

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2009 Legislative Session

Legislative Day #____

BILL NO. 2009

Introduced by: Planning Staff

Date introduced: / / 200

Public Hearing: / / 200

Commissioners Action: / / 200 _____

Commissioner Votes: WC: __, EP: __, RC: __, SG: __, GH: __

Pass/Fail: _____

Effective Date: / / 200 12:01 a.m.

Remarks: _____

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2009 Legislative Session

Bill No. 2009-

Chapter. No. 297

Introduced by Planning Staff

Date of Introduction _____

BILL

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

AN ACT concerning:
Chesapeake Bay Critical Area Program

FOR the purpose of:
Comprehensive update incorporating legislative changes

BY repealing and reenacting, with amendments:

Chapter 297- Zoning Ordinance
Article IX, §126, Purpose; statutory authority.
Code of Charles County, Maryland
(June, 2006)

Chapter 297- Zoning Ordinance
Article IX, §127, Applicability.
Code of Charles County, Maryland
(June, 2006)

1 Chapter 297- Zoning Ordinance
2 Article IX, §128, Definitions of terms applicable to Critical Area Zone.
3 *Code of Charles County, Maryland*
4 *(June, 2006)*

5
6 Chapter 297- Zoning Ordinance
7 Article IX, §130, Lots of record in Critical Area Zone; grandfather provisions.
8 *Code of Charles County, Maryland*
9 *(June, 2006)*

10
11 Chapter 297- Zoning Ordinance
12 Article IX, §131, Critical Area Buffer Regulations.
13 *Code of Charles County, Maryland*
14 *(June, 2006)*

15
16 Chapter 297- Zoning Ordinance
17 Article IX, §132, Development standards.
18 *Code of Charles County, Maryland*
19 *(June, 2006)*

20
21 Chapter 297- Zoning Ordinance
22 Article IX, §133, Site plans.
23 *Code of Charles County, Maryland*
24 *(June, 2006)*

25
26 Chapter 297- Zoning Ordinance
27 Article IX, §134, Growth Allocation (GA).
28 *Code of Charles County, Maryland*
29 *(June, 2006)*

30

1 Chapter 297- Zoning Ordinance
2 Article IX, §135, Critical Area violations.
3 *Code of Charles County, Maryland*
4 *(June, 2006)*

5
6 Chapter 297- Zoning Ordinance
7 Article XXV, §416, Variances.
8 *Code of Charles County, Maryland*
9 *(June, 2006)*

10
11 BY adding:

12
13 Chapter 297- Zoning Ordinance
14 Article IX, §136, Critical Area Variance.
15 *Code of Charles County, Maryland*
16 *(June, 2006)*

17
18 Chapter 297- Zoning Ordinance
19 Article IX, §137, Habitat Protection Areas and Plans.
20 *Code of Charles County, Maryland*
21 *(June, 2006)*

22
23 Chapter 297- Zoning Ordinance
24 Appendix I, Swan Point Alternative for Buffer Modification Areas.
25 *Code of Charles County, Maryland*
26 *(June, 2006)*

27
28 Chapter 297- Zoning Ordinance
29 Appendix J, Chesapeake Bay Critical Area Shore Erosion Protection Measures
30 Additional Criteria for County Applications.

1 *Code of Charles County, Maryland*
2 *(June, 2006)*

3
4 Chapter 297- Zoning Ordinance
5 Appendix K, Chesapeake Bay Critical Area Erosion Protection Measures Above
6 Mean High Water Additional Criteria for County Applications.

7 *Code of Charles County, Maryland*
8 *(June, 2006)*

9
10 Chapter 297- Zoning Ordinance
11 Appendix L, Chesapeake Bay Critical Area Habitat Protection Areas
12 Management Guidelines

13 *Code of Charles County, Maryland*
14 *(June, 2006)*

15
16 **SECTION 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF**
17 **CHARLES COUNTY, MARYLAND, that the Laws of Charles County,**
18 **Maryland read as follows:**

19
20 **§ 297-126. Purpose; statutory authority.**

21
22 A. The purpose of the Critical Area Overlay Zone is to establish special
23 regulatory protection for the land and water resources located within the
24 Chesapeake Bay Critical Area in Charles County. Land use development
25 standards and requirements established herein are intended to foster more
26 sensitive development activity for shoreline areas and to minimize the
27 adverse impacts of development activities on water quality and natural
28 habitats. This chapter implements the Charles County Critical Area
29 Program and the requirements of the Maryland Critical Area Law and the
30 Critical Area criteria and is adopted pursuant to the Natural Resources

1 Article, Title 8, Subtitle 18, of the Annotated Code of Maryland, and
2 COMAR [~~14.15~~]**27.01-.03**, the Critical Area Criteria.

3
4 B. The requirements of Articles IX [~~through XII~~] supplement the county's
5 land development codes, including existing zoning and subdivision
6 provisions. They impose specific regulations for the development and
7 other land use within the Charles County Critical Area. In the event of
8 inconsistency between the provisions of Articles IX [~~through XII~~] and the
9 provisions established in other applicable ordinances, the more restrictive
10 or stringent provisions shall apply.

11
12 **C. THE CHARLES COUNTY CHESAPEAKE BAY CRITICAL AREA**
13 **PROGRAM CONSISTS OF THE REQUIREMENTS CONTAINED**
14 **IN THIS CHAPTER, OTHER APPLICABLE REQUIREMENTS**
15 **SET FORTH IN THE ZONING ORDINANCE, THE OFFICIAL**
16 **CRITICAL AREA ZONE MAPS, THE CHARLES COUNTY**
17 **COMPREHENSIVE PLAN, CHARLES COUNTY SUBDIVISION**
18 **REGULATIONS AND ALL OTHER APPLICABLE COUNTY**
19 **REGULATIONS.**

20
21 **§ 297-127. Applicability.**

22
23 A. No person shall develop, alter or use any land for residential, commercial,
24 industrial or institutional uses; nor conduct agricultural, fishery or forestry
25 activities in the Charles County Critical Area, except in compliance with
26 the applicable provisions contained herein.

27
28 B. Articles IX [~~through XII~~] shall only apply to the Charles County Critical
29 Area, hereafter referred to as the "Critical Area Zone." The Critical Area
30 Zone shall include all lands and waters within 1,000 feet beyond the

1 landward boundaries of state or private wetlands and the heads of tides
2 designated under Title [9] 16 of the Natural Resources Article, Annotated
3 Code of Maryland.

4
5 **C. DEVELOPMENT IN ACCORDANCE WITH THE SWAN POINT**
6 **GENERAL DEVELOPMENT PLAN SHALL BE REVIEWED IN**
7 **ACCORDANCE WITH THE GROWTH ALLOCATION**
8 **INDENTURE AND DOCKET 250 INDENTURE, WHICH SHALL**
9 **SUPERCEDE ANY CONTRARY LANGUAGE IN THIS ARTICLE.**

10
11 **§ 297-128. Definitions of terms applicable to Critical Area Zone.**

12
13 Unless otherwise specifically provided, the words and phrases defined shall have
14 the meaning indicated when used in this article, and when used in the Charles
15 County Critical Area Program. The following definitions are intended to be
16 consistent with the State Critical Area Criteria in COMAR [~~27-10-~~] **27.01.01.01**
17 **AND §8-1802 OF THE NATURAL RESOURCES ARTICLE, ANNOTATED**
18 **CODE OF MARYLAND.**

19
20 **ABATEMENT – THE ACT OF PUTTING AN END TO A LAND**
21 **ALTERATION, DEVELOPMENT ACTIVITY, OR OTHER ACTION**
22 **CITIED AS A VIOLATION UNDER THIS CHAPTER. ABATEMENT**
23 **INCLUDES THE ACT OF REDUCING THE DEGREE OR INTENSITY OF**
24 **THE ALTERATION, ACTIVITY OR ACTION.**

25
26 **ACCESSORY STRUCTURE – A STRUCTURE THAT IS DETACHED**
27 **FROM A PRINCIPAL STRUCTURE; LOCATED ON THE SAME LOT AS**
28 **THE PRINCIPAL STRUCTURE; AND, CUSTOMARILY INCIDENTAL**
29 **AND SUBORDINATE TO THE PRINCIPAL STRUCTURE.**

1 **ADDITION – A NEWLY CONSTRUCTED AREA THAT INCREASES THE**
2 **SIZE OF A STRUCTURE.**

3

4 AFFORESTATION -- The establishment of a tree crop on an area from which it
5 has always or very long been absent or the planting of open areas that are not
6 presently in forest cover.

7

8 **AGRICULTURE – ALL METHODS OF PRODUCTION AND**
9 **MANAGEMENT OF LIVESTOCK, CROPS, VEGETATION, AND SOIL.**
10 **THIS INCLUDES, BUT IS NOT LIMITED TO, THE RELATED**
11 **ACTIVITIES OF TILLAGE, FERTILIZATION, PEST CONTROL,**
12 **HARVESTING, AND MARKETING. IT ALSO INCLUDES, BUT IS NOT**
13 **LIMITED TO, THE ACTIVITIES OF FEEDING, HOUSING AND**
14 **MAINTAINING OF ANIMALS SUCH AS CATTLE, DAIRY COWS,**
15 **SHEEP, GOATS, HOGS, HORSES, AND POULTRY AND HANDLING**
16 **THEIR BY-PRODUCTS.**

17

18 ANADROMOUS FISH -- Fish that travel upstream (from their primary habitat in
19 the ocean) to fresh water in order to spawn.

20

21 BEST MANAGEMENT PRACTICES (BMPs) -- Conservation practices or
22 systems of practices and management measures that control soil loss and reduce
23 water quality degradation caused by nutrients, animal waste, toxic substances and
24 sediment. Agricultural BMPs include but are not limited to strip cropping,
25 terracing, contour stripping, grass waterways, animal waste structures, ponds,
26 minimal tillage, grass and naturally vegetated filter strips and proper nutrient
27 application measures.

28

29 BLUFF -- See "cliff."

30

1 BUFFER (spelled with a capital B) -- A naturally vegetated area or area
2 established in native vegetation which is managed to protect aquatic, wetland
3 shoreline and terrestrial environments from man-made disturbances. In the
4 Critical Area Zone, the [~~minimum~~] Buffer is a continuous area located
5 immediately landward of tidal waters (measured from the mean high-water line),
6 tributary streams in the Critical Area and tidal wetlands and has a minimum width
7 of 100 feet **EVEN IF THAT AREA WAS PREVIOUSLY DISTURBED BY**
8 **HUMAN ACTIVITY**. The Buffer shall be expanded beyond the minimum depth
9 to include certain sensitive **CONTIGUOUS** areas as per requirements established
10 in this chapter. **THE BUFFER SHALL BE DELINEATED ON A SITE BY**
11 **SITE BASIS AS A PART OF THE ENVIRONMENTAL REVIEW AND**
12 **SITE ANALYSIS PROCESS.**

13
14 BUFFER [~~EXEMPTION~~] **MODIFICATION AREA [(BEA)] (BMA) – AN**
15 **OFFICIALLY MAPPED AREA, APPROVED BY THE CRITICAL AREA**
16 **COMMISSION, WHERE IT HAS BEEN SUFFICIENTLY**
17 **DEMONSTRATED THAT THE PATTERN OF RESIDENTIAL,**
18 **INDUSTRIAL, COMMERCIAL, INSTITUTIONAL OR RECREATIONAL**
19 **DEVELOPMENT EXISTING AS OF DECEMBER 1, 1985, PREVENTS**
20 **THE BUFFER FROM FULFILLING ITS INTENDED FUNCTIONS FOR**
21 **WATER QUALITY PROTECTION AND WILDLIFE HABITAT**
22 **CONSERVATION.** [~~Specifically designated portions of the Critical Area Buffer~~
23 ~~that are exempted from certain requirements for Buffers because the pattern of~~
24 ~~residential, industrial, commercial or recreational development present as of~~
25 ~~December 1, 1985, prevents the Buffer from fulfilling its intended purposes.]~~

26
27 BUFFER MANAGEMENT PLAN – **A NARRATIVE, GRAPHIC**
28 **DESCRIPTION, OR PLAN OF THE BUFFER THAT IS NECESSARY**
29 **WHEN AN APPLICANT PROPOSES A DEVELOPMENT ACTIVITY**
30 **THAT WILL AFFECT A PORTION OF THE BUFFER, ALTER BUFFER**

1 **VEGETATION, OR REQUIRE THE ESTABLISHMENT OF A PORTION**
2 **OF THE BUFFER IN VEGETATION. A BUFFER MANAGEMENT PLAN**
3 **MAY BE MAJOR, MINOR OR SIMPLIFIED, AS DESCRIBED IN §297-**

4 **131.** [~~A program of action intended to protect and manage resources in the Critical~~
5 ~~Area Buffer, thereby protecting beneficial functions of the Buffer related to water~~
6 ~~quality and habitat protection. The two types of Buffer management plans are:~~]

7
8 [~~A. COUNTY BUFFER MANAGEMENT PLAN—A plan indicating the~~
9 ~~amount of planting required to replace vegetation cleared in the Buffer,~~
10 ~~required for any removal of vegetation~~ **DEVELOPMENT ACTIVITY** ~~in~~
11 ~~the Buffer that is not related to a commercial timber harvest.]~~

12
13 [~~B. BUFFER MANAGEMENT PLAN (as approved by the Maryland~~
14 ~~Department of Natural Resources)—Indicates best management practices~~
15 ~~for reducing the impact of commercial timber harvests within the Critical~~
16 ~~Area Buffer. State approved Buffer management plans are required for all~~
17 ~~timber harvests in the Buffer.]~~

18
19 **CALIPER – HAS THE MEANING STATED IN COMAR 08.19.03.01.**

20
21 **CANOPY TREE – A TREE THAT, WHEN MATURE, REACHES A**
22 **HEIGHT OF AT LEAST 35 FEET.**

23
24 **CLIFF --** A high, steep, face of 10 feet or more in height above the toe of the
25 slope, in excess of 50% in pitch, either vegetated or nonvegetated.

26
27 **COLONIAL NESTING BIRD SPECIES – HERONS, EGRETS, TERNS**
28 **AND GLOSSY IBIS. FOR THE PURPOSES OF NESTING, THESE BIRDS**
29 **CONGREGATE (THIS IS “COLONIZE”) IN RELATIVELY FEW AREAS,**
30 **AT WHICH TIME, THE REGIONAL POPULATIONS OF THESE**

1 **SPECIES ARE HIGHLY SUSCEPTIBLE TO LOCAL DISTURBANCES.**

2

3 COMMUNITY PIERS -- Boat docking facilities associated with subdivisions and
4 similar residential areas and with condominium, apartment and other multiple-
5 family dwelling units. Private piers and moorings are excluded from this
6 definition.

7

8 CONSERVATION EASEMENT -- A nonpossessory interest in land that restricts
9 the manner in which the land may be developed in an effort to conserve natural
10 resources for future use.

11

12 **CONSOLIDATION – A COMBINATION OF ANY LEGAL PARCELS OF**
13 **LAND OR RECORDED, LEGALLY BUILDABLE LOTS INTO FEWER**
14 **PARCELS OR LOTS. CONSOLIDATION INCLUDES ANY TERM USED**
15 **BY A LOCAL JURISDICTION FOR A DEVELOPMENT APPLICATION**
16 **THAT PROPOSES TO COMBINE LEGAL PARCELS OF LAND OR**
17 **RECORDED, LEGALLY BUILDABLE LOTS INTO FEWER PARCELS**
18 **OR LOTS THAN THE NUMBER THAT EXISTED BEFORE THE**
19 **APPLICATION, SUCH AS A SUBDIVISION, LOT LINE**
20 **ABANDONMENT, BOUNDARY LINE ADJUSTMENT, REPLATTING**
21 **REQUEST, OR LOT LINE ADJUSTMENT.**

22

23 CRITICAL AREA -- All lands and waters defined in § 8-1807 of the Natural
24 Resources Article, Annotated Code of Maryland. They include:

25

26 A. All waters of and lands under the Chesapeake Bay and its tributaries to the
27 head of tide as indicated on the state wetlands maps and all state and
28 private wetlands designated under Title [9] 16 of the Natural Resources
29 Article, Annotated Code of Maryland;

30

1 B. All land and water areas within 1,000 feet beyond the landward
2 boundaries of state or private wetlands and the heads of tides designated
3 under Title [9] **16** of the Natural Resources Article, Annotated Code of
4 Maryland; and

5
6 C. Modification to these areas through inclusions or exclusions proposed by
7 Charles County and approved by the Chesapeake Bay Critical Area
8 Commission as specified in § 8-1807 of the Natural Resources Article,
9 Annotated Code of Maryland.

10
11 **CRITICAL AREA COMMISSION -- The Maryland Chesapeake Bay Critical**
12 **Area Commission.**

13
14 **CRITICAL AREA ZONE -- THE PORTIONS OF THE MARYLAND**
15 **CRITICAL AREA WITHIN THE JURISDICTION OF CHARLES**
16 **COUNTY.**

17
18 **DENSITY --** The number of dwelling units per acre of gross area of a
19 development tract, unless otherwise specified.

20
21 **DEVELOPED WOODLANDS --** ~~[Areas one acre or more in size that~~
22 ~~predominantly contain]~~ **AN AREA OF** trees and natural vegetation ~~[and that also~~
23 ~~include]~~ **INTERSPERSED WITH** residential, commercial, ~~[or]~~ industrial,
24 **INSTITUTIONAL, OR RECREATIONAL DEVELOPMENT** ~~[structures and~~
25 ~~uses].~~

26
27 **DEVELOPER --A PERSON WHO UNDERTAKES A DEVELOPMENT**
28 **ACTIVITY, OR A PERSON WHO UNDERTAKES DEVELOPMENT AS**
29 **DEFINED IN §8-1802 OF THE NATURAL RESOURCES ARTICLE OF**
30 **THE ANNOTATED CODE OF MARYLAND.**

31

1 DEVELOPMENT or DEVELOPMENT ACTIVITY~~[IES]~~ (includes the term
2 "develop") -- **ANY ACTIVITY THAT MATERIALLY AFFECTS THE**
3 **CONDITION OR USE OF DRY LAND, LAND UNDER WATER, OR ANY**
4 **STRUCTURE. DEVELOPMENT ACTIVITIES INCLUDE:** Any
5 construction, modification, extension or expansion of buildings or structures;
6 placement of fill or dumping; storage of materials; land excavation; land clearing;
7 land improvement; or any combination thereof, including the subdivision of land
8 or action that results in construction, modification, extension or expansion of
9 buildings or structures; placement of fill or dumping; storage of materials; land
10 excavation; land clearing; land improvement; or any combination thereof,
11 including the subdivision of land.

12
13 DEVELOPMENT ENVELOPE -- The portion of a parcel or tract of land required
14 for development activities in connection with a growth allocation application or
15 growth allocation approval. The envelope shall include all individually owned
16 lots, required buffers, impervious surfaces, roads, utilities and their easements,
17 stormwater management facilities, on-site sewage disposal facilities, any areas
18 subject to human use on a regular basis, such as active recreation areas, and any
19 additional acreage needed to meet development requirements.

20
21 DEVELOPMENT PAD -- The area of a lot within a larger overall lot area that is
22 devoted to structures and septic systems. In general, where a development pad is
23 prescribed, the remaining area of the lot must be maintained in natural vegetation.

24
25 ~~[DISTURBED AREA]~~ **DISTURBANCE** – ~~[The area of a site where natural~~
26 ~~cover has been removed for construction of buildings, placement of septic~~
27 ~~systems or shared facilities, drives, roads, parking areas, etc., and not replaced]~~
28 **ANY ALTERATION OR CHANGE TO THE LAND. DISTURBANCE**
29 **INCLUDES ANY AMOUNT OF CLEARING, GRADING OR**
30 **CONSTRUCTION ACTIVITY. DISTURBANCE DOES NOT INCLUDE**

1 **GARDENING OR MAINTENANCE OF AN EXISTING GRASS LAWN.**

2
3 DRAINAGEWAYS -- Minor watercourses that are defined either by soil type, the
4 presence of intermittent or perennial streams or topography that indicates a swale
5 where surface sheet flows join, including: the land, except where areas are
6 designated as floodplain, on either side of and within 50 feet of the center line of
7 any intermittent or perennial stream shown on the United States Geological
8 Service's seven-and-one-half-minute quadrangle sheets covering the
9 unincorporated areas of Charles County.

10
11 **DRIVEWAY – A PRIVATE ACCESS ROAD, DRIVE, OR LAND TO AN**
12 **INDIVIDUAL RESIDENCE WHICH IS CONTAINED WITHIN THE LOT**
13 **OR PARCEL, OR ACCESS EASEMENT, AND IS NOT INTENDED TO**
14 **SERVE ANY OTHER LOT OR PARCEL OF LAND.**

15
16 DWELLING UNIT -- A single unit, being an enclosed structure, containing
17 complete, independent living facilities designed for and held ready for at least one
18 person, including permanent provisions for sanitation, cooking, eating, sleeping,
19 and other activities routinely associated with daily life. Dwelling unit includes
20 accessory apartment or guest house. [Added 6-20-2005 by Ord. No. 05-12]

21
22 EASEMENT, CONSERVATION -- See "conservation easement."

23
24 ENVIRONMENTAL ASSESSMENT -- A comprehensive report that describes
25 the natural features and characteristics of a proposed development site, the
26 changes that will occur as the result of proposed development activities on the
27 site, the anticipated environmental impacts and consequences of the proposed
28 development and mitigation measures to be taken to minimize undesirable
29 impacts to the environment.

1 ~~[EXEMPTION, BUFFER—An act of the County Commissioners, approved by~~
2 ~~the Critical Area Commission, that permits an area of the county to fall under~~
3 ~~modifications of the Buffer provisions of the Critical Area Zones under certain~~
4 ~~conditions.]~~

5
6 **ESTABLISHMENT – THE PLANTING OR REGENERATION OF**
7 **NATIVE VEGETATION**

8
9 **EXCESS STORMWATER RUNOFF – MEANS ALL INCREASES IN**
10 **STORMWATER RESULTING FROM:**

- 11
- 12 **A. AN INCREASE IN THE LOT COVERAGE ON THE SITE,**
13 **INCLUDING ALL ADDITIONS TO BUILDINGS AND PARKING**
14 **LOTS;**
- 15
- 16 **B. CHANGES IN PERMEABILITY CAUSED BY COMPACTION**
17 **DURING CONSTRUCTION OR MODIFICATIONS IN**
18 **CONTOURS, INCLUDING THE FILLING OR DRAINAGE OF**
19 **SMALL DEPRESSION AREAS;**
- 20
- 21 **C. ALTERATION OF DRAINAGEWAYS OR REGRADING OF**
22 **SLOPES;**
- 23
- 24 **D. DESTRUCTION OF FOREST; AND,**
- 25
- 26 **E. INSTALLATION OF COLLECTION SYSTEMS TO INTERCEPT**
27 **STREET FLOWS OR TO REPLACE SWALES OR OTHER**
28 **DRAINAGEWAYS.**
- 29

30 FAMILY, IMMEDIATE -- Father, mother, son, daughter, grandfather,

1 grandmother, grandson, granddaughter, step-parents, step-children and legal
2 wards and guardians.

3
4 **FINANCIAL ASSURANCE – A PERFORMANCE BOND, LETTER OF**
5 **CREDIT, CASH DEPOSIT, INSURANCE POLICY OR OTHER**
6 **INSTRUMENT OF SECURITY ACCEPTABLE TO CHARLES COUNTY.**

7
8 FISH, ANADROMOUS -- See "anadromous fish."

9
10 FISHERIES ACTIVITIES -- Commercial water-dependent fisheries facilities,
11 including structures for the packing, processing, canning or freezing of finfish,
12 crustaceans, mollusks and amphibians and reptiles, and also including related
13 activities such as wholesale and retail sales, product storage facilities, crab
14 shedding, off-loading docks, shellfish culture operations and shore-based facilities
15 necessary for aquaculture operations.

16
17 FOREST – ~~[A biological community dominated by trees and other woody plants~~
18 ~~covering a land area of one acre or more. This also includes forests that have been~~
19 ~~cut but not cleared]~~ **HAS THE MEANING AS STATED IN NATURAL**
20 **RESOURCES ARTICLE, §5-1601, ANNOTATED CODE OF MARYLAND.**

21
22 **FOREST INTERIOR DWELLING BIRDS – SPECIES OF BIRDS WHICH**
23 **REQUIRE RELATIVELY LARGE FORESTED TRACTS IN ORDER TO**
24 **BREED SUCCESSFULLY. EXAMPLES OF FOREST INTERIOR**
25 **DWELLING BIRDS, INCLUDE BUT ARE NOT LIMITED TO, VARIOUS**
26 **SPECIES OF FLYCATCHERS, WARBLERS, VIREOS AND**
27 **WOODPECKERS.**

28
29 FOREST MANAGEMENT -- The protection, manipulation and utilization of the
30 forest to provide multiple benefits, such as timber harvesting, wildlife habitat, etc.

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

4
5 GRANDFATHERED -- The status accorded certain properties and development
6 activities that are of record prior to the date of adoption of this chapter or
7 provisions of this chapter.

8
9 GROWTH ALLOCATION -- Either an area of land calculated as 5% of the total
10 resource conservation area (excluding tidal wetlands and federally owned land),
11 that the county may convert to more intense management areas to accommodate
12 land development; or an act of the County Commissioners, i.e., approving the
13 "growth allocation," which provides for conversion of a property or properties
14 located in a Resource Conservation Zone (RCZ) and/or the Limited Development
15 Zone (LDZ) in the Critical Area to another land management classification which
16 allows an increase in the permitted density.

17
18 HABITAT PROTECTION AREAS -- Land containing specialized plant or
19 wildlife habitat, where protection is essential to the preservation of biological
20 species and water quality. Habitat protection areas in Charles County include the
21 one-hundred-foot Critical Area Buffer, expansions of the Critical Area Buffer,
22 threatened and endangered species habitat, nontidal wetlands, natural heritage
23 areas, colonial water bird nesting areas, historic waterfowl staging areas, forest
24 areas with forest interior dwelling birds, and anadromous fish propagation waters.

25
26 **HABITAT PROTECTION PLAN – A PLAN FOR THE PROTECTION OF**
27 **SPECIALIZED PLANT OR WILDLIFE HABITAT, AS THOSE TERMS**
28 **ARE DEFINED IN 27.01.09.04 OF THE CODE OF MARYLAND**
29 **REGULATIONS (COMAR), AS A REQUIREMENT OF THE**
30 **DEVELOPMENT REVIEW PROCESS.**

1 HIGHLY ERODIBLE SOILS -- Soils with a slope greater than 15%; or those
2 soils with a "K" value greater than thirty-five hundredths (0.35) with slopes
3 greater than 5%.

4
5 **HISTORIC WATERFOWL STAGING AND CONCENTRATION AREA –**
6 **AN AREA OF OPEN WATER AND ADJACENT MARSHES WHERE**
7 **WATERFOWL GATHER DURING MIGRATION AND THROUGHOUT**
8 **THE WINTER SEASON. THESE AREAS ARE HISTORIC IN THE**
9 **SENSE THAT THEIR LOCATION IS COMMON KNOWLEDGE AND**
10 **BECAUSE THESE AREAS HAVE BEEN USED REGULARLY DURING**
11 **RECENT TIMES.**

12
13 HYDRIC SOILS -- Soils that are wet frequently enough to periodically produce
14 anaerobic conditions, thereby influencing the species composition or growth, or
15 both, of plants on those soils.

16
17 IMMEDIATE FAMILY -- See "family, immediate," above.

18
19 IMPERVIOUS SURFACE -- See "surface, impervious." [Amended 10-25-1994
20 by Ord. No. 94-99]

21
22 **IN-KIND REPLACEMENT – THE REMOVAL OF A STRUCTURE AND**
23 **THE CONSTRUCTION OF ANOTHER STRUCTURE THAT IS**
24 **SMALLER THAN OR IDENTICAL TO THE ORIGINAL STRUCTURE IN**
25 **USE, FOOTPRINT AREA, WIDTH, AND LENGTH.**

26
27 **INTENSE DEVELOPMENT ZONE (IDZ)– A MAPPED AREA OF A**
28 **LEAST 20 ACRES WHERE RESIDENTIAL, COMMERCIAL,**
29 **INSTITUTIONAL, OR INDUSTRIAL DEVELOPED LAND USES**
30 **PREDOMINATE AND A RELATIVELY SMALL AMOUNT OF NATURAL**

1 **HABITAT OCCURS. THE INTENSE DEVELOPMENT ZONE**
2 **INCLUDES:**

3
4 **A. AN AREA WITH A HOUSING DENSITY OF AT LEAST FOUR**
5 **DWELLING UNITS PER ACRE; OR,**

6
7 **B. AN AREA WITH PUBLIC WATER AND SEWER SYSTEMS WITH**
8 **A HOUSING DENSITY OF MORE THAN THREE DWELLING**
9 **UNITS PER ACRE.**

10
11 INTRAFAMILY TRANSFER -- A fee-simple conveyance of a portion of property
12 to a member of the property owner's immediate family (see definition above), for
13 the purpose of establishing a residence for that family member.

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

19
20 LAND CLEARING -- Any activity that removes the vegetative ground cover.

21
22 **LANDWARD EDGE – THE LIMIT OF A SITE FEATURE THAT IS**
23 **FARTHEST AWAY FROM A TIDAL WATER, TIDAL WETLAND, OR**
24 **TRIBUTARY STREAM.**

25
26 **LARGE SHRUB – A SHRUB THAT, WHEN MATURE, REACHES A**
27 **HEIGHT OF AT LEAST SIX (6) FEET.**

28
29 **LIMITED DEVELOPMENT ZONE (LDZ)– A MAPPED AREA THAT IS**
30 **DEVELOPED IN LOW OR MODERATE INTENSITY USES AND**

1 **CONTAINS AREAS OF NATURAL PLANT AND ANIMAL HABITAT AND**
2 **WHERE THE QUALITY OF RUNOFF HAS NOT BEEN**
3 **SUBSTANTIALLY ALTERED OR IMPAIRED. THE LIMITED**
4 **DEVELOPMENT ZONE INCLUDES AN AREA:**

- 5
- 6 **A. WITH A HOUSING DENSITY RANGING FROM ONE DWELLING**
7 **UNIT PER FIVE ACRES UP TO FOUR DWELLING UNITS PER**
8 **ACRE;**
- 9
- 10 **B. WITH A PUBLIC WATER OR SEWER SYSTEM;**
- 11
- 12 **C. THAT IS NOT DOMINATED BY AGRICULTURAL LAND,**
13 **WETLAND, FORESTS, BARREN LAND, SURFACE WATER, OR**
14 **OPEN SPACE; OR,**
- 15
- 16 **D. THAT IS LESS THAN 20 ACRES AND OTHERWISE QUALIFIES**
17 **AS AN INTENSE DEVELOPMENT ZONE.**

18

19 **LOT COVERAGE – THE PERCENTAGE OF A TOTAL LOT OR PARCEL**
20 **THAT IS OCCUPIED BY A STRUCTURE, ACCESSORY STRUCTURE,**
21 **PARKING AREA, DRIVEWAY, WALKWAY, OR ROADWAY OR, IS**
22 **COVERED WITH GRAVEL, STONE, SHELL, IMPERMEABLE**
23 **DECKING, A PAVER, PERMEABLE PAVEMENT, OR ANY MANMADE**
24 **MATERIAL. LOT COVERAGE INCLUDES THE TOTAL GROUND**
25 **AREA COVERED OR OCCUPIED BY A STAIRWAY OR IMPERMEABLE**
26 **DECK. LOT COVERAGE DOES NOT INCLUDE:**

- 27
- 28 **A. A FENCE OR WALL THAT IS LESS THAN ONE (1) FOOT IN**
29 **WIDTH THAT HAS NOT BEEN CONSTRUCTED WITH A**
30 **FOOTER;**

- 1 **B. A WALKWAY IN THE BUFFER OR EXPANDED BUFFER,**
- 2 **INCLUDING A STAIRWAY THAT PROVIDES DIRECT ACCESS**
- 3 **TO A COMMUNITY OR PRIVATE PIER;**
- 4
- 5 **C. A WOOD MULCH PATHWAY; OR,**
- 6
- 7 **D. A DECK SURFACE WITH GAPS NOT LESS THAN ONE-**
- 8 **QUARTER INCH IN WIDTH OR A COMPOSITE DECK SURFACE**
- 9 **WITH GAPS NOT LESS THAN ONE-HALF INCH IN WIDTH AT**
- 10 **THE TIME OF CONSTRUCTION, WHICH ALLOWS WATER TO**
- 11 **PASS FREELY.**

12

13 **MAJOR INFRACTION-- AN INFRACTION WHICH HAS SEVERE**

14 **ADVERSE AFFECT AND / OR THREATENS THE ENVIRONMENT, OR**

15 **HAS SIGNIFICANT ADVERSE EFFECT ON THE HEALTH, SAFETY OR**

16 **GENERAL WELFARE OF THE NEIGHBORHOOD, COMMUNITY OR**

17 **THE PUBLIC AT LARGE. A MAJOR INFRACTION INCLUDES, BUT IS**

18 **NOT LIMITED TO:**

- 19
- 20 **A. THE CLEARING, GRADING, OR FILLING OF 5,000 SQUARE**
- 21 **FEET OR MORE;**
- 22
- 23 **B. CONSTRUCTION / EMPLACEMENT OF A STRUCTURE, OR**
- 24 **OTHER LOT COVERAGE, 200 OR MORE SQUARE FEET IN**
- 25 **SIZE;**
- 26
- 27 **C. DEVELOPMENT ACTIVITIES WITHIN THE BUFFER; AND / OR,**
- 28
- 29 **D. DEVELOPMENT ACTIVITIES IN VIOLATION OF AN**
- 30 **APPROVED HABITAT PROTECTION PLAN OR BUFFER**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

MANAGEMENT PLAN.

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

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

MINOR INFRACTION-- AN INFRACTION WHICH DOES NOT HAVE NOTICEABLE OR SIGNIFICANT ADVERSE EFFECT ON THE ENVIRONMENT OR ON THE PEACEFUL USE, ENJOYMENT OR VALUE OF ANOTHER'S PROPERTY. A MINOR INFRACTION INCLUDES, BUT IS NOT LIMITED TO:

A. THE CLEARING, GRADING, OR FILLING OF LESS THAN 1,000 SQUARE FEET;

B. CONSTRUCTION / EMPLACEMENT OF A STRUCTURE, OR OTHER LOT COVERAGE, LESS THAN 100 SQUARE FEET IN SIZE; AND / OR,

C. CONSTRUCTION OF A STRUCTURE (PIER, DECK, BOAT LIFT, PILINGS, ETC.) OVER TIDAL WATERS OR WETLANDS WITH THE AUTHORIZATION OF THE MARYLAND DEPARTMENT OF THE ENVIRONMENT BUT WITHOUT THE APPROVAL OF THE CHARLES COUNTY DEPARTMENT OF PLANNING & GROWTH MANAGEMENT.

