

Critical Area Commission

STAFF REPORT

October 1, 2025

APPLICANT: The Town of Snow Hill

PROPOSAL: Refinement - Comprehensive Review of Critical Area Program

JURISDICTION: The Town of Snow Hill (Worcester County)

COMMISSION ACTION: Concurrence with Chair's Determination of Refinement

STAFF RECOMMENDATION: Approval with Conditions

STAFF: Katie Hayden

**APPLICABLE LAW/
REGULATIONS:** Natural Resources Article §8-1809(g) and Natural Resources Article §8-1809(p)

DISCUSSION:

The Town of Snow Hill, located in Worcester County, recently completed an effort to comprehensively review their Critical Area Program as is required by State Law. Chapter 72 of the Town's Code contains provisions pertaining to the town's Critical Area Program. On July 8, 2025, the Mayor and Council of the Town of Snow Hill approved Ordinance 2025-10, which repeals and replaces Chapter 72. The Town is now requesting that the Critical Area Commission approve the comprehensive update of their Critical Area program as reflected in the Town's updated Chapter 72.

Town of Snow Hill Critical Area Overview

Snow Hill's Critical Area totals 265.64 acres, with 60.3 acres designated as Resource Conservation Area (RCA), 65.70 acres designated as Limited Development Area (LDA), and 139.64 acres designated as Intensely Developed Area (IDA). The total growth allocation used by the Town to date is 4.63 acres. The Town must request any future growth allocation allotment from Worcester County.

Comprehensive Review and Update to Snow Hill's Critical Area Program

Per Natural Resources Article §8-1809(g), each local jurisdiction is required to comprehensively review and update their local Critical Area program every ten years and ensure conformance with the requirements of the Critical Area law, criteria, and regulations. The Town originally

approved its Critical Area Program on January 2, 1990. The town's last Comprehensive Review of its Critical Area Program was approved on May 1, 2012.

Through Ordinance 2025-10, the Town updated Chapter 72 based on the most recent changes to the Critical Area law and regulations as well as the Commission's Model Ordinance for municipalities. These updates include additions to Critical Area Program goals and general requirements for development in the Critical Area; standards pertaining to permitted uses within the Critical Area and standards for locating new IDAs or LDAs; provisions pertaining to after-the-fact variances, program changes and comprehensive reviews; updates to provisions pertaining to enforcement, permitted activities within the Critical Area Buffer, Buffer establishment and mitigation; updates to other Habitat Protections Area provisions based on input from the Department of Natural Resources Wildlife and Heritage Service; additions to provision pertaining to water dependent facilities and local development projects; and new definitions. The town is also choosing to opt into the non-water dependent structures on piers language that is permitted under Natural Resources Article §8-1808.4.

Natural Resources Inventory

COMAR 27.01.10.01 requires a jurisdiction during its comprehensive review to map or inventory (or both) habitat protection areas, including threatened and endangered species habitats and species in need of conservation, anadromous fish propagation waters, plant and wildlife habitats, and locally significant habitats. The Commission coordinates with the Maryland Department of Natural Resources Wildlife and Heritage Service (DNR WHS) to provide a Natural Resources Inventory (NRI) that includes updated narratives and maps to meet this requirement. The most recent inventory was completed in August 2023. Chapter 72-15, *Other Habitat Protection Areas*, reflects the updated inventory and also includes site management considerations for Purnell Branch, a locally significant habitat.

Recommendation

The comprehensive update of Snow Hill's Critical Area program as reflected in the Code of Snow Hill meets the goals of the Critical Area law and standards for comprehensive review. On September 19, 2025, the Program Committee recommended that the Commission concur with the Chair's determination that this comprehensive review be processed as a refinement.

Further, the Program Committee recommends the Chair approve this refinement with the following condition:

1. Within 180 days of the date of Commission approval, the Town of Snow Hill will update the approved Chapter 72 to meet the provisions outlined in Attachment 1 of this staff report.

Attachments

1. Proposed Revisions
2. Proposed Ordinance

Attachment 1. Proposed Revisions to Chapter 72, Critical Area, of the Code of Snow Hill

Commission staff's recommended revisions to Chapter 72 of the Code of Snow Hill are numbered below. These minor changes and clarifications are necessary to bring the Town of Snow Hill's Critical Area Program into full consistency with the Critical Area law and regulations as of October 1, 2024 (including updates to Chapter 424 of the 2024 Laws of Maryland under House Bill 233). All text in underline should be added; all text in ~~striketrough~~ should be deleted.

1. 72-10 Lot consolidation and reconfiguration on page 73: B(2) "the Town shall issue a final written decision...within ten (10) business days ~~by United State mail~~ to the ~~Commission's business address~~ Critical Area Commission."
2. 72-16 E. Evaluating plans for new and expanded water-dependent facilities: "(7) That dredge spoil will not be placed within the buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area except as necessary for a beneficial use approved by the Board of Public Works or the Department of the Environment such as:"
3. 72-18. Definitions on page 97: Development Activities - The construction or substantial alteration of residential, commercial, industrial, institutional, or transportation facilities or structures. Development activities also include human activity that results in disturbance to land and natural vegetation.
4. 72-18. Definitions on page 98: In-Kind Replacement - The replacement of a structure with another structure that is smaller than or identical to the original structure in use, footprint area, width, and length.



MAYOR AND COUNCIL OF SNOW HILL

First Reading June 10th, 2025

Second Reading July 8, 2025

ORDINANCE 2025-10

**AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 72, ENTITLED
CRITICAL AREA, OF THE CODE OF THE TOWN OF SNOW HILL, MARYLAND**

WHEREAS, State law requires each local jurisdiction to comprehensively review its entire Critical Area Program every ten (10) years; and

WHEREAS, the previous update to Snow Hill's Critical Area Program was approved in 2012, therefore the Town needed to have its Critical Area Program comprehensively reviewed; and

WHEREAS, in an effort to assist local jurisdictions the State Critical Area Commission hired an employee to directly work with municipalities to assist them with this review; and

WHEREAS, Town staff has completed this review with the Critical Area Commission staff resulting in this ordinance to update the Town's Critical Area Code to incorporate updates to the State Critical Area law; and

WHEREAS, the Mayor and Council of Snow Hill ("Snow Hill") desires to update Chapter 72, entitled Critical Area to complete the comprehensive review and incorporate the updates to the State Critical Area law.

**NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE MAYOR AND
COUNCIL OF SNOW HILL, THAT CHAPTER 72, ENTITLED CRITICAL AREA OF
THE CODE OF THE TOWN OF SNOW HILL, MARYLAND BE, AND IT IS HEREBY
REPEALED AND REPLACED AS FOLLOWS:**

...

CHAPTER 72 Critical Area

~~§ 72-1. Purpose; applicability; maps; area classifications; general requirements.~~

- ~~A. Goals. The goals of the Snow Hill Critical Area Ordinance are to accomplish the following:~~
- ~~(1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or run-off from surrounding lands;~~
 - ~~(2) Conserve fish, wildlife, and plant habitat; and~~
 - ~~(3) Establish land use policies for development in the Critical Area which accommodate growth as well as address the environmental impacts that the number, movement, and activities of people may have on the area.~~
- ~~B. The Snow Hill Critical Area Ordinance. The Snow Hill Critical Area Ordinance consists of the Snow Hill Critical Area Ordinance and the Official Critical Area Map(s). Related provisions may be found in the Snow Hill Subdivision Regulations² and the Snow Hill Zoning Ordinance.³~~
- ~~C. Regulated activities and applicability. Any applicant for a permit or license to pursue activities within the Critical Area, including, but not limited to, development or redevelopment, grading, sediment and erosion control, timber harvesting, shoreline erosion control, installation of a septic system and drain field, operation of a waste collection or disposal facility, operation of a commercial or private marina or other water-related commercial or industrial operation (whether public or private), mining (whether surface or subsurface) or quarrying, farming or other agriculture-related activities shall have such permits or licenses issued by the designated local approving authority after review to determine compliance with the Snow Hill Critical Area Ordinance.~~
- ~~D. Critical Area Overlay District Map.~~
- ~~(1) The Official Critical Area Overlay District Map is maintained in force as part of the Official Zoning Map for Snow Hill.⁴ The Official Critical Area Map delineates the extent of the Critical Area Overlay District that shall include:~~
 - ~~(a) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the state wetland maps and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland; and~~
 - ~~(b) All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland.~~
 - ~~(2) Within the designated Critical Area Overlay District, all land shall be assigned one of the following land management and development area classifications:~~

- ~~(a) Intensely Developed Area (IDA).~~
- ~~(b) Limited Development Area (LDA).~~
- ~~(c) Resource Conservation Area (RCA).~~
- ~~(3) The Critical Area Overlay District Map may be amended by the Mayor and Town Council in compliance with amendment provisions in this chapter, the Maryland Critical Area Law, COMAR Title 27, and other applicable provisions of the Town of Snow Hill Code.~~

~~E. General requirements.~~

- ~~(1) Development and redevelopment shall be subject to the habitat protection area requirements prescribed in this chapter.~~
- ~~(2) Reasonable accommodations for the needs of disabled citizens.~~
 - ~~(a) An applicant seeking relief from the Critical Area standards contained in this chapter in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating by a preponderance of evidence the following:
 - ~~{1} The relief from the Critical Area standards sought by the applicant will benefit person(s) with a disability within the meaning of the Americans with Disabilities Act ("ADA") and related federal regulations;~~
 - ~~{2} Strict and literal enforcement of the provisions of this chapter would violate the ADA or deprive a disabled resident or user of the reasonable use and enjoyment of the property;~~
 - ~~{3} A reasonable accommodation would restore the disabled resident's or user's reasonable use or enjoyment of the property;~~
 - ~~{4} The accommodation requested will not substantially impair the purpose, intent, or effect of the provisions of this chapter as applied to the property; and~~
 - ~~{5} The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation or other requirement; or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.~~~~
 - ~~(b) An applicant seeking relief from the Critical Area standards contained in this chapter in order to accommodate the reasonable needs of disabled citizens shall submit a written request for such relief to the Town. The Planning Commission shall, after a hearing, determine the nature and scope~~

~~of any accommodation or relief from the Critical Area Ordinance to be afforded to an applicant pursuant to this subsection and may award different or other relief than requested after giving due regard to the purpose, intent, or effect of the applicable provisions of this chapter. The Planning Commission may also consider the size, location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.~~

- ~~(e) The Planning Commission may require, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this chapter. Appropriate bonds may be collected or liens placed in order to ensure Snow Hill's ability to restore the property should the applicant fail to do so.~~

§ 72-2. Intensely Developed Areas.

~~Development standards: For all development activities in the Intensely Developed Areas, the applicant shall identify any environmental or natural feature described below and meet all of the following standards:~~

- ~~A. Development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation;~~
- ~~B. All roads, bridges, and utilities are prohibited in a habitat protection area, unless no feasible alternative exists. If a road, bridge or utility is authorized, the design, construction, and maintenance shall:~~
- ~~(1) Provide maximum erosion protection;~~
 - ~~(2) Minimize negative impact on wildlife, aquatic life, and their habitats; and~~
 - ~~(3) Maintain hydrologic process and water quality.~~
- ~~C. All development activities that must cross or affect streams shall be designed to:~~
- ~~(1) Reduce increases in flood frequency and severity that are attributable to development;~~
 - ~~(2) Retain tree canopy so as to maintain stream water temperature within normal variation;~~
 - ~~(3) Provide a natural substrate for stream beds; and~~
 - ~~(4) Minimize adverse water quality and quantity impacts of stormwater.~~
- ~~D. All development and redevelopment activities shall include stormwater management technologies that reduce pollutant loadings by at least 10% below the level of pollution on the site prior to development or redevelopment as provided in Critical~~

~~§ 72-3. Limited Development Areas.~~

~~Development standards: For all development activities in the Limited Development Areas, the applicant shall identify any environmental or natural feature described below, and shall meet all of the following standards:~~

- ~~A. Development and redevelopment shall be subject to the water dependent facilities requirements of this chapter;~~
- ~~B. Roads, bridges, and utilities are prohibited in a habitat protection area unless no feasible alternative exists. If a road, bridge or utility is authorized the design, construction and maintenance shall:
 - ~~(1) Provide maximum erosion protection;~~
 - ~~(2) Minimize negative impacts on wildlife, aquatic life and their habitats; and~~
 - ~~(3) Maintain hydrologic processes and water quality.~~~~
- ~~C. All development activities that must cross or affect streams shall be designed to:
 - ~~(1) Reduce increases in flood frequency and severity that are attributable to development;~~
 - ~~(2) Retain tree canopy so as to maintain stream water temperature within normal variation;~~
 - ~~(3) Provide a natural substrate for stream beds; and~~
 - ~~(4) Minimize adverse water quality and quantity impacts of stormwater.~~~~
- ~~D. If there is a wildlife corridor system identified by the Wildlife Heritage Service on or near the site which can be enhanced by additional plantings, the applicant shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. The wildlife corridor system may include habitat protection areas identified in this chapter. Snow Hill shall ensure the maintenance of the wildlife corridors by requiring the establishment of conservation easements, restrictive covenants, or similar instruments approved by the Town Attorney through which the corridor is preserved by public or private groups, including homeowners associations, nature trusts and other organizations, if present.~~
- ~~E. Development on slopes 15% or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for Limited Development Areas.~~

F.—Except as otherwise provided in this subsection, for stormwater runoff, lot coverage is limited to 15% of a lot or parcel or any portions of a lot or parcel that are designated Limited Development Area.

- (1) ~~If a parcel or lot of 1/2 acre or less in size existed on or before December 1, 1985, then lot coverage is 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 lot coverage is limited to 15% of the parcel or lot.~~
- (3) ~~If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed 15% of the individual lot; however, the total lot coverage for the entire subdivision may not exceed 15%.~~
- (4) ~~Lot coverage limits provided in Subsection F(1) and (2) above may be exceeded, upon findings by the Planning Commission or its designee that the following conditions exist:~~
 - (a) ~~The lot or parcel is legally nonconforming. A lot or parcel legally developed as of July 1, 2008, may be considered legally nonconforming for the purposes of lot coverage requirements.~~
 - (b) ~~Lot coverage associated with new development activities on the property have been minimized;~~
 - (c) ~~For a lot or parcel 1/2 acre or less in size, total lot coverage does not exceed the lot coverage limits in Subsection F(1) by more than 25% or 500 square feet, whichever is greater;~~
 - (d) ~~For a lot or parcel greater than 1/2 acre and less than one acre in size, total lot coverage does not exceed the lot coverage limits in Subsection F(2) or 5,445 square feet, whichever is greater;~~
 - (e) ~~The following table summarizes the limits set forth in Subsection F(4)(a) through (d) above:~~

Table F(4)(e) Lot Coverage Limits

Lot/Parcel Size (square feet)	Lot Coverage Limit
0 to 8,000	25% of parcel + 500 square feet
8,001 to 21,780	31.25% of parcel
21,780 to 36,300	5,445 square feet
36,301 to 43,560	15% of parcel

~~(5) If the Planning Commission or its designee makes the findings set forth in Subsection F(4) above and authorizes an applicant to use the lot coverage limits set forth in that subsection, the applicant shall:~~

~~(a) Demonstrate that water-quality impacts associated with runoff from the development activities that contribute to lot coverage have been minimized through site design considerations or the use of best management practices to improve water quality; and~~

~~(b) Provide on-site mitigation in the form of plantings to offset potential adverse water-quality impacts from the development activities resulting in new lot coverage. The plantings shall be equal to two times the area of the development activity.~~

~~(c) If the applicant cannot provide appropriate stormwater treatment and plantings due to site constraints, then the applicant shall pay a fee to Snow Hill in lieu of performing the on-site mitigation. The amount of the fee shall be \$1.50 per square foot of the required mitigation.~~

~~G. The alteration of forest and developed woodlands shall be restricted and shall be mitigated as follows:~~

~~(1) The total acreage in forest and developed woodlands within Snow Hill in the Critical Area shall be maintained or preferably increased;~~

~~(2) All forests and developed woodlands that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis;~~

~~(3) If an applicant is authorized to clear more than 20% of a forest or developed woodlands on a lot or parcel, the applicant shall replace the forest or developed woodlands at 1.5 times the areal extent of the forest or developed woodlands cleared, including the first 20% of the forest or developed woodlands cleared.~~

~~(4) An applicant may not clear more than 30% of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance and the applicant replaces forest or developed woodlands at a rate of three times the areal extent of the forest or developed woodlands cleared.~~

~~(5) If an applicant is authorized to clear any percentage of forest or developed woodlands associated with a subdivision or a site plan approval, the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by Snow Hill.~~

~~H. The following are required for forest or developed woodlands clearing as required in Subsection G above:~~

~~(1) The applicant shall ensure that any plantings that die within 24 months of~~

~~installation shall be replaced. A performance bond in an amount determined by Snow Hill shall be posted to assure satisfactory replacement as required in Subsection G above and plant survival;~~

- ~~(2) A permit issued by Snow Hill before forest or developed woodlands is cleared. Clearing forests and developed woodlands before obtaining a Snow Hill permit is a violation; any forests and developed woodlands cleared before obtaining a Snow Hill permit shall be replanted at three times the areal extent of the cleared forest or developed woodlands;~~
 - ~~(3) Clearing of forest or developed woodlands that exceed the maximum area allowed in Subsection G above shall be replanted at three times the areal extent of the cleared forest or developed woodlands;~~
 - ~~(4) If the areal extent of the site limits the application of the reforestation standards in this section, the applicant may be allowed to plant off site or pay a fee in lieu of planting at a rate of \$1.50 per square foot.~~
- ~~I. If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodlands cover of at least 15%.~~
- ~~(1) The applicant shall designate, subject to the approval of the Town of Snow Hill, a new forest area on a part of the site not forested; and~~
 - ~~(2) The afforested area shall be maintained as forest cover through easements, restrictive covenants or other protective instruments approved by the Snow Hill Town Attorney.~~

~~§ 72-4. Resource Conservation Areas.~~

~~Development standards: For all development activities and resource utilization in the Resource Conservation Areas, the applicant shall meet all of the following standards:~~

- ~~A. Land use management practices shall be consistent with the policies and criteria for the habitat protection area provisions of this chapter.~~
- ~~B. Land within the Resource Conservation Area may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres.~~
- ~~C. Development activity within the Resource Conservation Areas shall be consistent with the requirements and standards for Limited Development Areas as specified in this chapter.~~
- ~~D. Nothing in this section shall limit the ability of a participant in any agricultural easement program to convey real property impressed with such an easement to family members provided that no such conveyance will result in a density greater than one dwelling unit per 20 acres.~~

~~§ 72-5. Land use and density.~~

~~A. Permitted uses: Permitted uses in the Critical Area shall be limited to those uses allowed by the underlying zoning classification as modified by Table A and the supplemental use standards in § 72-6, provided such uses meet all standards established by the Critical Area Overlay Zone.~~

Table A-Permitted Uses

LEGEND:

~~P—Permitted if allowed in the underlying zoning district~~

~~PC—Permitted with conditions if allowed in the underlying zoning district~~

~~NP—Not permitted~~

Land Use Management Designation

Item	Use Description	IDA	LDA	RCA
1.00	Residential			
1.10	Accessory dwelling unit	P	P	PC
2.00	Institutional			
2.10	Existing institutional uses	P	P	PC
2.20	New institutional uses	P	P	NP
2.30	Cemetery	P	P	PC
2.40	Group home	P	P	PC
2.50	Day care	P	P	PC
3.00	Commercial			
3.10	Existing commercial uses	P	P	PC
3.20	New commercial uses	P	P	NP
3.30	Home occupation	P	P	PC
3.40	Bed and breakfast facility	P	P	PC
4.00	Maritime/water dependent			
	Expansion of existing commercial			
4.10	marinas	P	P	PC
4.20	New marina, commercial	P	P	NP

4.30	Community piers and noncommercial boat docking and storage	P	P	PC
4.40	Public beaches and public water-oriented recreational and educational areas	P	P	PC
4.50	Research areas	P	P	PC
4.60	Fisheries activities	P	P	P
4.70	Structures on piers	PC	PC	PC
4.80	Private pier	P	P	P
5.00	Recreation			
5.10	Golf course	P	P	PC
6.00	Industrial			
6.10	Existing industrial uses	P	P	PC
6.20	New industrial uses	PC	PC	NP
6.30	Non-maritime heavy industry	PC	NP	NP
7.00	Transportation/parking/communications/utilities			
7.10	Utility transmission facilities	PC	PC	PC
8.00	Public/quasi-public			
8.10	Sanitary landfill; rubble fill	PC	PC	PC
8.20	Solid or hazardous waste collection or disposal facilities	PC	PC	PC
8.30	Sludge facilities	PC	PC	PC
9.00	Other (Reserved)			

B.—Maximum permitted density:

(1) The maximum permitted density in the Snow Hill Critical Area shall be as shown in Table B(1).

