND FEDERAL AGENCIES AS IMPORTANT PLANT AND WILDLIFE
11 HABITAT AREAS. THE PROCESS FOR DESIGNATION OF NEW HABITATS
12 SHALL BE IN ACCORDANCE WITH COMAR 27.01.09.04C(2)(C).

13 B. PROCESS.

14 (1) THE DISTURBANCE OF A HABITAT PROTECTION AREA SHALL BE
15 PROHIBITED UNLESS PERMITTED AS SET FORTH IN SUBSECTION C
16 BELOW.

17 (2) AN APPLICANT FOR A PROPOSED ACTIVITY WITHIN A HABITAT
18 PROTECTION AREA SHALL REQUEST REVIEW BY THE DEPARTMENT OF
19 NATURAL RESOURCES WILDLIFE AND HERITAGE SERVICE, AND, AS
20 NECESSARY, THE UNITED STATES FISH AND WILDLIFE SERVICE, FOR
21 COMMENT AND TECHNICAL ADVICE.

22 (3) AN APPLICANT SHALL COORDINATE WITH THE DEPARTMENT OF
23 NATURAL RESOURCES TO DEVELOP A HABITAT PROTECTION PLAN
24 THAT PROVIDES FOR THE PROTECTION AND CONSERVATION OF THE
25 SPECIES AND HABITATS IDENTIFIED.

26 C. SPECIAL CONDITIONS.

27 (1) THE LOCATION OF ROADS, BRIDGES OR UTILITIES SHALL BE
28 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.

1 D. THREATENED AND ENDANGERED SPECIES AND SPECIES IN NEED OF
2 CONSERVATION. IF A THREATENED OR ENDANGERED SPECIES, OR SPECIES IN
3 NEED OF CONSERVATION, IS IDENTIFIED ON A DEVELOPMENT SITE, THE
4 HABITAT PROTECTION PLAN SHALL INCLUDE A DESIGNATED PROTECTION
5 AREA AROUND THE HABITAT OCCURRING ON SITE, UNLESS THE APPLICANT
6 CAN DEMONSTRATE DEVELOPMENT IMPACTS HAVE BEEN MINIMIZED, AS
7 DETERMINED BY THE DEPARTMENT OF NATURAL RESOURCES.

8 E. PLANT AND WILDLIFE HABITAT PROTECTION AREAS.

9 (1) PLANT AND WILDLIFE HABITATS IN THE CRITICAL AREA INCLUDE:

10 (A) COLONIAL WATER BIRD NESTING SITES;

11 (B) WATERFOWL STAGING AND CONCENTRATION AREAS IN TIDAL
12 WATERS, TRIBUTARY STREAMS OR TIDAL AND NONTIDAL
13 WETLANDS;

14 (C) EXISTING RIPARIAN FORESTS (E.G., RELATIVELY MATURE
15 FORESTS OF AT LEAST 300 FEET IN WIDTH WHICH OCCUR
16 ADJACENT TO STREAMS, WETLANDS OR THE BAY SHORELINE
17 AND WHICH ARE DOCUMENTED BREEDING AREAS);

18 (D) FOREST AREAS UTILIZED AS BREEDING AREAS BY FOREST
19 INTERIOR DWELLING BIRDS AND OTHER WILDLIFE SPECIES (E.G.,
20 RELATIVELY MATURE FORESTED AREAS WITHIN THE CRITICAL
21 AREA OF 100 ACRES OR MORE, OR FOREST CONNECTED WITH
22 SUCH AREAS);

23 (E) OTHER AREAS WHICH MAY, IN THE FUTURE, BE IDENTIFIED BY
24 THE STATE AND FEDERAL AGENCIES AS IMPORTANT PLANT AND
25 WILDLIFE HABITAT AREAS;

26 (F) OTHER PLANT AND WILDLIFE HABITATS DETERMINED TO BE OF
27 LOCAL SIGNIFICANCE; AND

28 (G) NATURAL HERITAGE AREAS WHICH HAVE BEEN DESIGNATED.

- 1 (2) THE POLICIES OF THE COUNTY REGARDING PLANT AND WILDLIFE
2 HABITAT IN THE CRITICAL AREA SHALL BE TO:
- 3 (A) CONSERVE WILDLIFE HABITAT IN THE CRITICAL AREA;
- 4 (B) PROTECT THOSE WILDLIFE HABITATS THAT TEND TO BE LEAST
5 ABUNDANT OR WHICH MAY BECOME SO IN THE FUTURE IF
6 CURRENT LAND-USE TRENDS CONTINUE;
- 7 (C) PROTECT THOSE WILDLIFE HABITAT TYPES WHICH ARE
8 REQUIRED TO SUPPORT THE CONTINUED PRESENCE OF VARIOUS
9 SPECIES; AND
- 10 (D) PROTECT THOSE WILDLIFE HABITAT TYPES AND PLANT
11 COMMUNITIES WHICH ARE DETERMINED BY THE COUNTY TO BE
12 OF LOCAL SIGNIFICANCE.
- 13 (3) IF A PLANT OR WILDLIFE HABITAT IS IDENTIFIED ON A DEVELOPMENT
14 SITE, THE HABITAT PROTECTION PLAN SHALL INCLUDE A DESIGNATED
15 PROTECTION AREA AROUND THE HABITAT OCCURRING ON SITE,
16 UNLESS THE APPLICANT CAN DEMONSTRATE DEVELOPMENT IMPACTS
17 HAVE BEEN MINIMIZED, AS DETERMINED BY THE DEPARTMENT OF
18 NATURAL RESOURCES.
- 19 (4) WHEN PROPOSING DEVELOPMENT ACTIVITIES WITHIN RIPARIAN
20 FORESTS OR FOREST AREAS UTILIZED AS BREEDING AREAS BY FOREST
21 INTERIOR DWELLING BIRDS, APPLICANTS SHALL UTILIZE THE
22 GUIDANCE FOUND IN THE CRITICAL AREA COMMISSION PUBLICATION
23 ENTITLED "*A GUIDE TO THE CONSERVATION OF FOREST INTERIOR*
24 *DWELLING BIRDS IN THE CHESAPEAKE BAY CRITICAL AREA*" DATED JUNE
25 2000, AND AS MAY BE SUBSEQUENTLY AMENDED. IN ADDITION, THE
26 DEPARTMENT OF NATURAL RESOURCES MAY MAKE SPECIFIC
27 RECOMMENDATIONS BASED ON AN EVALUATION OF THE SITE AND THE
28 PROPOSED DEVELOPMENT.

- 1 (5) FOR DEVELOPMENT ACTIVITIES IN RESOURCE CONSERVATION AREAS
2 AND LIMITED DEVELOPMENT AREAS, WILDLIFE CORRIDORS SHALL BE
3 ESTABLISHED AND USED TO CONNECT AREAS LEFT IN FOREST COVER
4 WITH ANY LARGE FOREST TRACTS WHICH ARE LOCATED OUTSIDE OF
5 THE AREA OF THE PROPERTY BEING DEVELOPED OR SUBDIVIDED. THE
6 AREA LEFT IN FOREST COVER (AT LEAST 70% OF THE TRACT IN LDAS OR
7 RCAS AS REQUIRED BY THE COUNTY CHESAPEAKE BAY CRITICAL AREA
8 PROGRAM) SHALL BE ADJACENT TO LARGER FOREST, NOT LEFT AS AN
9 ISOLATED ISLAND OF TREES. PLANTING REQUIRED AS A MITIGATION
10 MEASURE SHALL ALSO BE ADJACENT TO OTHER HABITAT.
- 11 (6) BUFFER AREAS FOR NESTING SITES OF COLONIAL NESTING WATER
12 BIRDS SHALL BE ESTABLISHED SO THAT THESE SITES ARE PROTECTED
13 FROM THE ADVERSE IMPACTS OF DEVELOPMENT ACTIVITIES AND
14 FROM DISTURBANCE DURING THE BREEDING SEASON.
- 15 (7) NEW WATER-DEPENDENT FACILITIES SHALL BE LOCATED TO PREVENT
16 DISTURBANCE TO SITES OF SIGNIFICANCE TO WILDLIFE SUCH AS
17 HISTORIC, AQUATIC STAGING AND CONCENTRATION AREAS FOR
18 WATERFOWL.
- 19 (8) PROTECTION MEASURES, INCLUDING A BUFFER AREA, SHALL BE
20 ESTABLISHED WHERE APPROPRIATE FOR OTHER PLANT AND WILDLIFE
21 HABITAT SITES IDENTIFIED IN THIS ORDINANCE.
- 22 (9) FORESTED AREAS REQUIRED TO SUPPORT WILDLIFE SPECIES
23 IDENTIFIED AS THREATENED AND ENDANGERED, OR IN NEED OF
24 CONSERVATION, SHALL BE PROTECTED AND CONSERVED BY
25 DEVELOPING MANAGEMENT PROGRAMS WHICH HAVE AS THEIR
26 OBJECTIVE CONSERVING THE WILDLIFE THAT INHABIT OR USE THE
27 AREAS. DEVELOPMENT ACTIVITIES, OR THE CLEARING OR CUTTING OF
28 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

1 MAPPED ANADROMOUS FISH PROPAGATION WATERS AS DEFINED IN
2 THIS SECTION 267-4 (DEFINITIONS) AND THESE MAPS ARE AVAILABLE
3 BY CONTACTING THE DEPARTMENT.