MITIGATION – AN ACTION TAKEN TO COMPENSATE FOR ADVERSE

1 **IMPACTS TO THE ENVIRONMENT RESULTING FROM**
2 **DEVELOPMENT, A DEVELOPMENT ACTIVITY, OR A CHANGE IN**
3 **LAND USE OR INTENSITY.**

4
5 **MODERATE INFRACTION-- AN INFRACTION WHICH HAS**
6 **NOTICEABLE OR SIGNIFICANT ADVERSE EFFECT ON THE**
7 **ENVIRONMENT OR ON THE PEACEFUL USE, ENJOYMENT OR**
8 **VALUE OF ANOTHER'S PROPERTY, BUT DOES NOT HAVE**
9 **SIGNIFICANT ADVERSE EFFECT ON THE HEALTH, SAFETY OR**
10 **GENERAL WELFARE OF THE NEIGHBORHOOD, COMMUNITY OR**
11 **THE PUBLIC AT LARGE. A MODERATE INFRACTION INCLUDES,**
12 **BUT IS NOT LIMITED TO:**

- 13
14 **A. THE CLEARING, GRADING, OR FILLING OF 1,000 TO 4,999**
15 **SQUARE FEET;**
16
17 **B. CONSTRUCTION / EMPLACEMENT OF A STRUCTURE, OR**
18 **OTHER LOT COVERAGE, 100 TO 199 SQUARE FEET IN SIZE;**
19
20 **C. CONSTRUCTION OF A STRUCTURE (PIER, DECK, BOAT LIFT,**
21 **PILINGS, ETC.) OVER TIDAL WATERS OR WETLANDS**
22 **WITHOUT THE AUTHORIZATION OF THE MARYLAND**
23 **DEPARTMENT OF THE ENVIRONMENT AND THE CHARLES**
24 **COUNTY DEPARTMENT OF PLANNING & GROWTH**
25 **MANAGEMENT;**
26
27 **D. DEVELOPMENT ACTIVITIES WHICH EXCEED THE LIMITS**
28 **OF A PERMIT OR PLAN APPROVED BY THE CHARLES**
29 **COUNTY DEPARTMENT OF PLANNING & GROWTH**
30 **MANAGEMENT; AND / OR,**

1 **E. DEVELOPMENT ACTIVITIES UNDER AN APPROVED PERMIT**
2 **OR PLAN FOR WHICH ASSOCIATED MITIGATION IS NOT**
3 **COMPLETED AS REQUIRED BY THE CHARLES COUNTY**
4 **CRITICAL AREA PROGRAM.**

5
6 **MODIFICATION, BUFFER -- AN ACT OF THE COUNTY**
7 **COMMISSIONERS, APPROVED BY THE CRITICAL AREA**
8 **COMMISSION, THAT PERMITS AN AREA OF THE COUNTY TO FALL**
9 **UNDER MODIFICATIONS OF THE BUFFER PROVISIONS OF THE**
10 **CRITICAL AREA ZONES UNDER CERTAIN CONDITIONS.**

11
12 **NATIVE- INDIGENOUS TO THE PHYSIOGRAPHIC AREA IN**
13 **MARYLAND WHERE THE PLANTING IS PROPOSED.**

14
15 NATURAL FEATURES -- Components and processes present in or produced by
16 nature, including but not limited to soil types, geology, slopes, vegetation, surface
17 water, drainage patterns, aquifers, recharge areas, climate, floodplains, aquatic life
18 and wildlife.

19
20 NATURAL FOREST VEGETATION -- Plant cover consisting of canopy trees,
21 understory trees, shrubs, and herbaceous plants typically found in upland and
22 riparian areas of Maryland unaffected by human activities.

23
24 **NATURAL REGENERATION – HAS THE MEANING STATED IN**
25 **COMAR 08.19.03.01.**

26
27 NATURAL VEGETATION -- Plant communities that develop in the absence of
28 human activities.

29
30 NONTIDAL WETLANDS -- See "wetlands, nontidal."

1 OFFSETS -- Structures or actions that compensate for undesirable impacts.

2

3 OPEN SPACE -- Undeveloped land used primarily for resource protection or
4 recreational purposes. Land and water areas retained for use as active or passive
5 recreation areas in an essentially underdeveloped state or land areas retained in
6 natural cover, agricultural or commercial forestry use.

7

8 OPEN WATER -- Tidal waters of the state that do not contain tidal wetlands
9 and/or submerged aquatic vegetation.

10

11 **PERSON – AN INDIVIDUAL, PARTNERSHIP, CORPORATION,**
12 **CONTRACTOR, PROPERTY OWNER, OR ANY OTHER PERSON OR**
13 **ENTITY.**

14

15 PHYSIOGRAPHIC FEATURES -- The soils, topography, land slope and aspect
16 and local climate that influence the form and species composition of plant
17 communities.

18

19 PIERS, COMMUNITY -- See "community piers."

20

21 PRINCIPAL STRUCTURE -- The building containing the primary use of a
22 property.

23

24 **PROGRAM AMENDMENT – ANY CHANGE OR PROPOSED CHANGE**
25 **TO THE CHARLES COUNTY CRITICAL AREA PROGRAM THAT IS**
26 **NOT DETERMINED BY THE CHAIRMAN OF THE CRITICAL AREA**
27 **COMMISSION TO BE A PROGRAM REFINEMENT.**

28

29 **PROGRAM REFINEMENT – ANY CHANGE OR PROPOSED CHANGE**
30 **TO AN THE CHARLES COUNTY CRITICAL AREA PROGRAM THAT**

1 THE CHAIRMAN OF THE CRITICAL AREA COMMISSION
2 DETERMINES WILL RESULT IN A USE OF LAND OR WATER IN THE
3 CHESAPEAKE BAY CRITICAL AREA IN A MANNER CONSISTENT
4 WITH THE CHARLES COUNTY CRITICAL AREA PROGRAM, OR
5 THAT WILL NOT SIGNIFICANTLY AFFECT THE USE OF LAND OR
6 WATER IN THE CRITICAL AREA. PROGRAM REFINEMENT MAY
7 INCLUDE:

- 8
- 9 A. A CHANGE TO AN THE CHARLES COUNTY CRITICAL AREA
10 PROGRAM THAT RESULTS FROM STATE LAW;
- 11
- 12 B. A CHANGE TO AN THE CHARLES COUNTY CRITICAL AREA
13 PROGRAM THAT AFFECTS LOCAL PROCESSES AND
14 PROCEDURES;
- 15
- 16 C. A CHANGE TO THE ZONING ORDINANCE OR CHARLES
17 COUNTY CODE THAT CLARIFIES AN EXISTING PROVISION;
18 AND,
- 19
- 20 D. A MINOR CHANGE TO AN ELEMENT OF THE CHARLES
21 COUNTY CRITICAL AREA PROGRAM THAT IS CLEARLY
22 CONSISTENT WITH THE PROVISIONS OF STATE CRITICAL
23 AREA LAW AND ALL THE CRITERIA OF THE COMMISSION AS
24 SET FORTH IN §8-1802 OF THE NATURAL RESOURCES
25 ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

26

27 RECONFIGURATION – A CHANGE OF THE ARRANGEMENT OF THE
28 EXISTING LOT OR PARCEL LINES OF ANY LEGAL PARCEL OF
29 LAND OR RECORDED, LEGALLY BUILDABLE LOTS.
30 RECONFIGURATION INCLUDES ANY TERM USED FOR A

1 **DEVELOPMENT APPLICATION THAT PROPOSES TO CHANGE THE**
2 **ARRANGEMENT OF THE EXISTING LOT OR PARCEL LINES OF ANY**
3 **LEGAL PARCEL OF LAND OR RECORDED, LEGALLY BUILDABLE**
4 **LOT THAT EXISTED BEFORE THE APPLICATION, SUCH AS A**
5 **SUBDIVISION, LOT LINE ADJUSTMENT, OR BOUNDARY LINE**
6 **ADJUSTMENT, REPLATTING REQUEST, OR A REVISION OF**
7 **ACREAGE TO INCREASE DENSITY.**

8
9 **REDEVELOPMENT --** The process of developing land that is or has been
10 developed.

11
12 **REFORESTATION --** The establishment of a forest through artificial
13 reproduction or natural regeneration.

14
15 **RESOURCE CONSERVATION ZONE (RCZ)– A MAPPED AREA THAT:**

16
17 **A. IS CHARACTERIZED BY NATURE DOMINATED ENVIRONMENTS,**
18 **SUCH AS WETLANDS, SURFACE WATER, FORESTS, AND OPEN**
19 **SPACE; AND,**

20
21 **B. RESOURCE-BASED ACTIVITIES, SUCH AS AGRICULTURE,**
22 **FORESTRY, FISHERIES, OR AQUACULTURE.**

23
24 **RESOURCE CONSERVATION ZONE INCLUDES AN AREA WITH A**
25 **HOUSING DENSITY OF LESS THAN ONE DWELLING UNIT PER FIVE**
26 **ACRES.**

27
28 **RESTORATION –** THE ACT OF RETURNING A SITE OR AREA TO AN
29 **ORIGINAL STATE OR ANY ACTION THAT REESTABLISHES ALL OR**
30 **A PORTION OF THE ECOLOGICAL STRUCTURE AND FUNCTIONS**

1 **OF A SITE OR AREA.**

2

3 **RIPARIAN HABITAT – HABITAT THAT IS STRONGLY INFLUENCED**
4 **BY WATER AND WHICH OCCURS ADJACENT TO STREAMS,**
5 **SHORELINES AND WETLANDS.**

6

7 **ROAD – A PUBLIC THOROUGHFARE UNDER THE JURISDICTION OF**
8 **THE STATE, A COUNTY, A MUNICIPAL CORPORATION, OR ANY**
9 **OTHER PUBLIC BODY. ROAD DOES NOT INCLUDE A DRIVE AISLE**
10 **OR DRIVEWAY.**

11

12 SHORE EROSION CONTROL MEASURES -- Any of number of structural and
13 nonstructural methods or techniques for controlling the erosion of shoreline areas.
14 More specifically, the term refers to:

15

16 A. Nonstructural.

17

18 (1) AQUATIC VEGETATION -- Creation of intertidal marsh
19 channelward of the line of mean high water, through the
20 establishment of habitat consisting of native emergent plants.

21

22 (2) UPLAND VEGETATION -- The establishment of stable shoreline
23 through the planting of an existing shore, landward of the line of
24 mean high water, with a wide band of native upland plant cover
25 appropriate to specific site conditions.

26

27 (3) BANK SLOPING/VEGETATION -- Sloping and planting a
28 nonwooded bank, using native plant materials, to manage tidal
29 water contact and reduce shoreline erosion.

30

1 (4) BEACH NOURISHMENT -- Filling alongshore with sandy
2 materials consistent with natural beach materials, followed by
3 grading, thus reducing tidal water contact with the eroding upland
4 area.

5

6 B. Structural.

7

8 (1) REVETMENT -- Facing, composed of riprap stone, or other
9 similar interlocking components, in the form of an embankment-
10 like structure, loosely placed on a gently (no greater than 2:1)
11 sloping shore to withstand and reduce wave energy and contain
12 shore materials.

13

14 (2) OFFSHORE BREAKWATER -- Elongated structure composed of
15 various rigid materials, placed offshore and parallel to the
16 shoreline to deflect and reduce wave energy, thereby decreasing
17 shoreline erosion immediately inshore.

18

19 (3) CONTAINED BEACH -- Filling alongshore with sandy materials
20 consistent with natural beach materials, grading, and containing the
21 new beach materials through the placement of structures that
22 impede the lateral transport of beach materials, such as groins,
23 jetties or breakwaters. The reasonable channelward length of such
24 structures is a function of reasonable width of desired beach, and
25 effects to navigation.

26

27 (4) BULKHEAD -- Retaining wall structure, composed of pressure-
28 treated lumber or other rigid materials, installed along or
29 immediately landward of the line of mean high water, and designed
30 for a functional life of no less than 30 years. New bulkheads are

1 generally acceptable only where warranted specific to unique site
2 conditions.

3

4 SIGNIFICANT SHORELINE EROSION -- An annual rate of erosion of two feet
5 or greater.

6

7 SLOPES, STEEP -- Slopes of 15% or greater incline.

8

9 **SMALL SHRUB – A SHRUB THAT, WHEN MATURE, REACHES A**
10 **HEIGHT OF UP TO SIX (6) FEET.**

11

12 SOIL CONSERVATION AND WATER QUALITY PLANS -- Land-use plans for
13 farms that show farmers how to make the best possible use of their soil and water
14 resources while protecting and conserving those resources for the future. It is a
15 document containing a map and related plans that indicate:

16

17 A. How the landowner plans to treat a farm unit;

18

19 B. Which best management practices the landowner plans to install to treat
20 undesirable conditions; and

21

22 C. The schedule for applying best management practices.

23

24 SOILS, HIGHLY ERODIBLE -- See "highly erodible soils."

25

26 SOILS, HYDRIC -- See "hydric soils."

27

28 **SPECIES IN NEED OF CONSERVATION – THOSE FISH AND**
29 **WILDLIFE WHOSE CONTINUED EXISTENCE, AS PART OF THE**
30 **STATE'S RESOURCES, ARE IN QUESTION AND WHICH MAY BE**

1 **DESIGNATED BY THE SECRETARY OF NATURAL RESOURCES AS IN**
2 **NEED OF CONSERVATION IN ACCORDANCE WITH THE**
3 **REQUIREMENTS SET FORTH IN §§ 10-2A-06 AND 4-2A-03 OF THE**
4 **NATURAL RESOURCES ARTICLE OF THE ANNOTATED CODE OF**
5 **MARYLAND.**

6
7 **SPOIL PILE – THE OVERBURDEN AND REJECT MATERIALS AS**
8 **PILED OR DEPOSITED DURING SURFACE MINING OR DREDGING.**

9
10 STEEP SLOPES -- See "slopes, steep."

11
12 STREAMS, TRIBUTARY -- See "tributary streams."

13
14 **STRUCTURE – BUILDING MATERIALS THAT ARE PURPOSELY**
15 **JOINED TOGETHER ON OR OVER LAND OR WATER, INCLUDING**
16 **THOSE THAT DO NOT RESULT IN LOT COVERAGE.**

17
18 **SUBSTANTIAL ALTERATION – A REPAIR, RECONSTRUCTION,**
19 **REPLACEMENT, OR IMPROVEMENT OF A PRINCIPAL STRUCTURE,**
20 **WITH A PROPOSED TOTAL FOOTPRINT THAT IS AT LEAST 50**
21 **PERCENT GREATER THAN THAT OF THE STRUCTURE THAT IS THE**
22 **SUBJECT OF THE APPLICATION.**

23
24 SURFACE, IMPERVIOUS -- Any man-made surface that is resistant to the
25 penetration of water. Concrete, brick paving, roofs and heavily used gravel roads
26 and parking areas which are subject to high levels of compaction are examples of
27 "impervious surfaces."

28
29 SURFACE MINING, OR SAND AND GRAVEL OPERATION, WITHIN THE
30 CRITICAL AREA -- The breaking of surface soil to extract or remove minerals;

1 any activity or process constituting all or part of the process for the extraction or
2 removal of minerals from their original location; the extraction of sand, gravel,
3 rock, stone, earth, or fill from borrow pits for highway construction purposes or
4 other public facilities; any operations engaged in processing of materials at the
5 site of extraction; removal of overburden and excavation of any material for the
6 purpose of prospecting and, to the extent necessary, to determine the location,
7 quantity or quality of a natural deposit; or, any activities thereof, if the affected
8 land exceeds one acre or more in area.

9
10 SURFACE, SEMIPERVIOUS -- Any man-made surface that is partially resistant
11 to the penetration of water.

12
13 TIDAL WETLANDS -- See "wetlands, tidal."

14
15 TOPOGRAPHY -- The existing configuration of the earth's surface, including the
16 relative relief, elevations and position of land features.

17
18 **TRAIL – A PATHWAY, WHICH MAY BE PAVED OR UNPAVED, AND IS**
19 **PHYSICALLY SEPARATED FROM MOTORIZED VEHICULAR**
20 **TRAFFIC BY AN OPEN SPACE OR BARRIER AND IS EITHER WITHIN**
21 **A RIGHT-OF-WAY OR WITHIN AND INDEPENDENT TRACT OR**
22 **EASEMENT. MULTI-USE TRAIL ACTIVITIES MAY INCLUDE**
23 **WALKING, HIKING, JOGGING, HORSEBACK RIDING, BICYCLING,**
24 **AND ROLLER SKATING.**

25
26 TREE -- A woody perennial plant having a single usually elongated main stem
27 generally with few or no branches on its lower part; a perennial shrub or herb of
28 arborescent form.

29
30 TRIBUTARY STREAMS -- Perennial and intermittent streams **AS DEFINED IN**

1 **§297-49 AND IDENTIFIED BY SITE INSPECTION OR IN**
2 **ACCORDANCE WITH THE PROCEDURES SET FORTH IN THIS**
3 **CHAPTER. [Amended 10-25-1994 by Ord. No. 94-99]**

4
5 **UNDERSTORY TREE – A TREE THAT, WHEN MATURE, REACHES A**
6 **HEIGHT OF 12 TO 35 FEET.**

7
8 UNWARRANTED HARDSHIP -- Unwarranted hardship means that, without a
9 variance, an applicant would be denied reasonable and significant use of the entire
10 parcel or lot for which the variance is requested. [Added 6-20-2005 by Ord. No.
11 05-12]

12
13 **UPLAND BOUNDARY – THE LANDWARD EDGE OF A TIDAL**
14 **WETLAND OR NONTIDAL WETLAND.**

15
16 WATER-DEPENDENT FACILITIES -- Structures or works associated with
17 industrial, maritime, recreational, educational or fisheries activities which Charles
18 County has determined require location at or near the shoreline within the Buffer.

19
20 **WATERFOWL – BIRDS WHICH FREQUENT AND OFTEN SWIM IN**
21 **WATER, NEST AND RAISE THEIR YOUNG NEAR WATER, AND**
22 **DERIVE AT LEAST PART OF THEIR FOOD FROM AQUATIC PLANTS**
23 **AND ANIMALS.**

24
25 WETLANDS, NONTIDAL -- Those areas **DEFINED BY 26.23.01.01, CODE**
26 **OF MARYLAND REGULATIONS** that are inundated or saturated by surface
27 water or groundwater at a frequency and duration sufficient to support, and that
28 under normal circumstances do support, a prevalence of vegetation typically
29 adapted for life in saturated soil conditions, commonly known as hydrophytic
30 vegetation.

1 WETLANDS, TIDAL -- State wetlands that are defined as any land under the
2 navigable waters of the state below the mean high water line, affected by the
3 regular rise and fall of tide and private wetlands defined as any land not
4 considered state wetlands bordering or lying beneath tidal waters, that is subject
5 to regular or periodic tidal action and supports aquatic growth. Private wetlands
6 includes wetlands transferred by the state by a valid grant, lease, patent or grant
7 confirmed by Article 5 of the Declaration of Rights of the Constitution to the
8 extent of the interest transferred. The term "regular or periodic tidal action" means
9 the rise and fall of the sea produced by the attraction of the sun and moon
10 uninfluenced by the wind or any other circumstance.

11
12 WILDLIFE CORRIDOR -- Strip of land having vegetation that provides habitat
13 and a safe passageway for wildlife.

14
15 **§ 297-130. Lots of record in Critical Area Zone; grandfather provisions.**

16
17 A. **[Amended 10-25-1994 by Ord. No. 94-99]** A single lot or parcel of land
18 that was legally of record on the date of the adoption of this chapter may
19 be developed with a single-family dwelling, if a dwelling was not already
20 placed there, notwithstanding that such development may be inconsistent
21 with the density provisions of § 297-132A. Except as otherwise provided,
22 the following types of land may be developed in accordance with density
23 requirements in effect prior to the adoption of this chapter:

24
25 (1) Any lot on which development activity has legally progressed to
26 the point of pouring foundation footing or installation of structural
27 members;

28
29 (2) Any legal parcel of land, not being part of a recorded subdivision,
30 that was recorded as of December 1, 1985. Development on lots

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

created after June 1, 1984, and prior to the adoption dates of Charles County Critical Areas implementation ordinances shall comply with the conditions imposed under "interim findings" made by the Charles County Planning Commission;

(3) Land that was subdivided into recorded, legally buildable lots, or where the subdivision received final approval prior to June 1, 1984, provided that the development of these lands conforms with the Charles County Critical Area Program. At a minimum, development on lots created prior to June 1, 1984, shall comply with the provisions of §297-132, or shall be approved through the variance process by the Board of Appeals and reviewed by the Critical Area Commission. Where the Charles County Health Department requires consolidation or reconfiguration of lots not individually owned, the provisions of this chapter **AND SECTION 19 OF THE CHARLES COUNTY SUBDIVISION REGULATIONS** shall apply to the consolidated or reconfigured lots, insofar as possible;

(4) Land that was subdivided into recorded, legally buildable lots where the subdivision received final approval after December 1, 1985, provided that either development of any such land conforms to the requirements of this chapter or the area of land is counted against the county's remaining growth allocation; and

(5) Any existing legal building or use of land as of June 7, 1989, is a legal nonconforming use. Expansion of such existing buildings or uses may be permitted after a determination has been made that such expansion complies with the provisions of this chapter, or complies insofar as possible with the chapter, and is approved

1 through the variance process by the Board of Appeals and is
2 reviewed by the Critical Area Commission.

3
4 **(6) LOT CONSOLIDATIONS AND LOT RECONFIGURATIONS**
5 **SHALL BE SUBJECT TO THE STANDARDS AND**
6 **REQUIREMENTS OUTLINED IN SECTION 19 OF THE**
7 **CHARLES COUNTY SUBDIVISION REGULATIONS. A**
8 **PROPOSED LOT LINE ADJUSTMENT, LOT**
9 **CONSOLIDATION, OR LOT RECONFIGURATION MUST**
10 **EFFECTIVELY BRING THOSE LANDS INTO**
11 **CONFORMANCE WITH THE CRITICAL AREA**
12 **PROGRAM TO THE EXTENT FEASIBLE.**

13
14 **(a) LOT CONSOLIDATIONS AND LOT**
15 **RECONFIGURATIONS WITHIN THE**
16 **WATERFRONT PLANNED COMMUNITY**
17 **ZONE (WPC) AS OF JULY 1, 2008 ARE**
18 **EXEMPT FROM THE REQUIREMENTS OF**
19 **SECTION 19, CHARLES COUNTY**
20 **SUBDIVISION REGULATIONS.**

21
22 B. Any new development grandfathered by the provisions listed above must
23 meet the habitat protection and water-dependent facilities requirements in
24 the Charles County Critical Area Program and this chapter.

25
26 **§ 297-131. Critical Area Buffer Regulations.**

27
28 **A. BUFFER FUNCTION, DEFINITION, AND EXPANSION.**

29
30 **(1)** The Critical Area Buffer establishes an area of undisturbed natural

1 [forest] vegetation, or an area for enhancement with vegetation
2 native to the Critical Area, managed to protect shorelines, streams,
3 wetlands, and riparian biological communities from adverse effects
4 of land use. **FUNCTIONS OF THE BUFFER INCLUDE:**

5
6 **(A) REMOVING OR REDUCING SEDIMENTS,**
7 **NUTRIENTS AND POTENTIALLY HARMFUL OR**
8 **TOXIC SUBSTANCES IN RUNOFF;**

9
10 **(B) MINIMIZING DISTURBANCES FROM HUMAN**
11 **ACTIVITIES ON SHORELINES, WETLANDS,**
12 **STREAM BANKS, TIDAL WATERS AND AQUATIC**
13 **RESOURCES;**

14
15 **(C) MAINTAINING AREAS OF TRANSITIONAL**
16 **HABITAT BETWEEN AQUATIC AND UPLAND**
17 **COMMUNITIES;**

18
19 **(D) MAINTAINING THE NATURAL ENVIRONMENT**
20 **OF STREAMS; AND**

21
22 **(E) PROTECTING RIPARIAN WILDLIFE HABITAT.**

23
24 **(2)** This buffer is designated within 100 feet landward of:

25
26 **(A) The line of mean high water of tidal waters,**

27
28 **(B) THE EDGE OF EACH BANK OF** tributary streams, and

29
30 **(C) THE UPLAND BOUNDARY OF** tidal wetlands.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

(3) FOR ALL PROPERTIES WITHIN THE RESOURCE CONSERVATION ZONE THAT ARE SUBJECT TO AN APPLICATION FOR SUBDIVISION OR SITE DEVELOPMENT PLAN APPROVAL THAT DOES NOT INVOLVE GROWTH ALLOCATION, THE BUFFER IS 200 FEET LANDWARD OF:

(A) THE LINE OF MEAN HIGH WATER ~~[OR]~~ OF TIDAL WATERS ~~[AND]~~ OR TIDAL WETLANDS; AND,

(B) 100 FEET LANDWARD OF TRIBUTARY STREAMS.

(4) ~~[THE BUFFER [and] is expanded in locations of elevated sensitivity due to factors such as hydric or highly erodible soils, [and] steep slopes AND NON-TIDAL WETLANDS. Existing natural forest vegetation in the Buffer shall be maintained, and native vegetation may be planted where necessary to protect, stabilize or enhance the natural characteristics of the shoreline.]~~
THE BUFFER SHALL BE EXPANDED TO INCLUDE CONTIGUOUS SENSITIVE AREAS ON THE PARCEL WHICH, IF DEVELOPED OR DISTURBED, MAY IMPACT STREAMS, WETLANDS, OR OTHER AQUATIC ENVIRONMENTS. THIS EXPANSION WILL OCCUR WHENEVER NEW LAND DEVELOPMENT OR OTHER LAND-DISTURBING ACTIVITIES, SUCH AS CLEARING NATURAL VEGETATION FOR DEVELOPMENT, ARE PROPOSED. THE EXPANDED BUFFER MUST BE SHOWN ON PLANS REQUIRED FOR SUCH DEVELOPMENT. SENSITIVE AREAS AND EXPANSION REQUIREMENTS ARE APPLICABLE AS FOLLOWS:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

(A) WHERE SITE FEATURES INCLUDE SLOPES CONTIGUOUS TO THE BUFFER OF 15 PERCENT OR GREATER AS MEASURED OVER A HORIZONTAL INTERVAL OF 10 FEET, THE BUFFER SHALL BE EXPANDED FOUR FEET FOR EVERY 1 PERCENT OF STEEP SLOPE, OR TO THE TOP OF THE SLOPE, WHICHEVER IS GREATER IN EXTENT.

(B) WHEN DEVELOPMENT OR OTHER LAND-DISTURBING ACTIVITIES ARE ON A PROPERTY WITH HYDRIC SOILS OR HIGHLY ERODIBLE SOILS ON A SLOPE OF LESS THAN 15 PERCENT, THE BUFFER SHALL BE EXPANDED TO THE LANDWARD EDGE OF THE SOIL OR 300 FEET, WHICHEVER IS LESS. THE PLANNING DIRECTOR MAY REDUCE THE EXTENT OF BUFFER EXPANSION RELATED TO SOIL TYPES BASED UPON FINDINGS THAT WATER QUALITY AND HABITAT PROTECTION HAVE NOT BEEN COMPROMISED. FACTORS THAT THE PLANNING DIRECTOR WILL CONSIDER INCLUDE, BUT ARE NOT LIMITED TO, THE DRAINAGE PATTERNS, EXISTING GROUND COVER, PROPOSED DISTURBANCE, AND QUALITY OF HABITAT FOR FISH, PLANTS, AND WILDLIFE. IN NO INSTANCE SHALL THE BUFFER BE LESS THAN 100 FEET.

[1] IF THE BUFFER IS CONTIGUOUS TO A HIGHLY ERODIBLE SOIL ON A SLOPE OF

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

LESS THAN 15 PERCENT OR A HYDRIC SOIL AND IS LOCATED ON A LOT OR PARCEL CREATED BEFORE JANUARY 1, 2010, DEVELOPMENT MAY OCCUR WITHIN THE EXPANDED BUFFER IF:

[A] 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 PERCENT OR A HYDRIC SOIL, BUT NOT THE 100-FOOT BUFFER.

[B] THE BUFFER FOR A HIGHLY ERODIBLE SOIL ON A SLOPE LESS THAN 15 PERCENT OR A HYDRIC SOIL OCCUPIES AT LEAST 75 PERCENT OF THE LOT OR PARCEL; AND,

[C] MITIGATION OCCURS AT A 2:1 RATIO BASED ON THE LOT COVERAGE OF THE PROPOSED DEVELOPMENT ACTIVITY THAT IS IN THE EXPANDED BUFFER.

(C) WHERE SITE FEATURES INCLUDE NONTIDAL WETLANDS THAT ARE NOT NONTIDAL WETLANDS OF SPECIAL STATE CONCERN AND THESE WETLANDS ARE CONTIGUOUS TO THE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

BUFFER, THE BUFFER SHALL BE EXPANDED TO THE UPLAND BOUNDARY OF THE NONTIDAL WETLANDS.

(D) WHERE SITE FEATURES INCLUDE NONTIDAL WETLANDS OF SPECIAL STATE CONCERN ADJACENT TO THE BUFFER, THE BUFFER SHALL BE EXPANDED TO INCLUDE THE WETLAND AND ITS REGULATED 100 FOOT BUFFER.

(E) UPON INITIAL EXPANSION OF THE BUFFER, AS REQUIRED BY THE ABOVE CRITERIA, SHOULD THE NEW LOCATION OF THE BUFFER BE CONTIGUOUS TO ADDITIONAL SENSITIVE AREAS, FURTHER EXPANSION SHALL BE REQUIRED PER THE PROVISIONS OF THIS CHAPTER.

(5) THE 200-FOOT BUFFER IN THE RCZ MAY BE REDUCED IF:

(A) THE STRICT APPLICATION OF THE 200 FOOT BUFFER WOULD PRECLUDE:

[1] SUBDIVISION OF THE PROPERTY AT A DENSITY OF ONE DWELLING UNIT PER 20 ACRES, IF ALL OTHER STATE AND LOCAL REQUIREMENTS WILL BE SATISFIED; OR

1 [2] AN INTRA-FAMILY TRANSFER.

2
3 (B) THE PLANNING DIRECTOR MAY REDUCE THE
4 200 FOOT BUFFER UNDER THE ABOVE
5 CIRCUMSTANCES, BASED UPON FINDINGS THAT
6 WATER QUALITY AND HABITAT PROTECTION
7 HAVE NOT BEEN COMPROMISED. FACTORS
8 THAT THE PLANNING DIRECTOR WILL
9 CONSIDER INCLUDE, BUT ARE NOT LIMITED TO,
10 THE DRAINAGE PATTERNS, EXISTING GROUND
11 COVER, PROPOSED DISTURBANCE, PROPOSED
12 ADDITIONAL MITIGATION, AND QUALITY OF
13 HABITAT FOR FISH, PLANTS, AND WILDLIFE. IN
14 NO INSTANCE SHALL THE BUFFER BE LESS
15 THAN 100 FEET.

16
17 **B. BUFFER DELINEATION AND ESTABLISHMENT**

18
19 (1) When lands are subject to proposals for development or conversion
20 to new uses, the LOCATION OF THE Buffer shall be
21 ~~established~~ **DELINEATED AT THE TIME OF APPROVAL**
22 **OF A DEVELOPMENT ACTIVITY** through **FIELD**
23 **VERIFICATION** ~~[AND proper delineation]~~ ~~[The Buffer shall be~~
24 ~~subject to management measures implemented]~~ **THE**
25 **APPROVED DELINEATION OF THE BUFFER SHALL**
26 **REMAIN VALID FOR A PERIOD OF THREE YEARS. ANY**
27 **APPLICATION FOR DEVELOPMENT BEYOND THE**
28 **THREE YEAR PERIOD SHALL WARRANT A REVIEW BY**
29 **THE PLANNING DIVISION TO DETERMINE WHETHER**
30 **DEVELOPMENT IS BEING ACTIVELY PURSUED. IT**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

SHALL BE THE RESPONSIBILITY OF THE APPLICANT TO DEMONSTRATE TO THE PLANNING DIVISION IN WRITING THAT THE DEVELOPMENT ACTIVITY IS BEING ACTIVELY PURSUED. SHOULD THE PLANNING DIVISION DETERMINE THAT THE DEVELOPMENT ACTIVITY IS NOT ACTIVELY BEING PURSUED, THE PLANNING DIVISION MAY REQUIRE A REVERIFICATION OF THE BUFFER THROUGH FIELD INSPECTION. BASED UPON THE RESULTS OF THE FIELD INSPECTION, THE BUFFER MAY NEED TO BE REDELINEATED. ~~[IN ESTABLISHING THE BUFFER, MANAGEMENT MEASURES, INCLUDING PLANTING, WHERE NEEDED, SHALL BE UNDERTAKEN to protect and provide natural forest vegetation in assurance of the buffer functions set forth in THIS CHAPTER Chapter 8 of the Charles County Critical Area Program. New land uses and development activities, including clearing of natural vegetation, erection of structures, construction of new roads, parking areas, or other impervious surfaces, and the placement of private sewage disposal systems, are not permitted in the Critical Area Buffer, except as otherwise provided for in the Critical Area portion of this chapter.]~~

(2) BUFFER ESTABLISHMENT REQUIREMENTS ARE APPLICABLE TO:

(A) A DEVELOPMENT OR REDEVELOPMENT ACTIVITY THAT OCCURS ON A LOT OR PARCEL THAT INCLUDES A BUFFER TO TIDAL WATERS, A TIDAL WETLAND, OR A TRIBUTARY STREAM IF THAT DEVELOPMENT OR REDEVELOPMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**ACTIVITY IS LOCATED OUTSIDE THE BUFFER;
OR,**

**(B) THE APPROVAL OF A NEW SUBDIVISION THAT
INCLUDES A BUFFER TO TIDAL WATERS, A
TIDAL WETLAND, OR A TRIBUTARY STREAM.**

**(3) BUFFER ESTABLISHMENT REQUIREMENTS ARE NOT
APPLICABLE TO:**

**(A) AN IN-KIND REPLACEMENT OF A PRINCIPAL
STRUCTURE;**

**(B) LANDS THAT REMAIN IN AGRICULTURAL USE
AFTER SUBDIVISION IN ACCORDANCE WITH A
BUFFER MANAGEMENT PLAN APPROVED
UNDER THE REQUIREMENTS OF §297-131.E OF
THIS CHAPTER; OR,**

**(C) MINOR GRADING AND FILLING ACTIVITIES FOR
THE PURPOSE OF MAINTAINING OR RESTORING
AN EXISTING YARD / LAWN AREA.**

**(4) A BUFFER MANAGEMENT PLAN SUFFICIENT TO
ESTABLISH THE BUFFER IN VEGETATION IS
REQUIRED WITH AN APPLICATION FOR:**

**(A) APPROVAL OF A NEW SUBDIVISION OR A NEW
LOT;**

(B) CONVERSION FROM ONE LAND USE TO

1
2
3
4
5
6
7
8
9
10
11
12

**ANOTHER LAND USE ON A LOT OR A PARCEL;
OR,**

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

**(5) AT THE TIME OF APPLICATION, IF THE BUFFER IS NOT
FULLY FORESTED OR IS NOT FULLY ESTABLISHED IN
WOODY OR WETLAND VEGETATION, THE BUFFER
SHALL BE ESTABLISHED ACCORDING TO THE
FOLLOWING TABLE:**

DEVELOPMENT CATEGORY	LOT CREATED BEFORE JUNE 7, 1989	LOT CREATED AFTER JUNE 7, 1989
NEW DEVELOPMENT ON A VACANT LOT	ESTABLISH THE BUFFER BASED ON TOTAL LOT COVERAGE	FULLY ESTABLISH THE BUFFER
NEW SUBDIVISION OR NEW LOT	FULLY ESTABLISH THE BUFFER	
NEW LOT WITH AN EXISTING DWELLING UNIT	ESTABLISH THE BUFFER BASED ON TOTAL LOT COVERAGE	
CONVERSION OF A LAND USE ON A PARCEL OR LOT TO ANOTHER LAND USE	FULLY ESTABLISH THE BUFFER	
ADDITION OR ACCESSORY	ESTABLISH THE BUFFER BASED ON NET INCREASE IN LOT COVERAGE	

STRUCTURE	
SUBSTANTIAL ALTERATION	ESTABLISH THE BUFFER BASED ON TOTAL LOT COVERAGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

(6) WHEN MORE THAN ONE ACRE OF ESTABLISHMENT IS REQUIRED, NATURAL REGENERATION MAY BE ACCEPTED FOR UP TO 50 PERCENT OF THE REQUIREMENT, APPROVED UNDER A MAJOR BUFFER MANAGEMENT PLAN, IF:

(A) THE PLAN DOES NOT INCLUDE ANY NEW MANAGED TURF OR LAWN;

(B) ALL OF THE NATURAL REGENERATION IS WITHIN 50 FEET OF A MATURE FOREST THAT CONTAINS A SEED BANK OF NATIVE SPECIES ADEQUATE FOR NATURAL REGENERATION;

(C) THE PLAN INCLUDES A SUPPLEMENTAL PLANTING PLAN FOR SUBSEQUENT IMPLEMENTATION IF THE NATURAL REGENERATION DOES NOT SUCCEED; AND,

(D) THE FINANCIAL ASSURANCE PROVIDED FOR IMPLEMENTING THE BUFFER MANAGEMENT PLAN:

[1] IS SUFFICIENT TO COVER THE COST OF PLANTING AN EQUIVALENT AREA; AND,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[2] SPECIFIES THAT RELEASE OF THE FINANCIAL ASSURANCE MAY NOT OCCUR UNTIL THE LATER OF 5 YEARS AFTER THE DATE OF PLAN APPROVAL OR THE AREAL COVERAGE OF THE BUFFER IS AT LEAST 300 NATIVE WOODY STEMS, ON A PER-ACRE BASIS, THAT ARE AT LEAST 4 FEET IN HEIGHT.