IDA	LDA	RCA
Density permitted by underlying zoning	Density permitted by underlying zoning	+ dwelling unit per 20 acres

- (2) ~~Calculation of one-in-twenty-acre density of development. In calculating the one-in-twenty-acre density of development that is permitted on a parcel located within the Resource Conservation Area, Snow Hill:~~
- (a) ~~Shall count each dwelling unit;~~
 - (b) ~~May permit the area of any private wetlands located on the property to be included under the following conditions:~~
 - [1] ~~The density of development on the upland portion of the parcel may not exceed one dwelling unit per eight acres; and~~
 - [2] ~~The area of private wetlands shall be estimated on the basis of vegetative information as designated on the state wetlands maps or by private survey approved by Snow Hill, the Critical Area Commission, and the Maryland Department of the Environment.~~

~~§ 72-6. Supplemental use standards.~~

~~The following supplemental use standards apply to the permitted uses listed in Table A⁵ above and shall apply when the permitted use is allowed in the underlying zoning district.~~

~~A.—Accessory dwelling unit.~~

- (1) ~~If a permitted use in the underlying zoning district, one additional dwelling unit (accessory dwelling unit) as part of a primary dwelling unit may be permitted in the Resource Conservation Area, provided the additional dwelling unit is served by the same sewage disposal system as the primary dwelling unit, and:~~
 - (a) ~~Is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit and does not exceed 900 square feet in total enclosed areas; or~~
 - (b) ~~Is located within the primary dwelling unit and does not increase the amount of lot coverage already attributed to the primary dwelling unit.~~
- (2) ~~An additional dwelling unit meeting all of the provisions of this section may not be subdivided or conveyed separately from the primary dwelling unit; and~~
- (3) ~~The provisions of this section may not be construed to authorize the granting of a variance, unless the variance is granted in accordance with the variance provisions contained herein.~~

~~B.—Existing institutional uses.~~

- (1) ~~Existing institutional facilities, including those that directly support agriculture, forestry, aquaculture or residential development shall be allowed in Resource Conservation Areas.~~

- ~~(2) Expansion of existing institutional facilities and uses in the Resource Conservation Area shall be subject to the nonconforming use provisions of this chapter and the grandfathering provisions in § 72-8 and may require growth allocation.~~

~~C. New institutional uses.~~

- ~~(1) New institutional facilities and uses, except those specifically listed in Table A, shall not be permitted in Resource Conservation Areas.~~
- ~~(2) Certain institutional uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in the Snow Hill Zoning Ordinance.⁶ These institutional uses are limited to:
 - ~~(a) A cemetery that is an accessory use to an existing church; provided man-made lot coverage is limited to 15% of the site or 20,000 square feet, whichever is less;~~
 - ~~(b) A day care facility in a dwelling where the operators live on the premises and there are no more than eight children;~~
 - ~~(c) A group home or assisted living facility with no more than eight residents; and~~
 - ~~(d) Other similar uses determined by the municipality and approved by the Critical Area Commission to be similar to those listed above.~~~~

~~D. Existing commercial uses.~~

- ~~(1) Existing commercial facilities and uses, including those that directly support agriculture, forestry, aquaculture or residential development shall be allowed in Resource Conservation Areas.~~
- ~~(2) Expansion of existing commercial facilities and uses in the Resource Conservation Area shall be subject to the nonconforming use provisions of this chapter and the grandfathering provisions in § 72-8 and may require growth allocation.~~

~~E. New commercial uses.~~

- ~~(1) New commercial uses, except those specifically listed in Table A, shall not be permitted in Resource Conservation Areas.~~
- ~~(2) Certain commercial uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in the Snow Hill Zoning Ordinance.⁷ These commercial uses are limited to:
 - ~~(a) A home occupation as an accessory use on a residential property and as provided for in Snow Hill's Zoning Ordinance;~~~~

- ~~(b) A bed and breakfast facility located in an existing residential structure and where meals are prepared only for guests staying at the facility; and~~
- ~~(c) Other uses determined by the municipality and approved by the Critical Area Commission to be similar to those listed above.~~

~~F.—Expansion of existing commercial marinas.~~

- ~~(1) Expansion of existing commercial marinas may be permitted within Resource Conservation Areas, provided:
 - ~~(a) Water quality impacts are quantified and appropriate best management practices that address impacts are provided;~~
 - ~~(b) That it will result in an overall net improvement in water quality at or leaving the site of the marina;~~
 - ~~(c) The marina meets the sanitary requirements of the Maryland Department of the Environment; and~~
 - ~~(d) Expansion is permitted under the nonconforming use provisions of this chapter.~~~~
- ~~(2) Expansion of existing commercial marinas may be permitted in the buffer in the Intensely Developed Areas and Limited Development Areas, provided that the applicant demonstrates:
 - ~~(a) The project meets a recognized private right or public need;~~
 - ~~(b) Adverse effects on water quality, fish, plant and wildlife habitat are minimized;~~
 - ~~(c) Insofar as possible, non-water dependent structures or operations associated with water-dependent projects or activities are located outside the buffer; and~~
 - ~~(d) Expansion is permitted under the nonconforming use provisions of this chapter.~~~~

~~G.—New marina, commercial.~~

- ~~(1) New commercial marinas shall not be permitted in Resource Conservation Areas.~~
- ~~(2) New commercial marinas may be permitted in Limited Development Areas and Intensely Developed Areas if allowed in the underlying zoning, provided:
 - ~~(a) New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.~~
 - ~~(b) New marinas meet the sanitary requirements of the Department of the~~~~

Environment.

- ~~(c) New marinas may be permitted in the buffer in the Intensely Developed Areas and Limited Development Areas, provided that it can be shown:
 - ~~[1] The project meets a recognized private right or public need;~~
 - ~~[2] Adverse effects on water quality, fish, plant and wildlife habitat are minimized; and~~
 - ~~[3] Insofar as possible, non-water dependent structures or operations associated with water dependent projects or activities are located outside the buffer.~~~~

~~H.—Community piers and noncommercial boat docking and storage.~~

- ~~(1) New or expanded community marinas and other noncommercial boat docking and storage facilities may be permitted in the buffer subject to the requirements in this chapter, provided that:
 - ~~(a) These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;~~
 - ~~(b) The facilities are community owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;~~
 - ~~(c) The facilities are associated with a residential development approved by Snow Hill for the Critical Area and consistent with all state requirements and the requirements of this chapter applicable to the Critical Area;~~
 - ~~(d) Disturbance to the buffer is the minimum necessary to provide a single point of access to the facilities; and~~
 - ~~(e) If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.~~~~
- ~~(2) Number of slips or piers permitted. The number of slips or piers permitted at the facility shall be the lesser of Subsection H(2)(a) or (b) below:
 - ~~(a) One slip for each 50 feet of shoreline in the subdivision in the Intensely Developed and Limited Development Areas and one slip for each 300 feet of shoreline in the subdivision in the Resource Conservation Area; or~~
 - ~~(b) A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:~~~~

Table H(2)(b) Number of Slips Permitted

**Platted Lots or Dwellings in
the Critical Area**

Up to 15

16 to 40

41 to 100

101 to 300

Over 300

Slips

1 for each lot

15 or 75% whichever is
greater

30 or 50% whichever is
greater

50 or 25% whichever is
greater

75 or 15% whichever is
greater

I. Public beaches and public water-oriented recreational and educational areas:

~~(1) Public beaches or other public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers, may be permitted in the buffer in Intensely Developed Areas.~~

~~(2) These facilities may be permitted within the buffer in Limited Development Areas and Resource Conservation Areas, provided that:~~

~~(a) Adequate sanitary facilities exist;~~

~~(b) Service facilities are, to the extent possible, located outside the buffer;~~

~~(c) Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result;~~

~~(d) Disturbance to natural vegetation is minimized; and~~

~~(e) Areas for possible recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the buffer within Resource Conservation Areas if service facilities for these uses are located outside of the buffer.~~

~~J. Research areas. Water dependent research facilities or activities operated by state, federal, or local agencies or educational institutions may be permitted in the buffer, if non-water dependent structures or facilities associated with these projects are, to the extent possible, located outside of the buffer.~~

~~K. Fisheries activities. Commercial water dependent fisheries including, but not limited to, structures for crab shedding, fish off loading docks, shellfish culture operations and shore based facilities necessary for aquaculture operations and fisheries activities, may be permitted in the buffer in Intensely Developed Areas, Limited Development Areas and Resource Conservation Areas.~~

~~L. Structures on piers. Except as provided in Subsection L(1), (2), and (3) below,~~

~~construction of a dwelling unit or other non-water-dependent structure on a pier located on state or private tidal wetlands within the Critical Area is prohibited.~~

~~(1) A building permit for a project involving the construction of a dwelling unit or other non-water-dependent structure on a pier located on state or private wetlands within the Critical Area may be approved, provided a permit was issued by the Department of Natural Resources on or before January 1, 1989.~~

~~(2) A building permit for a project involving the construction of a dwelling unit or other non-water-dependent structure on a pier located on state or private wetlands within the Critical Area may be approved if the following conditions exist:~~

~~(a) The project is constructed on a pier that existed as of December 1, 1985, that can be verified by a Department of Natural Resources aerial photograph dated 1985, accompanied by a map of the area;~~

~~(b) The project does not require an expansion of the pier greater than 25% of the area of piers or dry docks removed on the same property; however, additional expansion may be allowed in the amount of 10% of the water coverage eliminated by removing complete piers from the same or other properties. If the horizontal surface of a pier to be removed is not intact, but pilings identify its previous size, then that area may be used in determining the additional expansion permitted. The project expansion based on water coverage eliminated can be considered only if all nonfunctional piers on the property are removed except for the project pier. The total expansion may not exceed 35% of the original size of the piers and dry docks removed; and~~

~~(c) The project is located in an Intensely Developed Area.~~

~~(3) A building permit for the repair of an existing dwelling unit or other non-water-dependent structure on a pier located on state or private wetlands within the Critical Area may be approved.~~

~~(4) If a structure that is not water-dependent is permitted under the exceptions included in this section, an applicant is required to demonstrate that the project will meet the following environmental objectives using the standards established herein:~~

~~(a) The construction and operation of the project will not have a long-term adverse effect on the water quality of the adjacent body of water;~~

~~(b) The quality of stormwater runoff from the project will be improved; and~~

~~(c) Sewer lines or other utility lines extended for the pier will not affect the water quality of adjoining waters.~~

M.—Golf course. A golf course, excluding main buildings and/or structures such as the

~~clubhouse, pro shop, parking lot, etc., may be permitted in Resource Conservation Areas, provided:~~

- ~~(1) Such use is permitted in the underlying zoning; and~~
- ~~(2) Development is in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005.~~

~~N. Existing industrial uses.~~

- ~~(1) Existing industrial facilities and uses, including those that directly support agriculture, forestry, or aquaculture, may be permitted in Resource Conservation Areas.~~
- ~~(2) Expansion of existing industrial facilities and uses in the Resource Conservation Area shall be subject to the nonconforming use provisions of this chapter and the grandfathering provisions in § 72-8 and may require growth allocation.~~

~~O. New industrial uses.~~

- ~~(1) New industrial uses shall not be permitted in Resource Conservation Areas.~~
- ~~(2) New, expanded or redeveloped industrial facilities may only be permitted in Limited Development Areas and Intensely Developed Areas if permitted uses in the underlying zoning district and provided such facilities meet all requirements for development in the Limited Development Areas and Intensely Developed Areas.~~
- ~~(3) New, expanded or redeveloped industrial or port related facilities and the replacement of these facilities may be permitted only in those portions of Intensely Developed Areas that have been designated as buffer Management Areas.~~

~~P. Non-maritime heavy industry. Non-maritime heavy industry may be permitted if:~~

- ~~(1) The site is located in an Intensely Developed Area; and~~
- ~~(2) The activity or facility has demonstrated to all appropriate local and state permitting agencies that there will be a net improvement in water quality to the adjacent body of water.~~

~~Q. Utility transmission facilities.~~

- ~~(1) Utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters, may be permitted in the Critical Area, provided:
 - ~~(a) The facilities are located in Intensely Developed Areas; and~~
 - ~~(b) Only after the activity or facility has demonstrated to all appropriate local and~~~~

state permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

(2) These provisions do not include power plants.

R.—Sanitary landfill; rubble fill.

(1) Sanitary landfills or rubble fills may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem.

(2) Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

S.—Solid or hazardous waste collection or disposal facilities.

(1) Solid or hazardous waste collection or disposal facilities, including transfer stations, may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem.

(2) Existing permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

T.—Sludge facilities.

(1) Permanent sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities may be permitted in the Critical Area, provided:

(a) The facility or activity is located in an Intensely Developed Area; and

(b) Only after the activity or facility has demonstrated to all appropriate local and state permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

(2) Agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the one hundred foot buffer.

§ 72-7. Growth allocation.

A.—Growth allocation acreage. Growth allocation available to Snow Hill includes:

(1) An area equal to 5% of the RCA acreage located within Snow Hill and/or;

(2) Growth allocation available to Snow Hill as provided for by Worcester County.

~~B. Growth Allocation Floating Zone District.~~

~~(1) Purpose. The Growth Allocation Floating Zone is not mapped but is designated for use in areas classified as Resource Conservation Areas and/or Limited Development Area within the Snow Hill Critical Area Overlay District. The purpose of the Floating Zone is to permit a change in the land management classification established in the Critical Area Overlay District on specific sites so that they may be developed to the extent permitted by the underlying zoning classification or the land use management classification. Only projects which have been approved by the Mayor and Council for award of the Critical Area Growth Allocation are eligible for the Floating Zone District.~~

~~(2) Designation of floating zones.~~

~~(a) The Growth Allocation District shall be a Floating Zone.~~

~~(b) The Growth Allocation District provides for changing the land management classification of Resource Conservation Areas and Limited Development Areas in the Critical Area Overlay District.~~

~~C. Standards. When locating new Intensely Developed or Limited Development Areas, the following standards shall apply:~~

~~(1) A new Intensely Developed Area shall only be located in a Limited Development Area or adjacent to an existing Intensely Developed Area;~~

~~(2) A new Limited Development Area shall only be located adjacent to an existing Limited Development Area or an Intensely Developed Area;~~

~~(3) New Intensely Developed Areas shall be at least 20 acres in size unless:~~

~~(a) They are contiguous to an existing Intensely Developed Area or located in an Limited Development Area; or~~

~~(b) They are a grandfathered commercial or industrial use, which existed as of January 2, 1990. The amount of growth allocation deducted shall be equivalent to the area of the entire parcel or parcels subject to the growth allocation request.~~

~~(4) No more than 1/2 of Snow Hill's growth allocation may be located in Resource Conservation Areas except as provided in Subsection C(9) below;~~

~~(5) A new Limited Development Area or Intensely Developed Area shall be located in a manner that it minimizes impacts to habitat protection areas as defined herein and in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality;~~

~~(6) A new Intensely Developed Area shall only be located where it minimizes~~

impacts to the defined land uses of the Resource Conservation Area;

- (7) A new Intensely Developed Area or a Limited Development Area in a Resource Conservation Area shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters;
- ~~(8) New Intensely Developed Areas or Limited Development Areas that are to be located in Resource Conservation Areas shall conform to all standards of this chapter for such areas, shall be so designated on the Snow Hill Critical Area Maps and shall constitute an amendment to this chapter subject to review and recommendation by the Planning Commission, and the approval of the Mayor and Council and the Critical Area Commission, as provided herein.~~
- (9) If Snow Hill is unable to utilize a portion of its growth allocation as set out in Subsection C(1) and (2) above within or adjacent to existing Intensely Developed or Limited Development Areas, then that portion of the growth allocation which cannot be so located may be located in the Resource Conservation Areas in addition to the expansion allowed in Subsection C(4) above under program measures specifically approved by the Critical Area Commission.

D. Additional factors. In reviewing map amendments or refinements involving the use of growth allocation, Snow Hill shall consider the following factors:

- ~~(1) Consistency with Snow Hill's adopted Comprehensive Plan and whether the growth allocation would implement the goals and objectives of the adopted plan. "Consistency with" means that a standard or factor will further, and not be contrary to, the following items in the Comprehensive Plan:~~
 - ~~(a) Policies;~~
 - ~~(b) Timing of the implementation of the plan, of development, and of rezoning;~~
 - ~~(c) Development patterns;~~
 - ~~(d) Land uses; and~~
 - ~~(e) Densities or intensities.~~
- (2) For a map amendment or refinement involving a new Limited Development Area, whether the development is:
 - (a) To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;
 - (b) A completion of an existing subdivision;
 - (c) An expansion of an existing business; or
 - (d) To be clustered.

- ~~(3) For a map amendment or refinement involving a new Intensely Developed Area, whether the development is:

 - ~~(a) To be served by a public wastewater system;~~
 - ~~(b) If greater than 20 acres, to be located in a designated Priority Funding Area; and~~
 - ~~(c) To have a demonstrable economic benefit.~~~~
- ~~(4) The use of existing public infrastructure, where practical;~~
- ~~(5) Consistency with state and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on site or off site;~~
- ~~(6) Impacts on a priority preservation area;~~
- ~~(7) Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and~~
- ~~(8) Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.~~

§ 72-8.- Grandfathering.

A.—Continuation of existing uses;

- ~~(1) The continuation, but not necessarily the intensification or expansion, of any use in existence on January 2, 1990, may be permitted, unless the use has been abandoned for more than one year or is otherwise restricted by existing municipal ordinances.~~
- ~~(2) If any existing use does not conform with the provisions of this chapter, its intensification or expansion may be permitted only in accordance with the variance procedures in § 72-9.~~

B.—Residential density on grandfathered lots. Except as otherwise provided, the following types of land are permitted to be developed with a single-family dwelling, if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the density provisions of this chapter.

- ~~(1) A legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of December 1, 1985;~~
- ~~(2) Land that received a building permit subsequent to December 1, 1985, but prior to January 2, 1990;~~

~~(3) Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984, and December 1, 1985; or~~

~~(a) Land that was subdivided into recorded, legally buildable lots, where the subdivision received the final approval after December 1, 1985, and provided that either development of any such land conforms to the Intensely Developed Area, Limited Development Area or Resource Conservation Area requirements in this chapter or the area of the land has been counted against the growth allocation permitted under this chapter.~~

~~C. Consistency. Nothing in this section may be interpreted as altering any requirements of this chapter related to water dependent facilities or habitat protection areas.~~

~~§ 72-9. Variances.~~

~~A. Applicability. In the event that, owing to special features of a site or other circumstances, implementation of this chapter or a literal enforcement of provisions within this chapter would result in unwarranted hardship to an applicant, a Critical Area variance may be obtained.~~

~~(1) In considering an application for a variance, Snow Hill shall presume that the specific development activity in the Critical Area, that is subject to the application and for which a variance is required, does not conform with the general purpose and intent of Natural Resources Article, Title 8, Subtitle 18, COMAR Title 27, and the requirements of this chapter.~~

~~(2) Unwarranted hardship means that without a variance, and by virtue of the application of the provisions of this Critical Area Ordinance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.~~

~~B. Standards. The circumstances and criteria to be considered for granting such a variance shall include the following:~~

~~(1) Special conditions or circumstances exist that are peculiar to the land or structure involved such that a strict and literal enforcement of provisions and requirements of this chapter would result in unwarranted hardship;~~

~~(2) A literal interpretation of the provisions of this chapter will deprive the applicant of the use of the land or a structure thereon which use is permitted as to others in accordance with the provisions of this Critical Area ordinance;~~

~~(3) The granting of a variance will not confer upon an applicant any special privilege that would be denied by this Critical Area Ordinance to other lands or structures within the Critical Area;~~

- ~~(4) The variance request is not based upon conditions or circumstances which are the result of conduct, acts or omissions of the applicant, including but not limited to the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming on any neighboring property; and~~
 - ~~(5) The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the State Critical Area Law and this chapter.~~
- ~~C. Process. Applications for a variance will be made in writing to the Town of Snow Hill Board of Appeals with a copy provided to the Critical Area Commission. Snow Hill and the Board of Appeals shall follow the Town's established procedures for advertising and notification of affected landowners.~~
- ~~(1) After hearing an application for a Critical Area Ordinance variance, the Board of Appeals shall make written findings of fact and conclusions reflecting analysis of each applicable standard.~~
 - ~~(2) If the variance request is based on conditions or circumstances that are the result of conduct, acts, or omissions of the applicant, Snow Hill shall consider that fact.~~
 - ~~(3) The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in Subsection A above.~~
 - ~~(4) Snow Hill shall notify the Critical Area Commission of its findings and decision to grant or deny the variance request in accordance with Subsection G below.~~
- ~~D. Findings. Based on competent and substantial evidence, the Board of Appeals shall make written findings as to whether the applicant has overcome the presumption of nonconformance as established in Subsection A above, and if applicable Subsection B above. With due regard for the person's technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:~~
- ~~(1) The applicant;~~
 - ~~(2) Snow Hill or any other government agency; or~~
 - ~~(3) Any other person deemed appropriate by the Town of Snow Hill.~~
- ~~E. Appeals. Appeals from decisions concerning the granting or denial of a variance under these regulations shall be taken in accordance with all applicable laws and procedures of Snow Hill for variances. Variance decisions by the Board of Appeals may be appealed to the Circuit Court in accordance with the Town Code, Maryland Rules of Procedure, and other applicable law. Appeals may be taken by any person, firm,~~

~~corporation or governmental agency aggrieved or adversely affected by any decision made under this chapter.~~

~~F. Conditions and mitigation. The Board of Appeals shall impose conditions on the use or development of a property which is granted a variance as it may find reasonable to ensure that the spirit and intent of this chapter is maintained, including, but not limited to, the following:~~

~~(1) Adverse impacts resulting from the granting of the variance shall be mitigated as recommended by the appropriate local body or approving authority, but not less than by planting on the site per square foot of the variance granted at no less than a three to one basis.~~

~~(2) New or expanded structures or lot coverage shall be located the greatest possible distance from mean high water, the landward edge of tidal wetlands, tributary streams, nontidal wetlands, or steep slopes.~~

~~G. Critical Area Commission notification. Within 10 working days after a written decision regarding a variance application is issued, a copy of the decision will be sent to the Critical Area Commission. Snow Hill may not issue a permit for the activity that was the subject of the application until the applicable thirty-day appeal period has elapsed.~~

~~§ 72-10. Lot consolidation and reconfiguration.~~

~~A. Applicability. The provisions of this section apply to a consolidation or a reconfiguration of any nonconforming legal grandfathered parcel or lot. These provisions do not apply to the reconfiguration or consolidation of parcels or lots which are conforming or meet all Critical Area requirements. Nonconforming parcels or lots includes:~~

~~(1) Those for which a Critical Area variance is sought or has been issued; and~~

~~(2) Those located in the Resource Conservation Area and are less than 20 acres in size.~~

~~B. Procedure. An applicant seeking a parcel or lot consolidation or reconfiguration shall provide the information required in COMAR 27.01.02.08E to Snow Hill.~~

~~(1) The Town of Snow Hill may not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with COMAR 27.01.02.08F.~~

~~(2) The Town of Snow Hill shall issue a final written decision or order granting or denying an application for a consolidation or reconfiguration. After a final written decision or order is issued, Snow Hill shall send a copy of the decision or order and a copy of any approved development plan within 10 business days by United States mail to the Critical Area Commission's business address.~~

§ 72-11. Amendments.