4 (2) THE POLICIES OF THE COUNTY WITH REGARD TO ANADROMOUS FISH
5 PROPAGATION WATERS SHALL BE TO:

6 (A) PROTECT THE INSTREAM AND STREAMBANK HABITAT OF
7 ANADROMOUS FISH PROPAGATION WATERS;

8 (B) PROMOTE LAND USE POLICIES AND PRACTICES IN THE
9 WATERSHED OF SPAWNING STREAMS WITHIN THE CRITICAL
10 AREA WHICH WILL MINIMIZE THE ADVERSE IMPACTS OF
11 DEVELOPMENT ON THE WATER QUALITY OF THE STREAMS; AND

12 (C) PROVIDE FOR THE UNOBSTRUCTED MOVEMENT OF SPAWNING
13 AND LARVAL FORMS OF ANADROMOUS FISH IN STREAMS.

14 (3) WITHIN ANADROMOUS FISH PROPAGATION WATERSHEDS, THE
15 FOLLOWING MEASURES ARE REQUIRED:

16 (A) THE INSTALLATION OR INTRODUCTION OF CONCRETE RIPRAP OR
17 OTHER ARTIFICIAL SURFACES ONTO THE BOTTOM OF NATURAL
18 STREAMS SHALL BE PROHIBITED UNLESS IT CAN BE
19 DEMONSTRATED THAT WATER QUALITY AND FISHERIES
20 HABITAT CAN BE IMPROVED.

21 (B) CHANNELIZATION OR OTHER PHYSICAL ALTERATIONS WHICH
22 MAY CHANGE THE COURSE OR CIRCULATION OF A STREAM AND
23 THEREBY INTERFERE WITH THE MOVEMENT OF FISH SHALL BE
24 PROHIBITED.

25 (C) THE COUNTY SHALL REQUIRE EACH DEVELOPMENT ACTIVITY
26 THAT OCCURS WITHIN A WATERSHED DRAINING TO
27 ANADROMOUS FISH PROPAGATION WATERS TO FULFILL THE
28 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

1 THE INTENSIFICATION OR EXPANSION OF THAT USE BEYOND THE
2 MAXIMUM LOT COVERAGE ALLOWED SHALL NOT BE PERMITTED
3 WITHOUT A VARIANCE.

4 (2) IF AN EXISTING USE OR STRUCTURE HAS BEEN ABANDONED FOR MORE
5 THAN 1 YEAR OR IS OTHERWISE RESTRICTED BY THE CURRENT ZONING
6 CODE, THE COUNTY MAY DETERMINE THAT SUCH A USE IS NO LONGER
7 GRANDFATHERED AND MUST CONFORM TO THE REGULATIONS OF THE
8 CURRENT ZONING CODE.

9 (3) WHEN NEW CONSTRUCTION OR ADDITIONAL IMPROVEMENTS TO A
10 GRANDFATHERED STRUCTURE TAKE PLACE OUTSIDE OF THE EXISTING
11 FOOTPRINT OR FOUNDATIONAL FOOTPRINT, THAT STRUCTURE SHALL
12 NO LONGER BE CONSIDERED AS GRANDFATHERED AND MUST
13 CONFORM TO THE REGULATIONS OF THE CURRENT ZONING CODE.
14 SUCH A STRUCTURE THAT SERVES AS THE PRIMARY STRUCTURE OR
15 RESIDENCE ON THE PROPERTY SHALL REQUIRE A NEW PROPERTY
16 SURVEY.

17 (4) MITIGATION OR REMOVAL OF LOT COVERAGE SHALL BE REQUIRED FOR
18 PROPOSED INTENSIFICATION OR EXPANSION OF GRANDFATHERED
19 LOTS OR PARCELS, AS SET FORTH IN § 267-63.5C(2) (LIMITED
20 DEVELOPMENT AREAS, DEVELOPMENT STANDARDS), PROVIDED THAT
21 ALL REGULATIONS OF THE COUNTY CHESAPEAKE BAY CRITICAL AREA
22 PROGRAM, INCLUDING DENSITY REQUIREMENTS, HAVE BEEN MET.

23 (5) IF ANY EXISTING USE DOES NOT CONFORM WITH THE PROVISIONS OF
24 THIS SECTION, OR § 267-20 (NONCONFORMING BUILDINGS, STRUCTURES
25 AND USES) AND § 267-21 (ENLARGEMENT OR EXTENSION OF
26 NONCONFORMING, NONRESIDENTIAL BUILDINGS, STRUCTURES OR
27 USES), A VARIANCE SHALL BE REQUIRED FOR ITS INTENSIFICATION OR
28 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.

- 1 (2) THE PROPOSED LOT CONSOLIDATION OR RECONFIGURATION SHALL
2 RESULT IN NO GREATER LOT COVERAGE THAN THE EXISTING
3 CONFIGURATION WOULD ALLOW.
- 4 (3) THE PROPOSED CONSOLIDATION OR RECONFIGURATION SHALL NOT:
5 (A) CREATE AN ADDITIONAL RIPARIAN LOT OR PARCEL,
6 WATERFRONT LOT OR ANY OTHER LOT OR PARCEL DEEDED
7 WITH WATER ACCESS; OR
8 (B) INTENSIFY OR INCREASE IMPACTS ASSOCIATED WITH RIPARIAN
9 ACCESS.
- 10 (4) THE PROPOSED CONSOLIDATION OR RECONFIGURATION SHALL NOT
11 CREATE:
12 (A) A LOT, PARCEL OR PORTION OF A LOT OR PARCEL THAT WILL
13 SERVE DEVELOPMENT ACTIVITIES OUTSIDE OF THE CRITICAL
14 AREA; OR
15 (B) A RESOURCE CONSERVATION AREA LOT OR PARCEL THAT
16 SERVES DEVELOPMENT ACTIVITIES IN THE INTENSELY
17 DEVELOPED AREA OR LIMITED DEVELOPMENT AREA.
- 18 (5) THE PROPOSED CONSOLIDATION OR RECONFIGURATION PLAN SHALL
19 IDENTIFY STEEP SLOPES AND HABITAT PROTECTION AREAS. IF
20 IMPACTS TO A STEEP SLOPE OR HABITAT PROTECTION AREA ARE
21 PROPOSED, THE APPLICATION SHALL DEMONSTRATE THAT:
22 (A) NO GREATER IMPACT TO A STEEP SLOPE OR HABITAT
23 PROTECTION AREA WILL RESULT THAN THE IMPACT THAT
24 WOULD HAVE RESULTED FROM THE EXISTING LOT
25 CONFIGURATION; AND
26 (B) PROTECTIVE MEASURES AND RESTORATION MEASURES ARE
27 IMPLEMENTED AS RECOMMENDED BY THE MARYLAND
28 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

1 TITLE 8, SUBTITLE 18 OF THE NATURAL RESOURCES ARTICLE OF THE
2 ANNOTATED OF CODE OF MARYLAND, AS THE SAME MAY BE
3 AMENDED, TITLE 27 OF THE CODE OF MARYLAND REGULATIONS AND
4 THE REQUIREMENTS OF THE COUNTY CHESAPEAKE BAY CRITICAL
5 AREA PROGRAM.

- 6 (3) IN ACCORDANCE WITH SECTION 8-1808(D)(2) OF THE NATURAL
7 RESOURCES ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AS
8 THE SAME MAY BE AMENDED, IN THIS SECTION, IF A PERSON MEETS
9 THE THRESHOLD UNDER FEDERAL LAW, THE PERSON SHALL HAVE
10 STANDING TO PARTICIPATE AS A PARTY IN THE ADMINISTRATIVE
11 PROCEEDING.