(7) AT THE END OF 5 YEARS AFTER THE DATE OF APPROVAL OF A NATURAL REGENERATION PLAN, AN APPLICANT SHALL IMPLEMENT A SUPPLEMENTAL PLANTING PLAN FOR AT LEAST 2 YEARS IF THE AREAL COVERAGE OF THE BUFFER IS NOT, ON A PER-ACRE BASIS, AT LEAST 300 NATIVE WOODY STEMS OF AT LEAST 4 FEET IN HEIGHT.

C. BUFFER DEVELOPMENT STANDARDS

(1) New land uses and development activities **PERMITTED IN THE UNDERLYING BASE ZONES**, including clearing of natural vegetation, erection of structures, construction of new roads, parking areas, or other impervious surfaces **OR LOT COVERAGE**, and the placement of private sewage disposal systems, ~~[are not permitted in]~~ **SHALL BE PROHIBITED WITHIN** the Critical Area Buffer, ~~[Except as otherwise provided for in the Critical Area portion of this chapter. New buildings, structures, activities, and facilities permitted in the underlying base zones shall be prohibited within the Buffer,]~~ except for the following:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(a) Community piers, individual private piers, docks, and launching ramps.

[1] Only the following community pier facilities shall be permitted to be located in the Buffer:

[a] Docks, piers, slips, launching ramps, access roads, paths; and,

[b] Loading/unloading areas.

[2] Where community or individual slips or piers, are proposed in conjunction with new development approved after the date of the Charles County Critical Area Program adoption, the number of slips and piers shall be the lesser of Subsection A(1)(a)[2][a] or [b] below.

[a] Up to one slip for every 50 feet of shoreline in subdivisions in the LDZ and IDZ, and one slip for every 300 feet of shoreline in subdivisions in the RCZ; or

[b] A density of slips to platted lots or dwellings in the development according to the following schedule:

Platted Lots or Dwellings in the Critical Area	Slips
---	--------------

Up to 15	1 for each lot or dwelling
16 to 40	15 or 75%, 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
19
20
21

[c] If community piers are provided as part of the new development, private piers in the development are not allowed.

[3] NEW SUBDIVISIONS WITHIN THE LIMITED DEVELOPMENT ZONE AND RESOURCE CONSERVATION ZONE.

[A] THE PLANNING COMMISSION HAS THE AUTHORITY TO DETERMINE WHETHER A NEW SUBDIVISION ~~[SHALL]~~ SHOULD BE PERMITTED TO UTILIZE COMMUNITY PIERS OR INDIVIDUAL PIERS. WITHIN THE LDZ OR RCZ, THE APPROVAL TO PROVIDE A COMMUNITY PIER SHALL BE CONSIDERED A PRIORITY OVER INDIVIDUAL PIERS FOR ALL NEW SUBDIVISIONS WITH INDIVIDUAL RESIDENTIAL WATERFRONT LOTS. INDIVIDUAL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

**PIERS ARE NOT ALLOWED IF THE
PLANNING COMMISSION FINDS
THAT INDIVIDUAL PIERS WOULD
RESULT IN DETRIMENTAL IMPACT
TO:**

- (I) HABITAT OF RARE,
THREATENED OR
ENDANGERED SPECIES;**

- (II) SUBMERGED AQUATIC
VEGETATION;**

- (III) FOREST INTERIOR
DWELLING SPECIES
HABITAT; ~~OR~~**

- (IV) HISTORIC WATERFOWL
STAGING AREAS; ~~OR,~~**

- (V) HISTORIC SHELLFISH
AREAS.**

**[B] THE PLANNING COMMISSION MAY
ALSO CONSIDER WHETHER THE
EXCEPTIONAL NARROWNESS,
SHALLOUNESS, OR SHAPE OF
SPECIFIC PARCELS OF PROPERTY,
OR BY REASON OF EXCEPTIONAL**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**TOPOGRAPHICAL CONDITIONS OR
OTHER EXTRAORDINARY
SITUATIONS OR CONDITIONS OF
SPECIFIC PARCELS OR PROPERTY
PRECLUDES DEVELOPMENT OF A
COMMUNITY PIER AS NOT
REASONABLY FEASIBLE OR
PRACTICABLE.**

**[C] WHEN A DEVELOPMENT WITHIN
THE LDZ OR RCZ PROPOSES TO USE
INDIVIDUAL PIERS THE PLANNING
COMMISSION WILL BE PRESENTED
WITH A REPORT DETAILING THE
APPLICANTS PROPOSAL FOR
INDIVIDUAL PIERS. THIS REPORT
MAY INCLUDE STAFF REVIEW
AND/OR ANALYSIS FROM OTHER
APPROPRIATE AGENCIES, SUCH AS
THE CRITICAL AREA COMMISSION,
MARYLAND DEPARTMENT OF THE
ENVIRONMENT, OR, THE
DEPARTMENT OF NATURAL
RESOURCES.**

**[D] A NOTE SHALL BE INCLUDED ON
THE PRELIMINARY PLAN AND/OR
FINAL PLAT TO INDICATE
WHETHER INDIVIDUAL PIERS OR A
COMMUNITY PIER(S) WAS**

**APPROVED FOR THE SUBDIVISION.
THE NOTE SHALL ALSO SPECIFY
THE NUMBER OF INDIVIDUAL PIERS
OR COMMUNITY PIERS APPROVED.**

(b) New industrial or port-related facilities, and the expansion, redevelopment or replacement of industrial or port-related facilities, where permitted in the IDZ and where designated as A buffer **MODFICATION AREA**[~~exempt~~].

(c) New commercial marinas and other related commercial maritime facilities where permitted in the LDZ and the IDZ, and expansion of existing commercial marinas and other related commercial maritime facilities in the RCZ, provided that non-water-dependent uses and activities are not located in the Buffer, and provided sufficient demonstration that any expansion will result in an overall net improvement in water quality at or leaving the site of the marina. While proposed water-dependent uses shall be reviewed on a case-by-case basis by the Planning Division, Figure VIII-1 generally distinguishes those water-dependent facilities which may be permitted in the Critical Area, within and exterior to the Buffer, subject to the standards of the underlying base zone.

**Figure VIII-1
Buffer/Non-Buffer Water-Dependent and Associated Service Facilities**

BUFFER	OUTSIDE BUFFER
INDUSTRIAL AND PORT-RELATED WATER-DEPENDENT FACILITIES	

BUFFER	OUTSIDE BUFFER
Docks, piers and access roads	Processing facilities
Freight staging areas	Warehouses
Rail lines	Parking
Dry docks	Repair shops
Fueling areas	Administrative and maintenance offices
Public access areas	
COMMERCIAL MARINAS AND OTHER RELATED COMMERCIAL MARITIME FACILITIES	
Docks, piers, launch ramps, access roads and paths	[Nonautomated] Dry storage facilities
Loading/unloading areas	Boat repair yards
Railways associated with non-automated boat repair	Boat sales
Fueling areas	Boater retail sales
Fresh water and ice	Other retail
Phone and electric hookups	Motels/hotels
Sewage pumpout, dockside toilets/lockers	Parking
	Related recreation uses (pools, tennis courts)
	Wet dock shop facilities
	Marina office
	Waterfront restaurant
COMMUNITY PIERS AND OTHER RELATED NONCOMMERCIAL DOCKING/STORAGE FACILITIES	
Docks, piers, launch ramps, access roads and paths	Lockers
Loading/unloading areas	Rest rooms
	Parking
	Storage areas
PUBLIC BEACHES/OTHER PUBLIC WATER-ORIENTED RECREATION AND EDUCATION AREAS	
Lifeguard stations	Showers
Nature study/passive recreation facilities with no structure or impervious surface	Lockers (non marina use)

BUFFER	OUTSIDE BUFFER
Docks, piers, launch ramps, access roads and paths	Rest rooms
Loading and unloading areas	Parking
Fueling areas	Storage areas
Fresh water and ice	Service facilities for education and passive recreation areas
Phone and electric hookups	Marina office
Sewage pumpout, dockside toilets/lockers	
RESEARCH AREAS	
Research facilities operated by local, state or federal agencies or education institutions	All non-water-dependent
	Restrooms
	Parking
FISHERIES AND RELATED COMMERCIAL WATER-DEPENDENT FACILITIES	
Docks, piers and access roads	Warehouses
Fueling areas	Parking
Fish offloading docks	Repair shops and facilities
Shore facilities for aquaculture facilities	Processing and packing facilities
	Administrative and maintenance offices
	Waterfront restaurants

1
2
3
4
5
6
7
8
9
10

(D) [1]MINOR GRADING AND FILLING OF EXISTING YARD FOR THE PURPOSE OF MAINTAINING OR RESTORING THE LAWN TO A USABLE CONDITION IS PERMITTED ON RESIDENTIAL, RECREATIONAL, COMMERCIAL AND INDUSTRIAL PROPERTIES, PROVIDED THAT:

(A) THE TOTAL AREA TO BE DISTURBED OR THE ENTIRE PROJECT IS LESS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**THAN 5,000 SQUARE FEET IN SIZE
AND INVOLVES LESS THAN 100
CUBIC YARDS OF FILL;**

**(B) A SITE INSPECTION IS CONDUCTED
BY THE PLANNING DIVISION STAFF
PRIOR TO INITIATING THE
PROPOSED WORK;**

**(C) LAWN OR OTHER APPROVED
GROUND COVER IS IMMEDIATELY
RE-ESTABLISHED;**

**(D) ANY NATURAL OR PLANTED
VEGETATION, NOT INCLUDING SOD
OR FESCUE (GRASS), REMOVED
WITHIN THE BUFFER IS REPLACED
ONSITE WITHIN THE BUFFER ON A
ONE-TO-ONE BASIS WITH NATIVE
VEGETATION; AND,**

**(E) SEDIMENT AND EROSION
CONTROLS ARE UTILIZED IN
CONJUNCTION WITH THE
REQUIREMENTS OF THE SOIL
CONSERVATION DISTRICT.**

**[2] SHOULD THE PROJECT, WHEN
CONSIDERED AS A WHOLE, REQUIRE
DISTURBANCE OF 5,000 SQUARE FEET OR
MORE, OR 100 OR MORE CUBIC YARDS OF**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**FILL, A GRADING PERMIT WILL BE
REQUIRED FOR THE PROJECT. MULTIPLE
ZONING PERMITS MAY NOT BE USED AS A
MECHANISM TO AVOID THE GRADING
PERMIT REQUIREMENT.**

**(E) SHORE EROSION CONTROL MEASURES ARE
PERMITTED WITH AN APPROVED ZONING
PERMIT.**

**[1] NONSTRUCTURAL METHODS SHALL BE
UTILIZED UNLESS THE PROPERTY LIES
WITHIN AN AREA DESIGNATED BY THE
DEPARTMENT OF THE ENVIRONMENT AS
APPROPRIATE FOR STRUCTURAL SHORE
EROSION CONTROL MEASURES OR THE
PROPERTY OWNER CAN DEMONSTRATE
TO THE SATISFACTION OF THE
DEPARTMENT OF THE ENVIRONMENT
THAT NON STRUCTURE MEASURES ARE
NOT FEASIBLE.**

**[2] EACH APPLICATION TO THE COUNTY
SHALL COMPLY WITH THE
REQUIREMENTS IN APPENDICES A AND J
OF THIS CHAPTER.**

**(F) EROSION CONTROL MEASURES ABOVE MEAN
HIGH WATER ARE PERMITTED WITH AN
APPROVED BUFFER MANAGEMENT PLAN AND**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

ZONING PERMIT. EACH APPLICATION TO THE COUNTY SHALL COMPLY WITH THE REQUIREMENTS IN APPENDICES A AND K OF THIS CHAPTER.

(G) LOT COVERAGE IN THE BUFFER MAY NOT EXCEED THE MINIMUM AMOUNT NECESSARY FOR WATER-DEPENDENT FACILITIES, REGARDLESS OF THE CLASSIFICATION OR THE SIZE OF THE PARCEL OR LOT, EXCEPT:

[1] FOR A BUFFER MODIFICATION AREA, AS MAPPED ON THE OFFICIAL CRITICAL AREA MAPS FOR CHARLES COUNTY;

[2] FOR A VARIANCE GRANTED IN ACCORDANCE WITH THIS CHAPTER; OR

[3] AS PROVIDED IN A WATERFRONT REVITALIZATION AREA OR A WATERFRONT INDUSTRIAL AREA AS DESIGNATED UNDER THE CHARLES COUNTY CRITICAL AREA PROGRAM AND COMPREHENSIVE PLAN.

~~{(2) Natural vegetation shall not be removed, nor shall the slope or the land surface be altered in the Buffer, including clearing of existing natural vegetation to create new agriculture lands. When new agricultural land is created, the Buffer shall be managed under the requirements of the Charles County Critical Area Program.}~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

~~[(3) When agricultural uses of the land within the Buffer cease, and other land uses are proposed for the area, the Critical Area Buffer shall be established and maintained.]~~

**(2) AGRICULTURAL ACTIVITIES WITHIN THE BUFFER.
~~[ARE PERMITTED UNDER AN APPROVED SOIL-
CONSERVATION AND WATER QUALITY PLAN-
PROVIDED THAT:]~~**

(A) THE CRITICAL AREA BUFFER IS NOT REQUIRED FOR AGRICULTURAL DRAINAGE DITCHES IF THE ADJACENT AGRICULTURAL LAND HAS IN PLACE BEST MANAGEMENT PRACTICES AS REQUIRED IN COMAR 27.01.06.

(AB) A 25-FOOT VEGETATED FILTER STRIP MEASURED LANDWARD FROM THE MEAN HIGH WATER LINE OF TIDAL WATERS OR TRIBUTARY STREAMS (EXCLUDING DRAINAGE DITCHES), OR FROM THE EDGE OF TIDAL WETLANDS, WHICHEVER IS FURTHER INLAND, IS ESTABLISHED, AND FURTHER PROVIDED THAT:

[1] THE FILTER STRIP SHALL BE COMPOSED OF EITHER TREES WITH A DENSE GROUND COVER, OR A THICK SOD OF GRASS, AND SHALL BE SO MANAGED AS TO PROVIDE WATER QUALITY BENEFITS AND HABITAT PROTECTION CONSISTENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

WITH THE CHARLES COUNTY CRITICAL AREA PROGRAM; NOXIOUS WEEDS, INCLUDING JOHNSON GRASS, CANADA THISTLE, AND MULTIFLORA ROSE, WHICH OCCUR IN THE FILTER STRIP, MAY BE CONTROLLED BY AUTHORIZED MEANS;

[2] THE FILTER STRIP SHALL BE EXPANDED BY A DISTANCE OF 4 FEET FOR EVERY 1 PERCENT OF SLOPE, FOR SLOPES GREATER THAN 6 PERCENT;

[3] THE 25-FOOT VEGETATED FILTER STRIP SHALL BE MAINTAINED UNTIL SUCH TIME AS THE LANDOWNER IS IMPLEMENTING A PROGRAM OF BEST MANAGEMENT PRACTICES ~~[BE-IMPLEMENTED]~~ FOR THE SPECIFIC PURPOSES OF IMPROVING WATER QUALITY AND PROTECTING PLANT AND WILDLIFE HABITAT; AND PROVIDED THAT THE PORTION OF THE SOIL CONSERVATION AND WATER QUALITY PLAN BEING IMPLEMENTED ACHIEVES THE WATER QUALITY AND HABITAT PROTECTION OBJECTIVES OF THE 25-FOOT VEGETATED FILTER STRIP; ~~[BY-CONTROLLING THE NUTRIENT, ANIMAL WASTE, PESTICIDE AND SEDIMENT RUNOFF GENERATED BY THE~~

~~AGRICULTURAL ACTIVITY;]~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[4] THE BEST MANAGEMENT PRACTICES SHALL INCLUDE A REQUIREMENT FOR THE IMPLEMENTATION OF A NUTRIENT MANAGEMENT PROGRAM WHERE APPROPRIATE; ~~[AND]~~

[5] THE FEEDING OR WATERING OF LIVESTOCK MAY NOT BE PERMITTED WITHIN 50 FEET OF THE MEAN HIGH WATER LINE OF TIDAL WATER AND THE EDGE OF THE BANK OF TRIBUTARY STREAMS ~~[AND] OR FROM THE LANDWARD EDGE OF TIDAL WETLANDS WITHIN THE CRITICAL AREA, WHICHEVER IS FURTHER INLAND; AND,~~

~~(B)~~ (C) CLEARING OF EXISTING NATURAL VEGETATION IN THE BUFFER IS NOT PERMITTED;

~~(D)~~ (E) THE DRAINAGE, DIKING OR FILLING OF NON-TIDAL WETLANDS FOR THE PURPOSE OF NEW AGRICULTURAL LANDS IS PROHIBITED;

~~(E)~~ (F) AGRICULTURAL ACTIVITIES, INCLUDING THE GRAZING OF LIVESTOCK, DO NOT DISTURB STREAM BANKS, TIDAL SHORELINES OR OTHER HABITAT PROTECTION AREAS AS DESCRIBED IN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

THIS ORDINANCE; AND,

(EF) WHEN AGRICULTURAL USE OF LANDS WITHIN THE BUFFER CEASES AND THE LANDS ARE PROPOSED TO BE CONVERTED TO OTHER USES, THE BUFFER SHALL BE ESTABLISHED. IN ESTABLISHING THE BUFFER, MANAGEMENT MEASURES SHALL BE UNDERTAKEN TO PROVIDE FOREST VEGETATION THAT ASSURES THE BUFFER FUNCTIONS SET FORTH IN THIS SECTION OF THE ORDINANCE.

~~{(4)}~~**(3)** Commercial harvesting of trees is permitted, under a timber harvest plan approved by the Department of Natural Resources and ~~[a Buffer Management Plan approved by the Planning Division]~~ **THE DISTRICT FORESTRY BOARD.** Harvesting is permitted to within 50 feet of the edge of the intermittent streams, and to within 50 feet of the mean high waterline or tidal wetlands when harvesting involves clear cutting of loblolly pine and tulip poplar or selective cutting of other species. Cutting shall not occur in any Habitat Protection Areas, but may be permitted in the Buffer in accordance with these provisions.

~~[(5) Any DEVELOPMENT activity [landward of the line of mean high water] shall be subject to a County Buffer Management Plan, approved by the Planning Division. THE PLAN SHALL INCLUDE, BUT NOT BE LIMITED TO, EXISTING VEGETATION WITHIN THE BUFFER, ANY VEGETATION IN THE BUFFER THAT IS PROPOSED TO BE REMOVED, THE PROPOSED PLANTING REQUIRED FOR~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

~~MITIGATION OR BUFFER ESTABLISHMENT PURPOSES
AND BE PREPARED IN ACCORDANCE WITH
REFORESTATION AND AFFORESTATION STANDARDS
IN §297-132E. Limited cutting or clearing of trees shall be
permitted for the following purposes, provided that clearing is
limited to the minimum amount necessary to complete the
proposed project and is subject to an approved County Buffer
Management Plan:}~~

- ~~[(a) For personal use, providing that Buffer functions are not
impaired and trees cut are replaced **ON AN EQUAL
AREA BASIS;**]~~

- ~~[(b) To prevent trees from falling and blocking streams, causing
damage to dwellings or other structures, or resulting in
accelerated erosion of the shore or streambank;]~~

- ~~[(c) In conjunction with horticultural practices used to maintain
the health of individual trees;]~~

- ~~[(d) To provide access to private piers, provided that any
vegetation cleared is replaced **ON AN AREA BASIS OF
TWO TO ONE (2:1);** [under an approved County Buffer
Management Plan;]]~~

- ~~[(e) To install or construct an approved shore erosion protection
device or measure, provided that any vegetation cleared is
replaced; **OR** [under an approved County Buffer
Management Plan; or,]-]~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

~~[(f) To protect forests from extensive pest or disease infestation or threat from fires if approved by the Maryland Department of Agriculture or the Maryland Department of Natural Resources.]~~

~~[(6) Limited pruning of trees will be allowed by private homeowners in conjunction with horticultural practices used to maintain the health of individual trees. Any pruning of trees in the Buffer will require approval by the Planning Division with technical assistance by the Maryland Department of Natural Resources or by the Charles County Forester.]~~

~~[(7) Buffer Management Plans shall be prepared in accordance with reforestation and afforestation standards in §297-132.E.]~~

~~[(6) A COUNTY ZONING PERMIT AND/OR TREE REMOVAL AUTHORIZATION SHALL BE REQUIRED. ANY MITIGATION REQUIRED SHALL BE COMPRISED OF VEGETATIVE SPECIES NATIVE TO SOUTHERN MARYLAND.]~~

~~[(8)](7)The application of [sludge] BIOSOLIDS in the Buffer is prohibited.~~

~~[(9)](8)New commercial and industrial maritime, and related facilities, are prohibited in the Buffer, as it affects the Resource Conservation Zone (RCZ).~~

~~[(10)](9)Surface mining and related facilities, including wash plants, ponds, stockpiles and equipment, are prohibited in the Buffer.~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[B. ~~Expanding the Buffer in sensitive areas AND REDUCTION OF THE 200 FOOT BUFFER IN THE RCZ.~~]

~~{(1) The Buffer shall be expanded to include contiguous sensitive areas on the parcel which, if developed or disturbed, may impact streams, wetlands, or other aquatic environments. This expansion will occur whenever new land development or other land-disturbing activities, such as clearing natural vegetation for development, are proposed. Sensitive areas have the following features: hydric soils and soils with hydric properties as designated by the Natural Resources Conservation Service; highly erodible soils with a K value greater than 0.35; and steep slopes greater than 15%, including cliffs.}~~

~~{(2) The expanded Buffer must be shown on plans required for such development.}~~

~~{(3) The Buffer shall be expanded according to the following rules:}~~

~~{(a) Where site features include slopes contiguous to the Buffer, of 15% or greater as measured over a horizontal interval of 10 feet, the Buffer shall be expanded four feet for every 1% of steep slope, or to the top of the slope, whichever is greater in extent.}~~

~~{(b) When development or other land-disturbing activities are on a property with hydric soils, soils with hydric properties, or highly erodible soils, the Buffer shall be expanded to include adjacent hydric soils, soils with hydric properties,~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

~~and erodible soils, within the Critical Area. The Buffer will be expanded to include those soils lying in the drainage area between the proposed land disturbance and the Buffer. The Planning Director may reduce the extent of Buffer expansion related to soil types based upon findings that water quality and habitat protection have not been compromised. Factors that the Planning Director will consider include, but are not limited to, the drainage patterns, existing ground cover, proposed disturbance, and quality of habitat for fish, plants, and wildlife. In no instance shall the Buffer be less than 100 feet.]~~

~~[(C) WHERE SITE FEATURES INCLUDE NON-TIDAL WETLANDS CONTIGUOUS TO THE BUFFER, THE BUFFER SHALL BE EXPANDED TO THE EDGE OF THE NON-TIDAL WETLANDS.]~~

~~[(D) UPON INITIAL EXPANSION OF THE BUFFER, AS REQUIRED BY THE ABOVE CRITERIA, SHOULD THE NEW LOCATION OF THE BUFFER BE CONTIGUOUS TO ADDITIONAL SENSITIVE AREAS, FURTHER EXPANSION SHALL BE REQUIRED PER THE PROVISIONS OF THIS CHAPTER.]~~

~~[(4) THE 200 BUFFER IN THE RCZ MAY BE REDUCED IF:]~~
~~[(1) THE STRICT APPLICATION OF THE 200 FOOT BUFFER WOULD PRECLUDE:]~~

~~[(A) SUBDIVISION OF THE PROPERTY AT A~~

~~DENSITY OF ONE DWELLING UNIT PER 20 ACRES, IF ALL OTHER STATE AND LOCAL REQUIREMENTS WILL BE SATISFIED; OR~~

~~{(B) AN INTRA-FAMILY TRANSFER.}~~

~~{(2) THE PLANNING DIRECTOR MAY REDUCE THE 200 FOOT BUFFER UNDER THE ABOVE CIRCUMSTANCES, BASED UPON FINDINGS THAT WATER QUALITY AND HABITAT PROTECTION HAVE NOT BEEN COMPROMISED. FACTORS THAT THE PLANNING DIRECTOR WILL CONSIDER INCLUDE, BUT ARE NOT LIMITED TO, THE DRAINAGE PATTERNS, EXISTING GROUND COVER, PROPOSED DISTURBANCE, PROPOSED ADDITIONAL MITIGATION, AND QUALITY OF HABITAT FOR FISH, PLANTS, AND WILDLIFE. IN NO INSTANCE SHALL THE BUFFER BE LESS THAN 100 FEET.}~~

D. BUFFER MITIGATION AND PLANTING STANDARDS

(1) THESE MITIGATION AND PLANTING STANDARDS ARE APPLICABLE TO A DEVELOPMENT OR REDEVELOPMENT ACTIVITY THAT OCCURS ON A LOT OR PARCEL THAT INCLUDES A BUFFER TO TIDAL WATERS, TIDAL WETLANDS, OR A TRIBUTARY STREAM, WHEN THE DEVELOPMENT OR REDEVELOPMENT ACTIVITY IS LOCATED INSIDE OF THE BUFFER.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

(2) A BUFFER MANAGEMENT PLAN IN ACCORDANCE WITH §297-131.E SHALL BE SUFFICIENT TO SATISFY THE PLANTING AND MITIGATION STANDARDS OF THIS SECTION AS WELL AS ESTABLISHMENT REQUIREMENTS IN §297-131.B SO AS TO:

- (A) PROHIBIT THE INSTALLATION OR CULTIVATION OF NEW LAWN OR TURF ON-SITE IN THE BUFFER;**
- (B) ENSURE THE PLANTING OF NATIVE SPECIES;**
- (C) ENSURE COVERAGE OF THE BUFFER WITH MULCH OR GROUND COVER OR BOTH UNTIL BUFFER PLANTINGS ARE ESTABLISHED;**
- (D) ENSURE PLANTING IS EVENLY DISTRIBUTED THROUGHOUT THE ENTIRE BUFFER; AND,**
- (E) PROVIDE OPTIMUM HABITAT AND WATER QUALITY BENEFITS.**

(3) THE CUMULATIVE AMOUNT OF BUFFER MITIGATION REQUIRED SHALL BE CALCULATED ACCORDING TO THE FOLLOWING STANDARDS:

- (A) FOR A DEVELOPMENT ACTIVITY WITHIN THE BUFFER, MITIGATION SHALL BE BASED UPON THE LIMITS OF DISTURBANCE AND CALCULATED ACCORDING TO THE**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

FOLLOWING RATIOS:

ACTIVITY	MITIGATION RATIO
SHORE EROSION CONTROL	1:1
RIPARIAN WATER ACCESS	2:1
DEVELOPMENT OR REDEVELOPMENT OF WATER-DEPENDENT FACILITIES	2:1
EROSION CONTROL ABOVE MEAN HIGH WATER	2:1
VARIANCE	3:1
VIOLATION	4:1

AND,

(B) FOR THE REMOVAL OF AN INDIVIDUAL TREE WITH A DIAMETER OF AT LEAST 2 INCHES WHEN MEASURED AT 4.5 FEET ABOVE THE GROUND SURFACE, MITIGATION SHALL BE AT A RATE OF 100 SQUARE FEET FOR EVERY 1 INCH OF DIAMETER; AND,

(C) FOR REMOVAL OF A DEAD, DISEASED, OR DYING TREE, MITIGATION SHALL BE AT LEAST ONE 1-INCH CALIPER TREE FOR EACH TREE REMOVED.

(4) IF MITIGATION PLANTING CANNOT BE LOCATED ON-SITE WITHIN THE BUFFER BECAUSE OF SITE CONSTRAINTS, MITIGATION ALTERNATIVES MAY

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

BE PERMITTED IN THE FOLLOWING ORDER OF PRIORITY:

- (A) PLANTING ON-SITE AND ADJACENT TO THE BUFFER;**
- (B) PLANTING ON-SITE OUTSIDE OF THE BUFFER, BUT WITHIN THE CRITICAL AREA; OR,**
- (C) PAYMENT OF FEE-IN-LIEU OF BUFFER MITIGATION UNDER THE PROVISION OF §297-131.G OF THIS SUBSECTION.**

(5) THE FOLLOWING PLANTING AND MITIGATION OPTIONS ARE ACCEPTABLE METHODS TO SATISFY THE REQUIREMENTS OF THIS SECTION:

REQUIREMENT	AMOUNT	OPTIONS
ESTABLISHMENT	LESS THAN ¼ ACRE	LANDSCAPING STOCK AS DEFINED BY THIS §297-132.D.(6) OF THIS CHAPTER
	¼ ACRE TO LESS THAN OR EQUAL TO 1 ACRE	AT LEAST 50 PERCENT OF AREA IN LANDSCAPING STOCK AS DEFINED BY §297-132.D.(6) OF THIS CHAPTER, THE REMAINDER MAY BE FLEXIBLE STOCKING AS DEFINED IN §297-132.D.(7) OF THIS CHAPTER
	GREATER THAN 1 ACRE TO LESS THAN 5 ACRES	AT LEAST 25 PERCENT OF AREA IN LANDSCAPING STOCK AS DEFINED BY §297-132.D.(6) OF THIS CHAPTER, THE REMAINDER MAY BE FLEXIBLE STOCKING AS DEFINED IN §297-132.D.(7) OF THIS CHAPTER

	GREATER THAN 5 ACRES	AT LEAST 10 PERCENT OF AREA IN LANDSCAPING STOCK AS DEFINED BY §297-132.D.(6) OF THIS CHAPTER, THE REMAINDER MAY BE FLEXIBLE STOCKING AS DEFINED IN §297-132.D.(7) OF THIS CHAPTER
MITIGATION	LESS THAN 1 ACRE	LANDSCAPING STOCK AS DEFINED BY §297-132.D.(6) OF THIS CHAPTER
	1 ACRE OR GREATER	AT LEAST 50 PERCENT OF AREA IN LANDSCAPING STOCK AS DEFINED BY §297-132.D.(6) OF THIS CHAPTER, THE REMAINDER MAY BE FLEXIBLE STOCKING AS DEFINED IN §297-132.D.(7) OF THIS CHAPTER

1
2
3
4
5

(6) THE FOLLOWING LANDSCAPING STOCK PLANTING CREDITS FOR THE TYPE AND SIZE OF VEGETATION PROPOSED ARE APPLICABLE:

VEGETATION TYPE	MINIMUM SIZE ELIGIBLE FOR CREDIT	MAXIMUM CREDIT ALLOWED (SQUARE FEET)	MAXIMUM PERCENT OF CREDIT
CANOPY TREE	2-INCH CALIPER AND 8 FEET HIGH	200	NOT APPLICABLE
CANOPY TREE	1-INCH CALIPER AND 6 FEET HIGH	100	NOT APPLICABLE
UNDERSTORY TREE	1-INCH CALIPER AND 6 FEET HIGH	75	NOT APPLICABLE
LARGE SHRUB	1 GALLON AND 4 FEET HIGH	50	30
SMALL SHRUB	1-GALLON AND 18 INCHES HIGH	25	20

HERBACEOUS PERENNIAL*	1 QUART	2	10
PLANTING CLUSTER 1*	1 CANOPY TREE; AND 3 LARGE SHRUBS OR 6 SMALL SHRUBS OF SIZES LISTED ABOVE	300	NOT APPLICABLE
PLANTING CLUSTER 2*	2 UNDERSTORY TREES; AND 3 LARGE SHRUBS OR 6 SMALL SHRUBS OF SIZES LISTED ABOVE	350	NOT APPLICABLE

1 ***THESE OPTIONS ARE AVAILABLE ONLY FOR BUFFER**
2 **ESTABLISHMENT AND BUFFER MITIGATION OF LESS THAN 1 ACRE**

3
4 (A) **ALL LANDSCAPING STOCK PLANTED SHALL BE**
5 **100 PERCENT GUARANTEED FOR AT LEAST TWO**
6 **YEARS AFTER PLANTING IS COMPLETED.**

7
8 (7) **FLEXIBLE STOCKING SIZE, MAY BE PERMITTED IN**
9 **ACCORDANCE WITH §297-132.D. (5) OF THIS ARTICLE**
10 **UNDER THE FOLLOWING CRITERIA:**

11

STOCK SIZE OF TREES ONLY	REQUIRED NUMBER OF STEMS PER ACRE	SURVIVABILITY REQUIREMENT	MINIMUM FINANCIAL ASSURANCE PERIOD AFTER PLANTING
BARE-ROOT	700	50 PERCENT	5 YEARS

SEEDLING OR WHIP			
½-INCH TO 1-INCH CONTAINER GROWN TREES	450	75 PERCENT	2 YEARS
MORE THAN 1-INCH CONTAINER GROWN TREES	350	90 PERCENT	2 YEARS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

(8) THE BOARD OF APPEALS MAY NOT ISSUE A VARIANCE TO THE BUFFER PLANTING AND MITIGATION STANDARDS OF THIS ARTICLE.

(9) A FINAL USE AND OCCUPANCY PERMIT OR APPROVAL MAY NOT BE GRANTED UNTIL A PROPERTY OWNER:

(A) COMPLETES THE PLANTING REQUIRED UNDER AN APPROVED BUFFER MANAGEMENT PLAN; OR,

(B) PROVIDES FINANCIAL ASSURANCE THAT THE PLANTING WILL BE COMPLETED DURING THE NEXT PLANTING SEASON. SAID FINANCIAL ASSURANCE SHALL BE SUFFICIENT TO COVER THE COSTS FOR:

[1] MATERIALS AND INSTALLATION; AND,

[2] IN THE CASE OF A MITIGATION OR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

ESTABLISHMENT REQUIREMENT THAT IS AT LEAST 5,000 SQUARE FEET, LONG-TERM SURVIVABILITY, 2 YEARS OF MONITORING AND THE IMPLEMENTATION OF A REINFORCEMENT PLANTING PLAN SHOULD SURVIVAL RATES FALL BELOW THOSE REQUIRED BY §297-131.D.

(10) PRIOR TO RECORDATION OF A FINAL SUBDIVISION, AN APPLICANT SHALL:

(A) POST PERMANENT SIGNS DELINEATING THE UPLAND BOUNDARY OF THE BUFFER AT A RATIO OF AT LEAST ONE SIGN PER LOT OR PER 200 LINEAR FEET OF SHORELINE, WHICHEVER IS APPLICABLE; AND

(B) DESIGN EACH SIGN SO THAT IT:

[1] IS AT LEAST 11 INCHES IN WIDTH AND 15 INCHES IN HEIGHT;

[2] IS PLACED AT A HEIGHT OF 4.5 FEET, BUT NOT ATTACHED TO A TREE; AND,

[3] CLEARLY STATES “CRITICAL AREA BUFFER---NO CLEARING OR DISTURBANCE PERMITTED”.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

(11) CONCURRENT WITH THE RECORDATION OF A FINAL PLAT, AN APPLICANT SHALL RECORD A PROTECTIVE MEASURE AS REQUIRED BY THE APPROVED BUFFER MANAGEMENT PLAN.

(12) AN APPROVED BUFFER MANAGEMENT PLAN IS REQUIRED PRIOR TO APPROVAL OF A FINAL SUBDIVISION APPLICATION.

E. BUFFER MANAGEMENT PLANS

(1) UNLESS OTHERWISE REQUIRED BY THIS CHAPTER, A BUFFER MANAGEMENT PLAN IS NOT REQUIRED FOR THE MAINTENANCE OF AN EXISTING GRASS LAWN, SUCH AS MOWING OR RAKING OF LEAVES, OR AN EXISTING GARDEN IN THE BUFFER.