- ~~A. Amendments. The Mayor and Council of Snow Hill may from time to time amend the provisions of this Critical Area Ordinance. Changes may include, but are not limited to, amendments, revisions, and modifications to these Critical Area regulations, Critical Area Maps, implementation procedures, and local policies that affect Snow Hill's Critical Area. All such amendments, revisions, and modifications shall also be approved by the Critical Area Commission as established in § 8-1809 of the Natural Resources Article of the Annotated Code of Maryland. No such amendment shall be implemented without approval of the Critical Area Commission. Standards and procedures for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law § 8-1809(i) and (d), respectively.~~
- ~~B. Zoning Map amendments. Except for ordinance amendments or ordinance refinements developed during a six year comprehensive review, a Zoning Map amendment may only be granted by the Mayor and Council of Snow Hill upon proof of a mistake in the existing zoning. This requirement does not apply to proposed changes to a Zoning Map that meet the following criteria:~~
- ~~(1) Are wholly consistent with the land classifications as shown on the adopted Critical Area Overlay Map; or~~
 - ~~(2) The use of growth allocation in accordance with the growth allocation provisions of this chapter is proposed.~~
- ~~C. Process.~~
- ~~(1) When an amendment is requested, the applicant shall submit the amendment to the Planning Commission for review and recommendation. Upon completing findings of fact, these documents shall be forwarded to the Mayor and Council of Snow Hill.~~
 - ~~(2) The Mayor and Council of Snow Hill shall hold a public hearing at which parties of interest and citizens shall have an opportunity to be heard. At least 14 days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in Snow Hill.~~
 - ~~(3) After the Mayor and Council approves an amendment, it shall forward its decision and applicable resolutions along with the amendment request to the Critical Area Commission for final approval.~~

§ 72-12. Enforcement.

- ~~A. Consistency. The Critical Area provisions of this chapter, in accordance with the~~

Critical Area Act and Criteria supersede any inconsistent law, chapter or plan of the Town of Snow Hill. In the case of conflicting provisions, the stricter provisions shall apply.

~~B. Violations:~~

- ~~(1) No person shall violate any provision of this chapter. Each violation that occurs and each calendar day that a violation continues shall be a separate offense.~~
- ~~(2) Each person who violates a provision of this chapter shall be subject to separate administrative civil penalties, abatement and restoration orders, and mitigation for each offense.~~
- ~~(3) Noncompliance with any permit or order issued by Snow Hill related to the Critical Area shall be a violation of this chapter and shall be subject to enforcement as provided herein.~~

~~C. Responsible persons. The following persons may each be held jointly or severally responsible for a violation:~~

- ~~(1) Persons who apply for or obtain any permit or approval;~~
- ~~(2) Contractors acting on behalf of or pursuant to a contractual or other business relationship with property owners;~~
- ~~(3) Subcontractors acting on behalf of or pursuant to a contractual or other business relationship with property owners or their contractors;~~
- ~~(4) Property owners;~~
- ~~(5) Owners, managing agents, general partners, and principals of property owners which are partnerships, corporations, limited liability companies or other business entities; or~~
- ~~(6) Any person who has committed, assisted, or participated in the violation.~~

~~D. Required enforcement action. In the case of violations of this chapter, Snow Hill shall take enforcement action including:~~

- ~~(1) Assessing administrative civil penalties as provided below and as necessary to cover the costs associated with performing inspections, supervising or rendering assistance with identifying and citing the violation, issuing abatement and restoration orders, and reviewing mitigation plans and ensuring compliance with these plans;~~
- ~~(2) Issuing abatement, restoration, and mitigation orders as necessary to:
 - ~~(a) Stop unauthorized activity;~~~~

~~(b) Restore and stabilize the site, as appropriate, to its condition prior to the violation or to a condition that provides the same water quality and habitat benefits; and~~

~~(3) Requiring the implementation of mitigation measures, in addition to restoration activities, to offset the environmental damage and degradation or loss of environmental benefit resulting from the violation.~~

~~E. Right to enter property. Except as otherwise prohibited and in accordance with the procedures specified herein, the Mayor and Council of Snow Hill or its designee may obtain access to and enter upon a property in order to investigate, identify or verify a suspected violation, restrain a development activity, or issue a citation if Snow Hill has probable cause to believe that a violation of this chapter has occurred, is occurring, or will occur. Snow Hill shall make a reasonable effort to contact a property owner before obtaining access to or entering the property. If entry is denied, Snow Hill may seek an injunction to enter the property to pursue an enforcement action.~~

~~F. Administrative civil penalties. In addition to any other penalty applicable under state or Snow Hill law, every violation of a provision of Natural Resources Article, Title 8, Subtitle 18, and/or this Critical Area Ordinance shall be punishable by a civil penalty of up to \$10,000 per calendar day that a violation continues.~~

~~(1) Before imposing any civil penalty, the person(s) believed to have violated this chapter shall receive written notice of the alleged violation(s) including which, if any, are continuing violations, and an opportunity to be heard. The notice of violation(s) shall specify the date, time, and location of the hearing afforded to the person(s) charged with a violation. The amount of the civil penalty for each violation, including each continuing violation, shall be determined separately. For each continuing violation, the amount of the civil penalty shall be determined per day. In determining the amount of the civil penalty, Snow Hill shall consider:~~

~~(a) The gravity of the violation;~~

~~(b) The presence or absence of good faith of the violator;~~

~~(c) Any willfulness or negligence involved in the violation including a history of prior violations;~~

~~(d) The environmental impact of the violation; and~~

~~(e) The cost of restoration of the resource affected by the violation and mitigation for damage to that resource, including the cost to Snow Hill for performing, supervising, or rendering assistance to the restoration and mitigation.~~

~~(2) Administrative civil penalties for continuing violations shall accrue for each violation, every day each violation continues, with no requirements for additional~~

~~assessments, notice, or hearings for each separate offense. The total amount payable for continuing violations shall be the amount assessed per day for each violation multiplied by the number of days that each violation has continued.~~

~~(3) The person responsible for any continuing violation shall promptly provide Snow Hill with written notice of the date(s) the violation has been or will be brought into compliance and the date(s) for Snow Hill's inspection to verify compliance. Administrative civil penalties for continuing violations continue to accrue as set forth herein until Snow Hill receives such written notice and verifies compliance by inspection or otherwise.~~

~~(4) Assessment and payment of administrative civil penalties shall be in addition to and not in substitution for recovery by Snow Hill of all damages, costs, and other expenses caused by the violation.~~

~~(5) Payment of all administrative civil penalties assessed shall be a condition precedent to the issuance of any permit or other approval required by this chapter.~~

~~G. Cumulative remedies. The remedies available to Snow Hill under this chapter are cumulative and not alternative or exclusive, and the decision to pursue one remedy does not preclude pursuit of others.~~

~~H. Injunctive relief. Snow Hill is authorized to institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this chapter, an administrative order, a permit, a decision, or other imposed condition.~~

~~(1) The pendency of an appeal to the Board of Appeals or subsequent judicial review shall not prevent Snow Hill from seeking injunctive relief to enforce an administrative order, permit, decisions, or other imposed condition, or to restrain a violation pending the outcome of the appeal or judicial review.~~

~~I. Variances pursuant to a violation. Snow Hill may accept an application for a variance regarding a parcel or lot that is subject to a current violation of this subtitle or any provisions of an order, permit, plan, or this chapter in accordance with the variance provisions of this chapter. However, the application shall not be reviewed, nor shall a final decision be made until all abatement, restoration, and mitigation measures have been implemented and inspected by the Town of Snow Hill.~~

~~J. Permits pursuant to a violation. Snow Hill may not issue any permit, approval, variance, or special exception, unless the person seeking the permit has:~~

~~(1) Fully paid all administrative, civil, or criminal penalties as set forth in Subsection F above;~~

~~(2) Prepared a restoration or mitigation plan, approved by Snow Hill, to abate impacts to water quality or natural resources as a result of the violation;~~

~~(3) Performed the abatement measures in the approved plan in accordance with the~~

~~Snow Hill regulations; and~~

~~(4) Unless an extension of time is approved by Snow Hill because of adverse planting conditions, within 90 days of the issuance of a permit, approval, variance, or special exception for the affected property, any additional mitigation required as a condition of approval for the permit, approval, variance, or special exception shall be completed.~~

~~K. Appeals. An appeal to the Board of Appeals may be filed by any person aggrieved by any order, requirement, decision or determination by Snow Hill in connection with the administration and enforcement of this chapter.~~

~~(1) An appeal is taken by filing a written notice of appeal with the Board of Appeals in accordance with the provisions in the Snow Hill Zoning Ordinance⁸ and accompanied by the appropriate filing fee.~~

~~(2) An appeal must be filed within 30 days after the date of the decision or order being appealed; and~~

~~(3) An appeal stays all actions by Snow Hill seeking enforcement or compliance with the order or decisions being appealed, unless Snow Hill certifies in writing to the Board of Appeals that because of facts stated in said certification such stay will cause imminent peril to life or property. In such a case, action by Snow Hill shall not be stayed except by order of the Board of Appeals or a court upon application of the party seeking the stay.~~

~~§ 72-13. One hundred foot buffer.~~

~~A. Applicability and delineation. As to any development activity or a change in land use for property within the purview of this Critical Area Ordinance, a minimum one-hundred foot buffer as described and defined herein shall apply. The minimum one-hundred foot buffer shall be accurately delineated in the field and accurately shown on all applications as follows:~~

~~(1) The minimum one hundred foot buffer is delineated landward from:~~

~~(a) The mean high water line of tidal water;~~

~~(b) The edge of each bank of a tributary stream; and~~

~~(c) The upland boundary of a tidal wetland.~~

~~(2) The buffer shall be expanded beyond the minimum one hundred foot buffer as described in Subsection A(1) above and the minimum two-hundred foot buffer as described in Subsection A(3) below, to include the following contiguous land features:~~

- (a) ~~A steep slope at a rate of four feet for every 1% of slope or the entire steep slope to the top of the slope, whichever is greater;~~
 - (b) ~~A nontidal wetland to the upland boundary of the nontidal wetland;~~
 - (c) ~~The one hundred foot buffer that is associated with a nontidal wetland of special state concern as stated in COMAR 26.23.06.01;~~
 - (d) ~~For an area of hydric soils or highly erodible soils, the lesser of:

 - [1] ~~The landward edge of the hydric or highly erodible soils; or~~
 - [2] ~~Three hundred feet where the expansion area includes the minimum one hundred foot buffer.~~~~
- (3) ~~Applications for a subdivision or for a development activity on land located within the Resource Conservation Area requiring site plan approval after July 1, 2008, shall include:~~
- (a) ~~An expanded buffer in accordance with Subsection A(2) above; or~~
 - (b) ~~A buffer of at least 200 feet from a tidal waterway or tidal wetlands; and a buffer of at least 100 feet from a tributary stream, whichever is greater.~~
- (4) ~~The provisions of Subsection A(3) above do not apply if:~~
- (a) ~~The application for subdivision or site plan approval was submitted before July 1, 2008, and legally recorded (subdivisions) or received approval (site plans) by July 1, 2010;~~
 - (b) ~~The application involves the use of growth allocation.~~
- B. ~~Permitted activities. If approved by Snow Hill, disturbance to the buffer is permitted for the following activities, provided mitigation is performed in accordance with an approved buffer management plan as required per Subsection F of this section:~~
- (1) ~~A new development or redevelopment activity associated with a water-dependent facility or located in an approved Buffer Management Area;~~
 - (2) ~~A shore erosion control activity constructed in accordance with COMAR 26.24.02, COMAR 27.01.04, and this chapter;~~
 - (3) ~~A development or redevelopment activity approved in accordance with the variance provisions of this chapter;~~
 - (4) ~~A new development or redevelopment activity on a lot or parcel that was created before January 1, 2010, where:~~
 - (a) ~~The buffer is expanded for highly erodible soil on a slope less than 15% or is expanded for a hydric soil and the expanded buffer occupies at least~~

~~75% of the lot or parcel;~~

- ~~(b) The development or redevelopment is located in the expanded portion of the buffer and not within the one hundred-foot buffer; 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.~~

~~(5) A new or replacement septic system on a lot created before January 2, 1990, where:~~

- ~~(a) The Worcester County Health Department has determined the buffer is the only available location for the septic system; and~~
- ~~(b) Mitigation is provided at a 1:1 ratio for area of canopy cleared of any forest or developed woodland.~~

~~C. Buffer establishment in vegetation. An applicant for a development activity, redevelopment activity or a change in land use that occurs outside the buffer, but is located on a riparian lot or parcel that includes the minimum one hundred-foot buffer, shall establish the buffer in vegetation if the buffer is not fully forested or fully established in woody or wetland vegetation. Snow Hill shall require a buffer management plan in accordance with the standards of this section.~~

~~(1) The provisions of this section apply to:~~

- ~~(a) A new subdivision or a new lot;~~
- ~~(b) A lot or parcel that is converted from one land use to another;~~
- ~~(c) Development or redevelopment on a lot or parcel created before January 1, 2010.~~

~~(2) The provisions of this section do not apply to the in-kind replacement of a structure.~~

~~(3) If a buffer is not fully forested or fully established in woody or wetland vegetation, the buffer shall be established through planting in accordance with COMAR 27.01.09.01-1.~~

~~D. Mitigation for impacts to the buffer. An applicant for a development activity that includes disturbance to the buffer shall mitigate for impacts to the buffer and shall provide a buffer management plan in accordance with the standards set forth in this section.~~

~~(1) Authorized development activities may include a variance, subdivision, site plan, shore erosion control permit, building permit, grading permit, septic system approved by the Worcester County Health Department on a lot created before January 2, 1990, and special exception.~~

~~(2) All authorized development activities shall be mitigated according to COMAR~~

~~27.01.09.01-2.~~

- ~~(3) All unauthorized development activities in the buffer shall be mitigated at a ratio of 4:1 for the limit of disturbance in the buffer.~~
- ~~(4) Planting for mitigation shall be planted on-site within the buffer. If mitigation planting cannot be located within the buffer, then Snow Hill may permit planting in the following order of priority:
 - ~~(a) On site and adjacent to the buffer; and~~
 - ~~(b) On site elsewhere in the Critical Area.~~
 - ~~(c) A fee in lieu as referenced in Subsection G below.~~~~

~~E. Buffer planting standards.~~

- ~~(1) An applicant that is required to plant the buffer for buffer establishment or buffer mitigation shall apply the planting standards set forth in COMAR 27.01.09.01-2.~~
- ~~(2) A variance to the planting and mitigation standards of this chapter is not permitted.~~

~~F. Required submittal of buffer management plans. An applicant that is required to plant the buffer to meet establishment or mitigation requirements shall submit a buffer management plan as provided in COMAR 27.01.09.01-3 with the application for the specific activity. The provisions of this section do not apply to maintaining an existing grass lawn or an existing garden in the buffer.~~

- ~~(1) A buffer management plan that includes planting for establishment shall be submitted with all other application materials, clearly specify the area to be planted and state if the applicant is:
 - ~~(a) Fully establishing the buffer;~~
 - ~~(b) Partially establishing an area of the buffer equal to the net increase in lot coverage; or~~
 - ~~(c) Partially establishing an area of the buffer equal to the total lot coverage.~~~~
- ~~(2) Any permit for development activity that requires buffer establishment or buffer mitigation will not be issued until a buffer management plan is approved by Snow Hill.~~
- ~~(3) An applicant may not obtain final approval of a subdivision application until the buffer management plan has been reviewed and approved by Snow Hill.~~
- ~~(4) Snow Hill may not approve a buffer management plan unless:~~

- (a) ~~The plan clearly indicates that all planting standards under Subsection E of this chapter will be met; and~~
 - (b) ~~Appropriate measures are in place for the long term protection and maintenance of all buffer areas.~~
- (5) ~~For a buffer management plan that is the result of an authorized disturbance to the buffer, a permit authorizing final use and occupancy will not be issued until the applicant:~~
- (a) ~~Completes the implementation of a buffer management plan; or~~
 - (b) ~~Provides financial assurance to cover the costs for:~~
 - [1] ~~Materials and installation; and~~
 - [2] ~~If the mitigation or establishment requirement is at least 5,000 square feet, long term survivability requirements as set forth in COMAR 27.01.09.01 2.~~
- (6) ~~Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the buffer.~~
- (7) ~~If an applicant fails to implement a buffer management plan, that failure shall constitute a violation of this chapter.~~
- (a) ~~A permit for development activity will not be issued for a property that has the violation.~~
- (8) ~~An applicant shall post a subdivision with permanent signs prior to final recordation in accordance with COMAR 27.01.09.01 2.~~
- G. ~~Fees in lieu of buffer mitigation. A fee in lieu of mitigation will be collected if the planting requirements of the buffer management plan cannot be fully met on site, in accordance with the following standards:~~
- (1) ~~Fee in lieu monies shall be collected and held in a special fund, which may not revert to Snow Hill's general fund;~~
 - (2) ~~Fee in lieu shall be assessed at \$1.50 per square foot of required buffer mitigation;~~
 - (3) ~~A portion of fee in lieu money can be used for management and administrative costs; however, this cannot exceed 20% of the fees collected; and~~
 - (4) ~~Fee in lieu monies shall be used for the following projects:~~
 - (a) ~~To establish the buffer on sites where planting is not a condition of development or redevelopment;~~
 - (b) ~~For water quality and habitat enhancement projects as approved by the~~

~~Critical Area Commission or by agreement between Snow Hill and the Critical Area Commission.~~

~~H.—Shore erosion control projects. Shore erosion control measures are permitted activities within the buffer in accordance with the following requirements:~~

- ~~(1) An applicant for a shore erosion control project that affects the buffer in any way, including, but not limited to, access, vegetation removal and pruning, or backfilling, shall submit a buffer management plan in accordance with the requirements of this section; and~~
- ~~(2) Comply fully with all of the policies and criteria for a shore erosion control project stated in COMAR 27.01.04 and COMAR 26.24.~~

~~§ 72-14. Buffer Management Area (BMA) provisions.~~

~~Development and redevelopment standards: New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces, lot coverage, or septic systems, will not be permitted in the buffer in a designated Buffer Management Area unless the applicant can demonstrate that there is no feasible alternative and the Planning Commission finds that efforts have been made to minimize buffer impacts and the development shall comply with the following standards:~~

~~A.—Development and redevelopment activities have been located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.~~

~~B.—Variances to other local setback requirements have been considered before additional intrusion into the buffer.~~

~~C.—Commercial, industrial, institutional, recreational and multifamily residential development and redevelopment shall meet the following standards:~~

~~(1) New development, including accessory structures, shall minimize the extent of intrusion into the buffer. New development shall not be located closer to the water (or edge of tidal wetlands) than the minimum required setback for the zoning district or 50 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line.~~

~~(2) Redevelopment, including accessory structures, shall minimize the extent of intrusion into the buffer. Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the local setback for the zoning district or 25 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. A new structure may be constructed on the footprint of an existing structure.~~

~~D.—Single family residential development and redevelopment shall meet the following standards:~~

- ~~(1) New development or redevelopment shall minimize the shoreward extent of intrusion into the buffer. New development and redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the local setback for the zoning district, whichever is greater. In no case shall new development or redevelopment be located less than 50 feet from the water (or the edge of tidal wetlands).~~
 - ~~(2) Existing principal or accessory structures may be replaced in the same footprint.~~
 - ~~(3) New accessory structures may be located closer to the water than the setback if the Planning Commission has determined there are no other locations for the structures. The area of new accessory structures shall not exceed 500 square feet within 50 feet of the water and 1,000 square feet total in the buffer.~~
- ~~E. Variances to other local setback requirements shall be considered before additional intrusion into the buffer is permitted.~~
- ~~F. Development and redevelopment may not impact any habitat protection area (HPA) other than the buffer, including nontidal wetlands, other state or federal permits notwithstanding.~~
- ~~G. Buffer Management Area (BMA) designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the buffer or to create additional buildable land for new development or redevelopment.~~
- ~~H. No natural vegetation may be removed in the buffer except that required by the proposed construction.~~
- ~~I. Mitigation for development or redevelopment in the Buffer Management Area approved under the provisions of this subsection shall be implemented as follows:~~
- ~~(1) Natural forest vegetation of an area twice the extent of the footprint of the development activity within the one hundred foot buffer shall be planted on site in the buffer or at another location approved by the Planning Commission.~~
 - ~~(2) Applicants who cannot fully comply with the planting requirement in Subsection I(1) above may offset by removing an equivalent area of existing lot coverage in the buffer.~~
 - ~~(3) Applicants who cannot comply with either the planting or offset requirements in Subsection I(1) or (2) above shall pay \$1.50 per square foot into a fee in lieu program.~~
 - ~~(4) Any fees in lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of Snow Hill's Critical Area Ordinance. The funds cannot be used to accomplish a project~~

or measure that would have been required under existing local, state, or federal laws, regulations, statutes, or permits. The status of these funds must be reported to the Critical Area Commission in the jurisdiction's quarterly reports.