12 B. STANDARDS. IN GRANTING A VARIANCE, THE BOARD OF APPEALS SHALL
13 FIND THAT THE FOLLOWING STANDARDS HAVE BEEN MET:

- 14 (1) DUE TO SPECIAL FEATURES OF THE SITE OR SPECIAL CONDITIONS OR
15 CIRCUMSTANCES PECULIAR TO THE LAND OR STRUCTURE INVOLVED, A
16 LITERAL ENFORCEMENT OF PROVISIONS AND REQUIREMENTS OF THE
17 COUNTY CHESAPEAKE BAY CRITICAL AREA PROGRAM WOULD RESULT
18 IN AN UNWARRANTED HARDSHIP.
- 19 (2) A LITERAL INTERPRETATION OF THE PROVISIONS OF THE COUNTY
20 CHESAPEAKE BAY CRITICAL AREA PROGRAM WILL DEPRIVE THE
21 APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN
22 SIMILAR AREAS WITHIN THE CRITICAL AREA.
- 23 (3) THE GRANTING OF A VARIANCE WILL NOT CONFER UPON AN
24 APPLICANT ANY SPECIAL PRIVILEGE THAT WOULD BE DENIED TO
25 OTHER LANDS OR STRUCTURES WITHIN THE CRITICAL AREA BY THE
26 COUNTY CHESAPEAKE BAY CRITICAL AREA PROGRAM.
- 27 (4) THE VARIANCE REQUEST IS NOT BASED UPON CONDITIONS OR
28 CIRCUMSTANCES THAT ARE THE RESULT OF ACTIONS BY THE

1 APPLICANT, INCLUDING THE COMMENCEMENT OF DEVELOPMENT
2 ACTIVITY BEFORE AN APPLICATION FOR A VARIANCE HAS BEEN FILED.

3 (5) THE VARIANCE REQUEST DOES NOT ARISE FROM ANY CONDITION
4 RELATING TO LAND OR BUILDING USE, EITHER PERMITTED OR
5 NONCONFORMING, ON ANY NEIGHBORING PROPERTY.

6 (6) THE GRANTING OF A VARIANCE SHALL NOT ADVERSELY AFFECT
7 WATER QUALITY, FISH, WILDLIFE OR PLANT HABITAT WITHIN THE
8 CRITICAL AREA.

9 (7) THE GRANTING OF THE VARIANCE WILL BE IN HARMONY WITH THE
10 GENERAL SPIRIT AND INTENT OF THE CHESAPEAKE BAY CRITICAL
11 AREA ACT AND THE COUNTY CHESAPEAKE BAY CRITICAL AREA
12 PROGRAM.

13 (8) ALL IDENTIFIED HABITAT PROTECTION AREAS ON OR ADJACENT TO
14 THE SITE SHALL BE PROTECTED FROM THE PROPOSED DEVELOPMENT
15 BY IMPLEMENTATION OF EITHER ON-SITE OR OFF-SITE MEASURES.

16 (9) THE VARIANCE REQUEST WILL NOT BE SUBSTANTIALLY DETRIMENTAL
17 TO ADJACENT PROPERTIES OR MATERIALLY IMPAIR THE PURPOSE OF
18 THIS PART 1 OR THE PUBLIC INTEREST.

19 C. PROCESS.

20 (1) APPLICATIONS FOR A VARIANCE SHALL BE MADE IN ACCORDANCE
21 WITH § 267-9D (BOARD OF APPEALS, FILINGS), AND A COPY SHALL BE
22 PROVIDED TO THE CRITICAL AREA COMMISSION. THE DEPARTMENT OF
23 PLANNING AND ZONING SHALL FOLLOW ITS ESTABLISHED
24 PROCEDURES FOR PREPARING ITS STAFF REPORT AND FOR
25 ADVERTISING AND NOTIFICATION TO AFFECTED LANDOWNERS AS SET
26 FORTH IN THE ZONING BOARD OF APPEALS RULES OF PROCEDURE
27 CONTAINED IN CHAPTER A274 OF THE HARFORD COUNTY CODE.

28 (2) THE DEPARTMENT OF PLANNING AND ZONING SHALL REQUIRE

1 ADDITIONAL INFORMATION, STUDIES OR DOCUMENTATION DEEMED
2 NECESSARY TO ENSURE THAT ALL APPLICABLE REQUIREMENTS ARE
3 MET. APPLICATIONS SHALL NOT BE CONSIDERED COMPLETE FOR
4 PROCESSING UNTIL ALL INFORMATION AS REQUIRED BY THE
5 DEPARTMENT OF PLANNING AND ZONING HAS BEEN RECEIVED.

6 (3) AFTER A HEARING ON AN APPLICATION FOR A VARIANCE FROM THE
7 COUNTY CHESAPEAKE BAY CRITICAL AREA PROGRAM, THE BOARD OF
8 APPEALS SHALL MAKE WRITTEN FINDINGS REFLECTING ANALYSIS OF
9 EACH STANDARD. WITH DUE REGARD FOR THE PERSON'S TECHNICAL
10 COMPETENCE AND SPECIALIZED KNOWLEDGE, THE WRITTEN FINDINGS
11 MAY BE BASED ON EVIDENCE INTRODUCED AND TESTIMONY
12 PRESENTED BY:

13 (A) THE APPLICANT;

14 (B) THE COUNTY OR ANY OTHER GOVERNMENT AGENCY; OR

15 (C) ANY OTHER PERSON DEEMED APPROPRIATE BY THE
16 DEPARTMENT OF PLANNING AND ZONING.

17 (4) THE APPLICANT HAS THE BURDEN OF PROOF AND THE BURDEN OF
18 PERSUASION TO OVERCOME THE PRESUMPTION OF NONCONFORMANCE
19 ESTABLISHED IN SUBSECTION A(2) ABOVE.

20 (5) IF AN ACTIVITY OR STRUCTURE FOR WHICH A VARIANCE IS REQUESTED
21 COMMENCED WITHOUT PERMITS OR APPROVALS AND DOES NOT MEET
22 EACH OF THE VARIANCE CRITERIA UNDER THIS SECTION, THE
23 VARIANCE REQUEST SHALL BE DENIED AND THE STRUCTURE MUST BE
24 REMOVED OR RELOCATED AND THE AFFECTED RESOURCES RESTORED.

25 (6) THE DEPARTMENT OF PLANNING AND ZONING SHALL NOTIFY THE
26 CRITICAL AREA COMMISSION OF THE FINDINGS AND DECISION TO
27 GRANT OR DENY THE VARIANCE REQUEST WITHIN 10 BUSINESS DAYS
28 OF THE ISSUANCE OF THE DECISION.

- 1 (7) THE DEPARTMENT OF PLANNING AND ZONING SHALL NOT ISSUE A
2 PERMIT OR ZONING CERTIFICATE FOR THE ACTIVITY THAT WAS THE
3 SUBJECT OF THE VARIANCE APPLICATION UNTIL ALL APPLICABLE
4 APPEAL TIMEFRAMES HAVE EXPIRED.

5 D. AFTER-THE-FACT REQUESTS.

- 6 (1) THE COUNTY SHALL NOT ACCEPT AN APPLICATION FOR A VARIANCE
7 TO LEGALIZE A VIOLATION OF THE COUNTY CHESAPEAKE BAY
8 CRITICAL AREA PROGRAM, INCLUDING AN UNPERMITTED STRUCTURE
9 OR OTHER DEVELOPMENT ACTIVITY, UNTIL THE COUNTY ISSUES A
10 NOTICE OF VIOLATION.

- 11 (2) THE BOARD OF APPEALS SHALL NOT APPROVE AN AFTER-THE-FACT
12 VARIANCE UNLESS AN APPLICANT HAS:

13 (A) FULLY PAID ALL CRIMINAL FINES AND PENALTIES IMPOSED
14 UNDER §§ 8-1808(C)(1)(III)14-15 AND (2)(I) OF THE NATURAL
15 RESOURCES ARTICLE OF THE ANNOTATED CODE OF MARYLAND,
16 AS THE SAME MAY BE AMENDED;

17 (B) PREPARED A RESTORATION OR MITIGATION PLAN, APPROVED BY
18 THE DEPARTMENT OF PLANNING AND ZONING, TO ABATE
19 IMPACTS TO WATER QUALITY OR NATURAL RESOURCES AS A
20 RESULT OF THE VIOLATION;

21 (C) PERFORMED THE ABATEMENT MEASURES IN THE APPROVED
22 PLAN IN ACCORDANCE WITH THE COUNTY CHESAPEAKE BAY
23 CRITICAL AREA PROGRAM; AND

24 (D) AGREED TO INSTALL ANY ADDITIONAL MITIGATION REQUIRED
25 WITHIN 90 DAYS OF THE ISSUANCE OF A PERMIT, APPROVAL OR
26 VARIANCE FOR THE AFFECTED PROPERTY. AN EXTENSION OF
27 PLANTING TIME MAY BE APPROVED BY THE DEPARTMENT OF
28 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

1 SHOWING THE EXTENT TO WHICH THE PROJECT OR
2 DEVELOPMENT IS CONSISTENT WITH THE PROVISIONS AND
3 REQUIREMENTS OF THE COUNTY CHESAPEAKE BAY CRITICAL
4 AREA PROGRAM; AND

5 [B] PROVIDE AN EVALUATION OF THE EFFECTS OF THE PROJECT ON
6 THE COUNTY CHESAPEAKE BAY CRITICAL AREA PROGRAM.

