

# ***Critical Area Commission***

## **STAFF REPORT**

July 9, 2025

<b>PROPOSAL:</b>	Permission to Publish Proposed Regulations: Updates to Title 27.03, Critical Area Commission for the Chesapeake and Atlantic Coastal Bays
<b>COMMISSION ACTION:</b>	Vote
<b>STAFF:</b>	Lisa Hoerger
<b>AFFECTED CHAPTERS OF COMAR:</b>	COMAR 27.03.01, Notification of Project Applications
<b>APPLICABLE LAW/ REGULATIONS:</b>	Natural Resources Article, §8-1806

### **DISCUSSION:**

At the June 4, 2025 Critical Area Commission meeting, Commission staff provided a review of the draft regulations and reported on the public comments received since the April Commission meeting. Recall that the purpose of updating COMAR 27.03.01.03, Notice Requirements for State Agency and Local Agency Development, and COMAR 27.03.01.04, Categories of Applications to be Submitted to the Executive Director, is to make updates due to changes in the Commission staff's reorganization of duties and priorities, changes in the effectiveness of local government review of development applications, and changes to the Commission's meeting schedule.

### **Public Comments Received**

Commission staff provided the draft to the local governments and the environmental community for review. Comments were received by Baltimore City, Baltimore County, Dorchester County, and the Chesapeake Bay Foundation. These comments were discussed with the Commission at its June 4, 2025 meeting, where two particular topics became most pertinent:

1. Reconsidering whether 14 days is sufficient time for public comment for State and local government projects that require Commission approval; and
2. Reconsidering whether newspapers are still necessary for publishing public notices.

Consequently, the Commission directed staff to change the 14-day timeframe to 30 days. The Commission also discussed newspaper publication and agreed that rather than eliminate a means to provide public notice, the Commission should be thinking of additional ways to provide public notice. Therefore, no change was made to the regulation concerning the requirement to publish in a newspaper.

In response to the direction provided by the Critical Area Commission, two additional changes have been made to the draft regulations, which will be covered in the next section of the staff report.

## **PROPOSED REGULATORY CHANGES**

### **27.03.01.03 - Notice Requirements for State Agency and Local Agency Development - Review**

The proposed amendment to 27.03.01.03 is minor in nature and was precipitated when the Commission and the Committees began meeting on different dates. The current regulation instructs State and Local government agencies to provide public notice for development activities proposed on State or local government lands. The amendment now clarifies that the 14-day notice would be fulfilled prior to the meeting of the Project Committee.

As noted above, the Commission directed staff to change the 14-day timeframe to 30 days, which is highlighted in yellow below. The updated draft language now reads (see page 1, line 13 and page 1, line 18 in draft)

- a. Public notice was published [for 1 business day in a newspaper of general circulation in the geographic area in which the proposed development would occur];

*(i) At least 30 days prior to the date of the project committee meeting at which the project will be presented for a vote; and*

*(ii) For one business day in a newspaper of general circulation in the geographic area in which the proposed development would occur;*

- (b) (text unchanged)

(c) At least [14] 30 days were provided for public comment in the local jurisdiction in which the proposed development would occur; and

- (d) (text unchanged).

### **27.03.01.04 - Categories of Applications to be Submitted to the Executive Director - Review**

The changes to COMAR 27.03.01.04 are proposed to streamline the volume of projects required for submission for Commission staff review. No comments were received regarding the proposed changes to this regulation from local governments. These changes will lessen the amount of time needed to prepare and send certain applications to Commission staff for review. This will benefit both the planning staff from local jurisdictions and the Commission staff.

## **COMMISSION ACTION:**

The Commission will be asked to vote to forward the draft regulations to the Administrative, Executive, & Legislative Review Committee and subsequently to publish these regulations as proposed regulations in the Maryland Register.

If you have any questions or comments regarding the draft regulations prior to the meeting, please contact me at (410) 260-3478 or at [lisa.hoerger@maryland.gov](mailto:lisa.hoerger@maryland.gov) or Kate Durant at (410) 260-3477 or at [kathryn.durant@maryland.gov](mailto:kathryn.durant@maryland.gov).