(2) A BUFFER MANAGEMENT PLAN IS REQUIRED FOR:

(A) ANY DEVELOPMENT ACTIVITY FOR WHICH BUFFER ESTABLISHMENT IS REQUIRED BY THIS ARTICLE; OR,

(B) ANY DEVELOPMENT ACTIVITY WHICH WILL RESULT IN DISTURBANCE TO THE BUFFER. THIS INCLUDES:

[1] A VARIANCE;

[2] SUBDIVISION APPROVAL;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[3] SITE DEVELOPMENT PLAN APPROVAL;

**[4] SHORE EROSION CONTROL MEASURES
APPROVED UNDER A ZONING OR
INFRASTRUCTURE PERMIT;**

[5] BUILDING PERMITS;

[6] INFRASTRUCTURE PERMITS;

[7] A SPECIAL EXCEPTION; OR

**[8] A TREE REMOVAL AUTHORIZATION OR
ZONING PERMIT.**

**(3) A BUFFER MANAGEMENT PLAN MAY NOT BE
APPROVED UNLESS:**

**(A) THE PLAN CLEARLY INDICATES THAT ALL
PLANTING STANDARDS OF THIS ARTICLE WILL
BE MET; AND**

**(B) APPROPRIATE MEASURES ARE IN PLACE FOR
THE LONG-TERM PROTECTION AND
MAINTENANCE OF ALL BUFFER AREAS
ESTABLISHED AS REQUIRED BY THIS ARTICLE.**

**(4) APPROVAL OF A BUFFER MANAGEMENT PLAN IS
REQUIRED PRIOR TO APPROVAL OF A DEVELOPMENT
ACTIVITY.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

(A) AT A MINIMUM A COUNTY ZONING PERMIT AND/OR TREE REMOVAL AUTHORIZATION SHALL BE REQUIRED. ANY MITIGATION REQUIRED SHALL BE COMPRISED OF VEGETATIVE SPECIES NATIVE TO SOUTHERN MARYLAND.

(5) FAILURE TO IMPLEMENT A BUFFER MANAGEMENT PLAN SHALL CONSTITUTE A VIOLATION OF THE CHARLES COUNTY CRITICAL AREA PROGRAM.

(6) SIMPLIFIED BUFFER MANAGEMENT PLANS

(A) A SIMPLIFIED BUFFER MANAGEMENT PLAN IS REQUIRED AS PART OF THE APPLICATION ASSOCIATED WITH ANY OF THE FOLLOWING ACTIVITIES:

[1] PROVIDING ACCESS TO A PRIVATE PIER OR SHORELINE THAT IS UP TO 3 FEET WIDE;

[2] MANUALLY REMOVING INVASIVE OR NOXIOUS VEGETATION;

[3] MINOR GRADING AND FILLING TO REPAIR OR MAINTAIN AN EXISTING GRASS LAWN, AS PERMITTED BY THIS ARTICLE;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[4] CUTTING A TREE THAT IS IN IMMINENT DANGER OF FALLING AND CAUSING DAMAGE TO A DWELLING OR OTHER STRUCTURE, CAUSING BLOCKAGE TO A STREAM OR ACCELERATING SHORE EROSION.

(B) IF CUTTING A TREE IN THE BUFFER IS IMMEDIATELY NECESSARY BECAUSE OF AN EMERGENCY SITUATION, THE APPLICANT SHALL SUBMIT A SIMPLIFIED BUFFER MANAGEMENT PLAN FOR APPROVAL AT THE EARLIEST POSSIBLE TIME AFTER THE TREE HAS BEEN CUT.

(C) A SIMPLIFIED BUFFER MANAGEMENT PLAN SHALL INCLUDE:

[1] A BRIEF NARRATIVE DESCRIBING THE PROPOSED ACTIVITY, INCLUDING THE ANTICIPATED START DATE AND METHOD TO BE USED;

[2] THE PROPOSED MITIGATION;

[3] IN THE CASE OF REMOVAL OF INVASIVE OR NOXIOUS SPECIES, THE REVEGETATION OF THE AREA IN ACCORDANCE WITH THIS ARTICLE;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[4] THE PROPOSED PLANTING DATE;

[5] THE SIGNATURE OF THE PARTY RESPONSIBLE FOR THE PROPOSED ACTIVITY AND FOR ENSURING SURVIVAL OF THE PLANTINGS.

(7) MINOR BUFFER MANAGEMENT PLANS.

(A) A MINOR BUFFER MANAGEMENT PLAN IS REQUIRED AS PART OF THE APPLICATION ASSOCIATED WITH ANY OF THE FOLLOWING ACTIVITIES:

[1] ESTABLISHMENT OF LESS THAN 5,000 SQUARE FEET OF THE BUFFER FOR AN APPLICATION LISTED UNDER THIS ARTICLE; OR,

[2] A REQUESTED DISTURBANCE THAT REQUIRES LESS THAN 5,000 SQUARE FEET OF MITIGATION AS REQUIRED BY THIS ARTICLE.

(B) A MINOR BUFFER MANAGEMENT PLAN SHALL INCLUDE:

[1] A PLAN THAT SHOWS THE PROPOSED LIMIT OF DISTURBANCE, THE TOTAL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**NUMBER AND SIZE OF TREES TO BE
REMOVED, IF APPLICABLE, AND THE
ARRANGEMENT OF THE PLANTING TO BE
DONE;**

**[2] A LANDSCAPE SCHEDULE THAT SHOWS
THE PROPOSED SPECIES TYPE, THE
QUANTITY OF PLANTS, THE SIZE OF
PLANTS TO BE INSTALLED, AND THE
PLANTING DATE;**

**[3] A MAINTENANCE PLAN FOR THE
CONTROL OF INVASIVE SPECIES, PESTS,
AND PREDATION THAT SHOWS INVASIVE
SPECIES AND PEST CONTROL PRACTICES,
THE PROVISION OF AT LEAST 2 YEARS OF
MONITORING, AND A REINFORCEMENT
PLANTING PROVISION IF SURVIVAL
RATES FALL BELOW THE STANDARDS OF
THIS ARTICLE;**

**[4] AN INSPECTION AGREEMENT THAT
GRANTS PERMISSION TO THE LOCAL
JURISDICTION TO INSPECT THE
PLANTING AT APPROPRIATE TIMES;**

**[5] THE INFORMATION ON WHICH
CALCULATION OF THE AMOUNT OF
BUFFER TO BE PLANTED WAS BASED, IF
BUFFER ESTABLISHMENT IS REQUIRED;**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[6] INFORMATION ON WHICH CALCULATION OF THE AMOUNT OF THE BUFFER TO BE PLANTED WAS BASED, IF BUFFER MITIGATION IS REQUIRED; AND,

[7] THE SIGNATURE OF THE PARTY RESPONSIBLE FOR THE PROPOSED ACTIVITY AND ENSURING THE SURVIVAL OF THE PLANTINGS.

(8) MAJOR BUFFER MANAGEMENT PLANS.

(A) A MAJOR BUFFER MANAGEMENT PLAN IS REQUIRED AS PART OF THE APPLICATION ASSOCIATED WITH ANY OF THE FOLLOWING ACTIVITIES:

[1] ESTABLISHMENT OF AT LEAST 5,000 SQUARE FEET OF THE BUFFER FOR AN APPLICATION UNDER THIS ARTICLE; OR,

[2] A REQUESTED DISTURBANCE THAT REQUIRES AT LEAST 5,000 SQUARE FEET OF MITIGATION FOR AN APPLICATION UNDER THIS ARTICLE.

(B) A MAJOR BUFFER MANAGEMENT PLAN SHALL INCLUDE:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

- [1] A PLAN THAT SHOWS THE PROPOSED LIMIT OF DISTURBANCE, THE TOTAL NUMBER AND SIZE OF TREES TO BE REMOVED, IF APPLICABLE, AND THE ARRANGEMENT OF THE PLANTING TO BE DONE;**
- [2] A LANDSCAPE SCHEDULE THAT SHOWS THE PROPOSED SPECIES TYPE, THE QUANTITY OF PLANTS, THE SIZE OF PLANTS TO BE INSTALLED AND THE PLANTING DATE;**
- [3] A MAINTENANCE PLAN FOR THE CONTROL OF INVASIVE SPECIES, PESTS, AND PREDATION THAT SHOWS INVASIVE SPECIES AND PEST CONTROL PRACTICES, THE PROVISION OF AT LEAST 2 YEARS OF MONITORING, AND A REINFORCEMENT PLANTING PROVISION IF SURVIVAL RATES FALL BELOW THE STANDARDS REQUIRED BY THIS ARTICLE;**
- [4] A LONG-TERM PROTECTION PLAN THAT INCLUDES EVIDENCE OF FINANCIAL ASSURANCE THAT ADEQUATELY COVERS THE PLANTING AND SURVIVABILITY REQUIREMENT, A PROVISION FOR AT LEAST 2 YEARS OF MONITORING AS REQUIRED BY THIS ARTICLE, AND IF PLANTING, AN ANTICIPATED PLANTING**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

DATE BEFORE CONSTRUCTION OR THE SALE OF THE LOT;

[5] AN INSPECTION AGREEMENT THAT GRANTS PERMISSION TO THE LOCAL JURISDICTION TO INSPECT THE PLANTINGS AT APPROPRIATE TIMES;

[6] IF BUFFER ESTABLISHMENT IS REQUIRED, THE INFORMATION ON WHICH THE CALCULATION OF THE AMOUNT OF BUFFER TO BE PLANTED WAS BASED;

[7] IF BUFFER MITIGATION IS REQUIRED, THE INFORMATION ON WHICH THE CALCULATION OF THE AMOUNT OF BUFFER TO BE PLANTED WAS BASED; AND,

[8] THE SIGNATURE OF THE PARTY RESPONSIBLE FOR THE PROPOSED ACTIVITY AND FOR THE SURVIVAL OF THE PLANTINGS.

(C) FOR A BUFFER MANAGEMENT PLAN:

[1] A SINGLE SPECIES MAY NOT EXCEED 20 PERCENT OF THE TOTAL PLANTING REQUIREMENT; AND,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[2] SHRUBS MAY NOT EXCEED 50 PERCENT OF THE TOTAL PLANTING REQUIREMENT.

F[~~C~~]. Buffer [~~Exemption~~] **MODIFICATION** Area provisions. The following special provisions apply in designated Buffer [~~Exemption~~] **MODIFICATION** Areas, throughout the Critical Area Overlay Zone.

(1) Permitted uses.

(a) New development or redevelopment, provided that the development and redevelopment rules and offsetting requirements set forth in Subsection C(3) and (4) below are observed.

(b) Shore erosion control measures, provided that such measures are consistent with the County's shore erosion protection policies, and provided that the measure has obtained all applicable county, state, and federal permits.

(c) Limited cutting or clearing of trees for the following purposes only, provided that clearing is limited to the minimum amount necessary to complete the proposed project and is subject to a [~~County~~] **SIMPLIFIED** Buffer Management Plan, **AS DEFINED IN THIS ARTICLE, AND** approved by the Planning Division:

[1] For personal use, providing that Buffer functions are not impaired and trees cut are replaced **ON AN EQUAL AREA BASIS;**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[2] To prevent trees from falling and blocking streams, causing damage to dwellings or other structures, or resulting in accelerated erosion of the shore or streambank;

[3] In conjunction with horticultural practices used to maintain the health of individual trees;

[4] To provide access to private piers, provided that any vegetation cleared is replaced **ON AN AREA BASIS OF TWO TO ONE (2:1)**; [~~under an approved County Buffer Management Plan;~~]

[5] To install or construct an approved shore erosion protection device or measure, provided that any vegetation cleared is replaced **ON AN AREA BASIS OF ONE TO ONE (1:1)** [~~under an approved County Buffer Management Plan;~~]

[6] To protect trees from extensive pest or disease infestation by recommendation of the Department of Agriculture or the Department of Natural Resources; or

[7] To permit the development or redevelopment allowed **IN §297-131 C(1)(A) AND (B)** to be constructed or installed. **MITIGATION SHALL BE REQUIRED AS APPLICABLE UNDER SECTIONS 131(C)(4) AND 132(F) AND (G) .**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**[8] A COUNTY ZONING PERMIT AND/OR TREE
REMOVAL AUTHORIZATION SHALL BE
REQUIRED.**

- (2) Prohibited uses: water-polluting activities, including, but not limited to, storage of vehicles, fuel, or chemicals.

- (3) Development and redevelopment rules. For all new development and redevelopment activities, applicants must demonstrate that the distance between the new development and the mean high water line has been maximized. New development or redevelopment shall not be located less than twenty-five feet from the line of mean high water or the edge of tidal wetlands. The following rules also apply:
 - (a) Existing structures. The expansion or redevelopment of existing structures in the Buffer ~~[Exemption]~~ **MODIFICATION** Area may not occur closer to open water or wetlands than the existing principal structure or the setback line as defined by the location of principal structures on adjacent lots, measured as described below in Subsection C(3)(c), whichever is closer to the water. The location of the setback line shall generally run parallel to the line of mean high water.

 - (b) Removal of existing structures. When a structure within the Buffer ~~[Exemption]~~ **MODIFICATION** Area is removed or destroyed, it should be replaced, insofar as possible, outside of the Critical Area Buffer. Where this is not possible and in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

such cases where a setback line exists as defined by the existing principal structure or principal structures on adjacent lots or parcels, the structure may not be replaced closer to open water or wetlands than that line. Any ~~[impervious surfaces]~~ **LOT COVERAGE** created greater in extent to preexisting ~~[impervious surfaces]~~ **LOT COVERAGE** within the Buffer ~~[Exemption]~~ **MODIFICATION** Area shall be offset as described in §297-131.C(4) below.

(c) New single-family detached residential development. New development in the Buffer ~~[Exemption]~~ **MODIFICATION** Area shall minimize the extent to which ~~[impervious surfaces]~~ **LOT COVERAGE** extend toward open water or wetlands insofar as possible taking into consideration existing County yard setback requirements of the underlying zones and other such factors. In no case may such ~~[impervious surfaces]~~ **LOT COVERAGE** be extended closer to open water or wetlands than any setback line as defined by ~~[the existing principal structure or]~~ principal structures on adjacent lots or parcels or the setback of underlying zones required in this chapter, **NOR SHALL ANY NEW SINGLE-FAMILY RESIDENTIAL DEVELOPMENT OR REDEVELOPMENT BE LOCATED LESS THAN TWENTY-FIVE FEET FROM THE LINE OF MEAN HIGH WATER OR THE EDGE OF TIDAL WETLANDS.** Accessory structures, septic systems, and other development activities shall not be used to determine a setback line in the buffer ~~[exemption]~~ **MODIFICATION** area. The setback distance

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

shall be measured from the building corner nearest to the water, to the line of mean high water or the limit of tidal wetlands or the edge of a tributary stream.

(d) Accessory structures. Construction of new accessory structures or expansion of existing accessory structures **MAY BE PERMITTED** closer to the water than the principal structure [~~shall be prohibited~~] **UNDER AN APPROVED BUFFER MANAGEMENT PLAN, PROVIDED THAT:**

[1] THE NEW STRUCTURE OR EXPANSION IS NOT CLOSER TO THE TIDAL WATERS, TIDAL WETLANDS OR TRIBUTARY STREAMS THAN THE STANDARD REAR YARD SETBACK OF THE UNDERLYING ZONE, OR 25 FEET, WHICHEVER IS GREATER.

~~{(e) Impervious surface limits (not applicable to the IDZ):~~

~~{1} If a parcel or lot one half acre or less in size existed on or before December 1, 1985, then man-made impervious surfaces are limited to 25% of the parcel or lot.~~

~~{2} If a parcel or lot greater than 1/2 acre and less than one acre in size existed on or before December 1, 1985, then man-made impervious surfaces are limited to 15% of the parcel or lot.~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

~~{3} Impervious surface on all other parcels or lots shall be limited to 15% on properties with designated Buffer Exemption Areas.}~~

~~{(f) Semipervious surface limits (not applicable to the IDZ):}~~

~~{{1} Semipervious surfaces shall be counted against the impervious surface limits at a rate of 0.5 times the square footage of proposed semipervious surface.}~~

~~{{2} Semipervious surfaces which extend toward the water must be contiguous with the primary structure.}~~

~~{{3} Offsets shall be required. The amount of required mitigation shall be based on the calculated impervious surface in Subsection C(3)(f)[1] above.}~~

~~{(g)}~~**(E)**Development activities may not disturb Habitat Protection Areas other than the Buffer, and may not occur in the Buffer where other Habitat Protection Areas overlap with the Buffer.

~~{(h)}~~**(F)**New multifamily residential, institutional, commercial and industrial development and redevelopment shall **NOT** be **CLOSER THAN 50 FEET TO THE LINE OF MEAN HIGH WATER OR THE MINIMUM STANDARD REAR YARD SETBACK, WHICHEVER IS GREATER** ~~[subject to the standards and mitigation]~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

~~requirements as specified in the Critical Area Commission's Buffer Exemption Area policy].~~

~~{(i)}~~**(G)**The setback requirements of the underlying base zone shall be satisfied, or variance from the setback requirements shall be approved, before requests for additional intrusion into the Buffer are considered.

~~{(j)}~~**(H)**~~[BEA]~~ **BMA** designation shall not be used as a criterion to facilitate approval of the filling of tidal wetlands that are contiguous to the Buffer, for the purpose of creating additional buildable land for new development or redevelopment.

(4) Offsetting requirements. All development activities in the Buffer ~~[Exemption]~~ **MODIFICATION** Area which cause additional ~~[impervious and semipervious surfaces as described above]~~ **LOT COVERAGE** shall be required to offset for such development as follows:

(a) Natural forest vegetation covering an area twice the extent of the ~~[impervious surface]~~ **LOT COVERAGE** created in the Buffer shall be planted on the site **AND WITHIN THE BUFFER** ~~[-T]~~ **T**o the maximum extent practicable. ~~[planting of forest vegetation shall occur on site and within the Buffer]~~. If the Buffer is of an existing fully forested / **VEGETATED** condition, other locations on site may be considered. If locations on site are inadequate or unavailable, plantings may occur **OFFSITE IN ACCORDANCE WITH §297-132.E(4)** ~~[on a Buffer~~

1 Exemption Offset location as may be approved by the
2 Planning Division].

3
4 (b) When site constraints prevent full compliance with the
5 above-described planting requirement, alternative offsets
6 may include the removal and replacement, with natural
7 forest vegetation, of existing [~~impervious surface~~] **LOT**
8 **COVERAGE** area in the Buffer, of no less an area than the
9 newly created [~~impervious surface~~] **LOT COVERAGE**;
10 the construction of best management practices for
11 stormwater; wetland creation or restoration; or other
12 measures that improve water quality and habitat.

13
14 (c) All plantings shall be in accordance with § 297-13[~~2.E~~]**1.D**
15 of this article.

16
17 ~~{(5) Applicants who cannot comply with the offsetting requirements—
18 above must pay into a fee in lieu program. Any fees in lieu—
19 collected shall be placed in an account that will assure use of such
20 fees only for projects within the Critical Area for the benefit of—
21 wildlife habitat, water quality improvement, or environmental—
22 education. Fees **IN-LIEU, AS DETERMINED BY THE**—
23 **CHARLES COUNTY COMMISSIONERS AND ADOPTED**—
24 **ANNUALLY**, shall be assessed [at \$1.20] per square foot for any—
25 requirements that cannot be implemented on-site.]~~

26
27 ~~{(6)}~~**(5)** The Swan Point Development is subject to the Swan Point
28 Alternative for Buffer [~~Exemption~~] **MODIFICATION** Areas. The
29 Swan Point Alternative guides development activities within the
30 Buffer [~~Exempt~~] **MODIFICATION** areas of Swan Point, and can

1 be found in **APPENDIX I OF** ~~[the appendix to]~~ the Charles
2 County ~~[Chesapeake Bay Critical Area program document]~~
3 **ZONING ORDINANCE.**
4

5 **G. GENERAL REGULATIONS.**
6

7 **(1) CONSTRUCTION STAKING. THE OUTER EDGE OF THE**
8 **CRITICAL AREA BUFFER SHALL BE FIELD STAKED,**
9 **CLEARLY DELINEATED WITH FLAGGING AS THE**
10 **LIMIT OF CLEARING AND GRADING, AND INSPECTED**
11 **BY THE PLANNING DIVISION PRIOR TO THE**
12 **COMMENCEMENT OF CLEARING AND GRADING**
13 **ACTIVITIES THAT OCCUR WITHIN 50 FEET OF THE**
14 **CRITICAL AREA BUFFER. THE LIMITS OF PERMITTED**
15 **CLEARING AND GRADING WITHIN THE CRITICAL**
16 **AREA BUFFER SHALL LIKEWISE BE FIELD STAKED**
17 **AND CLEARLY DELINEATED. ONCE CONSTRUCTION**
18 **IS COMPLETE, THE CRITICAL AREA BUFFER SHALL**
19 **BE INSPECTED BY THE PLANNING DIVISION TO**
20 **ENSURE THAT NO DISTURBANCE HAS OCCURRED**
21 **WITHIN THE CRITICAL AREA BUFFER.**

22
23 **(2) SIGNAGE. PERMANENT SIGNAGE SHALL BE**
24 **REQUIRED FOR THOSE PORTIONS OF THE CRITICAL**
25 **AREA BUFFER WHICH ARE OWNED BY A**
26 **HOMEOWNER'S ASSOCIATION UNDER AN APPROVED**
27 **BUFFER MANAGEMENT PLAN AND WITHIN 50 FEET OF**
28 **A RESIDENTIAL OR NON-RESIDENTIAL LOT.**

29
30 **(3) TRAILS. TRAILS CONSTRUCTED WITHIN THE**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

CRITICAL AREA BUFFER SHALL BE:

- (A) NONMOTORIZED;**
- (B) CONSTRUCTED OF A PERVIOUS MATERIAL;**
- (C) NO MORE THAN SIX (6) FEET IN WIDTH; AND,**

H. FEE IN LIEU OF BUFFER MITIGATION.

- (1) APPLICANTS WHO CANNOT COMPLY WITH THE BUFFER MITIGATION OR OFFSETTING REQUIREMENTS OF SECTIONS 297-131.A THROUGH G MUST PAY INTO A FEE-IN-LIEU PROGRAM.**
- (2) FEES-IN-LIEU SHALL BE ASSESSED AT THE RATE OF \$1.50 PER SQUARE FOOT OF MITIGATION OR OFFSET REQUIRED.**
- (3) ANY FEES-IN-LIEU COLLECTED SHALL BE PLACED IN AN ACCOUNT, WHICH MAY NOT REVERT TO THE GENERAL FUND, THAT WILL ASSURE USE OF SUCH FEES FOR:**
 - (A) ESTABLISHMENT OF THE BUFFER ON SITES WHERE PLANTING IS NOT A CONDITION OF DEVELOPMENT OR REDEVELOPMENT; OR,**
 - (B) WATER QUALITY AND HABITAT ENHANCEMENT PROJECTS WITHIN THE CRITICAL AREA.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

§ 297-132. Development standards.

The following standards shall apply to all development activities in the Critical Area Zone.

A. Density provisions.

- (1) Intense Development Zone (IDZ). Density in the Intense Development Zone shall be as established in the underlying base zone.
- (2) Limited Development Zone (LDZ). The density of development and minimum lot sizes permitted within a Limited Development Zone shall be governed by prescriptive densities within the applicable underlying base zoning districts. However, in underlying base zones that permit residential use, density may not exceed four units per acre.
- (3) Resource Conservation Zone (RCZ). Residential densities in the Resource Conservation Zone shall be limited to no more than one dwelling unit per 20 acres, except as provided for in §§ 297-130 and 297-134 and below under Subsection A(5). [**Amended 6-20-2005 by Ord. No. 05-12**]
- (4) Determining density. Maximum density shall be based on the areal portion of the parcel located within the Critical Area limits, excluding tidal wetlands, not to exceed one dwelling unit per 20 acres in the RCZ. In the RCZ, private wetlands, those wetlands located above the elevation of mean high water, may be included

1 in the density calculation, provided the actual development density
2 specific to the upland portion of the site does not exceed one
3 dwelling unit per eight acres.

4
5 (5) Within the RCZ, one additional dwelling unit per lot or parcel shall
6 be considered as part of the primary dwelling unit for the purpose
7 of the density calculation under this subsection, if the additional
8 dwelling unit meets either of the following sets of conditions:

9 **[Added 6-20-2005 by Ord. No. 05-12]**

10
11 (a) Is located within the primary dwelling unit or its entire
12 perimeter is within 100 feet of the primary dwelling unit;
13 does not exceed 900 square feet in total enclosed area; and
14 is served by the same sewage disposal system as the
15 primary dwelling unit; or

16
17 (b) Is located within the primary dwelling unit; by its
18 construction does not increase the amount of [~~impervious—~~
19 ~~surface~~] **LOT COVERAGE** already attributed to the
20 primary dwelling unit; and is served by the same sewage
21 disposal system as the primary dwelling unit.

22
23 (6) An additional dwelling unit meeting all the criteria of this section
24 that is separate from the primary dwelling unit may not be
25 subdivided or conveyed separately from the primary dwelling unit.

26 **[Added 6-20-2005 by Ord. No. 05-12]**

27
28 (7) The provisions of this section apply to density calculations only
29 and may not be construed to authorize the County to grant a
30 variance, unless the variance is granted in accordance with the

1 requirements and standards in this ordinance for variances in the
2 Critical Area. [Added 6-20-2005 by Ord. No. 05-12]

3
4 (8) The County shall maintain records of all building permits issued
5 under this section for additional dwelling units considered part of a
6 primary dwelling unit and shall provide this information on a
7 quarterly basis to the Critical Area Commission. [Added 6-20-
8 2005 by Ord. No. 05-12]

9
10 B. Intrafamily transfers. The one-unit-per-twenty-acre density limitation shall
11 not prevent a bona fide intrafamily transfer to members of the owner's
12 immediate family (as defined in §297-128), subject to the following
13 limitations:

14
15 (1) Intrafamily transfers will be permitted on parcels of land in the
16 Critical Area Zone where it is shown that the parcel was recorded
17 on or before March 1, 1986, and where the portion of such parcel
18 in the Critical Area is at least seven acres and not more than 60
19 acres in size.

20
21 (2) A notation shall be placed on the final subdivision plat denoting
22 the lot(s) and residue that are created under these provisions.

23 (3) Subdivision of land within the Critical Area under the bona fide
24 intrafamily transfer provisions contained herein shall be subject to
25 the following limitations:

26
27 (a) Parcels of seven acres to less than 12 acres cannot be
28 subdivided into more than a total of two lots.

29
30 (b) Parcels of 12 acres to less than 60 acres cannot be

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

subdivided into more than three lots.

(4) Lots created pursuant to these provisions shall not be created for purposes of ultimate commercial sale. A lot created pursuant to these provisions may not be subsequently conveyed to any person except as provided herein:

(a) Where the conveyance is to a member of the owner's immediate family; or

(b) Where the conveyance of the lot is as part of a default on a mortgage or deed of trust.

(5) Any lot created under this subsection may not be transferred or sold to a third party, who is not a member of the owner's immediate family or holder of a mortgage or deed of trust on the property, unless and until the Planning Commission has determined that the following conditions apply:

(a) A change in circumstances has occurred since the original transfer, which would warrant permitting a subsequent transfer, when such circumstances are consistent with the warrants and exceptions contained herein. **A CHANGE IN CIRCUMSTANCE MAY INCLUDE SITUATIONS WHERE THE INTRAFAMILY TRANSFER RECIPIENT HAS NOT RESIDED IN THE COUNTY FOR THE PAST FIVE CONSECUTIVE YEARS AND SIGNS AN AFFIDAVIT VERIFYING THEIR INTENT NOT TO RESIDE IN CHARLES COUNTY OR DEMONSTRATES SIGNIFICANT FINANCIAL HARDSHIP;** or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

(b) Other circumstances necessary to maintain land areas to support protective uses of agriculture, forestry, open space and natural habitats in the RCZ warrant an exception.

(6) Deeds of transfer shall include a covenant stating that the lot is subject to the provisions of this subsection. These covenants shall restrict the subsequent transfer or sale of a lot or lots created pursuant to the intrafamily transfer provisions contained herein to a third party who is not a member of the owner's immediate family or a holder of a mortgage or deed of trust on the property, except as provided in Subsection B(5) above.

C. Incentives to cluster development. Clustering of subdivided lots in addition to that allowed within the base zones shall be permitted as follows:

(1) A cluster development (see Article XIV) shall be permitted in the RCZ, provided that the overall density in the RCZ is not increased.

(2) For those parcels which lie partially within and partially outside of the Critical Area Zones, clustering of development shall be permitted within the portion outside of the Critical Area Zones, provided that the following conditions are met:

(a) The requirements of cluster development (Article XIV) are met.

(b) The resulting density of the clustered area outside the Critical Area shall not exceed twice the density allowed by

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

the underlying zone, and the resulting density on the entire parcel shall not exceed the base density allowed by the underlying zone.

- (c) For computing the number of units which may be transferred outside the Critical Area, the net acreage will be equal to the total acreage of the parcel within the Critical Area minus the total acreage of tidal wetlands on the parcel. Transferable density shall be determined by the underlying base zone. For every lot created in the Resource Conservation Zone, 20 acres must be subtracted from the overall acreage used to calculate the amount of transferable units.

D. General regulations.

- (1) Except as provided below, permitted uses, accessory uses and special exception uses in the Critical Area Zone shall be limited to those permitted within the existing applicable underlying base zone, as shown on the Official Charles County Zoning Maps.
- (2) Existing industrial and commercial facilities, including those directly supporting agriculture, forestry and aquaculture, shall be allowed in the RCZ. Additional land may not be used in the RCZ for industrial or commercial development, except as provided in Figure VIII-2. All other uses permissible in the underlying base zone shall require a growth allocation, as established in § 297-134.

Figure VIII-2
USES PERMISSIBLE IN THE RCZ

USES PERMISSIBLE IN THE RCZ
Uses Permitted Without Additional Requirements Specific to the RCZ
Commercial assembly/repair of agricultural equipment (accessory to a farm)
Grain dryers and related structures (accessory to a farm)
Hunting and fishing cabins
Greenhouses (no on-premises sales)
Commercial kennels (minimum 5 acres required)
Tenant houses
Primary residences with accessory apartment (restricted to 1 dwelling unit per 20 acres)
Seafood processing and operations (accessory to on-site waterfront access or products raised on site)
Group homes (no more than 8 occupants)
Day-care homes (less than 7 care recipients)
Halfway houses (no more than 9 occupants)
Elderly care homes (no more than 8 occupants)
Rooming houses, boarding houses rented by the month
Bed-and-breakfast, tourist homes
Shelters (no more than 8 rooms or efficiencies)
Migrant workers' housing (occupants employed on owner's farm)
Helistops
Private and family burial sites
Park-and-ride facilities (public not-for-profit)
Blacksmith shops, welding shops, ornamental iron works, machine shops and sheet metal shops
Saw mills (accessory to on-site harvest)
Wineries
Wood/Stump grinding (accessory to on-site harvest)
Uses Permitted with Maximum [Impervious Surface] LOT COVERAGE of the Lesser of 15% of the Site Area or 20,000 square feet
Private elementary and secondary schools
Churches, synagogues and temples

USES PERMISSIBLE IN THE RCZ
Fire stations, rescue squads and ambulance services (accessory uses such as dance and bingo halls subject to growth allocation)
Private use airport
Research facilities and laboratories (noncommercial only)
Veterinary offices and hospitals (accessory to a farm)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

- (3) The following uses are prohibited in the Critical Area Zone, except in the Intense Development Zone, due to their high potential for adverse impact on plant and wildlife habitats and water quality, only after it has been demonstrated that the activity will create a net improvement in water quality to the adjacent body of water.
 - (a) Non maritime heavy industry; and
 - (b) Transportation facilities and utility transmission facilities, except those necessary to serve permitted uses or where regional or interstate facilities must cross tidal waters (utility transmission facilities do not include power plants).

- (4) The following uses are prohibited in the Critical Area Zone:
 - (a) New or expanded solid or hazardous waste collection or disposal facilities, excluding dumpsters and trash receptacles;
 - (b) New or expanded sanitary landfills; and
 - (c) New sludge handling, storage, and disposal facilities, other

1 than those associated with wastewater treatment facilities;
2 however, agricultural or horticultural use of sludge under
3 appropriate approvals when applied by an approved method
4 at approved application rates may be permitted. Charles
5 County reserves the right to regulate the application of
6 sludge, exterior to the Buffer in the Critical Area, and
7 sludge application in the Buffer is prohibited.
8

9 (5) Sand and gravel operations, as defined in § 297-128 of this article,
10 may be permitted as Special Exceptions in the Critical Area Zone
11 if they are permissible by Special Exception in the underlying base
12 zone, they comply with all other applicable sections of this chapter,
13 and if the following requirements are met:
14

15 (a) Proposed surface mining operations, and expansions
16 thereof, in the Critical Area Zone must assure that all
17 available measures will be implemented to protect the
18 Critical Area from sources of pollution, including, but not
19 limited to, sedimentation, siltation, chemical and
20 petrochemical use and spillage; and storage and/or disposal
21 of water, dusts, and spoils.
22

23 (b) Surface mining within the Critical Area shall be prohibited
24 in the following unsuitable areas:
25

26 [1] Areas where important natural resources, such as
27 threatened and endangered species, are of unique
28 scientific value or Habitat Protection Areas
29 [~~identified in Chapter 8 of the Charles County~~
30 ~~Critical Area Program~~] occur;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[2] Areas where highly erodible soils [~~soils with a slope greater than 15%; or those soils with a "K" value greater than thirty-five hundredths (0.35) and with slopes greater than 5%~~] exist;

[3] Areas where the use of renewable resource lands would result in the substantial loss of long-range (that is, 25 years or more) productivity of forest and agriculture or would result in a degrading of water quality or a loss of vital habitat; or

[4] The lands within the Buffer extending a minimum of 100 feet from the mean high water line of tidal waters, or from the edge of perennial streams.

(c) Future wash plant facilities, including ponds, spoil piles and equipment, may not be located within the Buffer.

(d) The applicant will identify appropriate post-excavation uses for the land such as recreation, habitat restoration, open space use or development [~~in accordance with the guidelines for development in the Charles County Critical Area Program~~].

(e) Upon the expiration and as a condition of renewal of the special exception permit for any existing sand and gravel operations within the Critical Area, the county will review the activity to assure that:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[1] To the fullest extent possible, extraction activities are separated by a minimum one-hundred-foot buffer of natural vegetation from the mean high water line of tidal waters or the edges of streams and tidal wetlands, whichever is further inland.

[2] Existing wash ponds are to be reclaimed as soon as possible after cessation of the sand and gravel operation.

(6) THE PLANNING DIRECTOR MAY MAKE REASONABLE ACCOMMODATIONS TO AVOID DISCRIMINATION ON THE BASIS OF A PHYSICAL DISABILITY AND ALLOW IMPROVEMENTS TO PROPERTY THAT WOULD NOT OTHERWISE BE PERMITTED. REASONABLE ACCOMMODATIONS FOR THE NEEDS OF DISABLED CITIZENS MAY BE PERMITTED IN ACCORDANCE WITH THE EVIDENTIARY REQUIREMENTS SET FORTH IN THE FOLLOWING PARAGRAPHS:

(A) AN APPLICANT SHALL HAVE THE BURDEN OF DEMONSTRATING:

[1] THE NEED FOR THE PROPOSED IMPROVEMENT(S);

[2] THAT LITERAL ENFORCEMENT OF THE PROVISIONS OF THIS ORDINANCE WOULD RESULT IN DISCRIMINATION BY VIRTUE OF SUCH DISABILITY;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[3] THE ACCOMMODATION REQUESTED WILL NOT SUBSTANTIALLY IMPAIR THE PURPOSE, INTENT, OR EFFECT, OF THE PROVISIONS OF THIS CHAPTER; AND,

[4] ENVIRONMENTAL IMPACTS ASSOCIATED WITH THE ACCOMMODATIONS ARE THE MINIMUM NECESSARY TO ADDRESS THE NEEDS RESULTING FROM THE PARTICULAR DISABILITY OF THE APPLICANT.

(B) THE PLANNING DIRECTOR MAY REQUIRE, AS A CONDITION OF APPROVAL, THAT UPON TERMINATION OF THE NEED FOR THE ACCOMMODATION, THE PROPERTY BE RESTORED TO COMPLY WITH ALL APPLICABLE PROVISIONS OF THIS CHAPTER. THE PLANNING DIRECTOR MAY REQUIRE THE POSTING OF AN APPROPRIATE BONDS IN ORDER TO ENSURE THE COUNTY'S ABILITY TO RESTORE THE PROPERTY SHOULD THE APPLICANT FAIL TO DO SO. THE COUNTY IS NOT PRECLUDED FROM PLACING A LIEN ON THE PROPERTY TO ENSURE THE COUNTY'S ABILITY TO RESTORE THE PROPERTY SHOULD THE APPLICANT FAIL TO DO SO.