7 C. CRITICAL AREA COMMISSION PUBLIC NOTICE REQUIREMENTS. PUBLIC
8 NOTICE IS REQUIRED FOR ALL DEVELOPMENT PROJECTS THAT QUALIFY
9 UNDER COMAR 27.03.01.03. PUBLIC NOTICE SHALL BE THE RESPONSIBILITY OF
10 THE COUNTY AGENCY PROPOSING THE PROJECT, AND THE AGENCY SHALL
11 PROVIDE EVIDENCE AS PART OF ITS SUBMITTAL TO THE CRITICAL AREA
12 COMMISSION THAT:

13 (1) PUBLIC NOTICE WAS PUBLISHED FOR 1 BUSINESS DAY IN A NEWSPAPER
14 OF GENERAL CIRCULATION IN THE GEOGRAPHIC AREA WHERE THE
15 PROPOSED DEVELOPMENT WOULD OCCUR, INCLUDING THE
16 FOLLOWING INFORMATION:

17 (A) THE IDENTITY OF THE SPONSORING LOCAL AGENCY AS WELL AS
18 ANY OTHER LOCAL OR STATE AGENCIES AFFILIATED WITH THE
19 PROJECT.

20 (B) A DESCRIPTION OF THE PROPOSED DEVELOPMENT.

21 (C) THE STREET ADDRESS OF THE AFFECTED LAND AND A
22 STATEMENT THAT ITS LOCATION IS IN THE CRITICAL AREA.

23 (D) THE NAME AND CONTACT INFORMATION OF THE PERSON WITHIN
24 THE SPONSORING STATE AGENCY OR LOCAL AGENCY
25 DESIGNATED TO RECEIVE PUBLIC COMMENT, INCLUDING A FAX
26 NUMBER AND EMAIL ADDRESS, AND THE DEADLINE FOR RECEIPT
27 OF PUBLIC COMMENT.

28 (2) A SIGN WAS POSTED ON THE PROPERTY NO LATER THAN THE DATE OF

1 WHICH THE NOTICE WAS PUBLISHED IN THE NEWSPAPER. THE SIGN
2 SHALL MEET THE FOLLOWING REQUIREMENTS:

3 (A) THE DISPLAY AREA OF THE SIGN IS A MINIMUM OF 30 INCHES BY
4 40 INCHES IN SIZE.

5 (B) THE SAME INFORMATION IS DISPLAYED ON THE SIGN AS SET
6 FORTH IN PARAGRAPH (1) OF THIS SUBSECTION.

7 (C) THE SIGN IS LOCATED IN A CONSPICUOUS AREA ON THE
8 DEVELOPMENT SITE AND WILL REMAIN THERE UNTIL AFTER THE
9 CRITICAL AREA COMMISSION HAS VOTED ON THE
10 DEVELOPMENT.

11 (D) FOR DEVELOPMENT THAT EXTENDS MORE THAN 1,000 LINEAR
12 FEET IN ROAD FRONTAGE, AT LEAST 1 SIGN IS POSTED AT EACH
13 END OF THE AFFECTED LAND FOR WHICH THE DEVELOPMENT IS
14 PROPOSED.

15 (3) IN ADDITION TO THE PUBLIC NOTICE REQUIRED IN PARAGRAPHS (1)
16 AND (2) OF THIS SUBSECTION, THE COUNTY MAY ALSO PROVIDE PUBLIC
17 NOTICE BY ELECTRONIC POSTING ON THE COUNTY WEBSITE, ON THE
18 WEBSITE OF A NEWSPAPER OF GENERAL CIRCULATION IN THE
19 GEOGRAPHIC AREA WHERE THE PROPOSED DEVELOPMENT WOULD
20 OCCUR OR BY NOTIFICATION TO A NEIGHBORHOOD ASSOCIATION OR
21 CITIZENS OF A PARTICULAR GEOGRAPHIC AREA.

22 (4) ADDITIONAL EVIDENCE OF PUBLIC NOTICE TO INCLUDE THE
23 FOLLOWING DOCUMENTATION:

24 (A) THE NAME OF THE NEWSPAPER AND THE DATE ON WHICH THE
25 NOTICE WAS PUBLISHED.

26 (B) A COPY OF THE PUBLIC NOTICE AS IT WAS PUBLISHED IN THE
27 NEWSPAPER.

28 (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(I) 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 & ZONING WITHIN 60 CALENDAR
DAYS.

- (4) THE DEPARTMENT OF PLANNING AND ZONING SHALL SEND THE
AMENDMENTS, AS REVISED PER THE WRITTEN RECOMMENDATIONS

1 RECEIVED FROM THE BOARDS, TO THE COUNTY COUNCIL FOR
2 CONSIDERATION.

- 3 (5) WITHIN 30 DAYS OF THE COUNTY COUNCIL'S APPROVAL, THE
4 AMENDMENTS PACKAGE SHALL BE SENT TO THE CRITICAL AREA
5 COMMISSION FOR REVIEW. NO AMENDMENTS SHALL BE CONSIDERED
6 FINAL UNTIL WRITTEN APPROVAL IS RECEIVED FROM THE CRITICAL
7 AREA COMMISSION. THE AMENDMENTS PACKAGE SHALL BE
8 ACCOMPANIED, WHERE APPLICABLE, BY PERTINENT FINDINGS, PLANS,
9 ENVIRONMENTAL REPORTS AND STUDIES AS DESCRIBED BELOW:

10 (A) A WRITTEN FINDING THAT ENSURES THE PROPOSED
11 AMENDMENT IS CONSISTENT WITH THE PURPOSES, POLICIES,
12 GOALS AND PROVISIONS OF THE CHESAPEAKE BAY CRITICAL
13 AREA ACT AND ALL CRITERIA OF THE CRITICAL AREA
14 COMMISSION.

15 (B) A CONCEPTUAL SITE PLAN AND ENVIRONMENTAL FEATURES
16 MAP IN ACCORDANCE WITH COMAR 27.01.02.06-1.B.

17 (C) AN ENVIRONMENTAL REPORT, WHEN APPLICABLE, THAT
18 INCLUDES COMMENTS FROM THE MARYLAND DEPARTMENT OF
19 THE ENVIRONMENT, MARYLAND DEPARTMENT OF NATURAL
20 RESOURCES, UNITED STATES FISH AND WILDLIFE SERVICE,
21 MARYLAND HISTORICAL TRUST AND U.S. ARMY CORPS OF
22 ENGINEERS.

23 (D) A MAP THAT SHOWS THE LAND AREA WHERE THE AMENDMENTS
24 ARE PROPOSED.

- 25 (6) THE COUNTY'S OFFICIAL CRITICAL AREA MAPS AND COUNTY
26 CHESAPEAKE BAY CRITICAL AREA PROGRAM SHALL BE AMENDED TO
27 REFLECT ANY APPROVED CHANGES, AND A COPY OF THESE
28 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;
- (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.

- 1 (3) BASED ON THE PROJECT SIZE, SCOPE, ENVIRONMENTAL SENSITIVITY
2 ON SITE AND POTENTIAL ADVERSE IMPACTS TO WATER QUALITY,
3 AQUATIC HABITATS OR TERRESTRIAL HABITATS ON OR NEAR THE SITE,
4 THE DIRECTOR OF PLANNING AND ZONING MAY REQUIRE A
5 COMPREHENSIVE WATER-DEPENDENT FACILITY PLAN AS DETAILED IN
6 APPENDIX E OF THE HARFORD COUNTY CHESAPEAKE BAY CRITICAL
7 AREA PROGRAM MANUAL. THIS PLAN SHALL BE APPROVED BY THE
8 DIRECTOR OF PLANNING AND ZONING. IT IS RECOMMENDED THAT THE
9 APPLICANT CONSULT WITH THE DEPARTMENT OF PLANNING AND
10 ZONING PRIOR TO SUBMITTING THIS INFORMATION.
- 11 (4) A BUILDING PERMIT OR ZONING CERTIFICATE FOR ANY CONSTRUCTION
12 IN OR OVER TIDAL WATERS SHALL NOT BE CONSIDERED VALID
13 WITHOUT A CONCURRENT STATE WETLANDS LICENSE OR PERMIT
14 FROM THE MARYLAND DEPARTMENT OF THE ENVIRONMENT AND
15 SECTION 404/10 PERMITS, AS APPROPRIATE, FROM THE ARMY CORPS OF
16 ENGINEERS.
- 17 (5) THE APPLICATION SHALL DEMONSTRATE THAT ALL OF THE
18 FOLLOWING PROVISIONS FOR NEW OR EXPANDED WATER-DEPENDENT
19 FACILITIES HAVE BEEN MET:
- 20 (A) THE PROPOSED ACTIVITIES SHALL NOT SIGNIFICANTLY ALTER
21 EXISTING WATER CIRCULATION PATTERNS OR SALINITY
22 REGIMES.
- 23 (B) THE WATER BODY UPON WHICH THESE ACTIVITIES ARE
24 PROPOSED SHALL HAVE ADEQUATE FLUSHING
25 CHARACTERISTICS IN THE AREA FOR NATURAL DISPERSAL AND
26 REMOVAL OF POLLUTION, AS DETERMINED BY MARYLAND
27 DEPARTMENT OF THE ENVIRONMENT.
- 28 (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

1 WATERFRONT CONSTRUCTION OVER OR INTO WATERWAYS BEYOND
2 THE LIMIT OF PIER OR BULKHEAD LINES, AS ESTABLISHED BY THE
3 ARMY CORPS OF ENGINEERS.