- (5) Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes or other instrument and recorded among the land records of the County.

~~§ 72-15. Other habitat protection areas.~~

A. ~~Identification. An applicant for a development activity, redevelopment activity or change in land use shall identify all applicable habitat protection areas and follow the standards contained in this section. Habitat protection areas includes:~~

- ~~(1) Threatened or endangered species or species in need of conservation;~~
- ~~(2) Colonial water bird nesting sites;~~
- ~~(3) Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands;~~
- ~~(4) Existing riparian forests;~~
- ~~(5) Forest areas utilized as breeding areas by future interior dwelling birds and other wildlife species;~~
- ~~(6) Other plant and wildlife habitats determined to be of local significance;~~
- ~~(7) Natural Heritage Areas; and~~
- ~~(8) Anadromous fish propagation waters.~~

B. ~~Standards.~~

- ~~(1) An applicant for a development activity proposed for a site within the Critical Area that is in or near a habitat protection area listed above, shall request review by the Department of Natural Resources Wildlife and Heritage Service for comment and technical advice. Based on the Department's recommendations, additional research and site analysis may be required to identify the location of threatened and endangered species and species in need of conservation on a site.~~
- ~~(2) If the presence of a habitat protection area is confirmed by the Department of Natural Resources, the applicant shall develop a habitat protection plan in coordination with the Department of Natural Resources.~~
- ~~(3) The applicant shall obtain approval of the habitat protection plan from the Planning Commission. The specific protection and conservation measures included in the plan shall be considered conditions of approval of the project.~~

§ 72-16. Definitions.

The following words have the following meanings for the purposes of implementing the Critical Area Ordinance and the Snow Hill Zoning Ordinance, and the singular always include the plural, and vice-versa, except where such construction would be unreasonable:

ABATEMENT—The act of putting an end to a land alteration or development activity or reducing the degree or intensity of the alteration or activity.

ACCESSORY STRUCTURE—A structure that is detached from the principal structure, located on the same lot and clearly incidental and subordinate to a principal structure, or, if there is no principal structure on the lot, a structure that is customarily incidental and subordinate to a principal structure.

ADDITION—Newly constructed area that increases the size of a structure.

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

AGRICULTURAL EASEMENT—A nonpossessory interest in land which restricts the conversion of use of the land, preventing nonagricultural uses.

AGRICULTURE—All methods of production and management of livestock, crops, vegetation, and soil. This includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited to, the activities of feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products.

ANADROMOUS FISH—Fish that travel upstream (from their primary habitat in the ocean) to freshwater in order to spawn.

ANADROMOUS FISH PROPAGATION WATERS—Those streams that are tributary to the Chesapeake Bay and Atlantic Coastal Bays in which the spawning of anadromous species of fish (e.g., rockfish, striped bass, yellow perch, white perch, shad, and river herring) occurs or has occurred. The streams are identified by the Department of Natural Resources.

AQUACULTURE --

- A.—Farming or culturing of finfish, shellfish, other aquatic plants or animals or both, in lakes, streams, inlets, estuaries, and other natural or artificial water bodies or impoundments;
- B.—Activities include hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings, and growing areas; and
- C.—Cultivation methods include, but are not limited to, seed or larvae development

and grow-out facilities, fish ponds, shellfish rafts, rack and longlines, seaweed floats and the culture of clams and oysters on tidelands and subtidal areas.

D. For the purpose of this definition, related activities such as wholesale and retail sales, processing and product storage facilities are not considered aquacultural practices.

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

BUFFER — Area that based on conditions at the time of development is immediately landward from mean high water of tidal waterways, the edge of bank of a tributary stream, or the edge of a tidal wetland; and the area exists in, or is established in, natural vegetation to protect a stream, tidal wetland, tidal waters or terrestrial environments from human disturbance. The buffer includes an area of at least 100 feet even if that area was previously disturbed by human activity or is currently developed and also include any expansion for contiguous sensitive areas, such as a steep slope, hydric soil, highly erodible soil, nontidal wetland, or a nontidal wetland of special state concern as defined in the COMAR 26.23.01.01.

BUFFER MANAGEMENT AREA (BMA) — An area officially mapped by the Town of Snow Hill and approved by the Critical Area Commission as a BMA, where it has been sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional, or recreational development prevents the buffer from fulfilling its water quality and habitat functions, and where development in accordance with specific BMA provisions can be permitted in the buffer without a variance.

BUFFER MANAGEMENT PLAN — Includes a major buffer management plan, a minor buffer management plan, and a simplified buffer management plan.

CANOPY TREE — A tree that when mature commonly reaches a height of at least 35 feet.

CLUSTER DEVELOPMENT — A residential development in which dwelling units are concentrated in a selected area or selected areas of the development tract so as to provide natural habitat or other open space uses on the remainder.

COLONIAL NESTING WATER BIRDS — Herons, egrets, terns, and glossy ibis. For the purposes of nesting, these birds congregate (that is "colonize") in relatively few areas, at which time the regional populations of these species are highly susceptible to local disturbances.

COMAR — The Code of Maryland Regulations, as from time to time amended, including any successor provisions.

COMMISSION — The Critical Area Commission for the Chesapeake and Atlantic Coastal

Bays.

~~COMMUNITY PIERS~~ — Boat docking facilities associated with subdivisions or similar residential areas, and with condominium, apartment and other multiple family dwelling units. Private piers are excluded from this definition.

~~COMPREHENSIVE OR MASTER PLAN~~ — A compilation of policy statements, goals, standards, maps and pertinent data relative to the past, present and future trends of the local jurisdiction, including, but not limited to, its population, housing, economics, social patterns, land uses, water resources and their use, transportation facilities and public facilities prepared by or for the planning board, agency or office.

~~CONSERVATION EASEMENT~~ — A nonpossessory interest in land which restricts the manner in which the land may be developed in an effort to reserve natural resources for future use.

~~CONSOLIDATION~~ — A combination of any legal parcels of land or recorded legally buildable lot(s) into fewer lots or parcels than originally existed. An application for consolidation may include a subdivision, lot line abandonment, boundary line adjustment, replatting request, or lot line adjustment.

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

- ~~A. — All waters of and lands under the Chesapeake Bay and Atlantic Coastal Bays and their tributaries to the head of tide;~~
- ~~B. — All state and private wetlands designated under Title 16 of the Environment Article, Annotated Code of Maryland;~~
- ~~C. — All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article, Annotated Code of Maryland; and~~
- ~~D. — Modification to these areas through inclusions or exclusions proposed by local jurisdictions and approved by the Critical Area Commission as specified in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland.~~

~~DENSITY~~ — The number of dwelling units per acre within a defined and measurable area.

~~DEVELOPED WOODLANDS~~ — An area of trees or of trees and natural vegetation that is interspersed with residential, commercial, industrial or recreational development.

~~DEVELOPER~~ — A person who undertakes development activity as defined in this chapter; or a person who undertakes development activity as defined in the Criteria of the Commission.

~~DEVELOPMENT ACTIVITIES~~ — The construction or substantial alteration of residential, commercial, industrial, institutional or transportation facilities or structures.

~~DISTURBANCE~~ — An alteration or change to the land. It includes any amount of clearing;

grading, or construction activity. Disturbance does not include gardening or maintaining an existing grass lawn.

DOCUMENTED BREEDING BIRD AREAS Forested areas where the occurrence of interior dwelling birds, during the breeding season, has been demonstrated as a result of on-site surveys using standard biological survey techniques.

DWELLING UNIT A single unit providing complete, independent living facilities for at least one person, including permanent provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with daily life. Dwelling unit includes living quarters for a domestic or other employee or tenant, an in-law or accessory apartment, a guesthouse, or a caretaker residence.

ECOSYSTEM A more or less self-contained biological community together with the physical environment in which the community's organisms occur.

ENDANGERED SPECIES Any species of fish, wildlife, or plants that has been designated as endangered by regulation of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the state's resources are determined to be in jeopardy. This includes any species determined to be an "endangered" species pursuant to the Federal Endangered Species Act, 16 U.S.C. § et seq.,⁹ as amended.

ESTABLISHMENT The planting or regeneration of native vegetation throughout the buffer. **EXCESS STORMWATER RUNOFF** All increases in stormwater resulting from:

- A. An increase in the lot coverage on the site, including all additions to buildings, roads, and parking lots;
- B. Changes in permeability caused by compaction during construction or modifications in contours, including the filling or drainage of small depression areas;
- C. Alteration of drainageways or regrading of slopes;
- D. Destruction of forest; or
- E. Installation of collection systems to intercept street flows or to replace swales or other drainageways.

FINANCIAL ASSURANCE A performance bond, letter of credit, cash deposit, insurance policy, or other instrument of security acceptable to the Town of Snow Hill.

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

~~FOREST~~ A biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. "Forest" includes areas that have at least 100 trees per acre with at least 50% of those trees having two-inch or greater diameter at 4.5 feet above the ground and forest areas that have been cut, but not cleared. "Forest" does not include orchards.

~~FOREST INTERIOR DWELLING BIRDS~~—Species of birds which require relatively large forested tracts in order to breed successfully (for example, various species of flycatchers, warblers, vireos, and woodpeckers).

~~FOREST MANAGEMENT~~—The protection, manipulation, and utilization of the forest to provide multiple benefits, such as timber harvesting, water transpiration, wildlife habitat, etc.

~~FULLY ESTABLISHED~~—The buffer contains as much diverse, native vegetation as necessary to support a firm and stable riparian habitat capable of self-sustaining growth and regeneration.

~~GRANDFATHERED PARCEL or GRANDFATHERED LOT~~—A parcel of land that was created or a lot created through the subdivision process and recorded as a legally buildable lot prior to December 1, 1985.

~~GROWTH ALLOCATION~~—The number of acres of land in the Critical Area that the Town of Snow Hill may use, or the county may allocate to municipal jurisdictions to use, to create new Intensely Developed Areas and new Limited Development Areas. The growth allocation is 5% of the total Resource Conservation Area acreage in Snow Hill at the time the Critical Area Commission approved Snow Hill's original Critical Area Ordinance, not including tidal wetlands or land owned by the federal government.

~~HABITAT PROTECTION PLAN~~—A plan that provides for the protection and conservation of the species and habitats identified as habitat protection areas in the Critical Area. The plan shall be specific to the site or area where the species or its habitat is located and shall address all aspects of a proposed development activity that may affect the continued presence of the species. These include, but are not limited to, cutting, clearing, alterations of natural hydrology, and increases in lot coverage. In developing the plan, an applicant shall coordinate with the Department of Natural Resources to ensure that the plan is adequate to provide for long-term conservation and can be effectively implemented on the specific site.

~~HIGHLY ERODIBLE SOILS~~—Those soils with a slope greater than 15%; or those soils with a K value greater than 0.35 and with slopes greater than 5%.

~~HISTORIC WATERFOWL STAGING AND CONCENTRATION AREA~~—An area of open water and adjacent marshes where waterfowl gather during migration and throughout the winter season. These areas are historic in the sense that their location is common knowledge and because these areas have been used regularly during recent times.

HYDRIC SOILS — Soils that are wet frequently enough to periodically produce anaerobic conditions, thereby influencing the species composition or growth, or both, of plants on these soils.

HYDROPHYTIC VEGETATION — Those plants cited in "Vascular Plant Species Occurring in Maryland Wetlands" (Dawson, F. et al., 1985) which are described as growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (plants typically found in water habitats).

IMMEDIATE FAMILY — A father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.

IN-KIND REPLACEMENT — The replacement of a structure with another structure that is smaller than or identical to the original structure in footprint area, width, length.

INTENSELY DEVELOPED AREA — An area of at least 20 acres or the entire upland portion of the Critical Area within a municipal corporation, whichever is less, where residential, commercial, institutional, or industrial developed land uses predominate, and a relatively small amount of natural habitat occurs. These areas include an area with a housing density of at least four dwelling units per acre; an area with public water and sewer systems with a housing density of more than three dwelling units per acre.

INVASIVE SPECIES — A species that is nonnative or alien to the ecosystem under consideration whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

K VALUE — The soil erodibility factor in the Universal Soil Loss Equation. It is a quantitative value, that is experimentally determined.

LAND CLEARING — Any activity that removes the vegetative ground cover. **LARGE SHRUB** — A shrub that, when mature, reaches a height of at least six feet.

LEGALLY DEVELOPED — All physical improvements to a property that existed before Critical Area Commission approval of a local ordinance, or were properly permitted in accordance with the provisions of the local ordinance in effect at the time of construction.

LIMITED DEVELOPMENT AREA — An area with a housing density ranging from one dwelling unit per five acres up to four dwelling units per acre; with a public water or sewer system; that is not dominated by agricultural land, wetland, forests, barren land, surface water, or open space; or that is less than 20 acres and otherwise qualifies as an intensely developed area under the definition in this chapter.

LIVING SHORELINE — A suite of stabilization and erosion control measures that preserve the natural shoreline and are designed to minimize shoreline erosion, maintain coastal process, and provide aquatic habitat. Measures must include marsh plantings and may include the use of sills, sand containment structures, breakwaters, or other natural components.

~~LOCAL SIGNIFICANCE— Development of a minor scale, which causes environmental or economic consequences that are largely confined to the immediate area of the parcel of land on which it is located; does not substantially affect the Critical Area Ordinance of the Town of Snow Hill; and is not considered to be major development as defined in this chapter.~~

~~LOT COVERAGE— The percentage of a total lot or parcel that is occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with a paver, walkway gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any other man-made material. Lot coverage includes the ground area covered or occupied by a stairway or impermeable deck, but does not include a fence or wall that is less than one foot in width that has not been constructed with a footer; a walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier; a wood mulch pathway; or a deck with gaps to allow water to pass freely.~~

~~MAJOR DEVELOPMENT— Development of a scale that may cause state-wide, regional, or interjurisdictional, environmental or economic effects in the Critical Area, or which may cause substantial impacts to the Critical Area of a local jurisdiction. This development includes, but is not limited to, airports, powerplants, wastewater treatment plants, highways, regional utility transmission facilities, prisons, hospitals, public housing projects, public beaches, and intensely developed park and recreation facilities.~~

~~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 (MHWL)— The average level of high tides at a given location.~~

~~MITIGATION— An action taken to compensate for adverse impacts to the environment resulting from development, development activity, or a change in land use or intensity.~~

~~NATIVE PLANT— A species that is indigenous to the physiographic area in Maryland where the planting is proposed.~~

~~NATURAL HERITAGE AREA— Any communities of plants or animals which are considered to be among the best statewide examples of their kind, and are designated by regulation by the Secretary of the Department of Natural Resources.~~

~~NATURAL REGENERATION— The natural establishment of trees and other vegetation with at least 400 free to grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.~~

~~NATURAL VEGETATION— Those plant communities that develop in the absence of human activities.~~

~~NEW DEVELOPMENT— For purposes of implementing specific provisions of this chapter, new developments (as opposed to redevelopment) means a development activity that takes place on a property with predevelopment imperviousness (in Intensely Developed Areas) or lot coverage (Limited Development Areas and Resource Conservation Areas) of less than 15% as of December 1, 1985.~~

NONPOINT SOURCE POLLUTION—Pollution generated by diffuse land use activities rather than from an identifiable or discrete facility. It is conveyed to waterways through natural processes, such as rainfall, storm runoff, or groundwater seepage rather than by deliberate discharge. Nonpoint source pollution is not generally corrected by "end-of-pipe" treatment, but rather by changes in land management practices.

NONTIDAL WETLANDS — Those areas regulated under Subtitle 9 of the Environment Article that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions; commonly known as hydrophytic vegetation. The determination of whether an area is a nontidal wetland shall be made in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended. Nontidal wetlands do not include tidal wetlands regulated under Title 16 of the Environment Article of the Annotated Code of Maryland.

OFFSETS — Structures or actions that compensate for undesirable impacts.

OPEN SPACE — Land and water areas retained in an essentially undeveloped state.

PERSON — An individual, partnership, corporation, contractor, property owner, or any other person or entity.

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

PIER — Any pier, wharf, dock, walkway, bulkhead, breakwater, piles or other similar structure. Pier does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of state or private wetlands.

PLANT HABITAT — A community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics.

PORT — A facility or area established or designated by the state or local jurisdictions for purposes of waterborne commerce.

PRINCIPAL STRUCTURE — The primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling.

PROGRAM AMENDMENT — Any change or proposed change to an adopted ordinance that is not determined by the Chairman of the Critical Area Commission to be an ordinance refinement.

PROGRAM REFINEMENT — Any change or proposed change to an adopted ordinance that the Chairman of the Critical Area Commission determines will result in a use of land or water in the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in a manner consistent with the adopted ordinance, or that will not significantly affect the use of land or water in the Critical Area. Ordinance refinement may include:

- A. — A change to an adopted ordinance that results from state law;

- B.—A change to an adopted ordinance that affects local processes and procedures;
- C.—A change to a local ordinance or code that clarifies an existing provision; and
- D.—A minor change to an element of an adopted ordinance that is clearly consistent with the provisions of State Critical Area law and all the Criteria of the Commission.

PROPERTY OWNER—A person holding title to a property or two or more persons holding title to a property under any form of joint ownership.

PUBLIC WATER-ORIENTED RECREATION—Shore-dependent recreation facilities or activities provided by public agencies that are available to the general public.

RECLAMATION—The reasonable rehabilitation of disturbed land for useful purposes, and the protection of the natural resources of adjacent areas, including water bodies.

RECONFIGURATION—A change of the arrangement of an existing lot or parcel line of any legal parcel of land or recorded legally buildable lot. An application for reconfiguration may include a subdivision, a lot line adjustment, a boundary line adjustment, a replatting request, or a revision of acreage to increase density.

REDEVELOPMENT—The process of developing land which is or has been developed. For purposes of implementing specific provisions of this chapter, redevelopment (as opposed to new development) means a development activity that takes place on property with predevelopment imperviousness (in Intensely Developed Areas) or lot coverage (in Limited Development Areas and Resource Conservation Areas) of 15% or greater.

REFORESTATION—The establishment of a forest through artificial reproduction or natural regeneration.

RESOURCE CONSERVATION AREA—An area that is characterized by nature-dominated environments, such as wetlands, surface water, forests, and open space; and resource-based activities, such as agriculture, forestry, fisheries, or aquaculture. Resource Conservation Areas include areas with a housing density of less than one dwelling per five acres.

RESOURCE UTILIZATION ACTIVITIES—Any and all activities associated with the utilization of natural resources such as agriculture, forestry, surface mining, aquaculture, and fisheries activities.

RESTORATION—The act of returning a site or area to an original state or any action that reestablishes all or a portion of the ecological structure and functions of a site or area.

RIPARIAN HABITAT—A habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and wetlands.

ROAD—

- A.—A public thoroughfare under the jurisdiction of the State, a county, a municipal corporation, or any other public body.

B.—"Road" does not include a drive aisle or driveway.

~~SHORE EROSION PROTECTION WORKS~~—Those structures or measures constructed or installed to prevent or minimize erosion of the shoreline in the Critical Area.

~~SIGNIFICANTLY ERODING AREAS~~—Areas that erode two feet or more per year. ~~SMALL SHRUB~~—A shrub that, when mature, reaches a height no greater than six feet.

~~SPECIES IN NEED OF CONSERVATION~~—Those fish and wildlife whose continued existence as part of the state's resources are in question and which may be designated by regulation by the Department of Natural Resources as in need of conservation pursuant to the requirements of Natural Resources Article, §§ 10-2A-06 and 4-2A-03, Annotated Code

~~of Maryland.~~ ~~STEEP SLOPES~~—Slopes of 15% or greater incline.

~~STRUCTURE~~—Building or construction materials, or a combination of those materials that are purposely assembled or joined together on or over land or water. "Structure" includes a temporary or permanent fixed or floating pier, piling, deck, walkway, dwelling, building, boathouse, platform, gazebo, or shelter for the purpose of marine access, navigation, working, eating, sleeping, or recreating.

~~SUBSTANTIAL ALTERATION~~—Any repair, reconstruction, or improvement of a principal structure, where the proposed footprint equals or exceeds 50% of the existing principal structure.

~~THINNING~~—A forest practice used to accelerate tree growth of quality trees in the shortest interval of time.

~~THREATENED SPECIES~~—Any species of fish, wildlife, or plants designated as such by regulation by the Department of Natural Resources that appear likely, within the foreseeable future, to become endangered, including any species of wildlife or plant determined to be a "threatened" species pursuant to the Federal Endangered Species Act, 16 U.S.C. § 1431 et seq., as amended.

~~TOPOGRAPHY~~—The existing configuration of the earth's surface including the relative relief, elevation, and position of land features.

~~TRANSITIONAL HABITAT~~—A plant community whose species are adapted to the diverse and varying environmental conditions that occur along the boundary that separates aquatic and terrestrial areas.

~~TRANSPORTATION FACILITIES~~—Anything that is built, installed, or established to provide a means of transport from one place to another.