(7) AGRICULTURAL ACTIVITIES OUTSIDE OF THE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

BUFFER, INCLUDING THE CLEARING OF NEW AGRICULTURAL LANDS ARE PERMITTED UNDER A SOIL CONSERVATION AND WATER QUALITY PLAN, APPROVED BY THE SOIL CONSERVATION DISTRICT, PROVIDED THAT:

- (A) A PROGRAM OF BEST MANAGEMENT PRACTICES BE IMPLEMENTED FOR THE SPECIFIC PURPOSES OF IMPROVING WATER QUALITY AND PROTECTING PLANT AND WILDLIFE HABITAT BY CONTROLLING THE NUTRIENT, ANIMAL WASTE, PESTICIDE AND SEDIMENT RUNOFF GENERATED BY THE AGRICULTURAL ACTIVITY;**

- (B) THE BEST MANAGEMENT PRACTICES SHALL INCLUDE A REQUIREMENT FOR THE IMPLEMENTATION OF A NUTRIENT MANAGEMENT PROGRAM WHERE APPROPRIATE;**

- (C) THE DRAINAGE, DIKING OR FILLING OF NON-TIDAL WETLANDS FOR THE PURPOSE OF NEW AGRICULTURAL LANDS IS PROHIBITED; AND**

- (D) AGRICULTURAL ACTIVITIES, INCLUDING THE GRAZING OF LIVESTOCK, DO NOT IMPACT HABITAT PROTECTION AREAS AS DESCRIBED IN THIS ORDINANCE.**

E. Woodland reforestation and afforestation standards **OUTSIDE OF THE**

1 **CRITICAL AREA BUFFER.** Where reforestation or afforestation is
2 required for development **OUTSIDE OF THE CRITICAL AREA**
3 **BUFFER**, a reforestation and/or afforestation plan shall be prepared in
4 accordance with the Charles County Forest Conservation Ordinance¹. The
5 following conditions also apply:

6
7 (1) Planting plans, bonds and inspections. Required planting plans
8 shall be prepared and submitted with the site plan, [œ] preliminary
9 **PLAN OR** [~~and~~] final subdivision plat. A planting plan shall be
10 included as a required public improvement with site plans or
11 subdivisions plats. The planting plan must demonstrate compliance
12 with the minimum standards for reforestation and afforestation in
13 the Charles County Forest Conservation Ordinance. The plans
14 must also show:

15
16 (a) The site plan, building outlines (existing and proposed),
17 walls, fences, parking spaces, loading spaces, driveways,
18 walks, storage areas, public rights-of-way, easements and
19 the general location of structures and uses of abutting
20 properties;

21
22 (b) Existing and proposed grades; and

23
24 (c) Existing vegetative cover to be retained and the location,
25 general size and type of such vegetation.

26
27 (d) Exact location, **SIZE**, and species of all required plantings.

28
29 (2) Plant materials and planting schedule.

¹ Editor’s Note: See Ch. 298, Forest Conservation

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

(a) Tree or shrub species for afforestation or reforestation shall be Maryland natives, approved by the Planning Division for suitability. Areas planted to satisfy mitigation or offsetting requirements shall be designed to mimic the structure and species composition of the natural forest vegetation disturbed.

(b) All planting should be completed between the month of November and the month of May. For the first two years, steps should be taken to control competing vegetation. Technical assistance from the Maryland Department of Natural Resources or by the Charles County Forester is highly recommended.

(C) FOR THE PURPOSE OF DETERMINING CREDITS FOR PLANTING MATERIALS, THE FOLLOWING STANDARDS SHALL APPLY:

MATERIAL	SQUARE FOOTAGE CREDIT
Large canopy tree at least 6 feet tall and 1 inch dbh	200 square feet
Understory tree at least 6 feet tall and 1 inch dbh	100 square feet
Bare root seedlings	50 square feet
Large shrubs 3 gallon and 3-4 feet high	50 square feet
Small shrubs 3 gallon and 18 inches high	25 square feet
Native grasses	Equal to area of coverage
Planting Cluster Type A: 1 canopy tree and either 3 large shrubs or 6 small shrubs	400 square feet

Planting Cluster Type B: 2 understory trees and either 3 large shrubs or 6 small shrubs	400 square feet
--	------------------------

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(3) The planting plan shall be accompanied by an estimate of the cost for all materials, labor and maintenance. Upon approval of the plan and the cost estimate, the applicant or owner shall enter into an agreement with the county to provide **AND MAINTAIN** plantings as may be required. **THE PLANNING DIVISION MAY REQUIRE THAT** ~~[The agreement shall be accompanied by]~~ a performance bond or other approved surety executed by the applicant or owner **BE PROVIDED FOR PLANTING PLANS WITH ESTIMATED COSTS IN EXCESS OF \$5,000, IN ACCORDANCE WITH** the standards **SET FORTH** in the Charles County Forest Conservation Ordinance. In addition:

- (a) If the foregoing costs exceed the amount of the deposit bond or other approved surety, the excess shall be a continuing obligation of the property owner.
- (b) Failure to maintain, or replace any dead plant materials, shall result in a forfeiture of the surety posted for the amount necessary to replace the dead plant materials.
- (c) Where existing vegetation is to be used to meet the requirements contained herein, the surety requirement may be modified appropriately. However, to the extent that existing vegetation is or will be inadequate to meet the standards set herein, a planting plan meeting all of the requirements herein must be submitted.

1 (d) All plantings shall be inspected by the county upon
2 notification by the applicant or owner and shall be
3 approved if they substantially accomplish the results shown
4 in the planting plan.

5
6 (4) The replacement forest area should be located on the affected
7 property or within the Critical Area whenever possible.
8 Replacement areas shall also comply with the priorities for
9 determining reforestation and afforestation areas set forth in the
10 Charles County Forest Conservation Ordinance.² Replacement
11 forest areas may be [~~located~~] **ESTABLISHED** in the following
12 approved areas, in order of priority:

13
14 (a) **PLANTING [Θ]** On a property owned by the applicant
15 within the Critical Area.

16
17 (b) **PLANTING [Θ]** On another property within the Critical
18 Area **NOT OWNED BY THE APPLICANT WITH A**
19 **PERMANENT PROTECTIVE EASEMENT**
20 **RECORDED.**

21
22 (c) **PLANTING [Θ]** On an abandoned sand and gravel
23 extraction site(s) within or adjacent to the Mattawoman and
24 Zekiah areas of critical state concern **WITH A**
25 **PERMANENT PROTECTIVE EASEMENT**
26 **RECORDED.**

27
28 **(D) PLANTING OR RETENTION ON EXISTING**

2 Editor's Note: See Ch. 298, Forest Conservation.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

AGRICULTURAL LAND WITHIN THE CRITICAL AREA, OUTSIDE OF THE CRITICAL AREA BUFFER, APPROVED BY THE COUNTY TO CREATE OR ENHANCE A FOREST ENVIRONMENT WITH A PERMANENT PROTECTIVE EASEMENT RECORDED.

(E) RETENTION ON HISTORICALLY USED CROP LANDS, AS IDENTIFIED BY HISTORIC AERIAL PHOTOS AND/OR SOIL CONSERVATION PLAN RECORDS. RETENTION SHALL BE AT A RATIO OF 2:1 AND RECORDED UNDER A PERMANENT CONSERVATION EASEMENT.

MITIGATION PROVIDED IN THE FORM OF ANY OF THE ABOVE METHODS SHALL BE APPROVED BY THE PLANNING DIVISION AND IN PLACE PRIOR TO APPROVAL OF THE ASSOCIATED DEVELOPMENT ACTIVITY.

(5) APPLICANTS WHO CANNOT COMPLY WITH THE MITIGATION REQUIREMENTS OF THIS CHAPTER EITHER ON-SITE OR THROUGH OFF-SITE METHODS AVAILABLE MUST PAY INTO A FEE-IN-LIEU PROGRAM. ANY FEES-IN-LIEU COLLECTED SHALL BE PLACED IN AN ACCOUNT THAT WILL ASSURE USE OF SUCH FEES ONLY FOR PROJECTS WITHIN THE CRITICAL AREA FOR THE BENEFIT OF WILDLIFE HABITAT, WATER QUALITY IMPROVEMENT, CRITICAL AREA ENVIRONMENTAL EDUCATION, OR ACQUIRING

1 **PERPETUAL LAND PRESERVATION EASEMENTS. FEES-**
2 **IN-LIEU, AS DETERMINED BY THE CHARLES COUNTY**
3 **COMMISSIONERS AND ADOPTED ANNUALLY, SHALL**
4 **BE ASSESSED PER SQUARE FOOT OF MITIGATION**
5 **REMAINING OUTSTANDING.**
6

7 F. Development standards in the Intense Development Zone (IDZ). All
8 development and redevelopment in the IDZ shall be subject to the
9 following development standards and/or conditions, in addition to those
10 established elsewhere in this chapter:

11
12 (1) All sites for which development activities are proposed shall
13 identify environmental or natural features on that portion of site
14 within the Critical Area [~~as specified in the Charles County~~
15 ~~Critical Area Program~~].

16
17 (2) No structure or uses associated with development in an Intense
18 Development Zone shall be permitted within the Buffer, except as
19 provided for in § 297-131.[A].

20
21 (3) Development and redevelopment shall be **DESIGNED TO**
22 **CONSERVE AND ENHANCE FISH, WILDLIFE, AND**
23 **PLANT HABITATS TO THE EXTENT POSSIBLE**, subject to
24 [the] A Habitat Protection Program and requirements of §~~297-137~~
25 [~~Chapter 8 in the Charles County Critical Area Program~~].

26
27 (4) **ROADS, BRIDGES AND UTILITIES THAT MUST CROSS A**
28 **HABITAT PROTECTION AREA SHALL BE LOCATED,**
29 **DESIGNED, CONSTRUCTED AND MAINTAINED SO AS**
30 **TO PROVIDE MAXIMUM EROSION PROTECTION AND**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

MINIMIZE NEGATIVE IMPACTS TO WILDLIFE, AQUATIC LIFE AND THEIR HABITATS, AND MAINTAIN HYDROLOGIC PROCESSES AND WATER QUALITY. ROADS, BRIDGES OR UTILITIES MAY NOT BE LOCATED IN ANY HABITAT PROTECTION AREA UNLESS NO FEASIBLE ALTERNATIVE EXISTS.

(5) A DEVELOPMENT ACTIVITY MAY NOT BE LOCATED IN A MANNER THAT WILL CROSS OR AFFECT A TRIBUTARY STREAM UNLESS NO FEASIBLE ALTERNATIVE EXISTS. ALL DEVELOPMENT ACTIVITIES WHICH CROSS OR AFFECT TRIBUTARY STREAMS IN THE CRITICAL AREA SHALL:

- (A) CROSS THE STREAM AS CLOSE AS POSSIBLE TO A NINETY-DEGREE ANGLE;**
- (B) MINIMIZE ADVERSE IMPACTS TO WATER QUALITY AND STORMWATER RUNOFF, AND REDUCE INCREASES IN FLOOD FREQUENCY AND SEVERITY THAT ARE ATTRIBUTABLE TO DEVELOPMENT;**
- (C) PROVIDE FOR RETENTION OF NATURAL STREAM BED SUBSTRATE; AND**
- (D) RETAIN EXISTING TREE CANOPY IN THE BUFFER.**

(56) Development and redevelopment SHALL BE DESIGNED TO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

MINIMIZE THE ADVERSE WATER QUALITY AND QUANTITY IMPACT OF STORMWATER AND ENCOURAGE THE USE OF RETROFITTING MEASURES TO ADDRESS EXISTING STORMWATER MANAGEMENT PROBLEMS. ADDITIONALLY, A DEVELOPMENT PROPOSAL shall be required to use stormwater management practices appropriate to site development which achieve a ten-percent reduction of predevelopment pollutant loadings. Applicants must comply with the most current ten-percent reduction guidance documents published by the Chesapeake Bay Critical Area Commission.

~~{(5) Development and redevelopment projects shall delineate those site areas not covered by impervious surfaces to be maintained or established in vegetation. Where vegetation is not proposed, the applicant shall demonstrate why plantings for such portions of the site are not feasible. The types of planting and vegetation proposed shall be in accordance with guidelines established in Subsection E above.}~~

~~{(6)}~~ **(7)** All nontidal wetlands shall be protected according to state regulations, except where they are [associated with] **ADJACENT TO TIDAL WATERS, TIDAL WETLANDS, AND/OR a TRIBUTARY** stream, in which case they shall also be buffered according to county standards.

(8) WHERE THE UNDERLYING ZONE PERMITS CLUSTER DEVELOPMENT, NEW RESIDENTIAL SUBDIVISIONS, AS A MEANS TO REDUCE LOT COVERAGE AND TO MAXIMIZE AREAS OF NATURAL VEGETATION, SHALL

1 **BE REQUIRED TO USE CLUSTER DEVELOPMENT TO**
2 **THE EXTENT FEASIBLE.**

3
4 ([719) Proposed development and redevelopment activities shall include
5 measures for stabilizing significantly eroding shoreline reaches on
6 the proposed development site~~;~~ ~~or otherwise protecting property~~
7 ~~as established in the Shore Erosion Protection Chapter (Chapter 4)~~
8 ~~of the Charles County Critical Area Program]~~ . Nonstructural
9 shoreline erosion control measures shall be used unless it can be
10 demonstrated that such measures would be impractical or
11 ineffective.

12
13 G. Development standards in Limited Development Zone (LDZ) and
14 Resource Conservation Zone (RCZ). All development and redevelopment
15 in the LDZ and the RCZ shall be subject to the following development
16 standards and / or conditions, in addition to those established elsewhere in
17 this chapter:

18
19 (1) All sites for which development activities are proposed shall
20 identify environmental or natural features on that portion of site
21 within the Critical Area.

22
23 (2) Site development shall be designed to assure that those features or
24 resources identified as Habitat Protection Areas in **§297-137**
25 ~~[Chapter 8 of the Charles County Critical Area Program]~~ are
26 afforded protection as described in said **SECTION** ~~[chapter]~~.

27
28 (3) Roads, bridges and utilities that must cross a Habitat Protection
29 Area shall be located, designed, constructed and maintained so as
30 to provide maximum erosion protection and minimize negative

1 impacts to wildlife, aquatic life and their habitats, and maintain
2 hydrologic processes and water quality. Roads, bridges or utilities
3 may not be located in any Habitat Protection Area unless no
4 feasible alternative exists.

5
6 (4) **A DEVELOPMENT ACTIVITY MAY NOT BE LOCATED IN**
7 **A MANNER THAT WILL CROSS OR AFFECT A**
8 **TRIBUTARY STREAM UNLESS NO FEASIBLE**
9 **ALTERNATIVE EXISTS.** All development activities which
10 cross **OR AFFECT** tributary streams in the Critical Area shall:

11
12 (a) Cross the stream as close as possible to a ninety-degree
13 angle;

14
15 (b) Minimize adverse impacts to water quality and stormwater
16 runoff, and reduce increases in flood frequency and severity
17 that are attributable to development;

18
19 (c) Provide for retention of natural stream bed substrate; and

20
21 (d) Retain existing tree canopy in the Buffer.

22
23 ~~{(5) All development activities located adjacent to tributary streams in~~
24 ~~the Critical Area shall:~~

25
26 ~~(a) Be located outside of the Buffer and shall be designed in a~~
27 ~~manner to reduce increases in flood frequency and severity;~~

28
29 ~~(b) Provide for the retention of natural streambed substrate;~~
30

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

~~(c) — Minimize adverse impacts to water quality and stormwater runoff; and~~

~~(d) — Retain the existing tree canopy in the Buffer.]~~

(~~6~~5) Development activities shall be located and designed to provide for the maintenance of the existing wildlife and plant habitats on the site and to maintain continuity with those on adjacent sites. When wildlife corridors exist or are proposed, they shall include any existing Habitat Protection Areas and connect large forested areas on or adjacent to the site.

(7) Forest and developed woodlands, as defined, [~~AND OTHER VEGETATED AREAS~~] shall be created or protected in accordance with the following:

(A) DEVELOPED WOODLAND VEGETATION SHALL BE CONSERVED TO THE GREATEST EXTENT PRACTICABLE;

(B) THE TOTAL ACREAGE IN FOREST COVERAGE WITHIN THE CRITICAL AREA SHALL BE MAINTAINED OR, PREFERABLY, INCREASED;

~~(aC) [When the site contains less than 15% forest AND/OR, at least 15% of the gross site area shall be afforested to a total of 15%.]~~ **IF NO FOREST IS ESTABLISHED ON A PROPOSED DEVELOPMENT SITE, THE SITE SHALL BE PLANTED TO PROVIDE A FOREST OR DEVELOPED WOODLAND COVER OF AT LEAST**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

15 PERCENT. The location of the afforested area should be designed to reinforce protection to habitats on the site or to provide connections between forested areas when they are present on adjacent sites.

(~~b~~D) When forests, or developed woodland exists on the site and proposed development requires the cutting or clearing of trees **[VEGETATION]**, areas proposed for clearing shall be identified on the proposed development plan.

(~~e~~F) The applicant shall submit proposed plans for development showing areas to be cleared, reforested and/or afforested to the Charles County Department of Planning and Growth Management.

(~~e~~F) The Charles County Planning Division shall review all plans for clearing or cutting associated with proposed development activities. [~~Grading permit a~~] Approval for proposed development activities shall require that the proposed development activity has been reviewed and determined to be in compliance with the Charles County Critical Area Program.

(~~e~~G) Cutting or clearing which is associated with development shall be subject to the following limits and replacement conditions:

[1] Removal of forest or developed woodland **[AND/OR OTHER VEGETATIVE cover]** in the Buffer is prohibited, **EXCEPT AS PERMITTED**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

UNDER §297-131;

- [2] All forested areas cleared or ~~[vegetative cover]~~ **DEVELOPED WOODLAND** removed shall be ~~[replaced on not less than an equal area basis on the site or on an alternative site approved by the Planning Division. Replacement of forest resources shall be done]~~ **MITIGATED** in accordance with Subsection E;

- [3] No more than 20% of the forested or developed woodland within the site proposed for development may be removed (except as provided for below), and the remain~~DER~~~~[ing 80%]~~ shall be maintained as forest cover through the use of appropriate legal instruments as approved by the county;

- [4] The clearing of forest or developed woodland~~s~~ ~~**AND/OR OTHER VEGETATIVE COVER**~~ of up to 20% shall be ~~[replaced]~~ **MITIGATED** on an area basis of one to one (1:1);

- [5] An applicant may propose clearing up to 30% of the forest or developed woodland on a site, but if greater than 20% of the ~~[trees are]~~ **FOREST OR DEVELOPED WOODLAND [VEGETATION— IS]** removed, then the clearing shall be ~~[replaced]~~ **MITIGATED** at the rate of 1.5 times the entire area removed; ~~[and]~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[6] [~~If more than 30% of the forest on a site is cleared, the forest is required to be replanted at three times the total area of cleared forest.~~] **CLEARING OF MORE THAN 30% OF THE FOREST OR DEVELOPED WOODLAND ON A SITE SHALL REQUIRE THE APPROVAL OF THE CHARLES COUNTY BOARD OF APPEALS. ONCE APPROVED, MITIGATION SHALL BE REQUIRED AT A RATE OF THREE TIMES THE AREA CLEARED; AND,**

[7] **CLEARING ON RESIDENTIAL LOTS ONE-HALF ACRE OR LESS IN SIZE THAT WERE IN EXISTENCE ON OR BEFORE DECEMBER 1, 1985 MAY EXCEED 30% OF THE EXISTING FOREST OR DEVELOPED WOODLAND PROVIDED THAT IT IS LIMITED TO THE MINIMUM AMOUNT NECESSARY TO ACCOMMODATE A PRINCIPAL STRUCTURE, INCLUDING DECKS, PATIOS, AND ACCESSORY STRUCTURES AND DOES NOT EXCEED 8,000 SQUARE FEET. MITIGATION SHALL BE REQUIRED AT A RATIO OF 1:1.**

(F)H Limited cutting or clearing of trees **AND SHRUBS** is allowable for the following non-development-related purposes only, provided that clearing is limited to the minimum amount necessary to complete the proposed project and is subject to approval by the Planning Division

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

shall be maintained through restrictive covenants, easements or similar instruments in a form approved by the county.

([H]K) Applicants who cannot comply with reforestation or afforestation requirements above may pay into a fee-in-lieu program. Any fees-in-lieu collected shall be placed into an account that will assure use of the fees only for projects within the Critical Area for the benefit of wildlife habitat, water quality improvement or environmental education. **Fees-IN-LIEU, AS DETERMINED BY THE CHARLES COUNTY COMMISSIONERS AND ADOPTED ANNUALLY,** shall be assessed [at the rate of \$1.20] per square foot for each square foot of reforestation or afforestation required that cannot be satisfied on site or at an approved off-site location.

([H]L) If the cutting of forests **AND/OR DEVELOPED WOODLAND [OTHER VEGETATIVE COVER]** occurs before a required grading permit, **ZONING PERMIT, OR, TREE REMOVAL AUTHORIZATION** has been obtained, the forest **AND / OR DEVELOPED WOODLAND** is required to be replanted according to § 297-135.

([H]M) Commercial harvesting of trees is permitted, under a Timber Harvest Plan approved by the Maryland Department of Natural Resources (DNR), provided that cutting or clearing within Habitat Protection Areas conserves wildlife and habitat, under a Habitat

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Management Plan approved by the Wildlife and Heritage Division of DNR. Harvesting within the Critical Area Buffer is additionally subject to a Buffer Management Plan approved by the Charles County Department of Planning and Growth Management, Planning Division.

~~[(L) THE BUFFER SHALL BE THE PRIORITY AREA FOR THE FULFILLMENT OF AFFORESTATION AND REFORESTATION REQUIREMENTS.]~~

- (8) Development on slopes of 15% or greater shall be prohibited.
- (9) ~~[Impervious surface]~~ **LOT COVERAGE** ~~[limits]~~
REQUIREMENTS.
 - (a) ~~[Impervious surfaces]~~ **LOT COVERAGE** shall be limited to 15% of a parcel or lot, except as otherwise provided below in this subsection.
 - (b) ~~[Man-made impervious surfaces shall be]~~ **LOT COVERAGE IS** limited to 25% of the parcel or lot if the parcel or lot is ½ acre or less in size and existed on or before December 1, 1985.
 - (c) If a parcel or lot greater than ½ acre and less than one acre in size existed on or before December 1, 1985, then ~~[man-made impervious surfaces are]~~ **LOT COVERAGE IS** limited to 15% of the parcel or lot.
 - (d) ~~[If an individual lot one acre or less in size is part of a~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

~~subdivision approved after December 1, 1985, then man-
made impervious surfaces of the lot may not exceed 25% of
the lot. However, the total of the impervious surface area—
over the entire subdivision may not exceed 15%.] **LOT
COVERAGE IN A SUBDIVISION APPROVED
AFTER DECEMBER 1, 1985 MAY NOT EXCEED
15%. HOWEVER, THE TOTAL LOT COVERAGE
ON AN INDIVIDUAL LOT ONE ACRE OR LESS IN
SIZE MAY EXCEED 15%.**~~

**[1] TO DEMONSTRATE COMPLIANCE WITH
LOT COVERAGE REQUIREMENTS
OUTLINED IN SUBSECTION G(9)(D) ABOVE,
PROPOSED LOT COVERAGE
CALCULATIONS SHALL BE PROVIDED TO
THE PLANNING DIVISION FOR REVIEW
PRIOR TO APPROVAL OF ANY
PRELIMINARY SUBDIVISION PLAN,
SUBDIVISION PLAT, LOT
CONSOLIDATION, OR LOT
RECONFIGURATION.**

~~(e) E~~ This subsection does not apply to a trailer park that was in residential use on or before December 1, 1985.

~~(f) F~~ The Charles County Planning Division may allow a property owner to exceed the ~~[impervious surface]~~ **LOT COVERAGE** limits provided above in Subsection G(9)(~~a~~)**B** through (d) of this section, if the following conditions exist and if the following actions are taken:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[1] The owner submits a written request **DETAILING THE PURPOSE AND JUSTIFICATION OF THE NEED TO EXCEED LOT COVERAGE LIMITS;**

[2] New ~~[impervious surfaces]~~ **LOT COVERAGE ASSOCIATED WITH NEW DEVELOPMENT ACTIVITIES** on the property ~~[have]~~ **HAS** been minimized;

[3] For a lot or parcel ½ acre or less in size, total ~~[impervious surfaces do]~~ **LOT COVERAGE DOES** not exceed ~~[impervious surface]~~ **LOT COVERAGE** limits in applicable Subsection G(9)(a) through (d) of this section by more than 25% or 500 square feet, whichever is greater;

[4] For a lot or parcel greater than ½ acre and less than one acre in size, total ~~[impervious surfaces do]~~ **LOT COVERAGE DOES** not exceed ~~[impervious surface]~~ **LOT COVERAGE** limits in applicable Subsection G(9)(a) through (d) of this section or 5,445 square feet, whichever is greater;

[5] Water quality impacts associated with runoff from the new ~~[impervious surfaces]~~ **DEVELOPMENT ACTIVITIES THAT CONTRIBUTE TO LOT COVERAGE** can be and have been minimized through site design considerations or use of best

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

management practices approved by the local jurisdiction to improve water quality. Minimization shall be demonstrated through engineered calculations or other methods approved by the county;

[6] The property owner performs on-site mitigation **WITH NATURAL FOREST VEGETATION COVERING AN AREA TWICE THE EXTENT OF THE NEW LOT COVERAGE** [~~as required by the local jurisdiction~~] to offset potential adverse water quality impacts from the new [~~impervious-surfaces~~] **DEVELOPMENT ACTIVITIES THAT CONTRIBUTE TO LOT COVERAGE**, or, if on-site mitigation, or approved off-site mitigation is not feasible, the property owner pays a fee-in-lieu to the county at the rate **DETERMINED BY THE CHARLES COUNTY COMMISSIONERS AND ADOPTED ANNUALLY** [~~of \$1.20 per square foot~~] for each square foot of mitigation that cannot be met on-site or at an approved off-site location, and

[7] The property is not located in a Buffer [~~Exemption~~] **MODIFICATION** Area.

(G) WHEN A PORTION OF A LOT OR PARCEL IS LOCATED WITHIN THE LIMITED DEVELOPMENT OR RESOURCE CONSERVATION ZONE, LOT COVERAGE SHALL BE LIMITED TO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**15% OF THAT PORTION OF THE LOT OR
PARCEL.**

**(H) IN THE CASE OF A GROWTH ALLOCATION
AWARD, TO THE LIMITED DEVELOPMENT
ZONE, LOT COVERAGE SHALL BE LIMITED
TO:**

**[1] 15 PERCENT OF THE GROWTH
ALLOCATION DEVELOPMENT ENVELOPE;
OR,**

**[2] 15 PERCENT OF THE ACREAGE PROPOSED
FOR GROWTH ALLOCATION DEDUCTION.**

**(I) WHERE THE UNDERLYING ZONE PERMITS
CLUSTER DEVELOPMENT, NEW RESIDENTIAL
SUBDIVISIONS, AS A MEANS TO REDUCE LOT
COVERAGE AND TO MAXIMIZE AREAS OF
NATURAL VEGETATION, SHALL BE REQUIRED
TO USE CLUSTER DEVELOPMENT TO THE
EXTENT FEASIBLE.**

~~{(g) Semipervious surface limits:~~

~~[1] Semipervious surfaces shall be counted against the
impervious surface limits at a rate of 0.5 times the
square footage of proposed semipervious surface.~~

~~[2] Semipervious surfaces which extend toward the~~

1 water must be contiguous with the primary
2 structure.

3
4 ~~[3]—Offsets shall be required. The amount of required~~
5 ~~mitigation shall be based on the calculated~~
6 ~~impervious surface in Subsection G(9) above.]~~

7
8 (10) All nontidal wetlands shall be protected according to state
9 regulations, except where they are associated with a stream, in
10 which case they shall also be buffered according to county
11 standards.

12
13 (11) Proposed development and redevelopment activities shall include
14 measures for stabilizing significantly eroding shoreline reaches on
15 the proposed development site or otherwise protecting property as
16 established in the ~~[Shore Erosion Protection Chapter (Chapter 4) of~~
17 ~~the]~~ Charles County Critical Area Program. Nonstructural
18 shoreline erosion control measures shall be used unless it can be
19 conclusively demonstrated that such measures would be
20 impractical or ineffective.

21
22 H. Habitat Protection Areas. All proposed development activities shall be
23 subject to the habitat protection program and requirements of **§297-136**
24 ~~[Chapter 8 in the Charles County Critical Area Program]~~. In addition, the
25 following regulations shall also apply:

26
27 (1) Applicants for subdivision or development activities shall be
28 required to map any Habitat Protection Areas that are located on
29 the project site or that may be affected by the proposed
30 development.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

(2) If it is determined that the proposed development activity has the potential to negatively affect the function of a Habitat Protection Area, the applicant will be required to develop a Habitat Protection Plan as specified in **§297-136 OF THIS CHAPTER** [~~Chapter 8 of the Charles County Critical Area Program~~].

I. CRITICAL AREA COMMISSION NOTIFICATION PROCEDURES FOR THE PROCESSING OF SUBDIVISIONS AND SITE DEVELOPMENT PLANS.

(1) **WITHIN 10 DAYS OF APPROVAL OR DENIAL BY THE CRITICAL AREA PLANNER, A COPY OF THE SITE PLAN AND/OR SUBDIVISION DRAWING SHALL BE SENT TO THE CRITICAL AREA COMMISSION FOR THEIR FILE.**

(2) **SHOULD CHANGES BE MADE TO THE DRAWING / PLAN THAT THE CRITICAL AREA PLANNER DEEMS ARE RELEVANT TO CRITICAL AREA REVIEW THE CRITICAL AREA PLANNER SHALL DETERMINE IF A NEW REVIEW IS NEEDED AND PROVIDE ANY RESULTANT COPIES TO THE CRITICAL AREA COMMISSION FOR THEIR FILE. SHOULD THE CRITICAL AREA PLANNER DETERMINE THAT CHANGES MADE ARE CONSIDERED INCONSEQUENTIAL TO CRITICAL AREA REVIEW, THE PRIOR APPROVAL OR DENIAL SHALL REMAIN VALID.**

(3) **UPON FINAL APPROVAL OR DENIAL OF A SITE PLAN OR SUBDIVISION BY THE DEPARTMENT OF PLANNING**

1 **AND GROWTH MANAGEMENT, THE CRITICAL AREA**
2 **PLANNER SHALL PROVIDE A COPY OF THE APPROVAL**
3 **OR DENIAL LETTER ISSUED BY THE COUNTY TO THE**
4 **CRITICAL AREA COMMISSION FOR THEIR FILE.**

5
6 **§ 297-133. Site plans.**

7
8 All development activities proposed in the Critical Area require the submission of
9 a site plan **AND THE CHARLES COUNTY CRITICAL AREA FORM FOR**
10 **COUNTY APPROVAL.** The site plan requirements **FOR A MAJOR SITE**
11 **PLAN** found in Appendix A of this chapter shall be made part of this article for
12 purposes of development review. **THE PLANNING DIRECTOR OR**
13 **DESIGNEE MAY ACCEPT A SITE PLAN THAT DOES NOT MEET ALL**
14 **OF THE REQUIREMENTS OF APPENDIX A SHOULD IT BE**
15 **DETERMINED BY THE PLANNING DIRECTOR THAT THE**
16 **INFORMATION IN QUESTION IS NOT ESSENTIAL TO THE REVIEW**
17 **OF THE DEVELOPMENT ACTIVITY.**

18
19 **§ 297-134. Growth Allocation (GA).** [Amended 10-25-1994 by Ord. No. 94-99;
20 **11-21-1994 by Ord. No. 94-99]**

21
22 A. Purpose and intent. Growth allocation is the system by which Critical Area
23 overlay zones are redesignated to allow for denser development. Growth
24 allocation may be used in existing limited development zones or in
25 resource conservation zones. The purpose of the growth allocation system
26 is to designate areas within the Critical Area where the County
27 Commissioners may approve a change in the current Critical Area overlay
28 zone on specific sites and for specific development projects. Only specific
29 development projects, site plans, preliminary subdivisions or planned
30 development zones regulated under Article VII of this chapter may be

1 considered by the County Commissioners for a growth allocation award.
2 The County Commissioners must approve growth allocation prior to
3 general approval of the development projects with which they are
4 associated, although review may occur simultaneously with the growth
5 allocation application. Growth allocation approval may be contingent
6 upon other local, state and federal approvals.
7

8 B. Location criteria. The granting of growth allocation shall be consistent
9 with the Charles County Critical Area Program. When approving the
10 Growth Allocation Zone, the County Commissioners shall use the
11 following [~~guidelines~~] **STANDARDS** to determine if the location of the
12 proposed Critical Area Zone under the GA Zone classification is consistent
13 with the Charles County Critical Area Program:
14

15 (1) **LOCATE** A new IDZ [~~should be located~~] in an existing LDZ or
16 adjacent to an existing IDZ;

17
18 (2) A new IDZ must be a minimum of 20 acres unless it is adjacent to
19 an existing IDZ or LDZ; and
20

21 (3) **LOCATE** A new LDZ [~~should be located~~] adjacent to an existing
22 LDZ or IDZ.
23

24 (4) **LOCATE A NEW LDZ OR IDZ IN A MANNER THAT**
25 **MINIMIZES IMPACTS TO A HABITAT PROTECTION**
26 **AREA AS DEFINED IN COMAR 27.01.09 AND IN AN AREA**
27 **AND MANNER THAT OPTIMIZES BENEFITS TO WATER**
28 **QUALITY.**
29

30 (5) **LOCATE A NEW IDZ OR A LDZ IN A RCZ AT LEAST 300**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

FEET BEYOND THE LANDWARD EDGE OF TIDAL WETLANDS OR TIDAL WATERS UNLESS THE LOCAL JURISDICTION PROPOSES, AND THE COMMISSION APPROVES, ALTERNATIVE MEASURES FOR ENHANCEMENT OF WATER QUALITY AND HABITAT THAT PROVIDE GREATER BENEFITS TO THE RESOURCES.

(6) LOCATE NEW IDZ AND LDZ IN A MANNER THAT MINIMIZES THEIR IMPACTS TO THE DEFINED LAND USES OF THE RCZ.

(7) EXCEPT AS PROVIDED IN §297-134(B)(9) , NO MORE THAN ONE-HALF OF THE EXPANSION MAY BE LOCATED IN THE RCZ.

(8) NEW IDZS OR LDZS INVOLVING THE USE OF GROWTH ALLOCATION SHALL CONFORM TO ALL CRITERIA OF THE COMMISSION AND SHALL BE DESIGNATED ON THE COMPREHENSIVE ZONING MAP SUBMITTED AS PART OF AN APPLICATION TO THE COMMISSION FOR PROGRAM APPROVAL OR AT A LATER DATE IN COMPLIANCE WITH §8-1809(G), ANNOTATED CODE.

(9) IF THE COUNTY IS UNABLE TO UTILIZE A PORTION OF THE GROWTH ALLOCATED TO THE COUNTY WITHIN OR ADJACENT TO EXISTING IDZS OR LDZS AS DEMONSTRATED IN THE LOCAL PLAN APPROVED BY THE COMMISSION, THEN THAT PORTION OF THE ALLOCATED EXPANSION WHICH CANNOT BE SO LOCATED MAY BE LOCATED IN THE RCZ. A

1 **DEVELOPER SHALL BE REQUIRED TO CLUSTER ANY**
2 **DEVELOPMENT IN AREA OF EXPANSION AUTHORIZED**
3 **UNDER THIS STANDARD.**
4

5 C. Design Criteria. Growth allocation applications shall comply with the
6 following design criteria:

7
8 (1) The design of development projects which use growth allocation
9 awards must minimize impacts to Habitat Protection Areas and
10 optimize benefits to water quality;

11
12 (2) The designation of development projects which use growth
13 allocation awards must provide adequate protection to historic and
14 archaeological resources listed on state or local surveys or
15 properties on or eligible for the National Register of Historic
16 Places;

17
18 ~~[(3) Projects using Growth Allocation Zone in the RCZ will conform to~~
19 ~~all criteria of the Charles County Critical Area Program for such~~
20 ~~areas;]~~

21
22 ~~[(4)](3)When growth allocation is permitted in an RCZ not adjacent to an~~
23 ~~IDZ or LDZ, the applicant will be required to cluster the~~
24 ~~development and provide for resource enhancement in the design~~
25 ~~of such development;~~

26
27 ~~[(5)](4)All Habitat Protection Area issues must be identified and~~
28 ~~addressed, and preliminary habitat protection plans must be~~
29 ~~approved by the Planning Division;~~
30

1 ~~[(6) Projects in the Resource Conservation Areas should~~
2 ~~provide a 300 foot buffer from tidal waters and tidal wetlands]~~

3
4 ~~[(7)](5)All Critical Area COMMISSION [criteria] STANDARDS~~ must
5 be met by the project; and

6
7 ~~[(8)](6)The project must conform with the Charles County Critical Area~~
8 Program at the time of development.