4 G. ADDITIONAL PROVISIONS FOR MARINAS AND OTHER COMMERCIAL MARITIME
5 FACILITIES OR ACTIVITIES. NEW, EXPANDED OR REDEVELOPED MARINAS
6 MAY BE PERMITTED SUBJECT TO THE REQUIREMENTS AS SET FORTH BELOW:

7 (1) NEW, EXPANDED OR REDEVELOPED MARINAS MUST ADHERE TO ALL
8 OTHER REQUIREMENTS AS OUTLINED IN THIS SECTION.

9 (2) NEW MARINAS AND RELATED MARITIME FACILITIES SHALL NOT BE
10 PERMITTED IN RESOURCE CONSERVATION AREAS. EXPANSION OF
11 EXISTING MARINAS MAY BE PERMITTED WITHIN RESOURCE
12 CONSERVATION AREAS PROVIDED THAT IT IS SUFFICIENTLY
13 DEMONSTRATED THAT THE EXPANSION SHALL RESULT IN AN OVERALL
14 NET IMPROVEMENT IN WATER QUALITY AT, OR LEAVING THE SITE OF,
15 THE MARINA.

16 (3) THE BEST MANAGEMENT PRACTICES CITED IN APPENDIX E OF THE
17 HARFORD COUNTY CHESAPEAKE BAY CRITICAL AREA PROGRAM
18 MANUAL SHALL BE APPLIED TO THE LOCATION AND OPERATION OF
19 NEW OR EXPANDED MARINAS AND RELATED MARITIME FACILITIES,
20 WHERE APPLICABLE.

21 (4) NEW AND EXISTING MARINAS SHALL MEET THE SANITARY
22 REQUIREMENTS OF THE MARYLAND DEPARTMENT OF THE
23 ENVIRONMENT AS REQUIRED IN COMAR 26.04.02. NEW MARINAS SHALL
24 ESTABLISH A MEANS OF MINIMIZING THE DISCHARGE OF BOTTOM
25 WASH WATERS INTO TIDAL WATERS.

26 H. ADDITIONAL PROVISIONS FOR COMMUNITY PIERS. NEW OR EXPANDED
27 COMMUNITY MARINAS AND OTHER NON-COMMERCIAL BOAT-DOCKING AND
28 STORAGE FACILITIES MAY BE PERMITTED IN THE CRITICAL AREA BUFFER,

1 SUBJECT TO THE REQUIREMENTS IN THIS SUBSECTION OR THE COUNTY
2 CHESAPEAKE BAY CRITICAL AREA PROGRAM, AND PROVIDED THAT THE
3 FOLLOWING PROVISIONS ARE MET:

- 4 (1) THESE FACILITIES SHALL NOT OFFER FOOD, FUEL OR OTHER GOODS
5 AND SERVICES FOR SALE IN THE BUFFER.
- 6 (2) THESE FACILITIES SHALL PROVIDE ADEQUATE AND CLEAN SANITARY
7 FACILITIES.
- 8 (3) THE FACILITIES SHALL BE COMMUNITY-OWNED AND ESTABLISHED
9 AND OPERATED FOR THE BENEFIT OF THE CITIZENS OF A PLATTED AND
10 RECORDED RIPARIAN SUBDIVISION.
- 11 (4) THE FACILITIES SHALL BE ASSOCIATED WITH A RESIDENTIAL
12 DEVELOPMENT APPROVED BY THE COUNTY AND SHALL BE
13 CONSISTENT WITH ALL STATE AND LOCAL PROGRAM REQUIREMENTS
14 FOR THE CRITICAL AREA.
- 15 (5) DISTURBANCE TO THE CRITICAL AREA BUFFER SHALL BE THE
16 MINIMUM NECESSARY TO PROVIDE A SINGLE POINT OF ACCESS TO THE
17 PIER OR FACILITY.
- 18 (6) IF COMMUNITY PIERS, SLIPS OR MOORINGS ARE PROVIDED AS PART OF
19 THE NEW RESIDENTIAL DEVELOPMENT BUILT OR CONSTRUCTED AFTER
20 JUNE 24, 1988, PRIVATE PIERS IN THE RESIDENTIAL DEVELOPMENT
21 SHALL NOT BE PERMITTED.

22 I. SLIPS AND PIERS.

- 23 (1) NO STRUCTURE CONNECTED TO THE SHORELINE, SUCH AS A DOCK OR
24 PIER, SHALL EXTEND OUTWARD FROM THE MEAN HIGH-WATER LINE
25 MORE THAN 25% OF THE DISTANCE TO THE MEAN HIGH-WATER LINE ON
26 THE OPPOSITE SHORE, OR MORE THAN 250 FEET, WHICHEVER IS LESS,
27 NOR SHALL IT EXTEND INTO AN EXISTING NAVIGATIONAL CHANNEL.
- 28 (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

1 MAY BE PERMITTED IN THE CRITICAL AREA BUFFER IN INTENSELY
2 DEVELOPED AREAS.

3 (2) THE FACILITIES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, AS
4 WELL AS AREAS FOR PASSIVE RECREATION SUCH AS HIKING, NATURE
5 STUDY, HUNTING AND TRAPPING AND FOR EDUCATION MAY ALSO BE
6 PERMITTED WITHIN THE CRITICAL AREA BUFFER IN LIMITED
7 DEVELOPMENT AREAS AND RESOURCE CONSERVATION AREAS
8 PROVIDED THAT THE FOLLOWING CONDITIONS ARE MET:

9 (A) ADEQUATE SANITARY FACILITIES SHALL BE PROVIDED.

10 (B) SERVICE FACILITIES SHALL BE LOCATED OUTSIDE OF THE
11 CRITICAL AREA BUFFER.

12 (C) PERMEABLE SURFACES SHALL BE USED AS THE PRIMARY
13 SURFACING MATERIAL IF NO DEGRADATION OF GROUNDWATER
14 WOULD RESULT, ALTHOUGH SUCH MATERIALS SHALL COUNT
15 TOWARD THE CALCULATED LOT COVERAGE.

16 (D) DISTURBANCE TO ANY VEGETATION SHALL BE AVOIDED OR
17 OTHERWISE MINIMIZED.

18 (E) ALL NONWATER-DEPENDENT STRUCTURES OR FACILITIES
19 ASSOCIATED WITH THESE PROJECTS SHALL BE LOCATED
20 OUTSIDE OF THE CRITICAL AREA BUFFER.

21 K. ADDITIONAL PROVISIONS FOR RESEARCH AREAS. WATER-DEPENDENT
22 RESEARCH FACILITIES OR ACTIVITIES OPERATED BY STATE, FEDERAL OR
23 LOCAL AGENCIES OR EDUCATIONAL INSTITUTIONS MAY BE PERMITTED IN
24 THE CRITICAL AREA BUFFER. NONWATER-DEPENDENT STRUCTURES OR
25 FACILITIES ASSOCIATED WITH THESE PROJECTS SHALL BE LOCATED OUTSIDE
26 OF THE CRITICAL AREA BUFFER.

27 L. ADDITIONAL PROVISIONS FOR FISHERIES ACTIVITIES.

28 (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).

(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

- 1 DISTURBANCE FROM OFF-ROAD VEHICLES, PUBLIC USE OR
2 LOGGING FROM MAY THROUGH AUGUST OF EACH YEAR.
- 3 (B) FOCUS ALL DEVELOPMENT ON THE PERIPHERY OF THE FOREST
4 OR WOODLANDS, KNOWN AS EDGE HABITAT.
- 5 (C) RETAIN THE FOREST CANOPY AS WELL AS THE TREE AND SHRUB
6 UNDERSTORY.
- 7 (D) RETAIN SNAG AND MATURE SEED TREES AS DENS FOR
8 WOODPECKERS AND AS NESTS FOR BALD EAGLES.
- 9 (E) AVOID THE CREATION OF SMALL CLEARINGS AND EXPANSION OF
10 FOREST EDGE HABITATS.
- 11 (F) RE-ESTABLISH OR ENHANCE NATIVE FORESTS AND WOODLANDS.
- 12 (G) ADOPT HARVEST TECHNIQUES TO MAINTAIN OR IMPROVE
13 HABITAT.
- 14 (5) A FOREST CONSERVATION PLAN SHALL BE REQUIRED FOR THE
15 REMOVAL AND REPLACEMENT OF FOREST AND DEVELOPED
16 WOODLANDS AND SHALL ADHERE TO THE FOLLOWING
17 REQUIREMENTS:
- 18 (A) THE DOCUMENT SHALL BE PREPARED AS SPECIFIED IN APPENDIX
19 C OF THE HARFORD COUNTY CHESAPEAKE BAY CRITICAL AREA
20 PROGRAM MANUAL.
- 21 (B) FOR PROPERTIES REQUIRING SUBDIVISION APPROVAL, FOREST
22 CONSERVATION PLANS SHALL BE SUBMITTED ALONG WITH THE
23 PRELIMINARY OR SITE PLAN.
- 24 (C) FOR ALL OTHER PROJECTS, FOREST CONSERVATION PLANS
25 SHALL BE SUBMITTED AND APPROVED BY THE DEPARTMENT OF
26 PLANNING AND ZONING PRIOR TO APPLICATION FOR A GRADING
27 PERMIT.
- 28 (D) A SURETY BOND SHALL BE DEPOSITED AND A COVENANT