~~TRIBUTARY STREAM~~—A perennial stream or intermittent stream within the Critical

~~Area that has been identified by site inspection or in accordance with local ordinance procedures approved by the Critical Area Commission.~~

~~UNDERSTORY—The layer of forest vegetation typically located underneath the forest canopy. UNDERSTORY TREE—A tree that, when mature, reaches a height between 12 and 35 feet.~~

~~UNWARRANTED HARDSHIP—Without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.~~

~~UPLAND BOUNDARY—The landward edge of a tidal wetland or nontidal wetland.~~

~~UTILITY TRANSMISSION FACILITIES—Fixed structures that convey or distribute resources, wastes, or both, including but not limited to electrical lines, water conduits and sewer lines.~~

~~WATER BASED AQUACULTURE—The raising of fish and shellfish in any natural, open, free-flowing water body.~~

~~WATER DEPENDENT FACILITIES—Those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the buffer. An activity is water dependent if it cannot exist outside the buffer and is dependent on the water by reason of the intrinsic nature of its operation. Such activities include, but are not limited to, ports, the intake and outfall structures of power plants, water use industries, marinas and other boat docking structures, public beaches and other public water-oriented recreation areas, and fisheries activities.~~

~~WATERFOWL—Birds that frequent and often swim in water, nest and raise their young near water, and derive at least part of their food from aquatic plants and animals.~~

~~WATER USE INDUSTRY—An industry that requires location near the shoreline because it utilizes surface waters for cooling or other internal purposes.~~

~~WILDLIFE CORRIDOR—A strip of land having vegetation that provides habitat and safe passage for wildlife.~~

~~WILDLIFE HABITAT—Those plant communities and physiographic features that provide food, water, cover, and nesting areas, as well as foraging and feeding conditions necessary to maintain populations of animals in the Critical Area.~~

§ 72-1. Purpose; applicability; maps; area classifications; general requirements.

A. Goals. This chapter shall be known as the Snow Hill Critical Area Ordinance. The goals of the Snow Hill Critical Area Ordinance are to accomplish the following:

- (1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or run off from surrounding lands;
- (2) Conserve fish, wildlife, and plant habitat;

- (3) Establish land use policies for development in the Critical Area which accommodate growth as well as address the environmental impacts that the number, movement, and activities of people may have on the area;
- (4) Reduce vulnerability to the impacts of climate change and incorporate measures to improve the climate resiliency of the Chesapeake and Atlantic Coastal Bays and its three tributaries; and
- (5) Ensure an equitable distribution of the burdens and benefits of development, mitigation, restoration, conservation and adaptation to climate change within the Critical Area.

B. The Snow Hill Critical Area Program.

- (1) The Town adopted its Critical Area Program (“Program”) on December 12, 1989. The Program consists of this chapter, the Town of Snow Hill Zoning Code,¹ the Official Critical Area map(s), and any other related provisions within the Town’s ordinances.
- (2) Notwithstanding any provision in this chapter, or the lack of a provision in this ordinance, all of the requirements of Natural Resources Article 8-1801 through 8-1817 of the Annotated Code of Maryland and COMAR Title 27 shall apply to and be applied by the Town as minimum standards for the Program.
- (3) In the case of conflicting provisions, the more restrictive provisions apply.

C. Regulated activities and applicability.

- (1) The Town’s Program and this chapter shall be implemented and enforced by the Town Director of Planning, Zoning and Building. This includes but is not limited to, development or redevelopment, grading, sediment and erosion control, timber harvesting, shoreline erosion control, installation of a septic system and drain field, operation of a waste collection or disposal facility, operation of a commercial or private marina or other water-related commercial or industrial operations (whether public or private), mining (whether surface or subsurface) or quarrying, farming or other agriculture-related activities shall have such permits or licenses issued by the designated local approving authority after review to determine compliance with the Snow Hill Critical Area Ordinance.
- (2) The Director of Planning, Zoning, and Building shall review a permit, license, or other authorization for a development or redevelopment activity in the Critical Area for compliance with this chapter prior to issuance of that permit or license.

¹. Editor's Note: See Ch. 200, Zoning

(3) Should an infraction of the provisions contained in any law, regulation, or plan related to the Town's Program be brought to the attention of any Town official, said official shall contact the Director of Planning, Zoning, and Building.

D. Critical Area Overlay District Map.

(1) The Official Critical Area Overlay District Map is maintained in force as part of the Official Zoning Map for Snow Hill. The Official Critical Area Overlay District Map delineates the extent of the Critical Area that shall include:

(a) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland; and

(b) All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland.

(2) Within the designated Official Critical Area Overlay District, all land within the original Critical Area boundary shall be assigned one of the following land management and development area classifications based on land uses and development in existence on December 1, 1985:

(a) Intensely Developed Area ("IDA").

(b) Limited Development Area ("LDA").

(c) Resource Conservation Area ("RCA").

(3) On September 3, 2014, the Critical Area Overlap Boundary was updated in accordance with COMAR 27.01.11. Newly included areas were assigned a land classification based on land use and development in existence on that date.

(4) The Critical Area Overlay District Map may be amended by the Mayor and Town Council in compliance with amendment provisions in this chapter, the Maryland Critical Area Law, COMAR Title 27, and other applicable provisions of the Town Code.

E. Notification of project approval. The Town shall send copies of applications for all developments, subdivisions, and site plans wholly or partially within the Critical Area as specified in COMAR 27.03.01.04 to the Commission for review and comment.

(1) The Town may not process an application that has been sent to the Commission for notification until it has received notice of receipt by the Commission.

(2) Any action by the Town in violation of these procedures shall be void.

F. General requirements in all Critical Area. The following general requirements apply to

development within all three Critical Area Overlay Zones (Intensely Developed Area, Limited Development Area, and Resource Conservation Area):

- (1) Development and redevelopment shall be subject to the habitat protection area requirements prescribed in this chapter.
- (2) Development and redevelopment shall be subject to the water-dependent facilities requirements of this chapter.
- (3) The Town shall maintain areas of public access to the shoreline, and, if possible, encourage the establishment of additional areas of shoreline access for public use, such as foot paths, scenic drives, and other public recreational facilities.
- (4) Development shall comply with the following State statutes and regulations, including:
 - (a) For soil erosion and sediment control, management measures shall be consistent with the requirements of Environment Article, §§4-101— 4-116, Annotated Code of Maryland, and COMAR 26.17.01;
 - (b) For stormwater runoff, stormwater management measures shall be consistent with the requirements of Environment Article, §§4-201— 4-215, Annotated Code of Maryland, and COMAR 26.17.02;
 - (c) For shore erosion, shoreline stabilization measures shall be consistent with the requirements of Environment Article, Title 16, Annotated Code of Maryland, and COMAR 26.24.04; and
 - (d) Any other applicable State statute or regulation.
- (5) A development activity or facility may not be authorized in the Critical Area if, by its intrinsic nature, the activity or facility has the potential to cause an adverse effect on water quality, wildlife, or fish habitat or plant habitat, unless:
 - (a) For an activity or facility such as non-maritime heavy industry:
 - (i) It is located within an intensely developed area;
 - (ii) It fully complies with all requirements under §72-7 of this chapter; and
 - (iii) The owner or operator of the activity or facility demonstrates to all applicable State and local agencies that there will be a net improvement in water quality to the adjacent body of water; or
 - (b) For an activity or facility such as a sanitary landfill or a solid or hazardous waste collection or disposal facility;

- (i) There is no environmentally acceptable alternative outside the Critical Area; and
 - (ii) The activity or facility is necessary in order to correct a water quality or wastewater management problem.
- (6) A transportation facility or a utility transmission facility or activity may not be authorized in the Critical Area, unless it is:
 - (a) A facility that serves a use identified under the Program;
 - (b) A linear regional or interstate transportation facility that must cross tidal waters; or
 - (c) A linear regional or interstate utility transmission facility that must cross tidal waters.
- (7) A permanent sludge handling, storage, or disposal activity or facility may not be authorized in the Critical Area, unless:
 - (a) The activity or facility is associated with a wastewater treatment facility; or
 - (b) In accordance with an approved nutrient management plan under Agriculture Article, Title 8, Subtitle 8, Annotated Code of Maryland, and COMAR 15.20.04 and COMAR 15.20.06 -- .08, sludge is applied on agricultural land that is not in the buffer.
- (8) Roads, bridges, and utilities are prohibited in a habitat protection area unless no feasible alternative exists. If a road, bridge or utility is authorized the design, construction and maintenance shall:
 - (a) Provide maximum erosion protection;
 - (b) Minimize negative impacts on wildlife, aquatic life and their habitats; and
 - (c) Maintain hydrologic processes and water quality.
- (9) Development activities that cross or affect a stream are prohibited unless there is no feasible alternative. All development activities that must cross or affect streams shall be designed to:
 - (a) Reduce increases in flood frequency and severity that are attributable to development;
 - (b) Retain tree canopy so as to maintain stream water temperature within normal

variation;

(c) Provide a natural substrate for stream beds; and

(d) Minimize adverse water quality and quantity impacts of stormwater.

(10) Reasonable accommodations for the needs of disabled citizens shall be processed as follows:

(a) An applicant seeking relief from this chapter in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating by a preponderance of evidence, the following:

(i) The relief from the Critical Area standards sought by the applicant will benefit person(s) with a disability within the meaning of the Americans with Disabilities Act ("ADA") and related federal regulations;

(ii) Strict and literal enforcement of the provisions of this chapter would violate the ADA or deprive a disabled resident or user of the reasonable use and enjoyment of the property;

(iii) A reasonable accommodation would restore the disabled resident's or user's reasonable use or enjoyment of the property;

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

(v) The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation or other requirement; or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.

(b) An applicant seeking relief from this chapter in order to accommodate the reasonable needs of disabled citizens shall submit a written request for such relief to the Town. The Board of Zoning Appeals shall, after a hearing, determine the nature and scope of any accommodation or relief from the Critical Area Ordinance to be afforded to an applicant pursuant to this subsection and may award different or other relief than requested after giving due regard to the purpose, intent, or effect of the applicable provisions of this chapter. The Board of Zoning Appeals may also consider the size, location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.

(c) The Board of Zoning Appeals requires, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this chapter. Appropriate bonds may be collected or liens placed in order to ensure Snow Hill's ability to restore the property should

the applicant fail to do so.

§ 72-2. Intensely Developed Areas.

- A. For all development activities in the Intensely Developed Areas, the applicant shall identify any environmental or natural feature described below and meet all of the following standards:
- (1) IDAs include areas where residential, commercial, institutional, and/or industrial development uses predominate and where relatively little natural habitat occurs. At the time of the initial mapping, these areas shall have had at least one of the following features:
 - (a) Housing density equal to or greater than four dwelling units per acre;
 - (b) Industrial, institutional, or commercial uses are concentrated in the area; or
 - (c) Public sewer and water collection and distribution systems are currently serving the area and housing density is greater than three dwelling units per acre.
 - (2) In addition, IDAs shall be located in an area of at least 20 adjacent acres or that entire upland portion of the Critical Area within the boundary of the Town, whichever is less, or it is a growth allocation and is consistent with § 72-7.
 - (3) Land use activities within the IDA will be managed in accordance with the land use policies of COMAR 27.01.02.03.
 - (4) The Town shall develop a strategy to reduce the impacts on water quality generated by existing development. This shall include an assessment of water quality and impacts to biological resources prompted by community redevelopment plans and programs and may further include a public education program, the implementation of urban best management practices, and the use of such techniques as urban forestry programs, street tree plantings, gardens, and open land buffer plantings.
 - (5) Development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation.
 - (6) All development and redevelopment activities shall include stormwater management technologies that reduce pollutant loadings by at least 10% below the level of pollution on the site prior to development or redevelopment as provided in Critical Area 10% Rule Guidance Manual – Fall 2003 and as may be subsequently amended.
 - (7) New, expanded or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of IDAs that have been designated as Modified Buffer Areas (“MBAs”).

§ 72-3. Limited Development Areas.

A. For all development activities in the Limited Development Areas, the applicant shall identify any environmental or natural feature described below, and shall meet all of the following standards:

(1) LDAs are those areas that are currently developed in low or moderate intensity uses. They also contain areas of natural plant and animal habitats. The quality of runoff from these areas has not been substantially altered or impaired. At the time of the initial mapping, these areas shall have had at least one of the following features:

(a) Housing density ranging from one dwelling unit per five acres up to four dwelling units per acre;

(b) Areas not dominated by agricultural, wetland, forest, barren land, open water, or open space;

(c) Areas meeting the conditions of Intensely Developed Area but comprising less than 20 acres; or

(d) Areas having public sewer or public water, or both.

(2) Land use activities within the LDA will be managed in accordance with the land use policies of COMAR 27.01.02.04.

(a) If there is a wildlife corridor system identified by the Wildlife Heritage Service on or near the site which can be enhanced by additional plantings, the applicant shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. The wildlife corridor system may include habitat protection areas identified in this chapter. Snow Hill shall ensure the maintenance of the wildlife corridors by requiring the establishment of conservation easements, restrictive covenants, or similar instruments approved by the Town Attorney through which the corridor is preserved by public or private groups, including homeowners' associations, nature trusts and other organizations, if present.

(3) Development on slopes 15% or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for LDAs.

(4) Except as otherwise provided in this subsection, for stormwater runoff, lot coverage is limited to 15% of a lot or parcel or any portions of a lot or parcel that are designated LDA.

(a) If a parcel or lot of 1/2 acre or less in size existed on or before December 1, 1985, then lot coverage is limited to 25% of the parcel or lot.

(b) If a parcel or lot greater than 1/2 acre and less than one acre in size existed on or

before December 1, 1985, then lot coverage is limited to 15% of the parcel or lot.

- (c) If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed 15% of the individual lot; however, the total lot coverage for the entire subdivision may not exceed 15%.
- (d) Lot coverage limits provided in Subsection (a) and (b) above may be exceeded, upon findings by the Planning Commission or its designee that the following conditions exist:
 - (i) The lot or parcel is legally nonconforming. A lot or parcel legally developed as of July 1, 2008, may be considered legally nonconforming for the purposes of lot coverage requirements in the Critical Area.
 - (ii) Lot coverage associated with new development activities on the property have been minimized.
 - (iii) For a lot or parcel 1/2 acre or less in size, total lot coverage does not exceed the lot coverage limits in Subsection (a) by more than 25% or 500 square feet, whichever is greater.
 - (iv) For a lot or parcel greater than 1/2 acre and less than one acre in size, total lot coverage does not exceed the lot coverage limits in Subsection (b) above or 5,445 square feet, whichever is greater.
 - (v) The following table summarizes the limits set forth in Subsections (i)through (iv) above:

Table -Lot Coverage Limits

<u>Lot/Parcel Size (Square Feet)</u>	<u>Lot Coverage Limit</u>
<u>0 – 8,000</u>	<u>25% of parcel + 500 square feet</u>
<u>8,001 – 21, 780</u>	<u>31.25% of parcel</u>
<u>21,781 – 36,300</u>	<u>5,445 square feet</u>
<u>36,301 – 43,560</u>	<u>15% of parcel</u>

- (e) For the purposes of calculating limitations on lot coverage:
 - (i) When a site is mapped entirely as LDA, the lot coverage limit is based on the entire site area; and
 - (ii) When a portion of a lot or parcel is mapped as LDA, lot coverage limit is based on the area of the LDA.
- (f) The Planning Commission may allow an applicant to exceed the limits established in subsection (d) above by 500 square feet for development that uses the following pervious materials:

(i) Permeable pavers; or

(ii) Pervious concrete.

(g) If the Planning Commission or its designee makes the findings set forth in Subsection (d) above and authorizes an applicant to use the lot coverage limits set forth in that subsection, the applicant shall:

(i) Demonstrate that water quality impacts associated with runoff from the development activities that contribute to lot coverage have been minimized through site design considerations or the use of best management practices to improve water quality;

(ii) Provide on-site mitigation in the form of plantings to offset potential adverse water quality impacts from the development activities resulting in new lot coverage. The plantings shall be equal to two (2) times the area of the development activity; and

(iii) If the applicant cannot provide appropriate stormwater treatment and plantings due to site constraints, then the applicant shall pay a fee to the Town in lieu of performing the on-site mitigation. The amount of the fee shall be \$1.50 per square foot of the required mitigation.

(5) The alteration of forest and developed woodlands shall be restricted and shall be mitigated as follows:

(a) The total acreage in forest and developed woodlands within the Town in the Critical Area shall be maintained or preferably increased.

(b) All forests and developed woodlands that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis.

(c) If an applicant is authorized to clear more than 20 percent (20%) of a forest or developed woodlands on a lot or parcel, the applicant shall replace the forest or developed woodlands at 1.5 times the areal extent of the forest or developed woodlands cleared, including the first 20 percent (20%) of the forest or developed woodlands cleared.

(d) An applicant may not clear more than 30 percent (30%) of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance, and the applicant replaces forest or developed woodlands at a rate of three times the areal extent of the forest or developed woodlands cleared.

(e) If an applicant is authorized to clear any percentage of forest or developed woodlands associated with a subdivision or a site plan approval, the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by Snow Hill.

- (6) The applicant shall ensure that any plantings that die within 24 months of installation shall be replaced. A performance bond in an amount determined by Snow Hill shall be posted to assure satisfactory replacement as required in Subsection (5) above and plant survival.
- (7) A permit is issued by Snow Hill before forest or developed woodlands is cleared. Clearing forests and developed woodlands before obtaining a Snow Hill permit is a violation; any forests and developed woodlands cleared before obtaining a Snow Hill permit shall be replanted at three times the areal extent of the cleared forest or developed woodlands.
- (8) Clearing of forest or developed woodlands that exceed the maximum area allowed in Subsection (5) above shall be replanted at three times the areal extent of the cleared forest or developed woodlands.
- (9) If the areal extent of the site limits the application of the reforestation standards, as determined by GIS, in this section, the applicant may be allowed to plant off site or pay a fee in lieu of planting at a rate of \$1.50 per square foot.
- (10) If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodlands cover of at least 15 percent (15%).
 - (a) The applicant shall designate, subject to the approval of the Town, a new forest area on a part of the site not forested; and
 - (b) The afforested area shall be maintained as forest cover through easements, restrictive covenants or other protective instruments approved by the Town Attorney.
- (11) New, expanded or redeveloped industrial facilities may only be permitted in LDA if such a use is permitted in the underlying zoning district and provided such facilities meet all requirements for development in the LDA.

§ 72-4. Resource Conservation Areas.

- A. For all development activities and resource utilization in the Resource Conservation Areas ("RCAs"), the applicant shall meet all of the following standards:
 - (1) RCAs are those areas characterized by nature dominated environments (wetlands, forests, abandoned fields) and resource utilization activities (agriculture, forestry, fisheries activities, or aquaculture). These areas shall have at least one of the following features: (a) Density is less than one dwelling unit per 5 acres; or (b) Dominant land use is in agriculture, wetland, forest, barren land, surface water, or open space.
 - (2) Land use activities within the RCA will be managed in accordance with the land use policies of COMAR 27.01.02.05.

- (3) Development activity within the RCAs shall be consistent with the requirements and standards for LDAs as specified in COMAR 27.01.02.04 and this chapter.
- (a) Calculating limitations on lot coverage, is as follows:
- (i) When a site is mapped entirely as RCA, lot coverage is based on the entire site area; and
- (ii) When a portion of a lot or parcel is mapped as RCA, lot coverage is based on the area of the RCA.
- (4) Land use management practices shall be consistent with the policies and criteria for the habitat protection area provisions of this chapter.
- (5) Land within the RCA may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres.
- (6) Density.
- (a) Land within the RCA may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres. A local jurisdiction may not authorize a variance to the maximum density of one dwelling unit per 20 acres. In calculating the 1-in-20- acre density of development that is permitted on a parcel located within the RCA, the Town:
- (i) Shall count each dwelling unit; and
- (ii) May only permit the area of any private wetlands located on the property to be included under the following conditions when using transfer of development rights and
- A. The density of development on the upland portion of the parcel may not exceed one dwelling unit per eight acres; and
- B. The area of private wetlands shall be field delineated when certifying development rights for transfer.
- (b) One additional dwelling unit (accessory dwelling unit) as part of a primary dwelling unit may be permitted in the Resource Conservation Area provided the additional dwelling unit does not require a variance to any Critical Area development standards; and
- (i) Is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit and does not exceed 900 square feet in total enclosed areas; or
- (ii) Is located within the primary dwelling unit and by its construction, does not increase the amount of lot coverage already attributed to the primary dwelling

unit by greater than 900 square feet.

(c) An additional dwelling unit meeting all of the provisions of this section may not be subdivided or conveyed separately from the primary dwelling unit.

(7) Nothing in this section shall limit the ability of a participant in any agricultural easement program to convey real property impressed with such an easement to family members provided that no such conveyance will result in a density greater than one dwelling unit per 20 acres.

§ 72-5. Land use and density.

A. Permitted uses: Permitted uses in the Critical Area shall be limited to those uses allowed by the underlying zoning classification as modified by Table A and the supplemental use standards in §72-6, provided such uses meet all standards established by the Critical Area Overlay District.

Table A

Item	Use Description	IDA	Land Use Management Designation	
			LDA	RCA
1.00	Residential			
1.10	Accessory dwelling unit	P	P	PC
2.00	Institutional			
2.10	Existing institutional uses	P	P	PC
2.20	New institutional uses	P	P	NP
2.30	Cemetery	P	P	PC
2.40	Group home	P	P	PC
2.50	Day care	P	P	PC
3.00	Commercial			
3.10	Existing commercial uses	P	P	PC
3.20	New commercial uses	P	P	NP
3.30	Home occupation	P	P	PC
3.40	Bed-and-breakfast facility	P	P	PC
4.00	Maritime/water dependent			
4.10	Expansion of existing commercial marinas	P	P	PC
4.20	New marina, commercial	P	P	NP
4.30	Community piers and noncommercial boat docking and storage	P	P	PC
4.40	Public beaches and public water-oriented recreational and educational areas	P	P	PC
4.50	Research areas	P	P	PC
4.60	Fisheries activities	P	P	P
4.70	Structures on piers	PC	PC	PC
4.80	Private pier	P	P	P
5.00	Recreation			
5.10	Golf course	P	P	PC
6.00	Industrial			
6.10	Existing industrial uses	P	P	PC
6.20	New industrial uses	PC	PC	NP

Item	Use Description	IDA	Land Use Management Designation	
			LDA	RCA
6.30	Non-maritime heavy industry	PC	NP	NP
7.00	Transportation/parking/communications/utilities			
7.10	Utility transmission facilities	PC	PC	PC
8.00	Public/quasi-public			
8.10	Sanitary landfill; rubble fill	PC	PC	PC
8.20	Solid or hazardous waste collection or disposal facilities	PC	PC	PC
8.30	Sludge facilities	PC	PC	PC
9.00	Other (Reserved)			

B. Maximum permitted density.

(1) The maximum permitted density in the Town Critical Area shall be as shown in Table B(1).