9
10 **(7) THE PROJECT APPLICATION MUST CONSIDER AND**
11 **ADDRESS THE FOLLOWING FACTORS:**

12
13 **(A) CONSISTENCY WITH THE COMPREHENSIVE**
14 **PLAN AND ITS GOALS AND OBJECTIVES;**

15
16 **(B) FOR A NEW IDZ, WHETHER THE**
17 **DEVELOPMENT:**

18
19 **[1] IS SERVED BY A PUBLIC WASTEWATER**
20 **SYSTEM;**

21
22 **[2] HAS AN ALLOWED AVERAGE DENSITY OF**
23 **AT LEAST 3.5 UNITES PER ACRE, AS**
24 **CALCULATED UNDER §5-7B-03(H) OF THE**
25 **STATE FINANCE AND PROCUREMENT**
26 **ARTICLE;**

27
28 **[3] IS LOCATED WITHIN A PRIORITY**
29 **FUNDING AREA, WHEN THE PROJECT**
30 **AREA EXCEEDS 20 ACRES; AND**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[4] DEMONSTRATES AN ECONOMIC BENEFIT TO THE AREA.;

(C) FOR A NEW LDZ, WHETHER THE DEVELOPMENT:

[1] IS SERVED BY A PUBLIC WASTEWATER SYSTEM OR SEPTIC SYSTEM THAT USES THE BEST AVAILABLE NITROGEN REMOVAL TECHNOLOGY;

[2] IS A COMPLETION OR EXPANSION OF AN EXISTING SUBDIVISION OR IS CLUSTERED.;

(D) MINIMIZES IMPACTS TO PRIORITY PRESERVATION AREAS, AS DESIGNATED BY CHARLES COUNTY;

(E) MINIMIZES ENVIRONMENTAL IMPACTS ASSOCIATED WITH WASTEWATER AND STORMWATER PRACTICES AND DISCHARGES; AND,

(F) MINIMIZES ENVIRONMENTAL IMPACTS ASSOCIATED WITH LOCATION IN A COASTAL HAZARD AREA OR INCREASED FLOODING ATTRIBUTABLE TO THE PROPOSED DEVELOPMENT.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

D. Basis for determining maximum permitted density. Maximum permitted densities will be computed based on the total site area less the area occupied by tidal wetlands. The maximum density that will be permitted using growth allocation awards shall be limited as follows, depending on which is the more restrictive:

- (1) The total number of approved individual septic systems or total number of units approved for community facilities by the Charles County Health Department, Maryland Department of the Environment, or the Charles County Department of Planning and Growth Management; or
- (2) The maximum number of dwelling units permitted under all applicable zones.

E. Conditions of approval.

~~{(1) The Planning Commission shall review the progress of the project on an annual basis. For growth allocation awarded in conjunction with site plans and subdivision plans, if the Planning Commission finds that the project or portion thereof approved for growth allocation has not begun within one year, has not achieved 50 percent completion within two years, or has not achieved substantial completion by the third year, then the Growth Allocation Zone density will be withdrawn and reapplication will be required. For growth allocation awarded in conjunction with Planned Development Zones, the Planning Commission shall determine a review schedule commensurate with the scope of the project. If the Planning Commission finds that development is not~~

1 proceeding according to schedule, the growth allocation density
2 will be withdrawn and reapplication will be required.]

3
4 ~~[(2) After site inspection and final approval of all required~~
5 ~~improvements, the Planning Commission shall determine whether~~
6 ~~a project is substantially completed or not. Substantially~~
7 ~~completed projects are defined as projects in which all public~~
8 ~~improvements, such as roads, community or shared sewer and/or~~
9 ~~water facilities, etc., have been built, as required by the county or~~
10 ~~state and all required bonds or other guarantees released by the~~
11 ~~county.]~~

12
13 ~~[(3)]~~ The development of a proposed project must demonstrate that the
14 following design standards will be met or exceeded in order to be
15 approved:

16
17 (a) All applicable requirements of the Charles County Critical
18 Area Program, this chapter and the Subdivision
19 Regulations.³

20
21 (b) The design of the development enhances the water quality
22 and resource and habitat values of the area, e.g., results in
23 additional planting of forest cover in the Buffer and
24 implementation of Best Management Practices on portions
25 of the site to be retained in agriculture use.

26
27 (c) The development incorporates the comments and
28 recommendations of county and the Department of Natural

3 Editor's Note: See Ch. 278, Subdivision Regulations

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Resources in the project design.

- (d) The applicant executes restrictive covenants or conservation easements that guarantee maintenance of the required open space areas.
- (e) The proposed project maximizes the use of permanent conservation easement and minimizes the use of the county's Growth Allocation.

F. Computing the use of the growth allocation. Growth allocation acreage shall be computed in one of two ways:

- (1) The total Critical Area portion of the parcel or set of parcels not in tidal wetlands, less Buffers, that are 300 feet or greater shall be subtracted from the county's total growth allocation set forth in the Charles County Critical Area Program for approved Growth Allocation Zones.
- (2) Development envelopes may be used to calculate growth allocation acreage. Projects must meet the following requirements.
 - (a) Only one development envelope shall be established per parcel or set of parcels, unless it can be demonstrated that multiple development envelopes will better promote environmental and other conservation considerations of the Charles County Critical Area Program. The use of multiple development envelopes shall be allowed only if such a practice is consistent with Critical Area Commission policy or regulations.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

(b) If a development envelope is proposed in the RCZ and less than 20 acres remain outside the development envelope, or the original parcel in the RCZ is less than 20 acres, then the entire parcel must be deducted.

(c) If there is a permanently protected RCZ which is contiguous to acreage outside the development envelope resulting in a minimum of 20 acres in the RCZ, then the entire parcel does not have to be deducted.

G. [Amended 2-10-1998 by Ord. No. 98-59] Procedures. The county's growth allocation acreage will be awarded on a project-by-project basis to permit changes in the Critical Area boundaries that are consistent with the Charles County Critical Area Program, Charles County Comprehensive Plan and the base zoning when a specific development project is proposed. The following procedures will be followed in determining if a site qualifies for the application of growth allocation.

(1) All projects that require growth allocation for completion must apply for growth allocation at the earliest development review stage to which the projects are subject.

(2) At the request of the applicant, the Department of Planning and Growth Management will review concept, sketch or comprehensive development plans submitted for consistency with the Critical Area Program and will provide general comments and recommendations to the applicant prior to submission of preliminary site plans or plats or applications for a Planned Development Zone.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(3) Applicants for growth allocation will request that the County Commissioners designate a Growth Allocation Zone to their project site.

(4) All applications for the Growth Allocation Zone shall be accompanied by a preliminary site plan or preliminary subdivision plan or application for a Planned Development Zone prepared as per the requirements of this chapter and/or the county's Subdivision Regulations.⁴

(5) Growth allocation applications are accepted [~~on the same schedule as applications for Planned Development Zone local map amendments~~] **IN THE MONTHS OF FEBRUARY, MAY, AUGUST, AND NOVEMBER, UPON PAYMENT OF THE GROWTH ALLOCATION REQUEST FEE.**

(6) Upon receipt of application and plans, the Zoning Officer will review the materials for completeness. Incomplete applications will be returned with comments within 30 days of submission.

(7) Upon receipt of a complete submission, the Zoning Officer will review the application package and the request for growth allocation and provide comments and evaluation to the applicant **WITHIN 45 BUSINESS DAYS.**

(8) After revising the growth allocation application and plan, and other supporting information based on the initial review, the applicant

4 Editor's Note: See Ch. 278, Subdivision Regulations.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

may resubmit the application. Once an application has been deemed complete and has been found in compliance with the Charles County Critical Area Program and applicable sections of all county ordinances, the Zoning Officer shall proceed in accordance with time frames set forth in § 297-448 of this chapter.

- (9) The Zoning Officer will review the proposed project and submit his or her recommendations to the Planning Commission. The Planning Commission will hold a public meeting on all submissions, which shall include the following:
 - (a) Presentation of the project by the applicant;
 - (b) Staff analysis review comments and evaluation; and
 - (c) Submission of public comments.

- (10) The Planning Commission will then prepare and forward its report and recommendations on the proposed project and the report, evaluation and recommendations of the Zoning Officer to the County Commissioners. The applicant may amend the application based on the Planning Commission, staff or public comments at any time, but may be subject to new review by planning staff, the Zoning Officer and/or the Planning Commission.

- (11) Public hearing. After the Planning Commission makes its final recommendations, the County Commissioners will hold a public hearing on the growth allocation reclassification for the proposed development project. The public hearing shall include:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

- (a) Presentation of the project by the applicant;
- (b) Staff review, comments and recommendations; and
- (c) Planning Commission review, comments and recommendations; and public testimony.

(12) Approval. In order to approve a growth allocation application, the County Commissioners must find that the proposed project, with its growth allocation plan, meets growth allocation design and location criteria, is sufficient to achieve the purposes of the critical area classification requested and the underlying base zone or Planned Development Zone, is compatible with the surrounding area and is consistent with the Comprehensive Plan. The approval of a growth allocation request shall establish special conditions to be satisfied during the development process, including, but not limited to, **AN INITIAL PHASING SCHEDULE AS REQUIRED BY §297-134.I(3)**, the timing of construction, on-site and off-site improvements, buffering, environmental standards and requirements and fiscal impact limitations.

(13) In approving an application for growth allocation, the County Commissioners may establish additional conditions of approval consistent with the intent of the Charles County Critical Area Program.

(14) Final decision. Following the public hearing, the County Commissioners will make the final decision whether or not to grant the reclassification, and determine any specific conditions of approval, **INCLUDING APPROVAL OF AN INITIAL**

1 Planning Commission will ensure that all conditions of approval of
2 growth allocation are incorporated into the final plan, performance
3 agreements, deed covenants, etc.

4
5 ~~[(19)]~~(20) Final subdivision plats and site plans shall be processed as per
6 the requirements of this chapter and the Subdivision Regulations.⁵

7
8 H. Objectives for applying the growth allocation.

9
10 (1) Growth allocation proposals must provide a net positive fiscal
11 impact to the county.

12
13 (2) Fifty percent of the total growth allocation acreage will be reserved
14 for commercial and industrial uses.

15
16 [(3) To the extent possible, no more than 1/2 of the growth allocation
17 awards will be located in a RCZ. However, if the County is unable
18 to utilize any portion of the growth allocation within or adjacent to
19 an existing IDZ or LDZ, then that portion of the Growth Allocation
20 Zone which cannot be so sited may be located in the RCZ.]

21
22 I. Growth allocation plan. Any application for designation as a Growth
23 Allocation Zone shall be accompanied by a growth allocation plan which
24 contains all information necessary to evaluate the proposal, including, but
25 not limited to, the following:

26
27 (1) Justification and written discussion of how the project meets
28 growth allocation location and design criteria described earlier in

5 Editor's Note: See Ch. 278, Subdivision Regulations.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Subsections B and C of this section.

- (2) Justification and written discussion of how the project meets or exceeds design standards listed in Subsection E of this section.
- (3) Schedule and phasing with approximate dates for beginning and completion of each phase of construction and projected market absorption.
- (4) A report showing fiscal impact of the proposed project on the county.
- (5) A statement showing the relationship of the proposed development to the Charles County Comprehensive Plan.
- (6) A description of the surrounding area of the subject property that will be affected by the requested growth allocation classification.
- (7) A site plan illustrating necessary components of the proposal.
- (8) **ANY ADDITIONAL MATERIALS NECESSARY TO SATISFY THE CRITICAL AREA COMMISSION'S GROWTH ALLOCATION SUBMITTAL REGULATIONS, COMAR 27.01.02.05-1**

J. GROWTH ALLOCATION REVIEW.

- (1) **THE PLANNING DIVISION SHALL REVIEW THE PROGRESS OF THE DEVELOPMENT ON AN ANNUAL BASIS TO DETERMINE WHETHER OR NOT THE**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

DEVELOPMENT IS MEETING THE GOALS & OBJECTIVES OF THE GROWTH ALLOCATION, THE CONDITIONS OF THE GROWTH ALLOCATION AND/OR THE MOST RECENTLY APPROVED PHASING SCHEDULE. IF THE PLANNING DIVISION DETERMINES THAT THE DEVELOPMENT IS NOT MEETING THE GOALS & OBJECTIVES OF THE GROWTH ALLOCATION, THE CONDITIONS OF THE GROWTH ALLOCATION AND/OR THE PHASING SCHEDULE AND THE APPLICANT IS NOT MAKING GOOD FAITH EFFORTS TO ADDRESS THESE ELEMENTS, THE PLANNING DIVISION MAY REFER THE DEVELOPMENT TO THE PLANNING COMMISSION FOR ITS REVIEW AND RECOMMENDATION.

(2) UPON REFERRAL FROM THE PLANNING DIVISION, THE PLANNING COMMISSION WILL REVIEW THE GROWTH ALLOCATION TO DETERMINE WHETHER OR NOT THE DEVELOPMENT IS MEETING THE GOALS & OBJECTIVES OF THE GROWTH ALLOCATION, THE CONDITIONS OF THE GROWTH ALLOCATION AND/OR THE MOST RECENTLY APPROVED PHASING SCHEDULE. IF THE PLANNING COMMISSION FINDS THAT THE DEVELOPMENT IS NOT MEETING THE GOALS & OBJECTIVES OF THE GROWTH ALLOCATION, THE CONDITIONS OF THE GROWTH ALLOCATION AND/OR THE PHASING SCHEDULE AND THE APPLICANT IS NOT MAKING GOOD FAITH EFFORTS TO ADDRESS THESE ELEMENTS, THE PLANNING COMMISSION MAY RECOMMEND TO THE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

COUNTY COMMISSIONERS THAT APPROPRIATE ACTION BE TAKEN, WHICH MAY INCLUDE A RECOMMENDATION THAT THE GROWTH ALLOCATION BE WITHDRAWN.

(3) THE COUNTY COMMISSIONERS WILL HOLD A PUBLIC HEARING UPON RECEIPT OF THE RECOMMENDATION FROM THE PLANNING COMMISSION. IF THE COUNTY COMMISSIONERS DETERMINE THAT THE DEVELOPMENT IS NOT MEETING THE GOALS & OBJECTIVES OF THE GROWTH ALLOCATION, THE CONDITIONS OF THE GROWTH ALLOCATION AND/OR THE MOST RECENTLY APPROVED PHASING SCHEDULE AND THE APPLICANT IS NOT MAKING GOOD FAITH EFFORTS TO ADDRESS THESE ELEMENTS, THE COUNTY COMMISSIONERS MAY TAKE WHATEVER ACTION THEY DEEM NECESSARY, TO INCLUDE WITHDRAWAL OF THE GROWTH ALLOCATION.

§ 297-135. Critical Area violations. [Added 10-25-1994 by Ord. No. 94-99; amended 6-20-2005 by Ord. No. 05-12]

A. A DEVELOPMENT ACTIVITY COMMENCED WITHOUT A REQUIRED PERMIT, APPROVAL, VARIANCE, OR SPECIAL EXCEPTION IS A VIOLATION OF NATURAL RESOURCES ARTICLE §8-1808 AND ARTICLE IX OF THE CHARLES COUNTY ZONING ORDINANCE AND CRITICAL AREA PROGRAM. Violations in the Critical Area will be enforced in accordance with Article I of this chapter, except for:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

(1) § 297-4A, regarding the maximum fine of \$300. In addition to any other penalty applicable under state or County law, [a] **EACH** person who violates a provision of the Natural Resources Article, Title 8, Subtitle 18, or this chapter, **INCLUDING A CONTRACTOR, PROPERTY OWNER, OR ANY OTHER PERSON WHO COMMITTED, ASSISTED, AUTHORIZED, OR PARTICIPATED IN THE VIOLATION** is subject to a [~~fine~~] **CIVIL PENALTY** not exceeding \$10,000.

(2) **CIVIL PENALTIES FOR CONTINUING VIOLATIONS SHALL ACCRUE WITHOUT A REQUIREMENT FOR AN ADDITIONAL ASSESSMENT, NOTICE OR OPPORTUNITY FOR A HEARING FOR EACH SEPARATE OFFENSE.**

~~[B-]~~ (3) In determining the amount of the penalty to be assessed under Subsection A, the County [may] **SHALL** consider the following:

- ~~{(1)}~~ (A) The gravity of the violation;
- ~~{(2)}~~ (B) Any willfulness or negligence involved in the violation;
- ~~{(3)}~~ (C) The environmental impact of the violation; AND
- (D) **THE COST OF RESTORATION OF THE RESOURCE AFFECTED BY THE VIOLATION AND MITIGATION FOR DAMAGE TO THAT RESOURCE, INCLUDING THE COST TO THE COUNTY FOR PERFORMING, SUPERVISING, OR RENDERING ASSISTANCE TO THE**

1 **RESTORATION AND MITIGATION.**

2
3 **(4) THE AMOUNT OF THE CIVIL PENALTY SHALL BE**
4 **ACCORDING TO THE FOLLOWING SCHEDULE:**

5

	MINOR INFRACTION	MODERATE INFRACTION	MAJOR INFRACTION
FIRST OFFENSE	\$50	\$100	\$500
SECOND OFFENSE	\$100	\$200	\$500
THIRD OFFENSE	\$150	\$300	\$500
SUBSEQUENT OFFENSES	\$200	\$400	\$500

6
7 **(5) THE ZONING OFFICER SHALL DETERMINE WHETHER**
8 **THE VIOLATION CONSTITUTES A MINOR, MODERATE,**
9 **OR MAJOR INFRACTION, AS DEFINED BY THIS**
10 **CHAPTER.**

11
12 **(6) EACH CALENDAR DAY THAT A VIOLATION**
13 **CONTINUES IS A SEPARATE OFFENSE.**

14
15 **(7) EACH VIOLATION OF THIS CHAPTER CONSTITUTES A**
16 **SEPARATE OFFENSE.**

17
18 **(8) FOR EACH OFFENSE, A PERSON SHALL BE SUBJECT**
19 **TO SEPARATE FINES, ORDERS, SANCTIONS, AND**
20 **OTHER PENALTIES.**

21
22 ~~[C.]~~ **B.** The following additional penalties shall also apply:

23
24 (1) The area disturbed shall be restored and additional required
25 remediation shall include the planting of forest vegetation native to

1 southern Maryland and adaptable to site conditions, in accordance
2 with § 297-132.E of this article, in the amount of three times the
3 area disturbed **OR FOUR TIMES THE AREA DISTURBED IF**
4 **THE VIOLATING DISTURBANCE IS LOCATED WITHIN**
5 **THE CRITICAL AREA BUFFER.**

6 (2) **A RESTORATION AND MITIGATION PLAN SHALL BE**
7 **REVIEWED AND APPROVED BY THE PLANNING**
8 **DIVISION PRIOR TO THE COMMENCEMENT OF**
9 **RESTORATION AND MITIGATION ACTIVITIES.**

10
11 ~~{(2)}~~ (3) The Buffer shall be the first priority for replanting wherever
12 possible.

13
14 ~~[D.]~~ (4) Planting shall take place within ~~[two growing seasons]~~ **ONE**
15 **CALENDAR YEAR** of the notification of violation **WITH THE**
16 **EXCEPTION OF SUBSECTION 297-135.D. BELOW.** Failure
17 to ~~[do so]~~ **COMPLETE REQUIRED MITIGATION**
18 **PLANTINGS** will result in a ~~[fine]~~ **CIVIL PENALTY** at the rate
19 **DETERMINED BY THE CHARLES COUNTY**
20 **COMMISSIONERS AND ADOPTED ANNUALLY AND**
21 **SHALL BE ASSESSED PER SQUARE FOOT** ~~[of \$1.20 per-~~
22 ~~square foot area]~~ of **LAND** remediation required.

23
24 (5) **FOR RESTORATION OR MITIGATION THAT EXCEEDS**
25 **1,000 SQUARE FEET OR INVOLVES EXPENSES**
26 **EXCEEDING \$1,000, A BOND OR OTHER FINANCIAL**
27 **SECURITY SHALL BE REQUIRED TO BE POSTED TO**
28 **ENSURE THAT THE RESTORATION OR MITIGATION IS**
29 **PROPERLY COMPLETED. IF THE RESTORATION OR**
30 **MITIGATION INVOLVES PLANTING, THE BOND SHALL**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**BE HELD FOR AT LEAST 2 YEARS AFTER THE DATE
THE PLANTINGS WERE INSTALLED TO ENSURE
PLANT SURVIVAL.**

**D. (1) AN APPLICATION FOR A VARIANCE TO LEGALIZE A
VIOLATION OF THIS CHAPTER CANNOT BE ACCEPTED
UNLESS A NOTICE OF VIOLATION HAS BEEN ISSUED
TO THE PROPERTY OWNER.**

**(2) THE COUNTY MAY NOT ISSUE A PERMIT, APPROVAL,
VARIANCE OR SPECIAL EXCEPTION FOR A PROPERTY
UNLESS THE PROPERTY OWNER SEEKING THE
PERMIT, APPROVAL, VARIANCE, OR SPECIAL
EXCEPTION HAS:**

**(A) FULLY PAID ALL ADMINISTRATIVE, CIVIL, AND
CRIMINAL PENALTIES IMPOSED;**

**(B) PREPARED A RESTORATION OR MITIGATION
PLAN APPROVED BY THE LOCAL JURISDICTION,
TO ABATE IMPACTS TO WATER QUALITY OR
NATURAL RESOURCES AS A RESULT OF THE
VIOLATION; AND,**

**(C) PERFORMED THE ABATEMENT MEASURES IN
THE APPROVED PLAN IN ACCORDANCE WITH
THE CRITICAL AREA PROGRAM.**

**E. A PERSON MAY APPEAL A NOTICE OF VIOLATION AS AN
APPEAL OF AN ADMINISTRATIVE DECISION IN**

1 ACCORDANCE WITH §297-417 . SHOULD THE BOARD OF
2 APPEALS DETERMINE THAT A VIOLATION HAS OCCURRED,
3 THE PERSON SHALL BE LIABLE FOR A PENALTY THAT IS
4 TWICE THE AMOUNT OF THE ASSESSMENT IN THE NOTICE
5 OF VIOLATION. AN APPLICATION FOR A VARIANCE TO
6 LEGALIZE A VIOLATION OF THIS CHAPTER CONSTITUTES A
7 WAIVER OF THE APPEALS PROCESS AS PROVIDED IN §297-
8 417.

9
10 **§ 297-136. CRITICAL AREA ADMINISTRATIVE VARIANCE**

11
12 **A. VARIANCES IN THE CRITICAL AREA WILL BE ENFORCED IN**
13 **ACCORDANCE WITH ARTICLE XXV OF THIS CHAPTER.**

14
15 **(1) NO PERMITS SHALL BE ISSUED FOR A DEVELOPMENT**
16 **ACTIVITY SUBJECT TO A VARIANCE UNTIL THE**
17 **APPLICABLE 30-DAY APPEAL PERIOD HAS ELAPSED.**

18
19 **B. THE PLANNING DIRECTOR MAY GRANT AN**
20 **ADMINISTRATIVE VARIANCE FROM THE REQUIREMENTS**
21 **OF THIS ARTICLE FOR LEGAL NONCONFORMING**
22 **STRUCTURES IN EXISTENCE AS OF JUNE 10, 1989 AS**
23 **FOLLOWS:**

24
25 **(1) BASED UPON A PREPONDERANCE OF EVIDENCE THE**
26 **PLANNING DIRECTOR SHALL FIND:**

27
28 **(A) THE PROPOSED DEVELOPMENT ACTIVITY**
29 **DOES NOT RESULT IN INCREASED LOT**
30 **COVERAGE BEYOND THE EXISTING SETBACKS**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

OF THE LEGAL NONCONFORMING STRUCTURE;

- (B) TOTAL LOT COVERAGE FOR THE PARCEL OR LOT DOES NOT EXCEED LOT COVERAGE REQUIREMENTS SPECIFIED IN §297-132.G.(9);**
- (C) SPECIAL CONDITIONS OR CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE LAND OR STRUCTURE SUCH THAT LITERAL ENFORCEMENT OF THE PROVISIONS OF THIS CHAPTER WOULD RESULT IN UNWARRANTED HARDSHIP TO THE PROPERTY OWNER;**
- (D) A LITERAL INTERPRETATION OF THIS SECTION WOULD DEPRIVE THE PROPERTY OWNER OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTY OWNERS IN THE SAME ZONE;**
- (E) THE GRANTING OF THE ADMINISTRATIVE VARIANCE WILL NOT CONFER UPON THE PROPERTY OWNER ANY SPECIAL PRIVILEGE THAT WOULD BE DENIED BY THIS SECTION TO OTHER OWNERS OF LANDS OR STRUCTURES WITHIN THE SAME ZONE;**
- (F) THE VARIANCE REQUEST IS NOT BASED UPON CONDITIONS OR CIRCUMSTANCES WHICH ARE THE RESULT OF ACTIONS BY THE PROPERTY OWNER NOR DOES THE REQUEST ARISE FROM ANY CONDITION RELATING TO LAND OR BUILDING USE, EITHER PERMITTED OR**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**NONCONFORMING, ON ANY NEIGHBORING
PROPERTY;**

**(G) THE GRANTING OF AN ADMINISTRATIVE
VARIANCE WILL NOT ADVERSELY AFFECT
WATER QUALITY OR ADVERSELY IMPACT FISH,
WILDLIFE, OR PLANT HABITAT AND THE
GRANTING OF THE VARIANCE WILL BE IN
HARMONY WITH THE GENERAL SPIRIT AND
INTENT OF THE CRITICAL AREA LAW AND THE
CHARLES COUNTY CRITICAL AREA PROGRAM;
AND,**

**(H) THE VARIANCE SHALL NOT EXCEED THE
MINIMUM NECESSARY TO RELIEVE THE
UNWARRANTED HARDSHIP.**

**(2) NOTICE OF THE VARIANCE PROPOSAL SHALL BE
PUBLISHED ONCE IN A NEWSPAPER OF GENERAL
CIRCULATION IN THE JURISDICTION AT LEAST 15
DAYS BEFORE VARIANCE APPROVAL.**

**(3) THE PLANNING DIRECTOR MAY REQUIRE
CONDITIONS FOR VARIANCE APPROVAL, INCLUDING
SITE DESIGN CONDITIONS OR MITIGATION, TO
MINIMIZE ADVERSE IMPACTS ON WATER QUALITY
OR FISH, WILDLIFE, OR PLANT HABITAT.**

**(4) A PERSON AGGRIEVED OR FEELING AGGRIEVED BY A
DECISION OF THE PLANNING DIRECTOR MADE**

1 UNDER THIS SUBSECTION MAY APPEAL THE
2 DECISION DE NOVO TO THE BOARD OF APPEALS.

- 3
- 4 (5) PLANNING STAFF SHALL PROVIDE TO THE CRITICAL
5 AREA COMMISSION A COPY OF THE VARIANCE
6 APPLICATION AT LEAST 15 DAYS PRIOR TO APPROVAL
7 OR DENIAL BY THE PLANNING DIRECTOR. A COPY OF
8 THE WRITTEN DECISION REGARDING AN
9 ADMINISTRATIVE VARIANCE SHALL BE PROVIDED TO
10 THE CRITICAL AREA COMMISSION WITHIN 5
11 WORKING DAYS AFTER A WRITTEN DECISION IS
12 ISSUED.

13

14 § 297-137. HABITAT PROTECTION AREAS AND PLANS

- 15
- 16 A. HABITAT PROTECTION AREAS. THE FOLLOWING AREAS
17 ARE CONSIDERED HABITAT PROTECTION AREAS. REVIEW
18 BY THE DEPARTMENT OF NATURAL RESOURCES AND A
19 HABITAT PROTECTION PLAN MAY BE REQUIRED PRIOR TO
20 APPROVAL OF A DEVELOPMENT ACTIVITY THAT MAY
21 IMPACT A HABITAT PROTECTION AREA.

- 22
- 23 (1) CHESAPEAKE BAY CRITICAL AREA BUFFER;
- 24
- 25 (2) HABITATS OF THREATENED AND ENDANGERED
26 SPECIES AND SPECIES IN NEED OF CONSERVATION;
- 27
- 28 (3) BALD EAGLE PROTECTION ZONES;
- 29
- 30 (4) NON-TIDAL WETLANDS;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

(5) NATURAL HERITAGE AREAS. AS DESIGNATED BY THE SECRETARY OF THE DEPARTMENT OF NATURAL RESOURCES;

(6) COLONIAL WATER BIRD NESTING SITES;

(7) HISTORIC WATERFOWL STAGING AND CONCENTRATION AREAS;

(8) FORESTS CONTAINING FOREST INTERIOR DWELLING BIRD SPECIES;

(9) ANADROMOUS FISH PROPAGATION WATERS; AND

(10) ADDITIONAL PLANT AND WILDLIFE HABITAT AREAS DETERMINED BY THE CHARLES COUNTY COMMISSIONERS TO BE OF LOCAL SIGNIFICANCE.. IF ADDITIONAL PLANT AND WILDLIFE HABITAT AREAS ARE DESIGNATED IN THE FUTURE, LOCAL PUBLIC HEARINGS, AS APPROPRIATE, SHALL BE HELD TO CONSIDER COMMENTS ON THE AREAS AND PROTECTION MEASURES PROPOSED.

B. HABITAT PROTECTION PLANS. THE FOLLOWING PROCESS APPLIES TO THE DEVELOPMENT AND IMPLEMENTATION OF A HABITAT PROTECTION PLAN:

(1) THE APPLICANT WILL OBTAIN A REVIEW LETTER FROM THE DEPARTMENT OF NATURAL RESOURCES,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

WILDLIFE AND HERITAGE DIVISION AND PRESENT THAT LETTER TO THE PLANNING DIVISION AT THE EARLIEST STAGE OF DEVELOPMENT. REVIEW BY THE DEPARTMENT OF NATURAL RESOURCES IS NOT REQUIRED FOR BALD EAGLE PROTECTION ZONES.

(2) THE APPLICANT WILL PROPOSE A HABITAT PROTECTION PLAN FOR THE IDENTIFIED HABITAT PROTECTION AREA.

(3) THE HABITAT PROTECTION PLAN WILL:

[A] DELINEATE THE BOUNDARIES OF THE HABITAT PROTECTION AREA;

[B] PROPOSE MANAGEMENT GUIDELINES IN ACCORDANCE WITH THE GUIDELINES PROVIDED BY THE DEPARTMENT OF NATURAL RESOURCES, AND INCLUDED IN APPENDIX L; AND,

[C] CONTAIN A DETAILED PLAN OF THE PROPOSED ACTIVITY AND AN ANALYSIS OF POSSIBLE ADVERSE IMPACTS ASSOCIATED WITH THE PROPOSED ACTIVITY.

(4) THE PLANNING DIVISION, IN CONSULTATION WITH APPROPRIATE LOCAL, STATE AND/OR FEDERAL AGENCIES, WILL REVIEW THE PROPOSED PROTECTION MEASURES TO DETERMINE IF PROTECTION MEASURES ARE ADEQUATE FOR THE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

SPECIES OR HABITAT AREA.

- (5) REVISIONS TO THE HABITAT PROTECTION PLAN MAY BE NECESSARY TO INCORPORATE THE COMMENTS OF THE REVIEWING AGENCIES.**
- (6) ONCE ALL OF THE REQUIREMENTS AND COMMENTS HAVE BEEN ADEQUATELY ADDRESSED, THE PLANNING DIVISION MAY APPROVE THE HABITAT PROTECTION PLAN.**
- (7) THE HABITAT PROTECTION PLAN SHALL BE INCORPORATED INTO THE PROPOSED DEVELOPMENT PROPOSAL. NO PRELIMINARY SUBDIVISION PLAN, FINAL PLAT, SITE PLAN, INFRASTRUCTURE OR BUILDING PERMIT MAY BE APPROVED UNTIL THE HABITAT PROTECTION PLAN HAS BEEN APPROVED AND INCORPORATED INTO THE DEVELOPMENT PROPOSAL.**

§ 297-416. Variances.

- A. An application for a variance shall be submitted to the Board **OF APPEALS** by filing a copy of the application with the Zoning Officer. Applications shall be handled in the same manner as applications for special exceptions in conformity with the provisions of this article.
- B. The Board is authorized to grant variances from the strict application of these regulations when, by reason of exceptional narrowness, shallowness or shape of specific parcels of property or by reason of exceptional topographical conditions or other extraordinary situations or conditions of

1 specific parcels of property, the strict application of the regulations of this
2 chapter would result in peculiar and unusual practical difficulties to, or
3 exceptional or undue hardship upon, the owner of said property. However,
4 the Board of Appeals shall not grant variances that will substantially
5 impair the intent, purpose and integrity of this chapter. This provision shall
6 not be construed to permit the Board, under the guise of a variance, to
7 change the permitted use of land.

8
9 C. In addition to those general findings required in Subsection B above,
10 variance requests shall not be granted unless the following criteria are met:

11
12 (1) That special conditions or circumstances exist that are unique to
13 the subject property or structure and that a strict enforcement of the
14 provisions of this chapter would result in unwarranted hardship
15 which is not generally shared by owners of property in the same
16 land use classification.

17
18 (2) That strict enforcement of the provisions of this chapter would
19 deprive the property owner of rights commonly shared by other
20 owners of property in the area.

21
22 (3) That the granting of a variance will not confer upon an applicant
23 any special privilege that would be denied to other owners of like
24 property and/or structures within the same zone/land use
25 classification.

26
27 (4) That the variance request is not based upon conditions or
28 circumstances which are self-created or self-imposed.

29
30 (5) That greater profitability or lack of knowledge of the restrictions

1 application is one that differs in some substantial way from the one
2 previously considered as determined by the Zoning Officer.

3
4 J. The burden of persuasion and of presenting evidence sufficient to allow
5 the Board to reach a conclusion that the required criteria listed in
6 Subsections B and C have been met remains with the applicant seeking the
7 variance.