1 RECORDED IN THE LAND RECORDS OF HARFORD COUNTY TO
2 ENSURE THAT ALL REQUIRED AFFORESTED AND REFORESTED
3 AREAS ARE COMPLETED IN ACCORDANCE WITH THE APPROVED
4 FOREST CONSERVATION PLAN. THE SURETY AMOUNT SHALL BE
5 EQUAL TO 110% OF THE VALUE OF \$4.00 PER SQUARE FOOT OF
6 PLANTING REQUIRED AND SHALL BE HELD UNTIL THE
7 ESTABLISHED FORESTED AREA MEETS OR EXCEEDS STANDARDS
8 SPECIFIED IN THE FOREST CONSERVATION PLAN.

9 (E) GRADING PERMITS SHALL NOT BE ISSUED UNTIL THE COVENANT
10 AND SURETY HAVE BEEN ACCEPTED BY THE COUNTY. THE
11 COVENANT, WHICH SHALL BE ESTABLISHED BY THE OWNER OF
12 THE PROPERTY, SHALL ESTABLISH AND PROTECT THE
13 AFFORESTED OR REFORESTED AREAS FROM FUTURE
14 DEVELOPMENT ACTIVITIES.

15 (F) THE FOLLOWING SURVIVABILITY STANDARDS SHALL APPLY:

16 [1] IF MORE THAN 25% OF THE PLANTINGS DIE WITHIN THE
17 FIRST 2 GROWING SEASONS, THE PLANTINGS SHALL BE
18 REPLACED WITH NEW STOCK.

19 [2] IF MORE THAN 25% OF THE PLANTINGS DO NOT SURVIVE
20 THE FIRST 3 GROWING SEASONS, THE SURETY BOND
21 SHALL BE HELD AN ADDITIONAL 3 YEARS OR UNTIL THE
22 SURVIVABILITY REQUIREMENTS HAVE BEEN SATISFIED,
23 AS DESCRIBED IN THIS SECTION.

24 [3] TWO-THIRDS OF THE SURETY BOND WILL BE RETURNED IF
25 ALL COMPONENTS OF THE PROJECT MEET OR EXCEED THE
26 STANDARDS, AS DETERMINED BY AN INSPECTION FROM
27 THE DEPARTMENT OF PLANNING AND ZONING, AND AT
28 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 CONSERVATION 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

1 PLANNING AND ZONING THAT PLANTINGS ARE NOT FEASIBLE, A
2 PAYMENT OF \$4.00 PER SQUARE FOOT OF MITIGATION WILL BE
3 ACCEPTED IN LIEU OF THE PLANTINGS TO BE REPLACED. FEE-IN-LIEU
4 SHALL OTHERWISE NOT BE ACCEPTED BY THE COUNTY.

5 (2) FUNDS SHALL BE PAID TO THE HARFORD COUNTY DEPARTMENT OF
6 TREASURY AT THE TIME OF ISSUANCE OF A GRADING PERMIT, PRIOR TO
7 ANY CLEARING OF FOREST OR DEVELOPED WOODLAND COVER ON A
8 DEVELOPMENT SITE.

9 (3) FUNDS SHALL BE MAINTAINED IN A SEPARATE ACCOUNT FROM THE
10 GENERAL FUND AND ADMINISTERED BY THE HARFORD COUNTY
11 DEPARTMENT OF PLANNING AND ZONING IN THE FOLLOWING MANNER:

12 (A) FUNDS CONTRIBUTED UNDER THIS SECTION SHALL BE USED FOR
13 MITIGATION PLANTING AND/OR OFFSETS, AS DESCRIBED IN
14 APPENDIX K OF THE HARFORD COUNTY CHESAPEAKE BAY
15 CRITICAL AREA PROGRAM MANUAL, TO ENHANCE WILDLIFE
16 HABITAT, IMPROVE WATER QUALITY OR OTHERWISE PROMOTE
17 THE GOALS OF THE COUNTY CHESAPEAKE BAY CRITICAL AREA
18 PROGRAM AND GREEN INFRASTRUCTURE PLAN.

19 (B) THE FUNDS SHALL BE USED FOR SITE IDENTIFICATION,
20 ACQUISITION, DESIGN, PREPARATION, PLANTING OR
21 INSTALLATION AND MONITORING OF VEGETATION OR PROJECT
22 SUCCESS AT THE SELECTED REGIONAL WATER QUALITY AND
23 WILDLIFE IMPROVEMENT AREAS.

24 (C) THE FUNDS SHALL NOT BE USED TO ACCOMPLISH A PROJECT OR
25 MEASURE THAT WOULD HAVE BEEN REQUIRED UNDER EXISTING
26 LOCAL, STATE OR FEDERAL LAWS, REGULATIONS, STATUTES OR
27 PERMITS.

28 (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

1 ENVIRONMENT AND THE COUNTY.

2 (1) IF CUTS AND FILLS ARE 3 FEET OR MORE, IF GRADES FOR ROADS ARE
3 15% OR MORE OR IF LANDINGS ARE ON SLOPES OF 10% OR MORE, THEN
4 THE LANDOWNER MUST GET A CUSTOM EROSION AND SEDIMENT
5 CONTROL PLAN FOR THE OPERATION. THESE ARE PREPARED BY
6 REGISTERED PROFESSIONAL FORESTERS AND INCLUDE CONTROLS
7 NECESSARY TO PREVENT SITE EROSION AND TO ENSURE SITE
8 STABILIZATION.

9 (2) IF A CUSTOM EROSION AND SEDIMENT CONTROL PLAN IS NOT
10 REQUIRED, A STANDARD EROSION AND SEDIMENT CONTROL PLAN IS
11 AVAILABLE THROUGH THE HARFORD SOIL CONSERVATION DISTRICT.
12 THE LANDOWNER SHALL PROVIDE THE FOLLOWING INFORMATION:

13 (A) LOCATION DESCRIPTION.

14 (B) HARVEST OPERATION DESCRIPTION.

15 (C) SKETCH MAP OF THE PROPERTY SHOWING ACRES TO BE
16 CLEARED.

17 (D) IDENTIFICATION OF THE LANDOWNER, LICENSED TIMBER
18 HARVEST OPERATOR AND OTHER OPERATORS OR
19 SUBCONTRACTORS.

20 (3) THE EROSION AND SEDIMENT CONTROL PLAN SHALL BE SUBMITTED TO
21 THE HARFORD SOIL CONSERVATION DISTRICT FOR APPROVAL AND
22 NOTICE OF APPROVAL SHALL BE SENT TO THE HARFORD COUNTY
23 DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS.

24 (4) THE APPLICANT SHALL TAKE RESPONSIBILITY FOR THE
25 IMPLEMENTATION OF THE EROSION AND SEDIMENT CONTROL PLAN.

26 (5) THE LANDOWNER MUST SIGN THE AGREEMENT TO CERTIFY THAT HE
27 OR SHE UNDERSTANDS THE TERMS OF THE PLAN AND IS RESPONSIBLE
28 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.