Table B(1)

Maximum Residential Density (Dwelling Units Per Acre)		
Land Use Management Designation		
IDA	LDA	RCA
Density permitted by underlying zoning	Density permitted by underlying zoning	1 dwelling unit per 20 acres

§ 72-6. Supplemental use standards.

The following supplemental use standards apply to the permitted uses listed in Table A above and shall apply when the permitted use is allowed in the underlying zoning district.

A. Existing institutional uses.

(1) Existing institutional facilities, including those that directly support agriculture, forestry, aquaculture or residential development shall be allowed in RCAs.

(2) Expansion of existing institutional facilities and uses in the RCA shall be subject to the

nonconforming use provisions of this chapter, the grandfathering provisions in §72-8, and the provisions listed in §200-35 and may require growth allocation.

B. New institutional uses.

- (1) New institutional facilities and uses, except those specifically listed in Table A, shall not be permitted in RCAs.
- (2) Certain institutional uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in the Snow Hill Zoning Code. These institutional uses are limited to:
 - (a) A cemetery that is an accessory use to an existing church; provided man-made lot coverage is limited to 15% of the site or 20,000 square feet, whichever is less;
 - (b) A day-care facility in a dwelling where the operators live on the premises and there are no more than eight children;
 - (c) A group home or assisted-living facility with no more than eight residents; and
 - (d) Other similar uses determined by the municipality and approved by the Critical Area Commission to be similar to those listed above.

C. Existing commercial uses.

- (1) Existing commercial facilities and uses, including those that directly support agriculture, forestry, aquaculture or residential development shall be allowed in RCAs.
- (2) Expansion of existing commercial facilities and uses in the Resource Conservation Area shall be subject to the nonconforming use provisions of this chapter and the grandfathering provisions in §72-8 and may require growth allocation.

D. New commercial uses.

- (1) New commercial uses, except those specifically listed in Table A, shall not be permitted in RCAs.
- (2) Certain commercial uses may be permitted in the RCA if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in the Snow Hill Zoning Code. These commercial uses are limited to:
 - (a) A home occupation as an accessory use on a residential property and as provided for in Snow Hill's Zoning Code;
 - (b) A bed-and-breakfast facility located in an existing residential structure and where meals are prepared only for guests staying at the facility; and
 - (c) Other uses determined by the municipality and approved by the Critical Area Commission by program amendment to be similar to those listed above.

E. Non-Water Dependent Structures on Piers

- (1) Except as provided in paragraphs (2) and (3) of this subsection and notwithstanding any other provisions of the law, the Town may not issue a building permit or any other approval to authorize a non-water dependent project located on State or private wetlands within the Critical Area.
- (2) The Town may issue a building permit or any other approval to authorize a non-water dependent project located on State or private wetlands within the Critical Area if the project:
 - (a) Involves a commercial activity that is permitted as a secondary or accessory use to a permitted primary commercial use;
 - (b) Is not located on a pier that is attached to residentially, institutionally, or industrially used property;
 - (c) Is located in:
 - (i) An IDA; or
 - (ii) An area that has been excluded from the Program if the exclusion has been adopted or approved by the Commission for the Chesapeake and Atlantic Coastal Bays;
 - (d) Is approved by the Planning Commission after July 8, 2025;
 - (e) Allows or enhances public access to State wetlands;
 - (f) Does not expand beyond the length, width, or channelward encroachment of the pier on which the project is constructed;
 - (d) Has a height of up to 18 feet unless the project is located at a marina; and
 - (g) Is up to 1,000 square feet in total area; or
 - (h) Is located on a pier that was in existence on or before December 31, 2012; and
 - (ii) Satisfies all of the requirements under Section (2)(a)-(g) of this paragraph; and
 - (iii) If applicable, has a temporary or permanent roof structure or covering that is up to 1,000 square feet in total area.

(3) The Town may issue a building permit or other approval to authorize a non-water dependent project for a small-scale renewable energy system on a pier located on State or private wetlands within the Critical Area if the project:

(a) Involves the installation or placement of a small-scale renewable energy system that is permitted as a secondary or accessory use on a pier that is authorized under Title 16 of the Environment Article;

(b) Is approved by the Planning Commission after July 8, 2025;

(c) A building permit or other approval may include the installation or placement of:

(i) A solar energy system attached to a pier of the device or equipment associated with that system does not extend more than:

(A) Four (4) feet above or 18 inches below the deck of the pier; or

(B) One (1) foot beyond the length or width of the pier.

(ii) A solar energy system attached to a piling if there is only one solar panel per boat slip;

(iii) A solar energy system attached to a boathouse roof if the device or equipment associated with that system does not extend beyond the length, width, or height of the boathouse roof; or

(iv) A closed-loop geothermal heat exchanger under a pier if the geothermal heat exchanger or any associated devices or equipment do not:

(A) Extend beyond the length, width, or channelward encroachment of the pier;

(B) Deleteriously alter longshore drift; or

(C) Cause significant individual or cumulative thermal impacts to aquatic resources.

F. Golf course. A golf course, excluding main buildings and/or structures such as the clubhouse, pro-shop or parking lot, may be permitted in RCAs, provided:

(1) Such use is permitted in the underlying zoning; and

(2) Development is in accordance with the official guidance adopted by the Commission on August 3, 2005.

G. Existing industrial uses.

- (1) Existing industrial facilities and uses, including those that directly support agriculture, forestry, or aquaculture, may be permitted in RCAs.
- (2) Expansion of existing industrial facilities and uses in the RCA shall be subject to the nonconforming use provisions of this chapter and the grandfathering provisions in §72-8 and may require growth allocation.

H. New industrial uses.

- (1) New industrial uses shall not be permitted in RCAs.
- (2) New, expanded or redeveloped industrial facilities may only be permitted in LDAs and IDAs if permitted uses in the underlying zoning district and provided such facilities meet all requirements for development in the LDAs and IDAs.
- (3) New, expanded or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of IDAs that have been designated as Modified Buffer Areas.

I. Non-maritime heavy industry. Non-maritime heavy industry may be permitted if:

- (1) The site is located in an IDA; and
- (2) The activity or facility has demonstrated to all appropriate local and state permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

J. Utility transmission facilities.

- (1) Utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters, may be permitted in the Critical Area, provided:
 - (a) The facilities are located in IDAs; and
 - (b) Only after the activity or facility has demonstrated to all appropriate local and state permitting agencies that there will be a net improvement in water quality to the adjacent body of water.
- (2) These provisions do not include power plants.

K. Sanitary landfill; rubble fill.

- (1) Sanitary landfills or rubble fills may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem.

- (2) Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

L. Solid or hazardous waste collection or disposal facilities.

- (1) Solid or hazardous waste collection or disposal facilities, including transfer stations, may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem.
- (2) Existing permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

M. Sludge facilities.

- (1) Permanent sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities may be permitted in the Critical Area, provided:
- (a) The facility or activity is located in an IDAs; and
 - (b) Only after the activity or facility has demonstrated to all appropriate local and state permitting agencies that there will be a net improvement in water quality to the adjacent body of water.
- (2) Agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the one-hundred-foot buffer.

§ 72-7. Growth allocation.

- A. Growth allocation acreage and deduction. Growth allocation available to the Town includes:
- (1) An area equal to 5% of the RCA acreage located within Snow Hill, and/or;
 - (2) Growth allocation available to Snow Hill as provided for by Worcester County.
- B. Process. An applicant shall submit to the Town a complete application for growth allocation that complies with the submittal and environmental report requirements of COMAR 27.01.02.06-1—.06-2. A Growth Allocation request shall receive a favorable recommendation by the Planning Commission prior to submission to the Commission. After submission to the Commission, the growth allocation shall be approved by the Mayor and Council.
- C. Requirements. When locating new IDAs or LDAs, the following requirements apply:
- (1) A new IDA shall be at least 20 acres, unless it is adjacent to existing IDA, or in accordance with §72-7(D)(7), and;

- (a) They are a grandfathered commercial or industrial use, which existed as of January 2, 1990. The amount of growth allocation deducted shall be equivalent to the area of the entire parcel or parcels subject to the growth allocation request.
- (2) An application for a new IDA or LDA shall be:
 - (a) In conformance with the requirements of COMAR Title 27 Subtitle 01; and
 - (b) Designated on the approved Official Critical Area Overlay District Map that is submitted as part of its application to the Commission for growth allocation approval.
- (3) As part of a growth allocation approved by the Commission, the following shall be enforced:
 - (a) A buffer management plan;
 - (b) A habitat protection plan; and
 - (c) Other applicable conditions of approval as determined by the Commission at the time of project approval.

D. Standards. When locating new IDAs or LDAs, the following standards shall apply:

- (1) Except as may be provided in subsection (7) below, a new IDA shall only be located in a LDA or adjacent to an existing IDA.
- (2) Except as may be provided in subsection (7) below, new LDA shall only be located adjacent to an existing LDA or an IDA.
- (3) A new LDA or IDA shall be located in a manner that minimizes impacts to habitat protection areas as defined herein and in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality.
- (4) A new IDA shall only be located where it minimizes impacts to the defined land uses of the RCA.
- (5) A new IDA or an LDA in an RCA shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters, unless Snow Hill proposes and the Commission approves alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources.
- (6) New Intensely Developed Areas or Limited Development Areas that are to be located in Resource Conservation Areas shall conform to all standards of this chapter for such areas, shall be so designated on the Official Critical Area Overlay District Map and shall constitute an amendment to this chapter subject to review and recommendation

by the Planning Commission, the approval of the Mayor and Council and the Critical Area Commission, as provided herein.

(7) If Snow Hill is unable to utilize a portion of its growth allocation as set out in Subsection D(1) and (2) above within or adjacent to existing Intensely Developed IDAs or LDAs, then that portion of the growth allocation which cannot be so located may be located in the RCAs in addition to the expansion allowed in Subsection D(5) above under Program measures specifically approved by the Commission.

(8) The Town recognizes that the Town may not be able to utilize growth allocation acreage in the locations set forth in Subsections D(1) and (2) above, and/or may not satisfy the 20 acre size threshold set forth in Subsection C(1) above, and further recognize that the majority of its critical area lands for which growth allocation is planned are currently classified as Resource Conservation Areas. Accordingly, in the event that the Town is unable to satisfy any or all of the criteria set forth in Subsection D(1-4), the Town may utilize a portion of its growth allocation in a manner that varies from Subsections C(1) and D(1) and (2) above, provided that the area to receive growth allocation meets the following standards:

(a) Any development will be serviced by public water and sewer;

(b) The area is located in a Priority Funding Area;

(c) The development is consistent with the Snow Hill Comprehensive Plan; and

(d) The development will have an overall economic benefit to the community, or implements a specific goal, objective or policy of the Town.

(9) Locate new intensely developed areas and limited development areas outside of areas vulnerable to climate change as identified by Snow Hill, unless the Town proposes, and the Commission approves measures that assess climate resiliency and vulnerability and incorporate siting, design, construction and other natural features to significantly enhance climate resiliency and reduce vulnerability.

F. Additional factors.

In reviewing map amendments or refinements involving the use of growth allocation, Snow Hill shall consider the following factors:

(1) Consistency with Snow Hill's Comprehensive Plan and whether the growth allocation would implement the goals and objectives of the Plan. "Consistency with" means that a standard or factor will further, and not be contrary to, the following items in the Comprehensive Plan:

(a) Policies;

(b) Timing of the implementation of the plan, of development, and of rezoning;

(c) Development patterns;

- (d) Land uses; and
 - (e) Densities or intensities.
- (2) For a map amendment or refinement involving a new LDA, whether the development is:
- (a) To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;
 - (b) A completion of an existing subdivision;
 - (c) An expansion of an existing business; or
 - (d) To be clustered.
- (3) For a map amendment or refinement involving a new IDA, whether the development is:
- (a) To be served by a public wastewater system;
 - (b) If greater than 20 acres, to be located in a designated Priority Funding Area;
 - (c) To have a demonstrable economic benefit; and
 - (d) Have an allowed average density of at least 3.5 units per acre as calculated under State Finance and Procurement Article, §5-7B-03(h), of the Annotated Code of Maryland.
- (4) The use of existing public infrastructure, where practical;
- (5) Consistency with state and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on site or off site;
- (6) Impacts on a priority preservation area;
- (7) Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams;
- (8) Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development; and
- (9) Environmental impacts on underserved or overburdened communities.

§ 72-8. Grandfathering.

- A. Continuation of existing uses.

(1) The continuation, but not necessarily the intensification or expansion, of any use in existence on January 2, 1990, may be permitted, unless the use has been abandoned for more than one year or is otherwise restricted by existing municipal ordinances.

(2) If any existing use does not conform with the provisions of this chapter, its intensification or expansion may be permitted only in accordance with the procedures listed in § 200-35 of the Town Code.

B. Residential density on grandfathered lots. Except as otherwise provided, the following types of land are permitted to be developed with a single-family dwelling, if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the density provisions of this chapter.

(1) A legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of December 1, 1985.

(2) Land that received a building permit subsequent to December 1, 1985, but prior to January 2, 1990.

(3) Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984, and December 1, 1985; or land that was subdivided into recorded, legally buildable lots, where the subdivision received the final approval after December 1, 1985, and provided that either development of any such land conforms to the Intensely Developed Area, Limited Development Area or Resource Conservation Area requirements in this chapter or the area of the land has been counted against the growth allocation permitted under this chapter.

(4) Any land on which development activity has progressed to the point of pouring of foundation footings or the installation of structural members.

C. Implementation.

(1) For purposes of implementing this regulation, a local jurisdiction shall have determined, based on land uses and development in existence on December 1, 1985, which land areas fall within the three (3) types of development areas described in this chapter.

(2) Nothing in this Section may be interpreted as altering any requirements of this chapter related to water-dependent facilities or habitat protection areas.

§ 72-9. Variances.

A. Applicability. In the event that, owing to special features of a site or other circumstances, implementation of this chapter or a literal enforcement of provisions within this chapter would result in unwarranted hardship to an applicant, a Critical Area variance may be obtained.

(1) In considering an application for a variance, Snow Hill shall presume that the specific development activity in the Critical Area, that is subject to the application and for which a variance is required, does not conform with the general purpose and intent of Natural

Resources Article, Title 8, Subtitle 18, COMAR Title 27, and the requirements of this chapter.

(2) Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

B. Standing. In accordance with Natural Resources Article, §8-1808(d)(2), Annotated Code of Maryland, if a person meets the threshold standing requirements under federal law, the person shall have standing to participate as a party in a local administrative proceeding.

C. Standards. The provisions for granting a variance shall include written findings based on competent and substantial evidence that the applicant has overcome the presumption established under Section A(1) above and that each of the following standards are met:

(1) Due to special features of the site or special conditions or circumstances peculiar to the land or structure involved, a literal enforcement of provisions and requirements of this chapter would result in unwarranted hardship;

(2) A literal interpretation of the provisions of this chapter will deprive the applicant of the use of the land or a structure permitted to others in accordance with the provisions of this chapter;

(3) The granting of the variance would not confer upon the applicant any special privilege that would be denied by this chapter to other lands or structures in accordance with the provisions of this Program;

(4) The variance request is not based upon conditions or circumstances which are the result of conduct, acts or omissions of the applicant, including but not limited to the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming on any neighboring property; and

(5) The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the State Critical Area Law the regulations in COMAR Title 27, Subtitle 01, and this Critical Area Ordinance..

D. Process. Applications for a variance will be made in writing to the Town of Snow Hill Board of Zoning Appeals with a copy provided to the Critical Area Commission. Snow Hill and the Board of Zoning Appeals shall follow the Town's established procedures for advertising and notification of affected landowners.

(1) After hearing an application for a Program variance, the Board of Zoning Appeals shall make written findings reflecting analysis of each standard, the written findings may be based on evidence introduced and testimony presented by:

(a) The applicant;

(b) The Town of Snow Hill or any other government agency; or

(c) Any other person deemed appropriate by the Board.

(2) If the variance request is based on conditions or circumstances that are the result of conduct, acts, or omissions of the applicant, the Board shall consider that fact, and whether the application has met the requirements of Part E below.

(3) The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in Subsection A above.

(4) The Board shall notify the Critical Area Commission of its findings and decision to grant or deny the variance request in accordance with Subsection G below.

E. After-the-Fact Variances.

(1) The Town and Board may not accept an application for a variance to legalize a violation of this subtitle, including an unpermitted structure or other development activity, until it:

(a) Issues a notice of violation; and

(b) Assesses an administrative or civil penalty for the violation.

(2) The Town and the Board may not issue a permit, approval, variance, or special exception to legalize a violation of this subtitle unless an applicant has:

(a) Fully paid all administrative, civil, and criminal penalties imposed under Natural Resources Article, §8-1808(c)(1)(iii)14-15 and (2)(i), Annotated Code of Maryland;

(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 Program.

(3) If the Board of Zoning Appeals denies the requested after-the-fact variance, then the Town shall:

(a) Order removal or relocation of any structure; and

(b) Order restoration of the affected resources.

F. Appeals. Appeals from decisions concerning the granting or denial of a variance shall be taken in accordance with all applicable laws and procedures of Snow Hill for variances. Variance decisions by the Board of Zoning Appeals may be appealed to the Circuit Court in accordance with the Town Code, Maryland Rules of Procedure, and other applicable law. Appeals may be taken by any person, firm, corporation or governmental agency

aggrieved or adversely affected by any decision made under this chapter or any person withstanding, as described in Section B above. Snow Hill may not issue a permit, or any other type of authorization, until the applicable 30-day appeal period has expired.

G. Conditions and mitigation.

The Board of Zoning Appeals shall impose conditions on the use or development of a property which is granted a variance as it may find reasonable to ensure that the spirit and intent of this chapter is maintained, including, but not limited to, the following:

- (1) Adverse impacts resulting from the granting of the variance shall be mitigated as recommended by the appropriate local body or approving authority, but not less than by planting on the site per square foot of the variance granted at no less than a three-to-one basis.
- (2) New or expanded structures or lot coverage shall be located the greatest possible distance from mean high water, the landward edge of tidal wetlands, tributary streams, nontidal wetlands, or steep slopes.

H. Critical Area Commission notification.

Within ten (10) working days after a written decision regarding a variance application is issued, a copy of the decision will be sent to the Commission.

§ 72-10. Lot consolidation and reconfiguration.

A. Applicability. The provisions of this section apply to a consolidation or a reconfiguration of any nonconforming legal grandfathered parcel or lot. These provisions do not apply to the reconfiguration or consolidation of parcels or lots which are conforming or meet all Critical Area requirements. Nonconforming parcels or lots includes:

- (1) Those for which a Critical Area variance is sought or has been issued; and
- (2) Those located in the Resource Conservation Area and are less than 20 acres in size.

B. Procedure. An applicant seeking a parcel or lot consolidation or reconfiguration shall provide the information required in COMAR 27.01.02.08E to the Town.

- (1) The Town may not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with COMAR 27.01.02.08F.
- (2) The Town shall issue a final written decision or order granting or denying an application for a consolidation or reconfiguration. After a final written decision or order is issued, Snow Hill shall send a copy of the decision or order and a copy of any approved development plan within ten (10) business days by United States mail to the Commission's business address.
- (3) The Town may not issue a permit or approval of any type on a property affected by the final written decision or order until after the expiration of the time within which the

Commission may file an appeal or petition for judicial review.

§ 72-11. Program Changes.

A. Program Changes. The Mayor and Council of Snow Hill may from time to time amend the provisions of this Critical Area Ordinance. Changes may include, but are not limited to, amendments, revisions, and modifications to these Critical Area regulations, Critical Area Maps, implementation procedures, and local policies that affect Snow Hill's Critical Area. All such amendments, revisions, and modifications shall also be approved by the Critical Area Commission as established in § 8-1809 of the Natural Resources Article of the Annotated Code of Maryland. No such amendment shall be implemented without approval of the Critical Area Commission. Standards and procedures for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law § 8-1809(i) and (d), respectively.

B. Comprehensive Review. The Town will review its entire Program and propose any necessary amendments to its entire Program, including this chapter, at least every ten (10) years in accordance with Natural Resources Article, §8-1809(g).

(1) The Town shall notify the Commission in writing if it requires a one (1) year extension to the ten-year deadline July 8, 2035.

(2) The Town shall notify the Commission in writing, within sixty (60) days after the completion of its review, in accordance with all requirements established in Natural Resources Article, §8-1809(g).

C. Zoning Map amendments.

(1) The Town may grant a zoning map amendment in the Critical Area if the map amendment:

(a) Is wholly consistent with the Critical Area land classification; or

(b) If not consistent with the Critical Area land classification:

(i) Proposes the use of a part of the remaining growth allocation; or

(ii) Proposes to change the Critical Area land classification from either an IDA to an LDA or an RCA, or from an LDA to an RCA.