8
9 K. **[Amended 10-25-1994 by Ord. No. 94-99]** In addition to the above
10 requirements, the following additional provisions shall apply in the
11 Critical Area Zone:

12
13 **(1) REQUESTS FOR VARIANCE IN THE CRITICAL AREA**
14 **ZONES SHALL NOT BE HEARD UNLESS THE CRITICAL**
15 **AREA COMMISSION HAS RECEIVED A COPY OF THE**
16 **VARIANCE REQUEST AT LEAST TWO WEEKS PRIOR TO**
17 **THE SCHEDULED PUBLIC HEARING.**

18
19 ~~{(1) The granting of a variance will not adversely affect water quality~~
20 ~~or adversely impact fish, wildlife or plant habitat within the~~
21 ~~Critical Area Zones, and the granting of the variance will be~~
22 ~~consistent with the spirit and intent of the county's Critical Area~~
23 ~~Program and associated ordinances as well as state laws and~~
24 ~~regulations adopted under Title 8, Subtitle 18, of the Natural~~
25 ~~Resource Article of the Annotated Code of Maryland and COMAR~~
26 ~~27.01.11.}~~

27
28 ~~{(2) The variance shall not be granted due to conditions or~~
29 ~~circumstances which are the result of actions by the applicant, nor~~
30 ~~shall a request for variance arising from any conforming condition~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

~~on any neighboring property be granted.]~~

~~{(3) A variance will not be granted by the Board unless and until: }~~

~~{(a) A completed application form for a variance is submitted which demonstrates the applicability of the above criteria. In addition, requests for variance in the Critical Area Zones shall not be heard unless the state's Critical Area Commission has received a copy of the variance request at least two weeks prior to the scheduled public hearing.}~~

(2) A VARIANCE WILL NOT BE GRANTED BY THE BOARD UNLESS FINDINGS ARE MADE WHICH DEMONSTRATE THAT:

(A) SPECIAL CONDITIONS OR CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE LAND OR STRUCTURE WHICH CONSTITUTE OR RESULT IN AN UNWARRANTED HARDSHIP AS DEFINED BY THIS CHAPTER;

(B) LITERAL INTERPRETATION OF THE CRITICAL AREA PROGRAM AND RELATED ORDINANCES WILL DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN SIMILAR AREAS WITHIN THE CRITICAL AREA;

(C) THE GRANTING OF A VARIANCE WILL NOT CONFER UPON AN APPLICANT ANY SPECIAL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**PRIVILEGE THAT WOULD BE DENIED OTHER
LANDS OR STRUCTURES;**

**(D) THE VARIANCE REQUEST IS NOT BASED UPON
CONDITIONS OR CIRCUMSTANCES WHICH ARE
THE RESULT OF ACTIONS BY THE APPLICANT,
NOR DOES THE REQUEST ARISE FROM ANY
CONDITION CONFORMING, ON ANY
NEIGHBORING PROPERTY; AND**

**(E) THE GRANTING OF A VARIANCE WILL NOT
ADVERSELY AFFECT WATER QUALITY OR
ADVERSELY IMPACT FISH, WILDLIFE OR PLANT
HABITAT WITHIN THE CRITICAL AREA ZONES,
AND THE GRANTING OF THE VARIANCE WILL
BE CONSISTENT WITH THE SPIRIT AND INTENT
OF THE COUNTY'S CRITICAL AREA PROGRAM
AND ASSOCIATED ORDINANCES AS WELL AS
STATE LAWS AND REGULATIONS ADOPTED
UNDER TITLE 8, SUBTITLE 18, OF THE NATURAL
RESOURCE ARTICLE OF THE ANNOTATED CODE
OF MARYLAND AND COMAR 27.01.11..**

**(F) THE BOARD SHALL FURTHER FIND THAT THE
GRANTING OF THE VARIANCE WILL BE IN
HARMONY WITH THE GENERAL PURPOSE AND
INTENT OF THIS CHAPTER, SHALL NOT RESULT
IN A USE NOT PERMITTED IN THE ZONE IN
WHICH THE PROPERTY SUBJECT TO VARIANCE
IS LOCATED AND WILL NOT BE INJURIOUS TO**

1 **THE NEIGHBORHOOD OR OTHERWISE**
2 **DETRIMENTAL TO THE PUBLIC WELFARE.**

3
4 ~~{(b)}~~(G)The Board shall find that the reasons set forth in the
5 application justify the granting of the variance and that the
6 variance is the minimum variance that will make possible
7 the reasonable use of land, buildings or structures. In
8 making this determination for variance requests in a
9 Critical Area Zone, the Board shall consider the following
10 as tantamount to a minimum variance:

11
12 [1] That the granting of a variance to the yard and/or
13 Buffer requirements results in new structures or
14 [~~impervious surfaces~~] **LOT COVERAGE** being
15 located as far back from mean high water, tidal
16 wetlands or tributary streams in the Critical Area as
17 is feasible; and

18
19 [2] That the applicant takes steps to mitigate impacts,
20 insofar as possible, including:

21
22 [a] Reforestation on the site to offset disturbed
23 forested or developed woodlands on at least
24 an equal area basis;

25
26 [b] Afforestation of areas of the site so that at
27 least 15% of the gross site is forested; and

28
29 [c] Implementation of any mitigation measures
30 which relate to habitat protection areas as

1 delineated in the Charles County Critical
2 Area Program and as required by state
3 and/or county agencies.
4

5 ~~[(e) The Board shall further find that the granting of the~~
6 ~~variance will be in harmony with the general~~
7 ~~purpose and intent of this chapter, shall not result in~~
8 ~~a use not permitted in the zone in which the~~
9 ~~property subject to variance is located and will not~~
10 ~~be injurious to the neighborhood or otherwise~~
11 ~~detrimental to the public welfare.]~~

12
13 ~~[(d) In addition and to the extent possible based on best~~
14 ~~available information, all property owners~~
15 ~~immediately contiguous to the application shall be~~
16 ~~notified by certified mail and furnished a copy of~~
17 ~~said application by the Zoning Officer.]~~

18
19 ~~[(e) In granting the variance, the Board may prescribe~~
20 ~~such conditions and safeguards as it deems —~~
21 ~~appropriate which comply with the intent of this~~
22 ~~chapter and the Charles County Critical Area~~
23 ~~Program. Violations of such conditions and~~
24 ~~safeguards, when made part of the terms under~~
25 ~~which the variance is granted, shall be deemed a~~
26 ~~violation of this chapter and enforceable under~~
27 ~~Article I.]~~

28
29 ~~[(4)](3)[In considering an application for variance, the Board of Appeals~~
30 ~~shall presume that the specific development activity in the critical~~

1 area that is subject to the application and for which a variance is
2 required does not conform with the general purpose and intent of
3 Natural Resources Article, Title 8, Subtitle 18, COMAR Title 27,
4 and the requirements of the County's Critical Area Program.

5 [Added 6-20-2005 by Ord. No. 05-12]]

6 **PRESUMPTION OF NON-CONFORMANCE**

7
8 (A) **IN CONSIDERING AN APPLICATION FOR**
9 **VARIANCE, THE BOARD OF APPEALS SHALL**
10 **PRESUME THAT THE SPECIFIC DEVELOPMENT**
11 **ACTIVITY IN THE CRITICAL AREA THAT IS**
12 **SUBJECT TO THE APPLICATION AND FOR**
13 **WHICH A VARIANCE IS REQUIRED DOES NOT**
14 **CONFORM WITH THE GENERAL PURPOSE AND**
15 **INTENT OF NATURAL RESOURCES ARTICLE,**
16 **TITLE 8, SUBTITLE 18, COMAR TITLE 27, AND**
17 **THE REQUIREMENTS OF THE COUNTY'S**
18 **CRITICAL AREA PROGRAM.**

19
20 ~~{(5)}~~ (B) If the variance request is based on conditions or
21 circumstances that are the result of actions by the applicant,
22 including the commencement of development activity
23 before an application for a variance has been filed, the
24 County ~~[may]~~ **SHALL** consider that fact. [Added 6-20-
25 **2005 by Ord. No. 05-12]**

26
27 ~~{(6)}~~ (C) An applicant has both the burden of production and the
28 burden of persuasion to overcome the presumption of
29 nonconformance established in Subsection K above.
30 [Added 6-20-2005 by Ord. No. 05-12]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

~~{(7)}~~ [1] Based on competent and substantial evidence, the Board shall make written findings as to whether the applicant has overcome the presumption of nonconformance established above. **[Added 6-20-2005 by Ord. No. 05-12]**

~~{(8)}~~ [2] With due regard for the person's experience, technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by: **[Added 6-20-2005 by Ord. No. 05-12]**.

- [a] The applicant;
- [b] The County or any other government agency; or
- [c] Any other person deemed appropriate by the County.

(4) IN GRANTING THE VARIANCE, THE BOARD MAY PRESCRIBE SUCH CONDITIONS AND SAFEGUARDS AS IT DEEMS APPROPRIATE WHICH COMPLY WITH THE INTENT OF THIS CHAPTER AND THE CHARLES COUNTY CRITICAL AREA PROGRAM. VIOLATIONS OF SUCH CONDITIONS AND SAFEGUARDS, WHEN MADE PART OF THE TERMS UNDER WHICH THE VARIANCE IS GRANTED, SHALL BE DEEMED A VIOLATION OF THIS CHAPTER AND ENFORCEABLE UNDER ARTICLE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

I.

(5) PLANNING STAFF SHALL PROVIDE A COPY OF THE WRITTEN DECISION TO THE CRITICAL AREA COMMISSION STAFF WITHIN 10 WORKING DAYS AFTER THE WRITTEN DECISION REGARDING A VARIANCE APPLICATION IS ISSUED.

(6) NO PERMITS SHALL BE ISSUED FOR A DEVELOPMENT ACTIVITY SUBJECT TO A VARIANCE UNTIL THE APPLICABLE 30-DAY APPEAL PERIOD HAS ELAPSED.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

APPENDIX I
SWAN POINT ALTERNATIVE FOR
BUFFER MODIFICATION AREAS

THE FOLLOWING INFORMATION APPLIES TO SECTIONS OF SWAN POINT WITH WATERFRONT LOTS WHICH WERE CREATED PRIOR TO 1985. THE CONDITIONS APPLY TO THE CLEARING AND DEVELOPMENT OF LOTS DIRECTLY ON THE WATER. WATERFRONT LOTS AND OTHER LOTS PLATTED AFTER 1985 ARE SUBJECT TO THE ZONING INDENTURE RECORDED FOR THIS PROPERTY IN NOVEMBER, 1986, AND THE PROVISIONS OF THE APPLICABLE ZONING ORDINANCE UNDER WHICH THEY WERE RECORDED.

I-1: BACKGROUND - PURPOSE OF BUFFER MODIFICATION AREAS

CHESAPEAKE BAY CRITICAL AREA REGULATIONS REQUIRE THE ESTABLISHMENT OF A 100-FOOT BUFFER LANDWARD FROM THE MEAN HIGH WATER LINE OF TIDAL WATERS, TRIBUTARY STREAMS, AND TIDAL WETLANDS. THESE REGULATIONS ALSO PROVIDE THAT COUNTIES MAY EXEMPT CERTAIN PORTIONS OF THE CRITICAL AREA FROM THE BUFFER REQUIREMENTS WHERE IT CAN BE SUFFICIENTLY DEMONSTRATED THAT THE EXISTING PATTERN OF RESIDENTIAL, INDUSTRIAL, COMMERCIAL OR

1 RECREATIONAL DEVELOPMENT PREVENTS THE BUFFER FROM
2 FULFILLING ITS FUNCTION. THESE ARE CALLED BUFFER
3 MODIFICATION AREAS (BMA'S). BMA'S ALLOW REASONABLE
4 EXPANSION OF EXISTING STRUCTURES OR NEW DEVELOPMENT
5 TO OCCUR WITHIN THE BUFFER WITHOUT THE PROPERTY
6 OWNER HAVING TO OBTAIN A VARIANCE. SWAN POINT (IN THE
7 GRANDFATHERED SECTION ONLY) IS DESIGNATED AS A BMA DUE
8 TO THE NUMBER, DENSITY AND SIZE OF PLATTED,
9 GRANDFATHERED, WATERFRONT LOTS WITHIN THE CRITICAL
10 AREA.

11

12 **I-2: REQUIREMENTS FOR BUFFER MODIFICATION AREAS**

13

14 IN BMA'S, THE CHARLES COUNTY CRITICAL AREA PROGRAM
15 REQUIRES THAT WHILE REASONABLE DEVELOPMENT MAY
16 OCCUR WITHIN THE BUFFER, THE APPLICANT MUST
17 DEMONSTRATE THAT THE DISTANCE BETWEEN THE NEW
18 DEVELOPMENT AND THE MEAN HIGH WATER LINE HAS BEEN
19 MAXIMIZED. ADDITIONALLY, WITHIN BMA'S, EXPANSION OR
20 REDEVELOPMENT OF EXISTING STRUCTURES MAY NOT OCCUR
21 ANY CLOSER TO THE WATER THAN THE REAR YARD SETBACK
22 ESTABLISHED IN SECTION I-3 OF THIS APPENDIX. ACCESSORY
23 STRUCTURES (POOLS, SHEDS, GAZEBO'S, ETC.) MAY NOT BE
24 LOCATED WATERWARD OF THE PRIMARY STRUCTURE.
25 ATTACHED DECKS AND PORCHES ARE CONSIDERED TO BE PART
26 OF THE PRINCIPLE STRUCTURE. NEW DEVELOPMENT IN BMA'S
27 MUST MINIMIZE THE EXTENT TO WHICH LOT COVERAGE
28 EXTENDS TOWARD OPEN WATER OR WETLANDS TAKING INTO
29 CONSIDERATION EXISTING COUNTY YARD SETBACK
30 REQUIREMENTS OF THE UNDERLYING ZONES AND OTHER SUCH

1 **FACTORS. BMA'S ARE ALSO SUBJECT TO LOT COVERAGE**
2 **LIMITATIONS AS DESCRIBED THE CHARLES COUNTY CRITICAL**
3 **AREA PROGRAM.**

4
5 **IMPACTS TO THE BUFFER WITHIN BMA'S ARE OFFSET THROUGH**
6 **MITIGATION REQUIREMENTS INCLUDING 1) THE EXTENT OF THE**
7 **LOT OR PARCEL SHOREWARD OF THE NEW DEVELOPMENT OR**
8 **REDEVELOPMENT MUST REMAIN, OR SHALL BE ESTABLISHED**
9 **AND MAINTAINED, IN NATIVE VEGETATION; AND 2) NATIVE**
10 **VEGETATION OF AN AREA TWICE THE EXTENT OF THE LOT**
11 **COVERAGE CREATED IN THE BMA SHALL BE PLANTED ON THE**
12 **SITE OR ON A BUFFER MODIFICATION OFFSET LOCATION AS MAY**
13 **BE APPROVED BY THE COUNTY.**

14
15 **I-3: SETBACK ALTERNATIVES FOR BMA PORTION OF SWAN**
16 **POINT**

17
18 **TO CLARIFY THE REGULATIONS AND TO PROVIDE CONSISTENCY**
19 **TO PROPERTY OWNERS IN THE EXISTING, PLATTED, BMA**
20 **PORTION OF SWAN POINT, NEW WATERFRONT DEVELOPMENT**
21 **SHALL BE SUBJECT TO THE FOLLOWING SETBACK**
22 **REQUIREMENTS BASED UPON THE DEPTH OF EACH INDIVIDUAL**
23 **LOT. FRONT YARD SET BACKS ARE 30 FEET FROM THE EDGE OF**
24 **THE PROPERTY LINE, AS RECORDED ON THE SUBDIVISION PLATS.**
25 **REAR YARD SET BACKS FROM THE WATER ARE DETERMINED BY**
26 **AVERAGE DEPTH OF THE LOT. WHERE DEPTH ON ONE SIDE OF**
27 **THE PROPERTY DIFFERS FROM THE DEPTH ON THE OTHER SIDE,**
28 **AN AVERAGE OF THE TWO DISTANCES WILL DETERMINE REAR**
29 **YARD SET BACKS (FROM MEAN HIGH WATER OR THE EDGE OF**
30 **THE BULKHEAD IF ONE EXISTS). REAR YARD SETBACKS SHALL**

1 BE SET ACCORDING TO LOT DEPTH BELOW:

2
3 A. LOTS WITH AN AVERAGE DEPTH OF UP TO 150 FEET WILL
4 HAVE A STRICT DISTURBANCE SETBACK OF 50 FEET.

5
6 B. LOTS WITH AN AVERAGE DEPTH OF 150 TO 180 FEET WILL
7 HAVE A STRICT DISTURBANCE SETBACK OF 60 FEET.

8
9 C. LOTS WITH AN AVERAGE DEPTH OF 180 TO 210 FEET WILL
10 HAVE A STRICT DISTURBANCE SETBACK OF 70 FEET.

11
12 D. LOTS WITH AN AVERAGE DEPTH OVER 210 FEET ARE
13 SUBJECT TO THE USUAL 100 FOOT BUFFER.

14
15 I-4: MITIGATION

16
17 SWAN POINT PROPERTY OWNERS MUST COMPLY WITH A TWO-
18 PHASED MITIGATION REQUIREMENT FOR ANY DEVELOPMENT
19 WITHIN THE BMA. FIRST, THE EXTENT OF THE LOT SHOREWARD
20 OF THE NEW DEVELOPMENT SHALL BE REQUIRED TO REMAIN,
21 OR TO BE ESTABLISHED AND MAINTAINED, IN WOODY
22 VEGETATION. SECOND, NATIVE VEGETATION OF AN AREA TWICE
23 THE LOT COVERAGE CREATED IN THE 100-FOOT BUFFER SHALL
24 BE PLANTED ON THE SITE. THERE ARE THREE RECOMMENDED
25 PREAPPROVED PLANTING SCHEMES (SEE ATTACHED
26 ILLUSTRATIONS) OR THE PROPERTY OWNER MAY SUBMIT THEIR
27 OWN PLAN BASED UPON "LANDSCAPING REQUIREMENTS IN THE
28 CRITICAL AREA -- HELPFUL HINTS FOR MEETING CHARLES
29 COUNTY'S REQUIREMENTS." PLANTINGS FOR BUFFER
30 ESTABLISHMENT AND 2:1 PLANTING FOR LOT COVERAGE

1 ENCROACHMENT INTO THE 100 FOOT BUFFER MAY BOTH BE
2 LOCATED WITHIN THE REQUIRED BUFFER ESTABLISHMENT
3 AREA. 2:1 LOT COVERAGE PLANTING MAY COUNT TOWARDS
4 TOTAL REQUIRED BUFFER ESTABLISHMENT AREA IF PLANTED
5 WITHIN THE REQUIRED BUFFER ESTABLISHMENT AREA
6 BETWEEN THE HOUSE AND THE WATER. WHEN 2:1 PLANTING
7 REQUIREMENTS ARE GREATER THAN THE BUFFER
8 ESTABLISHMENT AREA, THE REMAINDER OF THE PLANTINGS
9 MAY BE DONE BESIDE THE HOUSE IF STILL WITHIN THE 100-FOOT
10 BUFFER OR USED TO FURTHER ENHANCE THE BUFFER
11 ESTABLISHMENT AREA.

12
13 **EXAMPLES:**

14
15 **LOT TYPE "A"** (50 FOOT BMA SETBACK/ STRICT LIMIT OF
16 DISTURBANCE) ON A 100-FOOT WIDE LOT

17
18 **BUFFER ESTABLISHMENT -**
19 **50 FEET (REQUIRED BUFFER) X 100 FEET (WIDTH OF**
20 **LOT) = 5000 SQ. FT. OF WOODY VEGETATION (TO BE**
21 **PLANTED BETWEEN THE STRUCTURE AND THE**
22 **WATER)**

23
24 **8 LARGE TREES @ 400 SQ. FT. CREDIT = 3200 SQ FT**
25 **10 SMALL TREES @ 100 SQ. FT. CREDIT = 1000 SQ FT**
26 **10 LARGE SHRUBS @ 36 SQ. FT. CREDIT = 360 SQ FT**
27 **20 SMALL SHRUBS @ 16 SQ. FT. CREDIT = 320 SQ FT**
28 **120 GROUND COVER @ 1 SQ. FT. CREDIT = 120 SQ FT**
29 **TOTAL 5000 SQ FT**

30

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

LOT COVERAGE 2:1 MITIGATION -

**2700 SQ. FT. OF LOT COVERAGE WITHIN THE 100 FOOT
BUFFER X 2 = 5400 SQ. FT. OF WOODY VEGETATION TO
BE ESTABLISHED ON THE SITE. (PLEASE REFER TO
THE ATTACHED ILLUSTRATIONS)**

**LOT TYPE "B" (60 FOOT BMA SETBACK/ STRICT LIMIT OF
DISTURBANCE) ON A 100-FOOT WIDE LOT**

BUFFER ESTABLISHMENT -

**60 FEET (REQUIRED BUFFER) X 100 FEET (WIDTH OF
LOT) - 6000 SQ. FT. OF WOODY VEGETATION (TO BE
PLANTED BETWEEN THE STRUCTURE AND THE
WATER).**

10 LARGE TREES @ 400 SQ. FT. CREDIT	=	4000 SQ FT
12 SMALL TREES @ 100 SQ. FT. CREDIT	=	1200 SQ FT
12 LARGE SHRUBS @ 36 SQ. FT. CREDIT	=	432 SQ FT
20 SMALL SHRUBS @ 16 SQ. FT. CREDIT	=	320 SQ FT
48 GROUND COVER @ 1 SQ. FT. CREDIT	=	<u>48 SQ FT</u>
TOTAL		6000 SQ FT

LOT COVERAGE 2:1 MITIGATION -

**1500 SQ. FT. OF LOT COVERAGE WITHIN THE 100 FOOT
BUFFER X 2 = 3000 SQ. FT. OF WOODY VEGETATION TO
BE ESTABLISHED ON THE SITE. (PLEASE REFER TO
THE ATTACHED ILLUSTRATIONS)**

**LOT TYPE "C" (70 FOOT BMA SETBACK/ STRICT LIMIT OF
DISTURBANCE) ON A 100-FOOT WIDE LOT**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**BUFFER ESTABLISHMENT -
70 FEET (REQUIRED BUFFER) X 100 FEET (WIDTH OF
LOT) = 7000 SQ. FT. OF WOODY VEGETATION (TO BE
PLANTED BETWEEN THE STRUCTURE AND THE
WATER).**

12 LARGE TREES @ 400 SQ. FT. CREDIT	=	4800 SQ FT
14 SMALL TREES @ 100 SQ. FT. CREDIT	=	1400 SQ FT
12 LARGE SHRUBS @ 36 SQ. FT. CREDIT	=	432 SQ FT
20 SMALL SHRUBS @ 16 SQ. FT. CREDIT	=	320 SQ FT
48 GROUND COVER @ 1 SQ. FT. CREDIT	=	<u>48 SQ FT</u>
TOTAL		7000 SQ FT

**LOT COVERAGE 2:1 MITIGATION -
1600 SQ. FT. OF LOT COVERAGE WITHIN THE 100 FOOT
BUFFER X 2 = 3200 SQ. FT. OF WOODY VEGETATION TO
BE ESTABLISHED ON THE SITE. (PLEASE REFER TO THE
ATTACHED ILLUSTRATIONS)**

I-5: FINANCIAL GUARANTEES

**AS PER THE CHARLES COUNTY ZONING ORDINANCE, THE OWNER
MUST PROVIDE A BOND OR OTHER FINANCIAL GUARANTEE THAT
ALL PLANTS WILL BE INSTALLED AND CARED FOR
APPROPRIATELY FOR TWO FULL GROWING SEASONS. PLANTS
WILL BE INSPECTED AT THE TIME OF PLANTING, AT A ONE YEAR
INTERVAL (A COURTESY INSPECTION TO IDENTIFY ANY
POTENTIAL PROBLEMS), AND AT THE END OF TWO YEARS. DEAD
OR DISEASED PLANTS ARE TO BE REPLACED, AND MUST SURVIVE
FOR TWO GROWING SEASONS BEFORE THE COUNTY CAN
RELEASE BONDS, IN ACCORDANCE WITH COUNTY-WIDE**

1 **PLANTING AND REFORESTATION POLICIES.**

2
3 **I-6: LOT COVERAGE LIMITS**

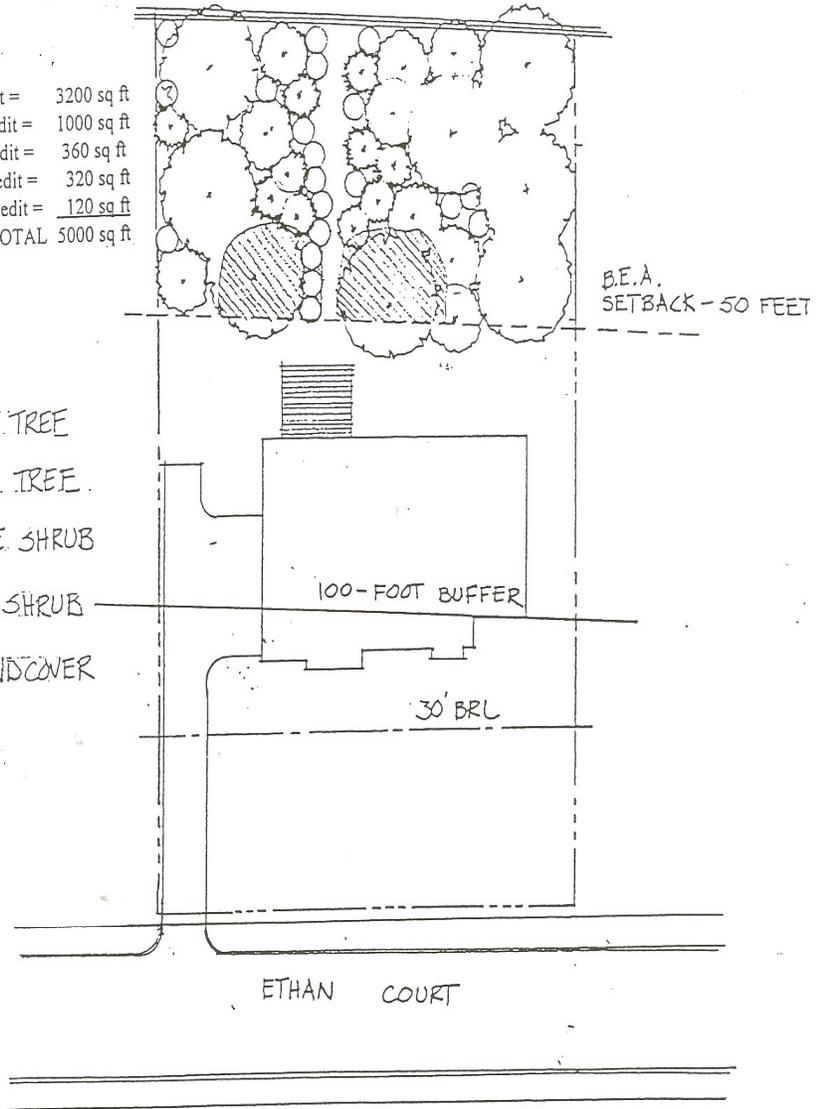
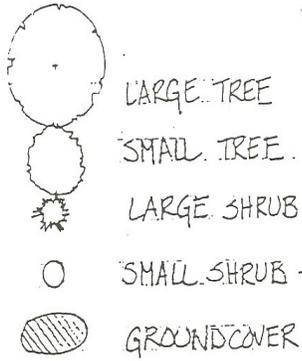
4
5 **ALL PROPERTIES IN THE CRITICAL AREA ARE SUBJECT TO**
6 **CURRENT RESTRICTIONS ON LOT COVERAGE ON ANY GIVEN**
7 **PROPERTY. FOR ALL LOTS LESS THAN 1/2 ACRE IN SIZE IN**
8 **BUFFER MODIFICATION AREAS, LOT COVERAGE SHALL NOT**
9 **EXCEED 25% ; FOR ALL OTHER LOTS, LOT COVERAGE SHALL NOT**
10 **EXCEED 15% LOT COVERAGE. IT IS RECOMMENDED THAT ALL**
11 **APPLICANTS SHOW THE DIMENSIONS OF ALL MAN-MADE LOT**
12 **COVERAGE ON A LOT, AND THAT ALL CALCULATIONS ALSO BE**
13 **SHOWN. THIS WILL HELP SPEED THE COUNTY'S REVIEW**
14 **PROCESS, PARTICULARLY IF THE AMOUNT OF LOT COVERAGE IS**
15 **NEARING THE LEGAL LIMITS.**

16
17 **I-7: VARIANCES**

18
19 **THESE REQUIREMENTS ARE MEANT TO CLARIFY THE**
20 **REGULATIONS AND TO PROVIDE CONSISTENCY TO PROPERTY**
21 **OWNERS IN THE EXISTING, PLATTED, BMA PORTION OF SWAN**
22 **POINT. IF A PROPERTY OWNER WISHES TO DEVELOP OUTSIDE OF**
23 **THESE CONDITIONS (I.E., CLOSER TO THE WATER THAN THE BMA**
24 **SETBACK ALLOWED), HE OR SHE MAY SEEK A VARIANCE FROM**
25 **COUNTY REGULATIONS UNDER ARTICLE XIX, SECTION 416 OF**
26 **THE *CHARLES COUNTY ZONING ORDINANCE*.**

POTOMAC RIVER

8 large trees @ 400 sq ft credit = 3200 sq ft
10 small trees @ 100 sq ft credit = 1000 sq ft
10 large shrubs @ 36 sq ft credit = 360 sq ft
20 small shrubs @ 16 sq ft credit = 320 sq ft
120 ground cover @ 1 sq ft credit = 120 sq ft
TOTAL 5000 sq ft



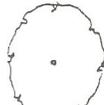
LOT TYPE "A"

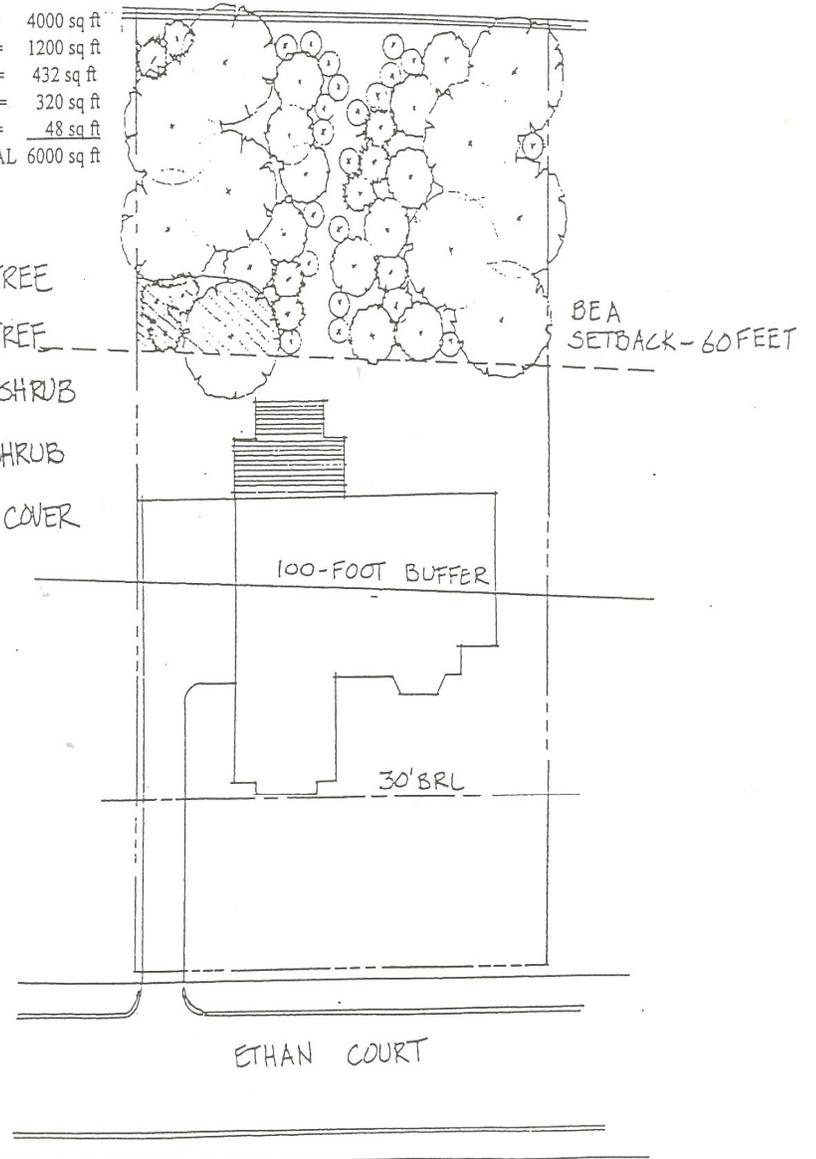
1

2

POTOMAC RIVER

10 large trees @ 400 sq ft credit = 4000 sq ft
 12 small trees @ 100 sq ft credit = 1200 sq ft
 12 large shrubs @ 36 sq ft credit = 432 sq ft
 20 small shrubs @ 16 sq ft credit = 320 sq ft
 48 ground cover @ 1 sq ft credit = 48 sq ft
 TOTAL 6000 sq ft

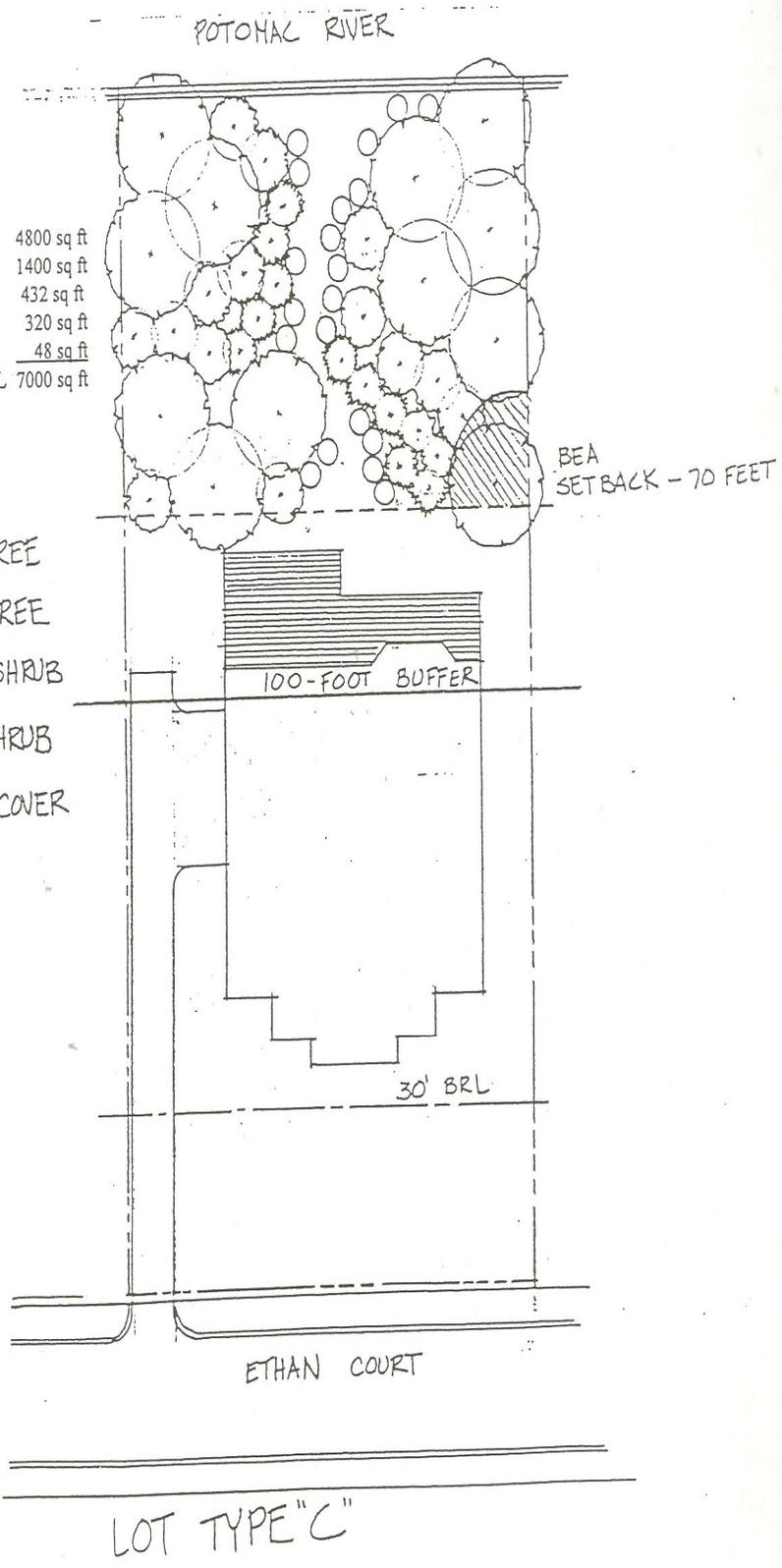
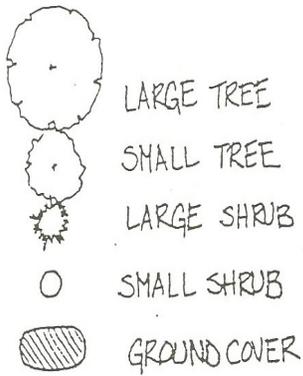
-  LARGE TREE
-  SMALL TREE
-  LARGE SHRUB
-  SMALL SHRUB
-  GROUND COVER



LOT TYPE "B"

- 1
- 2
- 3

12 large trees @ 400 sq ft credit = 4800 sq ft
 14 small trees @ 100 sq ft credit = 1400 sq ft
 12 large shrubs @ 36 sq ft credit = 432 sq ft
 20 small shrubs @ 16 sq ft credit = 320 sq ft
 48 ground cover @ 1 sq ft credit = 48 sq ft
 TOTAL 7000 sq ft



1
2
3
4
5

APPENDIX J
CHESAPEAKE BAY CRITICAL AREA
SHORE EROSION PROTECTION MEASURES
ADDITIONAL CRITERIA FOR COUNTY APPLICATIONS

6 **J:1 EACH APPLICATION TO THE COUNTY SHALL CONTAIN THE**
7 **FOLLOWING INFORMATION:**

- 8
- 9 **1. PHOTOGRAPHIC EVIDENCE OF AN EXISTING**
10 **EROSION PROBLEM;**
- 11
- 12 **2. THE SPECIFIC LOCATION OF THE SITE ON A USGS 7.5**
13 **TOPOGRAPHIC MAP;**
- 14
- 15 **3. THE LOCATION OF THE BUFFER BASED UPON FIELD**
16 **ANALYSIS AND VERIFICATION;**
- 17
- 18 **4. THE LOCATION OF ANY STOCKPILE AREAS.**
19 **STOCKPILE AREAS SHALL NOT BE LOCATED WITHIN**
20 **THE BUFFER, TO THE EXTENT FEASIBLE. STOCKPILE**
21 **AREAS PERMITTED WITHIN THE BUFFER SHALL NOT**
22 **REQUIRE ANY CLEARING OF NATIVE VEGETATION,**
23 **AND SHALL BE APPROVED BY THE PLANNING**
24 **DIVISION PRIOR TO THE APPROVAL OF THE PROJECT;**
- 25
- 26 **5. INFORMATION REGARDING WHETHER OR NOT THE**
27 **STRUCTURE WILL BE CONSTRUCTED FROM THE**
28 **WATER OR FROM THE LAND. CONSTRUCTION SHALL**
29 **BE FROM THE WATER UNLESS IT CAN BE**
30 **DEMONSTRATED THAT IT IS NOT FEASIBLE. FOR**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

CONSTRUCTION FROM THE LAND, A FIFTEEN FOOT WIDE CONSTRUCTION PATH MAY BE UTILIZED WITHIN THE BUFFER, UNLESS IT IS DEMONSTRATED THAT CONSTRUCTION IS NOT FEASIBLE WITHOUT A WIDER PATH, PROVIDED NO CLEARING IS ASSOCIATED WITH THIS ACCESS. THE PATH SHALL BE THE MOST DIRECT ROUTE AVAILABLE AND DETERMINED BY THE PLANNING DIVISION TO BE LEAST INTRUSIVE TO THE BUFFER. MITIGATION WILL BE REQUIRED FOR THE DISTURBANCE TO THE BUFFER FOR THE ACCESS PATH PURSUANT TO THE PROVISIONS OF THIS CHAPTER;

- 6. A COPY OF THE APPROPRIATE AUTHORIZATIONS FROM THE MARYLAND DEPARTMENT OF THE ENVIRONMENT AND/OR THE U.S. ARMY CORPS OF ENGINEERS; AND,**

- 7. A BUFFER MANAGEMENT [PLANTING] PLAN TO PROVIDE MITIGATION BASED UPON THE AMOUNT OF CLEARING [OR] AND DISTURBANCE TO THE BUFFER, ~~WHICHEVER IS GREATER.~~**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

APPENDIX K
CHESAPEAKE BAY CRITICAL AREA
EROSION PROTECTION MEASURES ABOVE MEAN HIGH WATER
ADDITIONAL CRITERIA FOR COUNTY APPLICATIONS

K-1: CONSTRUCTION STANDARDS.