- 1 (2) THE DRAINAGE OF NONTIDAL WETLANDS FOR THE PURPOSE OF
2 EXISTING AGRICULTURE SHALL BE DONE IN ACCORDANCE WITH A SOIL
3 CONSERVATION AND WATER QUALITY PLAN, APPROVED BY THE
4 HARFORD SOIL CONSERVATION DISTRICT.
- 5 (3) EXISTING FARM PONDS AND OTHER EXISTING MAN-MADE BODIES OF
6 WATER FOR THE PURPOSE OF IMPOUNDING WATER FOR AGRICULTURE,
7 WATER SUPPLY, RECREATION OR WATERFOWL HABITAT ARE NOT
8 CLASSIFIED AS WETLANDS.
- 9 (4) BEST MANAGEMENT PRACTICES SHALL BE USED FOR THE CONTROL OF
10 NUTRIENTS, ANIMAL WASTES, PESTICIDES AND SEDIMENT RUNOFF TO
11 PROTECT THE PRODUCTIVITY OF THE LAND BASE AND ENHANCE
12 WATER QUALITY. THESE PRACTICES SHALL AVOID OR OTHERWISE
13 MINIMIZE THE CONTAMINATION OF SURFACE WATER AND GROUND
14 WATER, AS WELL AS THE ADVERSE EFFECTS ON PLANTS, FISH AND
15 WILDLIFE RESOURCES.
- 16 (5) ANIMAL FEEDING OPERATIONS, INCLUDING RETENTION AND STORAGE
17 PONDS, FEED LOT WASTE STORAGE AND MANURE STORAGE SHALL
18 AVOID OR OTHERWISE MINIMIZE THE CONTAMINATION OF WATER
19 BODIES.
- 20 (6) AGRICULTURAL ACTIVITIES PERMITTED IN THE CRITICAL AREA SHALL
21 USE BEST MANAGEMENT PRACTICES IN ACCORDANCE WITH A SOIL
22 CONSERVATION AND WATER QUALITY PLAN AND A NUTRIENT
23 MANAGEMENT PLAN APPROVED BY THE HARFORD SOIL
24 CONSERVATION DISTRICT. MITIGATION IS NOT REQUIRED FOR
25 PERMITTED AGRICULTURAL ACTIVITIES.
- 26 (7) SLUDGE THAT IS USED FOR AGRICULTURAL OR HORTICULTURAL
27 PURPOSES SHALL NOT BE APPLIED IN THE CRITICAL AREA BUFFER OR
28 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

1 STRIPS AND STREAM PROTECTION PRACTICES SUCH AS FENCING,
2 STREAM CROSSINGS AND REMOTE WATERING DEVICES.

3 (3) A NUTRIENT MANAGEMENT PLAN SHALL BE PREPARED BY A CERTIFIED
4 NUTRIENT MANAGEMENT CONSULTANT OR CERTIFIED FARM
5 OPERATOR IN ACCORDANCE WITH COMAR 15.20.04, .07 AND .08.

6 (4) A FOREST MANAGEMENT PLAN SHALL BE SUBMITTED AND ALL
7 REQUIREMENTS AS OUTLINED IN APPENDIX C OF THE HARFORD
8 COUNTY CHESAPEAKE BAY CRITICAL AREA PROGRAM MANUAL SHALL
9 BE ADHERED TO FOR EACH AGRICULTURAL OPERATION THAT
10 HARVESTS TIMBER.

11 (5) LANDOWNERS WHO HAVE SIGNED UP AS CONSERVATION DISTRICT
12 OPERATORS, BUT WHO DO NOT HAVE A CONSERVATION PLAN
13 PREPARED FOR THEM BY THE HARFORD SOIL CONSERVATION DISTRICT,
14 SHALL BE ALLOWED TO CONTINUE TO FARM IN THE CRITICAL AREA
15 UNTIL A CONSERVATION PLAN IS DEVELOPED PROVIDED THAT THE
16 OTHER REGULATIONS OF THE COUNTY CHESAPEAKE BAY CRITICAL
17 AREA PROGRAM ARE BEING MET.

18 (6) A LANDOWNER SHALL SELECT AND IMPLEMENT, WITH THE
19 ASSISTANCE OF A TECHNICALLY TRAINED SOIL CONSERVATION
20 PLANNER OR TECHNICIAN, FROM AMONG THE SEVERAL
21 AGRICULTURAL BEST MANAGEMENT PRACTICES THAT MINIMIZE
22 IMPACTS TO WATER QUALITY, CONSERVE FISH, WILDLIFE AND PLANT
23 HABITAT AND INTEGRATE BEST WITH THE FARMING OPERATION.

24 (7) UNTIL SUCH TIME AS ALL APPLICABLE PLANS, AS DESCRIBED IN THIS
25 SECTION, ARE DEVELOPED AND IMPLEMENTED, FARMERS SHALL BE
26 ENCOURAGED TO USE THE FOLLOWING PRACTICES:

27 (A) COVER CROPS SHALL BE PLANTED TO REDUCE EROSION.

28 (B) NUTRIENTS SHALL BE APPLIED AT THE APPROPRIATE TIME AND

1 APPROPRIATE APPLICATION METHODS SHALL BE USED.

2 (C) REDUCED TILLAGE AND/OR NO TILL PRACTICES SHALL BE
3 UTILIZED WHERE PRACTICAL.

4 (D) CROP ROTATIONS SHALL BE IMPLEMENTED WHERE EFFECTIVE.

5 D. AGRICULTURAL ACTIVITIES IN THE CRITICAL AREA BUFFER. AGRICULTURAL
6 ACTIVITIES ARE PERMITTED IN THE CRITICAL AREA BUFFER IN ACCORDANCE
7 WITH COMAR 27.01.09.01-6 AND AS DESCRIBED IN THE COUNTY CHESAPEAKE
8 BAY CRITICAL AREA PROGRAM PROVIDED THAT THE FOLLOWING PROVISIONS
9 ARE MET:

10 (1) PRIOR TO THE DEVELOPMENT OF A SOIL CONSERVATION AND WATER
11 QUALITY PLAN AS REQUIRED IN SUBSECTION C(2) ABOVE, A 25-FOOT
12 VEGETATED FILTER STRIP COMPRISED OF TREES WITH A DENSE
13 GROUND COVER OR A THICK SOD GRASS SHALL BE INSTALLED AND
14 MAINTAINED ADJACENT TO TIDAL WATERS, TIDAL WETLANDS OR
15 TRIBUTARY STREAMS SO AS TO PROVIDE WATER QUALITY BENEFITS
16 AND HABITAT PROTECTION.

17 (A) THE WIDTH OF THIS FILTER STRIP SHALL BE INCREASED BY A
18 DISTANCE OF 4 FEET FOR EVERY 1% INCREASE IN SLOPES OVER
19 6%.

20 (B) STRATEGIES TO CONTROL NOXIOUS WEEDS, INVASIVE PLANTS
21 OR ANIMALS MAY BE APPROVED BY THE HARFORD SOIL
22 CONSERVATION DISTRICT TO BE USED WITHIN THIS FILTER STRIP
23 AND ELSEWHERE ON AGRICULTURAL LANDS.

24 (2) THE FEEDING OR WATERING OF LIVESTOCK SHALL NOT TAKE PLACE
25 WITHIN 50 FEET OF THE MEAN HIGH-WATER LINE OF TIDAL WATERS,
26 TIDAL WETLANDS OR TRIBUTARY STREAMS.

27 (3) AGRICULTURAL ACTIVITIES, INCLUDING THE GRAZING OF LIVESTOCK,
28 SHALL NOT DISTURB STREAM BANKS, TIDAL SHORELINES OR OTHER

HABITAT PROTECTION AREAS AS IDENTIFIED IN § 267-63.7 (THE CRITICAL AREA BUFFER) THROUGH § 267-63.9 (HABITAT PROTECTION AREAS).

(4) THE CLEARING OF EXISTING VEGETATION WITHIN THE CRITICAL AREA BUFFER SHALL BE PROHIBITED.

§ 267-63.21. SURFACE MINING.

A. APPLICABILITY. THE PROVISIONS OF THIS SECTION SHALL APPLY TO ALL EXISTING AND PROPOSED EXPANSION OPERATIONS ENGAGED IN THE EXTRACTION OR REMOVAL OF MINERALS, SAND, GRAVEL, ROCK, STONE, EARTH OR FILL AND ACTIVITIES RELATED TO SURFACE MINING. THESE ACTIVITIES INCLUDE, BUT ARE NOT LIMITED TO, OPERATIONS ENGAGED IN PROCESSING MINERALS AT THE SITE, REMOVAL AND MINING WHEN DONE FOR THE PURPOSE OF PROSPECTING, WASHING, LOADING AND TRANSPORTING MINED MATERIAL. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW, THE PROVISIONS OF THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE LOCATION OR USE OF A WATER-DEPENDENT FACILITY, IN ACCORDANCE WITH COMAR 27.01.03, FOR THE TRANSPORT OF A SURFACE MINING PRODUCT OR BY-PRODUCT.

B. GENERAL POLICIES. ALL AVAILABLE MEASURES SHALL BE TAKEN TO PROTECT THE CRITICAL AREA FROM ALL SOURCES OF POLLUTION FROM SURFACE MINING OPERATIONS INCLUDING, BUT NOT LIMITED TO, SEDIMENTATION, SILTATION, CHEMICAL AND PETROCHEMICAL USE, SPILLAGE, STORAGE AND DISPOSAL OF WASTE, DUSTS AND SPOILS. SURFACE MINING SHALL FACILITATE SITE RECLAMATION, INCLUDING RENEWABLE RESOURCE LAND, AS SOON AS POSSIBLE.