(2) The Town may grant a change to the Critical Area land classification on proof of mistake if the proposed Critical Area classification:

(a) Conforms to the State Critical Area mapping criteria based on land uses in existence either:

(i) As of December 1, 1985, if part of the originally mapped Critical Area; or

(ii) As of the date the land was included in the Critical Area due to a Critical Area boundary remapping effort.

(b) Follows the Town's documented mapping methodology for Critical Area classification at the time of mapping; and

(c) Is consistent with the purposes, policies, and goals of the Critical Area law and regulations.

D. Process.

(1) When an amendment is requested, the applicant shall submit the amendment to the Planning Commission for review, recommendation and recommended findings of fact. Upon completing findings of fact, these documents shall be forwarded to the Mayor and Council.

(2) The Mayor and Council shall hold a public hearing at which parties of interest and citizens shall have an opportunity to be heard. At least fourteen (14) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in Snow Hill.

(3) After the Mayor and Council approves an amendment, it shall forward its decision and applicable resolutions along with the amendment request to the Commission for final approval.

E. Adoption of a Program Amendment or Refinement.

If approved by the Commission, the Town shall incorporate a program amendment or refinement into its adopted Program, including any conditions of approval, within one hundred and twenty (120) days of receiving notice from the Chairman of the Commission

§ 72-12. Enforcement.

A. Consistency. The Critical Area provisions of this chapter, in accordance with the Critical Area Act supersede any inconsistent law, code section or plan of the Town of Snow Hill. In the case of conflicting provisions, the stricter provisions shall apply.

B. Violations.

(1) No person shall violate any provision of this chapter. Each violation that occurs and each calendar day that a violation continues shall be a separate offense subject to separate fines, orders, sanctions or other penalties.

(2) Noncompliance with any permit or order issued by the Town related to the Critical Area shall be a violation of this chapter and shall be enforced as provided herein.

C. Responsible persons. The following persons may each be held jointly or severally responsible for a violation:

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

(2) Contractors acting on behalf of or pursuant to a contractual or other business

relationship with property owners;

(3) Subcontractors acting on behalf of or pursuant to a contractual or other business relationship with property owners or their contractors;

(4) Property owners;

(5) Owners, managing agents, general partners, and principals of property owners which are partnerships, corporations, limited liability companies or other business entities;
or

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

D. Required enforcement action. In the case of violations of this chapter, the Town shall take enforcement action including:

(1) Citing the violation;

(2) Issuing abatement, restoration, and mitigation orders as necessary to:

(a) Stop unauthorized activity;

(b) Restore and stabilize the site, as appropriate, to its condition prior to the violation or to a condition that provides the same water quality and habitat benefits.

(3) Requiring the implementation of mitigation measures, in addition to restoration activities, to offset the environmental damage and degradation or loss of environmental benefit resulting from the violation; and

(4) Assessing an administrative fine or pursuing a civil penalty in accordance with §72-13.G below

E. Restoration and Mitigation.

(1) A restoration or mitigation order shall specify the amount of appropriate restoration and mitigation as necessary to offset the adverse impacts to the Critical Area, resulting from the violation, consistent with all other requirements of this chapter.

(2) For restoration or mitigation that exceeds 1,000 square feet or involves expenses exceeding \$1,000, the Town shall collect a bond or other financial security.

(3) If restoration or mitigation involves planting, a bond shall be held for at least 2 years after the date the plantings were installed to ensure plant survival.

(4) A property owner may request the Town to schedule inspections as necessary to ensure compliance and the return of the bond or other financial security.

F. Right to enter property. Except as otherwise prohibited and in accordance with the procedures specified herein, the Mayor and Council or its designee may obtain access to

and enter upon a property in order to investigate, identify or verify a suspected violation, restrain a development activity, or issue a citation if the Town has probable cause to believe that a violation of this chapter has occurred, is occurring, or will occur. The Town shall make a reasonable effort to contact a property owner before obtaining access to or entering the property. If entry is denied, Snow Hill may seek an injunction to enter the property to pursue an enforcement action.

G. Administrative civil penalties. In addition to any other penalty applicable under state or local law, every violation of a provision of Natural Resources Article, Title 8, Subtitle 18, and/or this chapter shall be punishable by a civil penalty of up to \$10,000 per calendar day that a violation continues.

(1) Before imposing any civil penalty, the person(s) believed to have violated this chapter shall receive written notice of the alleged violation(s) including which, if any, are continuing violations, and an opportunity to be heard. The notice of violation(s) shall specify the date, time, and location of the hearing afforded to the person(s) charged with a violation. The amount of the civil penalty for each violation, including each continuing violation, shall be determined separately. For each continuing violation, the amount of the civil penalty shall be determined per day. In determining the amount of the civil penalty, the Town shall consider:

(a) The gravity of the violation;

(b) The presence or absence of good faith of the violator;

(c) Any willfulness or negligence involved in the violation including a history of prior violations;

(d) The environmental impact of the violation; and

(e) The cost of restoration of the resource affected by the violation and mitigation for damage to that resource, including the cost to Snow Hill for performing, supervising, or rendering assistance to the restoration and mitigation.

(2) Administrative civil penalties for continuing violations shall accrue for each violation, every day each violation continues, with no requirements for additional assessments, notice, or hearings for each separate offense. The total amount payable for continuing violations shall be the amount assessed per day for each violation multiplied by the number of days that each violation has continued.

(3) The person responsible for any continuing violation shall promptly provide the Town with written notice of the date(s) the violation has been or will be brought into compliance and the date(s) for Snow Hill's inspection to verify compliance. Administrative civil penalties for continuing violations continue to accrue as set forth herein until the Town receives such written notice and verifies compliance by inspection or otherwise.

(4) Assessment and payment of administrative civil penalties shall be in addition to and

not in substitution for recovery by the Town of all damages, costs, and other expenses caused by the violation.

(5) Payment of all administrative civil penalties assessed shall be a condition precedent to the issuance of any permit or other approval required by this chapter.

H. Cumulative remedies. The remedies available to the Town under this chapter are cumulative and not alternative or exclusive, and the decision to pursue one remedy does not preclude pursuit of others.

I. Variances pursuant to a violation. In accordance with §72.9.E, the Town may not accept an application for a variance to legalize a violation of this chapter, including an unpermitted structure or development activity, unless the Town has first issued a notice of violation, including an assessment of an administrative or civil penalty, for the violation.

J. Permits pursuant to a violation. The Town may not issue any permit, approval, variance, or special exception, that is subject to the violation, unless the person seeking the permit has:

(1) Fully paid all administrative, civil, or criminal penalties as set forth in Subsection G above;

(2) Prepared a restoration or mitigation plan, approved by the Town, to abate impacts to water quality or natural resources as a result of the violation;

(3) Performed the abatement measures in the approved plan in accordance with the this chapter; and

(4) Unless an extension of time is approved by the Town because of adverse planting conditions, within ninety (90) days of the issuance of a permit, approval, variance, or special exception for the affected property, any additional mitigation required as a condition of approval for the permit, approval, variance, or special exception shall be completed.

K. Appeals. An appeal to the Board of Zoning Appeals may be filed by any person aggrieved by any order, requirement, decision or determination by the Town in connection with the administration and enforcement of this chapter.

(1) An appeal is taken by filing a written notice of appeal with the Board of Zoning Appeals in accordance with the provisions in the Snow Hill Zoning Code and accompanied by the appropriate filing fee.

(2) An appeal must be filed within thirty (30) days after the date of the decision or order being appealed.

(3) An appeal stays all actions by the Town seeking enforcement or compliance with the order or decisions being appealed, unless the Town certifies in writing to the Board of Zoning Appeals that because of facts stated in said certification such stay will cause imminent peril to life or property. In such a case, action by the Town shall not be stayed except by order of the Board of Zoning Appeals or a court upon application of

the party seeking the stay.

- (4) Application for a variance pursuant to a violation constitutes a waiver of the right to appeal any order, requirement, decision or determination related to the violation and its final adjudication including the payment of any penalties and costs assessed.

L. Additional Enforcement Authorities.

- (1) The Town is authorized to pursue violations in Circuit Court or District Court in accordance with Natural Resources Article §8-1815(a)(2) of the Annotated Code of Maryland.
- (2) The Town is authorized to institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this chapter, an administrative order, a permit, a decision, or other imposed condition. The pendency of an appeal to the Board of Zoning Appeals or subsequent judicial review shall not prevent the Town from seeking injunctive relief to enforce an administrative order, permit, decisions, or other imposed condition, or to restrain a violation pending the outcome of the appeal or judicial review.

§ 72-13. The Buffer

A. Applicability and delineation. The buffer applies to any development activity or a change in land use for property within the purview of this chapter, as described and defined herein. The buffer shall be accurately delineated in the field and accurately shown on all applications as follows:

- (1) The minimum one-hundred-foot buffer is delineated, and expanded as described in Subsection A(2) based on existing field conditions landward from:

- (a) The mean high-water line of tidal water;
- (b) The edge of each bank of a tributary stream; and
- (c) The upland boundary of a tidal wetland.

- (2) The buffer shall be expanded beyond the minimum one-hundred-foot buffer as described in Subsection A(1) above and the beyond two-hundred-foot buffer as described in Subsection A(3) below, to include the following contiguous land features:

- (a) A steep slope at a rate of four feet for every 1% of slope or the entire steep slope to the top of the slope, whichever is greater;
- (b) A nontidal wetland to the upland boundary of the nontidal wetland;
- (c) The one-hundred-foot buffer that is associated with a nontidal wetland of special state concern as stated in COMAR 26.23.06.01;
- (d) For an area of hydric soils or highly erodible soils, the lesser of:

- (1) The landward edge of the hydric or highly erodible soils; or
 - (2) Three hundred feet where the expansion area includes the minimum one-hundred-foot buffer.
 - (3) Applications for a subdivision or for a development activity on land located within the Resource Conservation Area requiring site plan approval after July 1, 2008, shall include a minimum buffer of at least 200 feet from a tidal waters or tidal wetlands, and 100 feet from a tributary stream.
 - (a) The 200-foot buffer may be reduced if strict application of the 200-foot buffer would preclude either subdivision at a density of one dwelling unit per 20 acres, or an intrafamily transfer subdivision.
 - (b) The reduced buffer should be the minimum necessary to accommodate a dwelling and a sewage reserve area, as determined by the Director of Planning, Zoning and Building, but no less than 100 feet.
- B. Permitted activities in the Buffer. If approved by the Town, disturbance to the buffer is permitted for the following activities, provided mitigation is performed in accordance with an approved buffer management plan as required per Subsection F of this section:
- (1) A new development or redevelopment activity associated with a water-dependent facility or located in an approved Modified Buffer Area;
 - (2) A shore erosion control activity constructed in accordance with COMAR 26.24.02, COMAR 27.01.04, and this chapter;
 - (3) A development or redevelopment activity approved in accordance with the variance provisions of this chapter;
 - (4) A new development or redevelopment activity on a lot or parcel that was created before January 1, 2010, where:
 - (a) The buffer is expanded for highly erodible soil on a slope less than 15% or is expanded for a hydric soil and the expanded buffer occupies at least 75% of the lot or parcel, including the first 100 feet;
 - (b) The development or redevelopment is located in the expanded portion of the buffer and not within the one-hundred-foot buffer; 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.
 - (5) A new or replacement septic system on a lot created before January 2, 1990, where:
 - (a) The Worcester County Health Department has determined the buffer is the only available location for the septic system; and

- (b) Mitigation is provided at a 1:1 ratio for area of canopy cleared of any forest or developed woodland.
- (6) Riparian access for water access, where mitigation is required at a rate of 2:1 based on disturbance to the Buffer.
- (7) Associated with the placement of dredged material under COMAR 27.01.03.03D.

C. Buffer establishment in vegetation.

- (1) The requirements of this subsection 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 activity is located outside the buffer; and
 - (b) The approval of a subdivision that includes a buffer to tidal waters, a tidal wetland, or a tributary stream.
- (2) If an applicant for a subdivision of a lot uses or leases the lot for an agricultural purpose, the applicant:
 - (a) In accordance with local land recordation requirements, shall record an approved buffer management plan under subsection F of this section ; and
 - (b) If authorized by the local jurisdiction, may delay implementation of the buffer management plan until the use of the lot is converted to a nonagricultural purpose.
- (3) The provisions of this section do not apply to the in-kind replacement of a structure.
- (4) The Town shall require an applicant to establish the buffer in vegetation in accordance with COMAR 27.01.09.01-1 and to provide a buffer management plan under Subsection F of this section when an applicant applies for:
 - (a) Approval of a subdivision;
 - (b) Conversion from one land use to another land use on a lot or a parcel; or
 - (c) Development on a lot or a parcel created before January 1, 2010.
- (5) If a buffer is not fully forested or fully established in woody or wetland vegetation, the buffer shall be established through planting in accordance with COMAR 27.01.09.01-1 and the following table:

<u>Development Category</u>	<u>Lot Created Before December 12, 1989</u>	<u>Lot Created After December 12, 1989</u>
<u>Development on a vacant lot</u>	<u>Establish the buffer based on total square footage of lot coverage outside the buffer</u>	<u>Fully establish the buffer</u>
<u>Subdivision</u>	<u>Fully establish the buffer</u>	
<u>New lot with an existing dwelling unit</u>	<u>Establish the buffer based on total square footage of lot coverage outside the buffer</u>	
<u>Conversion of a land use on a parcel or lot to another land use</u>	<u>Fully establish the buffer</u>	
<u>Addition, accessory structure, or redevelopment</u>	<u>Establish the buffer based on net square footage increase in lot coverage outside the buffer</u>	
<u>Substantial alteration</u>	<u>Establish the buffer based on total square footage of lot coverage outside the buffer</u>	

(6) The Town may authorize an applicant to deduct from the total establishment requirement an area of lot coverage removed from the buffer if:

(a) The lot coverage existed before the date of local program adoption or was allowed by local procedures; and

(b) The total area is stabilized.

D. Mitigation for impacts to the buffer. An applicant for a development activity that includes disturbance to the buffer shall mitigate for impacts to the buffer and shall provide a buffer management plan in accordance with the standards set forth in this section.

(1) Authorized development activities may include a variance, subdivision, site plan, shore erosion control permit, building permit, grading permit, septic system approved by the Worcester County Health Department on a lot created before January 2, 1990, and special exception.

(2) All authorized development activities shall be mitigated according to COMAR 27.01.09.01-2.

(3) All unauthorized development activities in the buffer shall be mitigated at a ratio of 4:1 for the limit of disturbance in the buffer.

(4) Planting for mitigation shall be planted on site within the buffer. If mitigation planting cannot be located within the buffer, then the Town may permit planting in the following order of priority:

(a) On site and adjacent to the buffer; and

(b) On site elsewhere in the Critical Area.

(c) A fee in lieu as referenced in Subsection G of this section.

(5) For the removal of a dead tree, the affected area shall be stabilized with native groundcover or other native vegetation as necessary.

(6) The removal of a diseased, dying, invasive, or hazardous tree shall be mitigated with one tree of at least ¾-inch caliper for each tree removed or the affected area shall be stabilized in native woody vegetation if a tree cannot be replanted due to space constraints.

(7) The installation or cultivation of new lawn or turf in the buffer is prohibited.

(8) As applicable to a site, the Town shall require that an area in the buffer that is temporarily disturbed by a development activity be restored to pre-disturbance conditions.

E. Buffer planting standards.

(1) An applicant that is required to plant the buffer for buffer establishment or buffer mitigation shall apply the planting standards set forth in COMAR 27.01.09.01-2.

(2) A variance to the planting and mitigation standards of this chapter is not permitted.

F. Required submittal of buffer management plans. An applicant that is required to plant the buffer to meet establishment or mitigation requirements shall submit a buffer management plan as provided in COMAR 27.01.09.01-3 with the application for the specific activity. The provisions of this section do not apply to maintaining an existing grass lawn or an existing garden in the buffer.

(1) A buffer management plan that includes planting for establishment shall be submitted with all other application materials, clearly specify the area to be planted and state if the applicant is:

(a) Fully establishing the buffer;

(b) Partially establishing an area of the buffer equal to the net increase in lot coverage; or

(c) Partially establishing an area of the buffer equal to the total lot coverage.

(2) Any permit for development activity that requires buffer establishment or buffer mitigation will not be issued until a buffer management plan is approved by the Town.

(3) An applicant may not obtain final approval of a subdivision application until the buffer management plan has been reviewed and approved by the Town.

(4) The Town may not approve a buffer management plan unless:

(a) The plan clearly indicates that all planting standards under Subsection E of this

section will be met; and

(b) Appropriate measures are in place for the long-term protection and maintenance of all buffer areas.

(5) For a buffer management plan that is the result of an authorized disturbance to the buffer, a permit authorizing final use and occupancy will not be issued until the applicant:

(a) Completes the implementation of a buffer management plan; or

(b) Provides financial assurance to cover the costs for:

(i) Materials and installation; and

(ii) If the mitigation or establishment requirement is at least 5,000 square feet, long-term survivability requirements as set forth in COMAR 27.01.09.01-2.

(6) Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the buffer.

(7) If an applicant fails to implement a buffer management plan, that failure shall constitute a violation of this chapter.

(a) A permit for development activity will not be issued for a property that has the violation.

(8) An applicant shall post a subdivision with permanent signs prior to final recordation in accordance with COMAR 27.01.09.01-2.

(9) Buffer management plans that include natural regeneration shall follow the provisions of COMAR 27.01.09.01-4.

G. Fees-in-lieu of buffer mitigation. A fee in-lieu of mitigation will be collected if the planting requirements of the buffer management plan cannot be fully met on site, in accordance with the following standards:

(1) Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to Snow Hill's general fund;

(2) Fee-in-lieu shall be assessed at \$1.50 per square foot of required buffer mitigation;

(3) A portion of fee-in-lieu money can be used for management and administrative costs; however, this cannot exceed 20% of the fees collected; and

(4) Fee-in-lieu monies shall be used for the following projects:

(a) To establish the buffer on sites where planting is not a condition of development or redevelopment;

(b) For water quality and habitat enhancement projects as approved by the Commission or by agreement between the Mayor and Council and the Commission.

H. Shore erosion control projects. The Town may authorize shoreline stabilization measures in accordance with the following requirements:

(1) The applicant has obtained approval from Maryland Department of Environment in accordance with COMAR 26.24.04;

(2) The applicant submits a "Shoreline Stabilization Measure Buffer Management Plan" as provided by Commission staff; and

(3) The proposed project complies fully with all of the policies and criteria for a shoreline stabilization measure as stated in COMAR 27.01.04 and COMAR 26.24.

§ 72-14. Modified Buffer Area.

The following provisions apply to areas designated and mapped by the Town as Modified Buffer Areas ("MBA") and shown on maps available to the public held by Snow Hill. All MBA maps and provisions must be approved by the Commission.

A. Development and redevelopment standards. New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces, lot coverage, or septic systems, will not be permitted in the buffer in a designated Modified Buffer Area unless the applicant can demonstrate that there is no feasible alternative and the Planning Commission finds that efforts have been made to minimize buffer impacts and the development shall comply with the following standards:

(1) Development and redevelopment activities have been located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.

(2) Variances to other local setback requirements have been considered before additional intrusion into the buffer.

(3) Commercial, industrial, institutional, recreational and multifamily residential development and redevelopment shall meet the following standards:

(a) New development, including accessory structures, shall minimize the extent of intrusion into the buffer. New development shall not be located closer to the water (or edge of tidal wetlands) than the minimum required setback for the zoning district or 50 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line.

(b) Redevelopment, including accessory structures, shall minimize the extent of intrusion into the buffer. Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the local setback for the zoning district or 25 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. A new structure may be constructed on the footprint of an existing structure.

- (4) Single-family residential development and redevelopment shall meet the following standards:
- (a) New development or redevelopment shall minimize the shoreward extent of intrusion into the buffer. New development and redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the local setback for the zoning district, whichever is greater. In no case shall new development or redevelopment be located less than 50 feet from the water (or the edge of tidal wetlands).
 - (b) Existing principal or accessory structures may be replaced in the same footprint.
 - (c) New accessory structures may be located closer to the water than the setback if the Planning Commission has determined there are no other locations for the structures. The area of new accessory structures shall not exceed 500 square feet within 50 feet of the water and 1,000 square feet total in the buffer.
- (5) Variances to other local setback requirements shall be considered before additional intrusion into the buffer is permitted.
- (6) Development and redevelopment may not impact any habitat protection area other than the buffer, including nontidal wetlands, other state or federal permits notwithstanding.
- (7) MBA's designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the buffer or to create additional buildable land for new development or redevelopment.
- (8) No natural vegetation may be removed in the buffer except that required by the proposed construction.
- (9) Mitigation for development or redevelopment in the MBA approved under the provisions of this subsection shall be implemented as follows:
- (a) Natural forest vegetation of an area twice the extent of the footprint of the development activity within the one-hundred-foot buffer shall be planted on site in the buffer or at another location approved by the Planning Commission.
 - (b) Applicants who cannot fully comply with the planting requirement in Subsection A(9)(a) above may offset by removing an equivalent area of existing lot coverage in the buffer.
 - (c) Applicants who cannot comply with either the planting or offset requirements in Subsection A(9)(a) or (b) above shall pay \$1.50 per square foot into a fee-in-lieu program.
 - (d) Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of this chapter. The funds cannot be used to accomplish a project or measure that would have been

required under existing local, state, or federal laws, regulations, statutes, or permits. The status of these funds must be reported to the Commission in the jurisdiction's quarterly reports.

(e) Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes or other instrument and recorded among the land records of the County.

§ 72-15. Other habitat protection areas.