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3 **DRAFT 7/9/2025**  
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5 **COMAR 27.03.01**

6 **03 Notice Requirements for State Agency and Local Agency Development.**

7 A. (text unchanged)

8 B. Public Notice.

9 (1) Except as provided under §A of this regulation, a State agency or local agency that proposes development  
10 in the Critical Area shall, as part of its *formal* project submittal to the Commission, provide evidence that:

11 (a) Public notice was published [for 1 business day in a newspaper of general circulation in the geographic  
12 area in which the proposed development would occur];

13 (i) *At least 30 days prior to the date of the project committee meeting at which the project will be*  
14 *presented for a vote; and*

15 (ii) *For one business day in a newspaper of general circulation in the geographic area in which the*  
16 *proposed development would occur;*

17 (b) (text unchanged)

18 (c) At least [14] 30 days were provided for public comment in the local jurisdiction in which the proposed  
19 development would occur; and

20 (d) (text unchanged)

21 (2) (text unchanged)

22 C. — D. (text unchanged)  
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3 **COMAR 27.03.01**

4 **.04 Categories of Applications to be Submitted to the Executive Director.**

5 **A. [Developments, Subdivisions, and Site Plans Requiring Project Approval.**

6 (1) The local approving authority shall electronically submit to the Executive Director each application for a  
7 development, subdivision, and site plan that is located wholly or partially within the Critical Area, except those  
8 specified in §A(2) of this regulation.

9 (2) The following types of developments, subdivisions, and site plans are exempted from §A(1) of this  
10 regulation, if the proposed development, subdivision, or site plan does not result in a physical disturbance to the  
11 buffer:

12 (a) The following developments, subdivisions, or site plans that would occur wholly or partially within  
13 [the IDAs] an intensely developed area:

14 (i) A single family dwelling unit;

15 (ii) A structure which is necessary to a single family dwelling unit which may include a pool, garage,  
16 porch, shed, or tennis courts;

17 (iii) Development in which the land disturbance does not exceed 15,000 square feet; and

18 (iv) Subdivisions resulting in up to ten lots or up to ten dwelling units;

19 (b) The following developments, subdivisions, or site plans that would occur wholly or partially within a  
20 limited development area:

21 (i) Those listed in §A(2)(a)(i)—(iii) of this regulation; and

22 (ii) A subdivision resulting in up to three lots that does not affect the local jurisdiction's growth  
23 allocation; and

24 (c) Developments, subdivisions, or site plans occurring wholly or partially within a resource conservation  
25 area for which the land disturbance does not exceed 5,000 square feet.] *A local jurisdiction shall electronically*  
26 *submit to the Executive Director each application for:*

27 *(1) A variance from the local Critical Area program;*

28 *(2) In the resource conservation area:*

29 *(i) A site plan;*

30 *(ii) A subdivision;*

31 *(iii) A lot consolidation or a reconfiguration;*

32 *(iv) A special exception;*

33 *(v) A conditional use; and*

34 *(vi) A zoning map amendment or a rezoning.*

35 *(3) In an intensely developed area or a limited development area, a subdivision or a lot consolidation or*  
36 *reconfiguration :*

37 *(i) That proposes impacts to any habitat protection area, including the buffer; or*

38 *(ii) On a site that has received growth allocation ; and*

39 *(4) In accordance with COMAR 27.01.14 and COMAR 27.02.07, a major or minor solar energy generating*  
40 *system that would be located wholly or partially in a limited development area or a resource conservation area.*

41 **B.[ Other Applications. The local approving authority shall electronically submit to the Executive Director:**

1 (1) Each initial and subsequent application for a rezoning or a floating zone that would occur wholly or  
2 partially within the resource conservation area or would result in a change to the Critical Area land classification;

3 (2) Each application for a special exception or a conditional use that would allow industrial, commercial,  
4 institutional, nonresidential, or multifamily uses to be located wholly or partially within a limited development  
5 area or a resource conservation area;

6 (3) Each application for a variance from the local Critical Area program; and

7 (4) In accordance with COMAR 27.01.14 and COMAR 27.02.07, each application for a major or minor solar  
8 energy generating system that would be located wholly or partially in a limited development area or a resource  
9 conservation area.

10 C. Approvals.] The local approving authority shall electronically submit to the Executive Director *final*  
11 *approvals for*:

12 (1) [Each final approval of a] A major solar energy generating system;

13 (2) In accordance with COMAR 27.01.04.03 and 27.01.09.01-3, each category of application under §A(1)—  
14 (3) of this regulation [and for each Critical Area variance application];

15 [(a) Each approved] (3) *Upon request by the Executive Director, a major buffer management plan; and*

16 [(b)] (4) As applicable, each [approved] completed Commission form entitled “Shoreline Stabilization  
17 Measure Buffer Management Plan.”