THE COUNTY WILL APPLY THE FOLLOWING STANDARDS FOR APPROVING EROSION CONTROL MEASURES LOCATED ABOVE MEAN HIGH WATER UNDER A BUFFER MANAGEMENT PLAN:

- 1. MEASURES SHALL NOT HAVE A CROSS SECTION WIDTH WHICH IS GREATER THAN 10 FEET OR TWO TIMES THE HEIGHT OF THE BANK WHICHEVER IS LESS.**

- 2. MEASURES SHALL NOT HAVE A CROSS SECTION HEIGHT WHICH IS GREATER THAN 5 FEET OR ONE HALF THE CROSS SECTION WIDTH WHICHEVER IS LESS.**

- 3. WOODEN BULKHEAD STRUCTURES SHALL NOT BE USED.**

- 4. REVETMENT-LIKE STRUCTURES SHALL BE CONSTRUCTED USING FILTER CLOTH AND FILL IN ACCORDANCE WITH MDE GUIDELINES USED FOR SHORE EROSION CONTROL MEASURES THAT ARE PLACED AT OR BELOW MEAN HIGH WATER.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. THERE SHALL BE NO GRADING OF THE EXISTING BANK OTHER THAN THAT NEEDED TO CUT A MAXIMUM 15 FOOT WIDE PATH TO THE BEACH FOR ACCESS UNLESS IT IS DEMONSTRATED THAT CONSTRUCTION IS NOT FEASIBLE WITHOUT A WIDER PATH. NO OTHER CUTTING OR REMOVAL OF EXISTING VEGETATION ALONG THE BANK SHALL BE ALLOWED.

6. WORK SHALL BE PERFORMED FROM THE BEACH SIDE OR, WHEN OPEN LAWN ALREADY EXISTS LANDWARD OF THE BANK, FROM OPEN WORK AREAS THAT ARE A MAXIMUM 15 FOOT WIDE, UNLESS IT IS DEMONSTRATED THAT CONSTRUCTION IS NOT FEASIBLE WITHOUT A WIDER PATH.

7. MINOR FILL OF ERODED GULLIES, DEPRESSIONS REMAINING FROM THE ROOT WADS OF WIND-THROWN OR UNDER-CUT FALLEN TREES OR TO PROTECT ON-SITE DISPOSAL SYSTEMS AND WELL INFRASTRUCTURE MAY BE APPROVED BY THE PLANNING DIRECTOR.

8. MITIGATION FOR THE DISTURBANCE TO THE BUFFER TO INSTALL THE EROSION CONTROL MEASURE SHALL BE AT A RATIO OF 2:1 BASED UPON THE AREA DISTURBED.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

9. ALL MITIGATION PLANTINGS SHALL BE NATIVE TO MARYLAND AND PLACED WITHIN THE CRITICAL AREA BUFFER.

10. A GRADING PERMIT AND/OR SOIL CONSERVATION DISTRICT REVIEW AND APPROVAL MAY BE REQUIRED BASED UPON THE AMOUNT OF DISTURBANCE.

K-2: APPLICATION CRITERIA

EACH APPLICATION TO THE COUNTY SHALL CONTAIN THE FOLLOWING INFORMATION INCLUDED IN A BUFFER MANAGEMENT PLAN:

- 1. PHOTOGRAPHIC EVIDENCE OF AN EXISTING EROSION PROBLEM;**
- 2. THE SPECIFIC LOCATION OF THE SITE ON A USGS 7.5 TOPOGRAPHIC MAP;**
- 3. THE LOCATION OF THE BUFFER BASED UPON FIELD ANALYSIS AND VERIFICATION;**
- 4. THE LOCATION OF ANY STOCKPILE AREAS. STOCKPILE AREAS SHALL NOT BE LOCATED WITHIN THE BUFFER, TO THE EXTENT FEASIBLE. STOCKPILE AREAS PERMITTED WITHIN THE BUFFER SHALL NOT REQUIRE ANY CLEARING OF NATIVE VEGETATION, AND SHALL BE APPROVED BY THE PLANNING DIVISION PRIOR TO THE APPROVAL OF THE PROJECT;**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

5. INFORMATION REGARDING WHETHER OR NOT THE STRUCTURE WILL BE CONSTRUCTED FROM THE WATER OR FROM THE LAND. CONSTRUCTION SHALL BE FROM THE WATER UNLESS IT CAN BE DEMONSTRATED THAT IT IS NOT FEASIBLE. FOR CONSTRUCTION FROM THE LAND, A FIFTEEN FOOT WIDE CONSTRUCTION PATH MAY BE UTILIZED WITHIN THE BUFFER, UNLESS IT IS DEMONSTRATED THAT CONSTRUCTION IS NOT FEASIBLE WITHOUT A WIDER PATH, PROVIDED NO CLEARING IS ASSOCIATED WITH THIS ACCESS. THE PATH SHALL BE THE MOST DIRECT ROUTE AVAILABLE AND DETERMINED BY THE PLANNING DIVISION TO BE LEAST INTRUSIVE TO THE BUFFER. MITIGATION WILL BE REQUIRED FOR THE DISTURBANCE TO THE BUFFER FOR THE ACCESS PATH PURSUANT TO THE PROVISIONS OF THIS CHAPTER; AND,

6. A BUFFER MANAGEMENT ~~[PLANTING]~~ PLAN TO PROVIDE MITIGATION BASED UPON THE AMOUNT OF CLEARING ~~[OR] AND~~ DISTURBANCE TO THE BUFFER~~[-~~ ~~WHICHEVER IS GREATER].~~

K-3: VARIANCE REQUIRED.

1 **ANY APPLICATION WHICH DEVIATES FROM THESE STANDARDS**
2 **WILL REQUIRE BOARD OF APPEALS APPROVAL OF A VARIANCE**
3 **FOR DISTURBANCE IN THE CRITICAL AREA BUFFER. APPLICANTS**
4 **FOR VARIANCE MUST DEMONSTRATE WHY THEY CANNOT APPLY**
5 **THESE STANDARDS FOR INSTALLATION OF THE EROSION**
6 **PROTECTION MEASURES.**

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**APPENDIX L
CHESAPEAKE BAY CRITICAL AREA
HABITAT PROTECTION AREAS
MANAGEMENT GUIDELINES**

L:1 THE FOLLOWING MANAGEMENT GUIDELINES FOR IDENTIFIED HABITAT PROTECTION AREAS ARE TO BE UTILIZED WHEN PREPARING A HABITAT PROTECTION PLAN:

- 1. CHESAPEAKE BAY CRITICAL AREA BUFFER.**
 - (A) PROTECTED PURSUANT TO §297-131.**

- 2. THREATENED AND ENDANGERED SPECIES AND SPECIES IN NEED OF CONSERVATION.**
 - (A) A PROTECTION AREA AROUND EACH IDENTIFIED SITE OF THREATENED OR ENDANGERED SPECIES WILL BE DESIGNATED WHERE DISTURBANCES FROM HUMAN ACTIVITY SHOULD BE PROHIBITED, UNLESS IT CAN BE DEMONSTRATED THAT THE DISTURBANCES WOULD NOT CAUSE ADVERSE IMPACTS ON THE HABITATS OR SPECIES BEING PROTECTED.**

 - (B) [THE FOLLOWING] PROTECTION ZONES ARE ESTABLISHED AROUND EACH SITE IDENTIFIED BY THE MARYLAND DEPARTMENT OF NATURAL**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**RESOURCES (DNR) [~~ACCORDING TO THE~~
~~SPECIES CLASSIFICATION:~~**

~~[1] FOR BIRD AND MAMMAL SPECIES, THE
PROTECTION ZONE IS A 1,320 FOOT (1/4
MILE) RADIUS;~~

~~[2] FOR OTHER WILDLIFE SPECIES, THE
PROTECTION ZONE IS A 200 FOOT
RADIUS;~~

~~[3] FOR FISH SPECIES, THE ZONE INCLUDES
ALL CONTIGUOUS WATERS WITHIN 2,000-
FEET AND THEIR SPECIFIED BUFFERS;~~

~~[4] FOR PLANT SPECIES, THE ZONE EXTENDS
TO THE PROTECTION BOUNDARIES
ESTABLISHED BY DNR; AND~~

~~[5] IN THE CASE OF NATURAL HERITAGE
AREAS, THE PROTECTION ZONE IS
ESTABLISHED BY THE BOUNDARY OF THE
NATURAL HERITAGE AREA.]~~

**3. BALD EAGLE HABITAT PROTECTION [~~AREAS~~] AS A
HABITAT OF LOCAL SIGNIFICANCE.**

**(A) COUNTY WIDE PROTECTION PLAN. THE
FOLLOWING COUNTYWIDE PROTECTION PLAN
APPLIES UNTIL SUCH TIME AN ACTIVITY IS**

1 **PROPOSED. ONCE THE NEW ACTIVITY IS**
2 **PROPOSED, A HABITAT PROTECTION PLAN**
3 **WILL BE PREPARED AND APPROVED PURSUANT**
4 **TO SECTION §297-137.**

5
6 **[1] A QUARTER MILE PROTECTION AREA IS**
7 **ESTABLISHED AROUND THE BALD EAGLE**
8 **NEST SITE. WITHIN THE ONE-QUARTER**
9 **(1/4) MILE PROTECTION AREA, THREE**
10 **PROTECTION ZONES, AS DESCRIBED**
11 **BELOW, ARE ESTABLISHED. THE**
12 **FOLLOWING MANAGEMENT GUIDELINES**
13 **ARE ESTABLISHED FOR EACH ZONE:**

14
15 **[A] PROTECTION ZONE 1 EXTENDS 330**
16 **FEET FROM THE NEST SITE. THE**
17 **AREA IMMEDIATELY**
18 **SURROUNDING THE NEST SITE IS**
19 **THE MOST SENSITIVE TO**
20 **DEVELOPMENT ACTIVITIES AND**
21 **DISTURBANCES:**

22
23 **[I] YEAR ROUND. THESE MAJOR**
24 **HABITAT CHANGES ARE**
25 **PROHIBITED:**

26
27 **A. TIMBER HARVESTING;**

28
29 **B. LAND CLEARING; AND,**
30

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

C. BUILDING, ROAD, OR TRAIL CONSTRUCTION.

[II] DECEMBER 15 TO JUNE 15:

A. PEOPLE ARE RESTRICTED FROM WITHIN THIS ZONE.

[III] JUNE 16 TO DECEMBER 14:

A. ACTIVITIES ARE KEPT TO A MINIMUM, BUT THESE ACTIVITIES ARE PERMITTED:

- 1. HIKING;**
- 2. FISHING; AND,**
- 3. AGRICULTURE (PLOWING, PLANTING, HARVESTING).**

B. THESE ACTIVITIES ARE PROHIBITED:

- 1. HUNTING; AND,**
- 2. USE OF OFF-ROAD VEHICLES.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[B] PROTECTION ZONE 2 EXTENDS FROM 330 TO 660 FEET FROM THE BALD EAGLE NEST SITE. DURING THE NESTING SEASON (DECEMBER 15 TO JUNE 15) EAGLES ARE STILL VERY SENSITIVE TO DISTURBANCES FROM ACTIVITIES IN THIS ZONE.

[I] YEAR ROUND. THESE MAJOR HABITAT CHANGES ARE PROHIBITED:

- A. TIMBER HARVESTING;**
- B. LAND CLEARING; AND**
- C. BUILDING, ROAD OR TRAIL CONSTRUCTION.**

[II] DECEMBER 15 TO JUNE 15:

- A. PEOPLE ARE RESTRICTED FROM WITHIN THIS ZONE.**

[III] JUNE 16 TO DECEMBER 14:

- A. THESE ACTIVITIES ARE PERMITTED:**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

1. **HIKING;**
2. **FISHING;**
3. **AGRICULTURE
(PLOWING,
PLANTING,
HARVESTING);**
- AND,
4. **HUNTING.**

[IV] AUGUST 16 TO NOVEMBER 14

**A. THESE ACTIVITIES ARE
PERMITTED:**

1. **SELECTIVE
THINNING OF
TIMBER STANDS;**
2. **MAINTENANCE
OF TIMBER
STANDS; AND**
3. **MAINTENANCE
OF EXISTING
BUILDINGS AND
ROADS.**

**[C] PROTECTION ZONE 3 EXTENDS
FROM 660 FEET TO A QUARTER
MILE FROM THE NEST SITE.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[I] DECEMBER 15 TO JUNE 15

A. THESE ACTIVITIES ARE PROHIBITED:

- 1. TIMBER HARVESTING;**
- 2. LAND CLEARING; AND,**
- 3. BUILDING, ROAD OR TRAIL CONSTRUCTION.**

[D] GENERALLY, LAND USES EXISTING AT THE TIME OF THE NEST ESTABLISHMENT MAY CONTINUE AS LONG AS THESE USES DO NOT MODIFY ADDITIONAL NESTING HABITAT WITHIN THE ONE-QUARTER (1/4) MILE PROTECTION AREA NOR DISTURB NESTING BALD EAGLES. A BALD EAGLE HABITAT PROTECTION PLAN MAY BE REQUIRED IF EXPANSIONS OR REDEVELOPMENT ARE DESIRED.

(B) BALD EAGLE HABITAT PROTECTION PLAN. ONCE A DEVELOPMENT ACTIVITY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

IS PROPOSED WITHIN THE ONE-QUARTER (1/4) MILE PROTECTION AREA, A HABITAT PROTECTION PLAN IS REQUIRED IF THE LANDOWNER WISHES TO ALTER THE MANAGEMENT MEASURES OF THE COUNTYWIDE BALD EAGLE HABITAT PLAN. THE INDIVIDUAL HABITAT PROTECTION PLAN WILL ENSURE THAT THE PROPOSED ACTIVITIES WILL BE COMPATIBLE WITH THE BALD EAGLE NEST SITE.

(C) IN CASES WHERE THE NEST SITE IS OUTSIDE OF THE CRITICAL AREA, BUT A PORTION OF THE ONE-QUARTER (1/4) MILE PROTECTION AREA IS WITHIN THE CRITICAL AREA, FULL PROTECTION MEASURES ARE GIVEN TO THE SITE. HOWEVER, EACH SITE WILL BE EVALUATED INDIVIDUALLY.

4. NON-TIDAL WETLANDS.

(A) IN ADDITION TO THE PROTECTION MEASURES REQUIRED ELSEWHERE IN THIS CHAPTER, DISTURBANCE TO NON-TIDAL WETLANDS AND THEIR ASSOCIATED BUFFERS MUST BE PERMITTED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT

1 AND/OR THE U.S. ARMY CORPS OF
2 ENGINEERS.

3
4 **5. NATURAL HERITAGE AREAS.**

5
6 (A) A PROTECTION ZONE SHALL BE SET BY
7 THE BOUNDARY OF THE NATURAL
8 HERITAGE AREA.

9
10 (B) A HABITAT PROTECTION PLAN SHALL BE
11 DEVELOPED IN CONJUNCTION WITH THE
12 MARYLAND DEPARTMENT OF NATURAL
13 RESOURCES. THE PROTECTION PLAN
14 SHALL BE INCORPORATED INTO THE
15 DEVELOPMENT PROPOSAL.

16
17 **6. COLONIAL WATER BIRD NESTING SITES.**

18
19 (A) MANAGEMENT OF THESE SITES SHOULD
20 INCLUDE:

21
22 [1] PRESERVATION OF THE NESTING
23 SITE; AND,

24
25 [2] A BUFFER AND SPECIFIC
26 MEASURES TO AVOID
27 DISTURBANCES DURING THE
28 NESTING SEASON, WHICH EXTENDS
29 FROM FEBRUARY 15 THROUGH
30 JULY 31.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

(B) THE FOLLOWING GUIDELINES ARE APPLICABLE AT ALL TIMES OF THE YEAR, EXCEPT AS STATED:

- [1] A ONE-QUARTER (1/4) MILE PROTECTION ZONE, MEASURED FROM THE OUTSIDE BOUNDARIES OF THE COLONY, IS ESTABLISHED AROUND THE COLONY SITE;**

- [2] WITHIN THE PROTECTION ZONE, NO BUILDING CONSTRUCTION, CLEARING, GRADING OR ROAD CONSTRUCTION SHOULD OCCUR ANY CLOSER THAN 660 FEET FROM THE OUTERMOST NEST TREES IN THE COLONY;**

- [3] TIMER HARVEST SHOULD NOT OCCUR WITHIN 330 FEET OF THE OUTERMOST NEST TREES IN THE COLONY. SELECTIVE TIMBER HARVEST MAY TAKE PLACE IN THE ZONE BETWEEN 330 AND 660 FEET FROM THE OUTERMOST TREES, BUT SHOULD BE LIMITED TO THE NON-NESTING SEASON;**

- [4] ACCESS TO THE NEST AND WITHIN**

1 **330 FEET OF THE OUTERMOST NEST**
2 **TREES IN THE COLONY SHOULD BE**
3 **PROHIBITED DURING NEST**
4 **BUILDING AND INCUBATION**
5 **PERIODS, WHICH EXTEND FROM**
6 **FEBRUARY 15 THROUGH JULY 31.**

7
8 **(C) GENERALLY, LAND USES EXISTING AT**
9 **THE TIME OF NEST ESTABLISHMENT MAY**
10 **CONTINUE AS LONG AS THEY DO NOT**
11 **MODIFY ADDITIONAL NESTING HABITAT**
12 **WITHIN THE ONE-QUARTER (1/4) MILE**
13 **PROTECTION AREA NOR DISTURB**
14 **NESTING COLONIAL WATER BIRDS. A**
15 **HABITAT PROTECTION PLAN SHOULD BE**
16 **REQUIRED IF EXPANSIONS OR**
17 **REDEVELOPMENT ARE DESIRED.**

18
19 **(D) ONCE A DEVELOPMENT ACTIVITY IS**
20 **PROPOSED WITHIN THE ONE-QUARTER**
21 **(1/4) MILE PROTECTION AREA, A HABITAT**
22 **PROTECTION PLAN WILL BE REQUIRED**
23 **IF THE LANDOWNER WISHES TO ALTER**
24 **THE MANAGEMENT MEASURES**
25 **PROVIDED ABOVE. THE PLAN SHOULD**
26 **ENSURE THAT THE PROPOSED**
27 **ACTIVITIES WILL BE COMPATIBLE WITH**
28 **THE COLONIAL WATER BIRD NEST SITE.**

29
30 **(E) IN CASES WHERE THE NEST SITE IS**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

OUTSIDE OF THE CRITICAL AREA, BUT A PORTION OF THE ONE-QUARTER (1/4) MILE PROTECTION AREA IS WITHIN THE CRITICAL AREA, FULL PROTECTION MEASURES SHOULD BE GIVEN TO THE SITE. HOWEVER, EACH SITE WILL BE EVALUATED INDIVIDUALLY.

7. HISTORIC WATERFOWL STAGING AND CONCENTRATION AREAS.

(A) IN ADDITION TO THE REQUIREMENTS OF THE BUFFER REGULATIONS IN THIS CHAPTER, THE MARYLAND DEPARTMENT OF THE ENVIRONMENT NON-TIDAL WETLANDS REGULATIONS, AND THE TIDAL WETLAND REGULATIONS, THE FOLLOWING RESTRICTIONS SHOULD APPLY TO WATER-DEPENDENT FACILITIES:

[1] DIVING DUCKS: NO DISTURBANCES FROM NOVEMBER 15 THROUGH MARCH 3.

[2] DABBLING DUCKS AND CANADA GEESE: NO DISTURBANCE FROM OCTOBER 1 THROUGH MARCH 31.

8. FORESTS CONTAINING FOREST INTERIOR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

DWELLING BIRD SPECIES.

**(A) FOREST INTERIOR DWELLING (FID)
HABITAT IN THE CRITICAL AREA
INCLUDES:**

**[1] FOREST TRACTS OF 50 ACRES OR
MORE WHICH HAVE AT LEAST TEN
(10) ACRES OF "INTERIOR" HABITAT
(FOREST > 300 FEET FROM THE
NEAREST FOREST EDGE);**

**[2] ARE RIPARIAN FOREST AREAS OF
AT LEAST 300 FEET IN DEPTH;**

**[3] ARE FORESTED CORRIDORS
CONNECTING LARGE TRACTS OF
FOREST AREAS; OR**

**[4] AREAS IDENTIFIED AS POSSIBLE
FID HABITAT BY THE DEPARTMENT
OF NATURAL RESOURCES.**

**(B) TO DETERMINE THE EXISTENCE OF FIDS
HABITAT, A FID SURVEY MUST BE
CONDUCTED BY A QUALIFIED
PROFESSIONAL FOR THOSE AREAS
IDENTIFIED AS POTENTIAL FID HABITAT.**

[1] SURVEYS ARE PERFORMED

1 ACCORDING TO THE METHODS
2 CONTAINED IN A GUIDE TO THE
3 CONSERVATION OF FOREST
4 INTERIOR DWELLING BIRDS IN THE
5 CHESAPEAKE BAY CRITICAL AREA.
6

7 (C) THE FOLLOWING GUIDELINES APPLY TO
8 FOREST INTERIOR DWELLING BIRD
9 SPECIES HABITAT AREAS:
10

11 [1] MINIMIZE FOREST ALTERNATIONS
12 DURING THE BREEDING SEASONS,
13 SUCH AS OFF-ROAD VEHICLES,
14 EXTENSIVE PUBLIC USE OR
15 LOGGING;
16

17 [2] MINIMIZE FOREST
18 FRAGMENTATION AND ISOLATION
19 BY FOCUSING DEVELOPMENT OR
20 OTHER DISTURBANCES TO THE
21 PERIPHERY OF THE AREA (I.E.,
22 ROADS, UTILITY LINE CORRIDORS,
23 AND STRUCTURES);
24

25 [3] IF FOREST INTERIOR BREEDING
26 BIRDS CONSIDERED SENSITIVE TO
27 FRAGMENTATION (E.G. BARRED
28 OWL, WORM-EATING WARBLER)
29 ARE PRESENT, MANAGE FOREST
30 CONDITIONS APPROPRIATELY FOR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

- THOSE SPECIES;**

[4] THE FOREST CANOPY SHOULD NOT BE REMOVED IN EXCESS OF 70% CROWN CLOSURE WITH SELECTIVE CUTTING OF TSI PRACTICES;

- [5] RETAIN STANDING DEAD TREES THAT SERVE AS BIRD NESTING AND FEEDING HABITAT;**

- [6] CLEARCUTS MAY BE PLANNED IN A PATTERN THAT MINIMIZES EDGE. CIRCULAR OR SQUARE CUTS HAVE THE LEAST AMOUNT OF EDGE PRODUCED;**

- [7] DISCOURAGE THE CREATION OF SMALL CLEARINGS AND THE DISPROPORTIONATE EXPANSION OF FOREST EDGE HABITAT;**

- [8] PROVIDE THAT IF A FOREST AREA IS TEMPORARILY CLEARED, IT BE PERMITTED OR ENCOURAGED TO RETURN TO NATIVE FOREST VEGETATION. THE REPLACEMENT OR CONVERSION OF HARDWOOD OR MIXED FORESTS TO PINES**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

SHOULD BE DISCOURAGED;

**[9] ADOPT TIMBER HARVESTING
TECHNIQUES THAT MAINTAIN OR
IMPROVE HABITAT FOR FOREST
INTERIOR DWELLING SPECIES;**

**[10] MAINTAIN, TO THE DEGREE
POSSIBLE, ALL FORESTED
CORRIDORS BETWEEN RIPARIAN
AREAS AND UPLAND FORESTS SO
THAT THESE AREAS CAN CONTINUE
TO SERVE AS PASSAGEWAYS
BETWEEN HABITAT AREAS;**

**[11] SELECTIVE HARVESTING IN
HIGHLY DIVERSE FOREST OR
RIPARIAN WOODLANDS SHOULD BE
ENCOURAGED IN LIEU OF
CLEARCUTTING. SMALL PATCH
CUTTING, LESS THAN 5 ACRES, MAY
BE PRACTICED IN MODERATION;**

**[12] RETAIN OR ENCOURAGE SNAGS 10
INCHES D.B.H. OR GREATER.
CLUSTER SNAGS WHERE POSSIBLE.
SNAGS WHICH PROTRUDE ABOVE A
CLOSED FOREST CANOPY SHOULD
BE REMOVED;**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

[13] CLEARCUTTING OPERATIONS SHOULD LEAVE SEVERAL UNCUT HARDWOOD TREES 3 INCHES (7 CM) D.B.H. OR GREATER PER ACRE. CLUSTER THESE SMALL TREES WHERE POSSIBLE;

[14] MINIMIZE RIGHT-OF-WAY CORRIDORS AND ROAD THROUGH FOREST AREAS TO REDUCE EDGE CREATIONS;

[15] DAYLIGHTING OF LOGGING ROADS IN FOREST INTERIORS SHOULD BE DISCOURAGED;

[16] ROTATION LENGTH OF EVEN-AGED STANDS SHOULD BE INCREASED TO 100 YEARS OR MORE; AND

[17] RETAIN DEAD AND DOWNED WOODY DEBRIS ON THE FOREST FLOOR.

(D) PROJECTS SHOULD BE DESIGNED TO MINIMIZE FRAGMENTED FOREST AREAS AND PROVIDE MANAGEMENT MEASURES THAT WILL CONSERVE HABITAT VALUE IN ACCORDANCE WITH A GUIDE TO THE CONSERVATION OF FOREST INTERIOR

1 **DWELLING BIRDS IN THE CHESAPEAKE**
2 **BAY CRITICAL AREA**, ADOPTED BY THE
3 **CHESAPEAKE BAY CRITICAL AREA**
4 **COMMISSION IN JUNE 2000.**

5
6 **9. ANADROMOUS FISH PROPAGATION WATERS.**

7
8 **(A) IDENTIFICATION OF ANADROMOUS FISH**
9 **SPAWNING STREAMS IN CHARLES**
10 **COUNTY HAS BEEN MADE THROUGH**
11 **FIELD SURVEYS CONDUCTED BY THE**
12 **MARYLAND DEPARTMENT OF NATURAL**
13 **RESOURCES. ALL TRIBUTARY STREAMS**
14 **HAVE BEEN SURVEYED, AND DESIGNATED**
15 **SPAWNING STREAMS HAVE BEEN**
16 **INVENTORIED. THESE AREAS ARE**
17 **SHOWN ON THE NATURAL RESOURCES**
18 **MAP THAT IS PART OF THE CHARLES**
19 **COUNTY CRITICAL AREA PROGRAM.**

20
21 **(B) TO AVOID ADVERSE IMPACTS OF ANY**
22 **ACTIVITIES OCCURRING WITHIN THE**
23 **WATERSHED OF ANADROMOUS FISH**
24 **PROPAGATION STREAMS, THE**
25 **FOLLOWING MANAGEMENT GUIDELINES**
26 **APPLY:**

27
28 **[1] LAND DISTURBING ACTIVITIES,**
29 **SUCH AS DEVELOPMENT**
30 **ACTIVITIES AND OTHER NON-**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**AGRICULTURAL ACTIVITIES,
SHOULD BE MINIMIZED. THE
PROPOSED ACTIVITY MAY BE
PROHIBITED OR RESTRICTED IN
ORDER TO MINIMIZE OR AVOID
NEGATIVE IMPACTS.**

**[2] ANY NEW DEVELOPMENT ACTIVITY
IN THESE WATERSHEDS MUST
OBTAIN AND IMPLEMENT EITHER
AN APPROVED SEDIMENT AND
EROSION CONTROL PLAN OR A
SOIL CONSERVATION AND WATER
QUALITY PLAN, WHICHEVER IS
APPROPRIATE FOR THE ACTIVITY.**

**[3] TO PROTECT AND MAINTAIN
WATER QUALITY, ADEQUATE
BUFFERS SHOULD BE MAINTAINED
OR INSTALLED AROUND THE
PROPOSED ACTIVITY.**

**[4] PROPOSED DEVELOPMENT
ACTIVITIES, EXCLUDING
AGRICULTURAL ACTIVITIES, IN
ANADROMOUS FISH SPAWNING
WATERSHEDS SHOULD ENSURE THE
MAINTENANCE AND
IMPROVEMENT, IF POSSIBLE, OF
THE STREAMS' WATER QUALITY.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

DURING THE IMPLEMENTATION OF AN ACTIVITY, THE APPLICANT MAY BE REQUIRED TO MONITOR WATER QUALITY. WATER QUALITY TESTING WILL BE CONDUCTED BY A QUALIFIED CONSULTANT. IF WATER QUALITY OR STREAM HABITATS DETERIORATE DUE TO ADVERSE IMPACTS OF THE ACTIVITY, THE APPLICANT MAY BE REQUIRED TO RECTIFY THE CAUSE OF THE IMPACTS.

(C) TO PROTECT STREAMS AND STREAMBANK AREAS, THE FOLLOWING MEASURES ARE APPLICABLE TO ANY DEVELOPMENT ACTIVITY PROPOSED WITHIN AN ANADROMOUS FISH PROPAGATION AREA:

[1] THE INSTALLATION OR INTRODUCTION OF CONCRETE RIPRAP OR OTHER ARTIFICIAL SURFACES ONTO THE BOTTOM OF NATURAL STREAMS SHOULD BE PROHIBITED, UNLESS IT CAN BE DEMONSTRATED THAT WATER QUALITY AND FISHERIES HABITAT CAN BE IMPROVED BY SUCH STRUCTURES. THIS REQUIREMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**MAINTAINS THE NATURAL
CONDITION FOR FISH PASSAGE TO
AND FROM SPAWNING AREAS, BUT
DOES NOT PREVENT THE
INSTALLATION OF MEASURES TO
CONTROL STREAMBANK EROSION.**

**[2] CHANNELIZATION OR OTHER
PHYSICAL ALTERATIONS WHICH
MAY CHANGE THE COURSE OR
CIRCULATION OF A STREAM AND
INTERFERE WITH THE MOVEMENT
OF FISH SHOULD BE PROHIBITED.**

**[3] THE CONSTRUCTION OR
PLACEMENT OF DAMS OR OTHER
STRUCTURES THAT WOULD
INTERFERE WITH OR PREVENT
THE MOVEMENT OF SPAWNING OR
JUVENILE FISH SHOULD BE
PROHIBITED. IF PRACTICABLE,
EXISTING BARRIERS SHOULD BE
REMOVED.**

**[4] CONSTRUCTION, REPAIR OR
MAINTENANCE ACTIVITIES
SHOULD NOT OCCUR WITHIN
STREAMS OR THE STREAM BUFFER
BETWEEN MARCH 1 AND JUNE 15.
THIS RESTRICTION PROTECTS THE**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

**SPAWNING PERIOD OF THE
VARIOUS ANADROMOUS SPECIES
THAT MAY BE FOUND IN THESE
WATERS. THIS RESTRICTION MAY
BE MODIFIED UPON ADVICE OF THE
MARYLAND DEPARTMENT OF
NATURAL RESOURCES AND
DOCUMENTATION SUBMITTED BY
THE APPLICANT THAT CHANGING
THE TIME PERIOD WILL NOT
ADVERSELY AFFECT THE STREAM
OR STREAM BUFFER.**

**[5] IF A VEGETATIVE BUFFER DOES
NOT EXIST ALONG THE STREAM
BANKS, A VEGETATIVE BUFFER
SHOULD BE ESTABLISHED.**

**[6] MINIMIZE ANY DISTURBANCE TO
THE FOREST CANOPY ALONG THE
STREAM BANKS. THE FOREST
CANOPY HELPS TO MAINTAIN
LOWER WATER TEMPERATURE AND
PROVIDES FOOD FOR JUVENILE
FISH.**

**(10) ADDITIONAL IMPORTANT PLANT AND
WILDLIFE HABITAT AREAS.**

(A) IF ADDITIONAL PLANT AND WILDLIFE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

HABITAT AREAS ARE DESIGNATED IN THE FUTURE, LOCAL PUBLIC HEARINGS, AS APPROPRIATE, SHALL BE HELD TO CONSIDER COMMENTS ON THE AREAS AND PROTECTION MEASURES PROPOSED. PROTECTION MEASURES FOR THREATENED, ENDANGERED SPECIES AND SPECIES IN NEED OF CONSERVATION WILL BE ADOPTED WITHIN 12 MONTHS OF THE MARYLAND DEPARTMENT OF NATURAL RESOURCES SECRETARY'S DESIGNATION. AS WITH OTHER AREAS DESIGNATED AS HABITAT PROTECTION AREAS BY THE COUNTY, STATE AND FEDERAL AGENCIES, ANY PROPOSED ACTIVITY WITHIN THESE AREAS MAY BE REQUIRED TO PROVIDE A MANAGEMENT PLAN.

1
2
3

SECTION 2. BE IT FURTHER ENACTED, that this Act shall take effect TEN
(10) calendar days after it becomes law.

COUNTY COMMISSIONERS OF
CHARLES COUNTY, MARYLAND

Edith J. Patterson, Vice President

Reuben B. Collins, II

Samuel N. Graves, Jr.

Gary V. Hodge

ATTEST:

Denise Ferguson, Clerk