C. STANDARDS. THE ESTABLISHMENT OF NEW SURFACE MINING OPERATIONS WITHIN THE CRITICAL AREA SHALL BE PROHIBITED. THE FOLLOWING STANDARDS SHALL BE MET IN ORDER TO CONTINUE EXISTING SURFACE

1 MINING OPERATIONS IN THE CRITICAL AREA:

2 (1) IN CONJUNCTION WITH, AS APPLICABLE, THE DEPARTMENTS OF
3 AGRICULTURE, ENVIRONMENT AND NATURAL RESOURCES, AND ANY
4 OTHER APPROPRIATE FEDERAL OR STATE AGENCY, DEVELOP A
5 MINERAL RESOURCES PLAN AND MANAGEMENT PROGRAM THAT IS
6 INCLUDED IN THE COMPREHENSIVE PLAN AND CONSISTS OF:

7 (A) IN ACCORDANCE WITH LAND USE ARTICLE, §§ 1-411 AND 3-107,
8 ANNOTATED CODE OF MARYLAND, THE IDENTIFICATION AND
9 MAPPING OF THE UNDEVELOPED LAND IN THE CRITICAL AREA
10 THAT IS BEST KEPT IN ITS UNDEVELOPED STATE UNTIL THE
11 LAND CAN BE USED TO PROVIDE OR ASSIST IN PROVIDING A
12 CONTINUOUS SUPPLY OF MINERALS;

13 (B) EACH SURFACE MINING AREA THAT INCLUDES A HABITAT
14 PROTECTION AREA UNDER COMAR 27.01.09; AND

15 (C) IN ACCORDANCE WITH COMAR 27.01.02, AT EACH LOCATION
16 WHERE SURFACE MINING IS, OR HAS BEEN, CONDUCTED THE
17 IDENTIFICATION OF:

18 [1] POST-RECLAMATION LAND USES THAT, WHERE
19 APPLICABLE, PRIORITIZE THE ESTABLISHMENT OR RE-
20 ESTABLISHMENT OF RENEWABLE RESOURCE PRODUCTS,
21 SUCH AS AGRICULTURE AND FORESTRY, AND OTHER
22 LAND USES THAT BENEFIT WATER QUALITY AND
23 HABITAT, SUCH AS WETLANDS, HABITAT RESTORATION
24 AND OPEN SPACE; AND

25 [2] ANY OTHER APPROPRIATE POST-RECLAMATION LAND USE,
26 SUCH AS RECREATION AND DEVELOPMENT.

27 (2) RENEWED SURFACE MINING OPERATION PERMITS SHALL BE OBTAINED
28 FROM THE MARYLAND DEPARTMENT OF THE ENVIRONMENT, WHO

1 SHALL PERFORM PERIODIC SITE INSPECTIONS OF PERMITTED AREAS TO
2 DETERMINE WHETHER THE CONDITIONS OF THE PERMIT AND THE
3 ACCOMPANYING RECLAMATION PLAN ARE BEING FULFILLED.

4 (3) THE APPLICANT SHALL OBTAIN ALL APPLICABLE PERMITS FROM THE
5 REQUIRED FEDERAL, STATE AND LOCAL REGULATORY AGENCIES IN
6 EFFORT TO MANAGE AIR POLLUTION, WATER POLLUTION AND
7 SEDIMENT CONTROL.

8 (4) THE OPERATION SHALL NOT HAVE AN UNDULY ADVERSE EFFECT ON
9 WILDLIFE, FORESTS, FRESH WATER OR ESTUARINE AND MARINE
10 FISHERIES.

11 (5) RECLAMATION SHALL OCCUR ON EACH SEGMENT OF A SITE AS MINING
12 IS COMPLETED.

13 (6) ALL SURFACE MINING OPERATIONS, INCLUDING ROADS, ACCESSORY
14 IMPROVEMENTS, EQUIPMENT AND STORAGE AREAS, SHALL BE
15 CONDUCTED IN A MANNER THAT:

16 (A) DOES NOT ADVERSELY IMPACT WATER QUALITY, IDENTIFIED
17 HABITAT PROTECTION AREAS OR CONTIGUOUS PROPERTIES;

18 (B) RETAINS THE CRITICAL AREA BUFFER IN NATURAL VEGETATION
19 BETWEEN THE OPERATION AND TIDAL WATERS, TIDAL
20 WETLANDS AND TRIBUTARY STREAMS; AND

21 (C) PERMITS THE RAPID RECLAMATION OF THE SITE, INCLUDING
22 ANY WASH POND, WHEN THE OPERATION HAS TERMINATED.

23 D. EXPANSION SITES. THE EXPANSION OF EXISTING SURFACE MINING
24 OPERATIONS IN THE CRITICAL AREA SHALL BE REVIEWED AND MAY BE
25 PERMITTED AS A SPECIAL EXCEPTION PURSUANT TO § 267-88 (SPECIFIC
26 STANDARDS). PRIOR TO ACCEPTING ANY APPLICATION TO THE BOARD OF
27 APPEALS FOR A SPECIAL EXCEPTION FOR THE EXPANSION OF AN EXISTING
28 SURFACE MINING OPERATION, THE DIRECTOR OF PLANNING AND ZONING

1 SHALL REVIEW THE APPLICATION AND SHALL FORWARD THE APPLICATION
2 TO THE BOARD OF APPEALS ONLY UPON MAKING FINDINGS THAT SUCH
3 EXPANSION SHALL HAVE MET THE FOLLOWING CONDITIONS:

4 (1) A RECLAMATION PLAN SHALL HAVE BEEN DEVELOPED THAT SPECIFIES
5 THE PROPOSED USE TO BE MADE OF THE SITE FOLLOWING
6 RECLAMATION, THE MANNER IN WHICH THE SOIL AND SUBSOIL ARE TO
7 BE CONSERVED AND RESTORED, THE SPECIFICATIONS FOR SURFACE
8 GRADIENT RESTORATION SUITABLE FOR THE SUBSEQUENT USE, THE
9 PROPOSED MANNER AND TYPE OF RE-VEGETATION OR OTHER SURFACE
10 TREATMENT OF AFFECTED AREAS AND AN ACCEPTABLE SCHEDULE TO
11 THE COUNTY FOR THE IMPLEMENTATION OF THESE RECLAMATION
12 MEASURES.

13 (2) THE OPERATION SHALL NOT HAVE AN ADVERSE IMPACT ON HABITAT
14 PROTECTION AREAS, OR OTHER IMPORTANT NATURAL RESOURCE
15 AREAS SUCH AS THOSE OF SCIENTIFIC VALUE OR AREAS WHERE
16 ASSEMBLAGES OF RARE SPECIES OCCUR AND IN ACCORDANCE WITH
17 THE PROVISIONS OF COMAR 27.01.09, HABITAT PROTECTION AREAS.

18 (3) THE OPERATION SHALL NOT BE LOCATED ON LANDS WHICH ARE
19 WITHIN 100 FEET IMMEDIATELY LANDWARD OF THE MEAN HIGH-
20 WATER LINE OF TIDAL WATERS OR THE TOP OF A BANK OF TRIBUTARY
21 STREAMS UNLESS:

22 (A) A LICENSE, PERMIT OR OTHER APPROVAL TO CONDUCT A
23 SPECIFIC ASPECT OF SURFACE MINING WAS ISSUED BEFORE THE
24 DATE OF THE COUNTY'S CHESAPEAKE BAY CRITICAL AREA
25 PROGRAM APPROVAL; AND

26 (B) IF EXPANSION OF THE SCOPE OR SIZE OF THE SURFACE MINING
27 ACTIVITY HAS OCCURRED SINCE THE DATE OF THE COUNTY'S
28 CHESAPEAKE BAY CRITICAL AREA PROGRAM APPROVAL, THE

EXPANSION COMPLIES WITH STATE LAW AND THE COUNTY
CHESAPEAKE BAY CRITICAL AREA PROGRAM REQUIREMENTS.

- (4) THE OPERATION SHALL NOT BE LOCATED ON LAND WITH HIGHLY
ERODIBLE SOILS.
- (5) THE OPERATION SHALL NOT RESULT IN A DEGRADATION OF WATER
QUALITY OR A LOSS OF VITAL HABITAT.
- (6) RECLAMATION OF A WASH POND SHALL BE REQUIRED IN ACCORDANCE
WITH STATE LAW AND PROGRAM REQUIREMENTS.

Section 2. And Be It Further Enacted that this Act shall take effect 60 calendar days from the date it becomes law or upon approval of the Maryland Critical Area Commission under the authority granted by Section 8-1801, *et seq.* of the Natural Resources Article of the Annotated Code of Maryland, whichever is later. If approved in whole or in part by the Maryland Critical Area Commission after the 60 days, the approved provisions of this Act shall take effect on the date the notice of approval is received by the Department of Planning and Zoning. If disapproved in whole or in part by the Maryland Critical Area Commission, the disapproved portions of this Act shall be null and void without the necessity of further action by the County Council. The Department of Planning and Zoning, within 5 days after receiving any notice from the Maryland Critical Area Commission, shall forward a copy to the Council Administrator.

EFFECTIVE: August 22, 2022

The Council Administrator does hereby certify that seven (7) copies of this Bill are immediately available for distribution to the public and the press.

Mylia A. Dixon

Council Administrator