A. Identification. An applicant for a development activity, redevelopment activity or change in land use shall identify all applicable habitat protection areas and follow the standards contained in this section.

(1) In addition to the buffer, other Habitat Protection Areas include:

(a) Threatened or endangered species or species in need of conservation;

(b) Plant and Wildlife Habitat Protection Areas; including:

(i) Colonial water bird nesting sites;

(ii) Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands;

(iii) Existing riparian forests;

(iv) Forest areas utilized as breeding areas by future interior dwelling birds and other wildlife species;

(v) Other plant and wildlife habitats determined to be of local significance;

(vi) Natural Heritage Areas; and

(vii) Anadromous fish propagation waters.

(2) Maps identifying these specific Habitat Protection Areas are maintained by the Department of Natural Resources Wildlife and Heritage Division. Maps and ecological information and are kept on record by the Town. The most recent updated inventory was completed in August 2023, and recommendations contained in Purnell Branch Habitat Protection Report are hereby incorporated into this Chapter.

(a) Site Management Considerations.

Sea level rise could significantly alter this habitat, permanently inundating the mudflats that now support the Mississippi buttercup. Water levels are inundating tidal zones faster than initial models predicted, and subsidence may also exacerbate inundation. One potential conservation strategy is to protect wetlands and adjacent upland forest buffers upstream of the population at slightly higher

elevation in order to provide potential habitat for migration of the rare plant species with sea level rise. Unless the rise in sea level moderates in the future, this may not provide a long-term solution. Adjacent development in the Town of Snow Hill further restricts available habitat for migration. Purnell Branch is currently protected in Worcester County as a Habitat of Local Significance under the Chesapeake Bay Critical Area Regulations [COMAR 27.01.09.04.B.(4) and C.(2)(a)(vi)] and will soon become a Listed Species Site when the State's list of Endangered species is updated. The Maryland Natural Heritage Program and cooperative partners completed a State Wildlife Action Plan in 2015 as a requirement of State Wildlife Grant funding. The plan details key wildlife habitats, natural communities, and Species of Greatest Conservation Need (SGCN) statewide, and provides information on threats to and conservation needs of Maryland's wildlife resources and their supporting habitats.

B. Standards.

- (1) An applicant for a development activity proposed for a site within the Critical Area that is in or near a habitat protection area listed above, shall request review by the Department of Natural Resources Wildlife and Heritage Service (DNR WHS), and as necessary United States Fish and Wildlife Service (USFWS), for comment and technical advice. Based on DNR WHS's recommendations, additional research and site analysis may be required to identify the location of threatened and endangered species and species in need of conservation on a site.
- (2) If the presence of a habitat protection area is confirmed by the Department of Natural Resources, the applicant shall follow the requirements of COMAR 27.01.09.02 through 27.01.09.05, all recommendations from DNR WHS, and as necessary all recommendations from USFWS:
 - (a) If potential Forest Interior Dwelling Birds habitat is identified, the proposed development shall conform to the Critical Area Commission's FIDS Guidance Manual, dated June 2000 and as updated.
 - (b) If potential anadromous fish propagation waters are identified, the proposed development shall conform to the policies and criteria listed in COMAR 27.01.09.05.
- (3) The applicant shall obtain approval of the habitat protection plan from the Planning Commission. The specific protection and conservation measures recommended by DNR WHS and USFWS shall be included in the plan and shall be considered conditions of approval of the project.

§ 72-16 Water Dependent Facilities.

- A. Applicability. The provisions of this chapter apply to those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the buffer. An activity is water-dependent if it

cannot exist outside the buffer and is dependent on the water by reason of the intrinsic nature of its operation.

B. Identification. Water dependent facilities include, but are not limited to, ports, the intake and outfall structures of power plants, water-use industries, marinas and other boat docking structures, public beaches and other public water-oriented recreation areas, and fisheries activities. Excluded from this regulation are individual private piers installed or maintained by riparian landowners, and which are not part of a subdivision that provides community piers.

C. General policies. The policies of Snow Hill with regard to water-dependent facilities shall be to limit development activities in the buffer to those that are water-dependent and provide by design and location criteria that these activities will have minimal individual and cumulative impacts on water quality and fish, wildlife, and plant habitat in the Critical Area. In accordance with Natural Resources Article §8-1808.3, of the Annotated Code of Maryland, permitted development in the buffer is limited to the minimum lot coverage necessary to accommodate each water dependent facility or activity.

D. Standards. The following standards shall apply to new or expanded development activities associated with water-dependent facilities:

(1) New or expanded development activities may be permitted in the buffer in the IDAs and LDAs provided that it can be shown:

- (a) That they are water-dependent;
- (b) That the project meets a recognized private right or public need;
- (c) That adverse effects on water quality, fish, plant and wildlife habitat are minimized;
- (d) That, insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the buffer;
- (e) Impacts to fish, wildlife, or plant habitat are avoided, or if unavoidable, minimized; and
- (f) Mitigation is provided at a minimum ratio of 1:1 based on the square footage of tree canopy coverage removed.

(2) New or expanded development activities may not be permitted in those portions of the Buffer which occur in Resource Conservation Areas. Applicants for water-dependent facilities in a Resource Conservation Area, other than those specifically permitted herein, must apply for a portion of the Town's growth allocation as set forth in this chapter.

E. Evaluating plans for new and expanded water-dependent facilities. The Town shall evaluate on a case-by-case basis all proposals for expansion of existing or new water-dependent facilities. The Town shall work with appropriate state and federal agencies to develop a plan for the approval of an area suitable for the location of a new or expanded water-dependent facility or activity. During the review of applications, the Town may seek comments from appropriate state and federal agencies on the proposed new or expanded water-dependent facility to ensure that the following factors are appropriately considered:

- (1) That the activities will not significantly alter existing water circulation patterns or salinity regimes;
- (2) That the water body upon which these activities are proposed has adequate flushing characteristics in the area;
- (3) That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats will be minimized;
- (4) That adverse impacts to water quality that may occur as a result of these activities, such as non-point source run-off, sewage discharge from land activities or vessels, or from boat cleaning and maintenance operations is minimized;
- (5) That shellfish beds as regulated by Maryland Department of Natural Resources will not be disturbed or be made subject to discharge that will render them unsuitable for harvesting;
- (6) That dredging shall be conducted in a manner, and using a method which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the critical area, generally;
- (7) That dredged spoil will not be placed within the buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area except as necessary for:
 - (a) Backfill for permitted shore erosion protection measures;
 - (b) Use in approved vegetated shore erosion projects;
 - (c) Placement on previously approved channel maintenance spoil disposal areas;
 - (d) Beach nourishment;
 - (e) Restoration of an island;
 - (f) The creation, restoration, or enhancement of a wetland, or a fish, wildlife, or plant habitat; or

(g) Any other approved beneficial use.

(8) That interference with the natural transport of sand will be minimized;

(9) That disturbance will be avoided to historic areas of waterfowl staging and concentration or other Habitat Protection Areas identified in the Habitat Protection Area Chapters of this ordinance; and

(10) Prior to the Town issuing local authorization for the expansion of existing or new water-dependent facilities, applicants shall submit all applicable state and federal authorizations, including those required by the Maryland Department of the Environment and the U.S. Army Corps of Engineers.

F. Industrial and port-related facilities. New, expanded or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of IDAs that have been designated as Modified Buffer Areas as described in this chapter and are subject to the provisions set forth in that chapter.

G. Marinas and other commercial maritime facilities. New, expanded or redeveloped marinas may be permitted subject to the requirements set forth below:

(1) New, expanded or redeveloped marinas may be permitted in the buffer within IDAs and LDAs.

(2) A new commercial marina or related commercial maritime facility or activity may be permitted in the buffer of an RCA, only if it is publicly owned and meets all the requirements of subsection J of this section

(3) New and existing marinas shall meet the sanitary requirements of the Department of the Environment as required in COMAR 26.08.04.09 and, as applicable, COMAR 26.24.04.03. New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.

H. Community piers. New or expanded community marinas and other non-commercial boat-docking and storage facilities may be permitted in the buffer subject to the requirements in this chapter provided that:

(1) These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;

(2) The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;

(3) The facilities are associated with a residential development approved by the Town for the Critical Area and consistent with all State requirements and program requirements for the Critical Area;

(4) Disturbance to the buffer is the minimum necessary to provide a single point of access to the facilities; and

(5) If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.

I. Number of slips or piers permitted. The number of slips or piers permitted at the facility shall be the lesser of (1) or (2) below:

(1) One slip for each 50 feet of shoreline in the subdivision in the IDAs and LDAs and one slip for each 300 feet of shoreline in the subdivision in the RCA; or

(2) A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

Table I.2 Number of Slips Permitted

<u>Platted Lots or Dwellings in the Critical Area</u>	<u>Slips</u>
<u>up to 15</u>	<u>1 for each lot</u>
<u>16 - 40</u>	<u>15 or 75% whichever is greater</u>
<u>41 - 100</u>	<u>30 or 50% whichever is greater</u>
<u>101 - 300</u>	<u>50 or 25% whichever is greater</u>
<u>over 300</u>	<u>75 or 15% whichever is greater</u>

J. Public beaches and other public recreation or education areas. Public beaches or other public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the

buffer in IDAs. These facilities may be permitted within the buffer in LDAs and RCAs provided that:

- (1) Adequate sanitary facilities exist;
- (2) Service facilities are, to the extent possible, located outside the buffer;
- (3) Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result;
- (4) Disturbance to natural vegetation is minimized; and
- (5) Areas for possible recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the Buffer within Resource Conservation Areas if service facilities for these uses are located outside of the Buffer.

K. Research-Associated and Education-Associated Water-Dependent Facilities or Activities. A research-associated water-dependent facility or activity or of an education-associated water-dependent facility or activity may be permitted in the buffer of an IDA, LDA, or RCA, if any associated nonwater-dependent project or activity is located outside the Buffer.

L. Aquaculture and Fishery Facilities and Activities: Water Quality Restoration. The following types of aquaculture and fishery facilities and activities may be permitted in the Buffer of an IDA, LDA, or RCA:

- (1) A shore-based facility or activity necessary for a commercial aquaculture operation;
- (2) A commercial water-dependent fishery facility or activity, including a structure for crab shedding, a fish off-loading dock, and a shellfish culture operation; and
- (3) A facility or activity that supports water quality restoration in the Chesapeake Bay, the Atlantic Coastal Bays, or their watersheds.

§ 72-17 Local Development Projects.

- A. Applicability. For all development in the Critical Area resulting from any action by the Town on local or privately owned lands, the Town shall adhere to COMAR 27.02.02, COMAR 27.02.04 and COMAR 27.02.06.
- B. Procedures.
 - (1) If the project meets the provisions of this chapter and is minor development, the Department of Planning, Zoning and Building shall prepare a consistency report and

submit a copy of the report with relevant plans and information about the project to the Commission per the requirements of COMAR 27.02.02.

(2) If the project does not meet the provisions of this chapter, the Department of Planning, Zoning and Building shall seek a conditional approval by the Commission per the requirements of COMAR 27.02.06.

(3) The Town shall submit information as required in the Commission's *Project Subcommittee Application Checklist*.

C. Notice and posting requirements for projects reviewed and approved by the Commission.

Public notice is required for all development projects that qualify under COMAR 27.03.01.03. Public notice shall be the responsibility of the Town and evidence that those requirements have been met shall be included as part of the submittal to the Commission.

§ 72-18. Definitions.

The following words have the following meanings for the purposes of implementing this chapter and the Snow Hill Zoning Code, and the singular always includes the plural, and vice versa, except where such construction would be unreasonable:

ABATEMENT — The act of putting an end to a land alteration or development activity or reducing the degree or intensity of the alteration or activity.

ACCESSORY STRUCTURE — A structure that is detached from the principal structure, located on the same lot and clearly incidental and subordinate to a principal structure, or, if there is no principal structure on the lot, a structure that is customarily incidental and subordinate to a principal structure.

ADDITION — Newly constructed area that increases the size of a structure.

AGRICULTURE — All methods of production and management of livestock, crops, vegetation, and soil. This includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited to, the activities of feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products.

AGRICULTURAL EASEMENT — A nonpossessory interest in land which restricts the conversion of use of the land, preventing non-agricultural uses.

ANADROMOUS FISH — Fish that travel upstream (from their primary habitat in the ocean) to freshwater in order to spawn.

ANADROMOUS FISH PROPAGATION WATERS — Those streams that are tributary to the Chesapeake Bay and Atlantic Coastal Bays in which the spawning of anadromous species of fish (e.g., rockfish, striped bass, yellow perch, white perch, shad, and river herring) occurs or has

occurred. The streams are identified by the Department of Natural Resources.

AQUACULTURE

- A. Farming or culturing of finfish, shellfish, other aquatic plants or animals or both, in lakes, streams, inlets, estuaries, and other natural or artificial water bodies or impoundments.
- B. Activities include hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings, and growing areas.
- C. Cultivation methods include, but are not limited to, seed or larvae development and grow out facilities, fish ponds, shellfish rafts, rack and longlines, seaweed floats and the culture of clams and oysters on tidelands and subtidal areas.
- D. For the purpose of this definition, related activities such as wholesale and retail sales, processing and product storage facilities are not considered aquacultural practices.

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

BUFFER — Area that based on conditions at the time of development is immediately landward from mean high water of tidal waterways, the edge of bank of a tributary stream, or the edge of a tidal wetland; and the area exists in, or is established in, natural vegetation to protect a stream, tidal wetland, tidal waters or terrestrial environments from human disturbance. The buffer includes an area of at least 100 feet even if that area was previously disturbed by human activity or is currently developed, and also includes any expansion for contiguous sensitive areas, such as a steep slope, hydric soil, highly erodible soil, nontidal wetland, or a nontidal wetland of special state concern as defined in the COMAR 26.23.01.01.

BUFFER MANAGEMENT PLAN — Includes a major buffer management plan, a minor buffer management plan, and a simplified buffer management plan.

CANOPY TREE — A tree that when mature commonly reaches a height of at least 35 feet.

CLIMATE RESILIENCY - The capacity of a natural system to maintain function in the face of stresses imposed by climate change. Climate resiliency includes adapting a natural system to be better prepared for future climate impacts including sea level rise, saltwater intrusion, wetland migration, storm surge, precipitation-induced flooding, and other extreme weather events.

CLUSTER DEVELOPMENT — A residential development in which dwelling units are concentrated in a selected area or selected areas of the development tract so as to provide natural habitat or other open space uses on the remainder.

COLONIAL NESTING WATER BIRDS --- Herons, egrets, terns, and glossy ibis. For the

purposes of nesting, these birds congregate (that is "colonize") in relatively few areas, at which time the regional populations of these species are highly susceptible to local disturbances.

COMAR — The Code of Maryland Regulations, as from time to time amended, including any successor provisions.

COMMISSION — The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.

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

COMPREHENSIVE OR MASTER PLAN — A compilation of policy statements, goals, standards, maps and pertinent data relative to the past, present and future trends of the local jurisdiction, including, but not limited to, its population, housing, economics, social patterns, land uses, water resources and their use, transportation facilities and public facilities prepared by or for the planning board, agency or office.

CONSERVATION EASEMENT — A nonpossessory interest in land which restricts the manner in which the land may be developed in an effort to reserve natural resources for future use.

CONSOLIDATION — A combination of any legal parcels of land or recorded legally buildable lot(s) into fewer lots or parcels than originally existed. An application for consolidation may include a subdivision, lot line abandonment, boundary line adjustment, replatting request, or lot line adjustment.

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

A. All waters of and lands under the Chesapeake Bay and Atlantic Coastal Bays and their tributaries to the head of tide;

B. All state and private wetlands designated under Title 16 of the Environment Article, Annotated Code of Maryland;

C. All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article, Annotated Code of Maryland; and

D. Modification to these areas through inclusions or exclusions proposed by local jurisdictions and approved by the Critical Area Commission as specified in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland.

DENSITY — The number of dwelling units per acre within a defined and measurable area.

DEVELOPED WOODLANDS — An area of trees or of trees and natural vegetation that is interspersed with residential, commercial, industrial or recreational development.

DEVELOPMENT ACTIVITIES — The construction or substantial alteration of residential, commercial, industrial, institutional or transportation facilities or structures.

DISTURBANCE - An alteration or change to the land. It includes any amount of clearing, grading, or construction activity. Disturbance does not include gardening or maintaining an existing grass lawn.

DWELLING UNIT — A single unit providing complete, independent living facilities for at least one person, including provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with daily life. Dwelling unit includes living quarters for a domestic or other employee or tenant, an in-law or accessory apartment, a guesthouse, or a caretaker residence.

ENDANGERED SPECIES — Any species of fish, wildlife, or plants that has been designated as endangered by regulation of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the state's resources is determined to be in jeopardy. This includes any species determined to be an "endangered" species pursuant to the Federal Endangered Species Act, 16 U.S.C. § et seq., as amended.

ESTABLISHMENT — The planting or regeneration of native vegetation throughout the buffer.

FINANCIAL ASSURANCE — A performance bond, letter of credit, cash deposit, insurance policy, or other instrument of security acceptable to the Town of Snow Hill.

FISHERIES ACTIVITIES — Commercial water-dependent fisheries facilities, including structures for the parking, processing, canning, or freezing of finfish, crustaceans, mollusks, and amphibians and reptiles and also including related activities such as wholesale and retail sales product storage facilities, crab shedding, off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquacultural operations.

FOREST — A biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. "Forest" includes areas that have at least 100 trees per acre with at least 50% of those trees having two-inch-or-greater diameter at 4.5 feet above the ground and forest areas that have been cut, but not cleared. "Forest" does not include orchards.

FOREST INTERIOR DWELLING BIRDS — means species of birds that require relatively large, forested tracts in order to breed successfully, such as various species of flycatchers, warblers, vireos, and woodpeckers.

FULLY ESTABLISHED — The buffer contains as much diverse, native vegetation as necessary to support a firm and stable riparian habitat capable of self-sustaining growth and regeneration.

GRANDFATHERED PARCEL or GRANDFATHERED LOT — A parcel of land that was created or a lot created through the subdivision process and recorded as a legally buildable lot prior to December 1, 1985.

GROWTH ALLOCATION — The number of acres of land in the Critical Area that the Town of Snow Hill may use, or the county may allocate to municipal jurisdictions to use, to create new Intensely Developed Areas and new Limited Development Areas. The growth allocation is 5% of the total Resource Conservation Area acreage in Snow Hill at the time the Critical Area

Commission approved Snow Hill's original Critical Area Ordinance, not including tidal wetlands or land owned by the federal government.

HABITAT PROTECTION PLAN — A plan that provides for the protection and conservation of the species and habitats identified as habitat protection areas in the Critical Area. The plan shall be specific to the site or area where the species or its habitat is located and shall address all aspects of a proposed development activity that may affect the continued presence of the species. These include, but are not limited to, cutting, clearing, alterations of natural hydrology, and increases in lot coverage. In developing the plan, an applicant shall coordinate with the Department of Natural Resources to ensure that the plan is adequate to provide for long-term conservation and can be effectively implemented on the specific site.

HIGHLY ERODIBLE SOILS — Those soils with a slope greater than 15%; or those soils with a K value greater than 0.35 and with slopes greater than 5%.

HISTORIC WATERFOWL STAGING AND CONCENTRATION AREA — An area of open water and adjacent marshes where waterfowl gather during migration and throughout the winter season. These areas are historic in the sense that their location is common knowledge and because these areas have been used regularly during recent times.

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

HYDROPHYTIC VEGETATION — Those plants cited in "Vascular Plant Species Occurring in Maryland Wetlands" (Dawson, F. et al., 1985) which are described as growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (plants typically found in water habitats).

IN-KIND REPLACEMENT — The replacement of a structure with another structure that is smaller than or identical to the original structure in footprint area, width, length.

INTENSELY DEVELOPED AREA — An area of at least 20 acres or the entire upland portion of the Critical Area within a municipal corporation, whichever is less, where residential, commercial, institutional, or industrial developed land uses predominate, and a relatively small amount of natural habitat occurs. These areas include an area with a housing density of at least four dwelling units per acre; an area with public water and sewer systems with a housing density of more than three dwelling units per acre.

LAND CLEARING — Any activity that removes the vegetative ground cover.

LEGALLY DEVELOPED — All physical improvements to a property that existed before Critical Area Commission approval of a local ordinance or were properly permitted in accordance with the provisions of the local ordinance in effect at the time of construction.

LIMITED DEVELOPMENT AREA — An area with a housing density ranging from one dwelling unit per five acres up to four dwelling units per acre; with a public water or sewer system; that is not dominated by agricultural land, wetland, forests, barren land, surface water, or open space; or that is less than 20 acres and otherwise qualifies as an intensely developed area under the definition

in this chapter.

LOCAL SIGNIFICANCE — Development of a minor scale, which causes environmental or economic consequences that are largely confined to the immediate area of the parcel of land on which it is located; does not substantially affect the Critical Area Ordinance of the Town of Snow Hill; and is not considered to be major development as defined in this chapter.

LOT COVERAGE — The percentage of a total lot or parcel that is occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with a paver, walkway gravel, stone, shell, permeable decking, a paver, permeable pavement, or any other man-made material. Lot coverage includes the ground area covered or occupied by a stairway or impermeable deck, but does not include a fence or wall that is less than one foot in width that has not been constructed with a footer; a walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier; a wood mulch pathway; or a permeable deck.

MAJOR DEVELOPMENT — Development of a scale that may cause statewide, regional, or interjurisdictional, environmental or economic effects in the Critical Area, or which may cause substantial impacts to the Critical Area of a local jurisdiction. This development includes, but is not limited to, airports, power plants, wastewater treatment plants, highways, regional utility transmission facilities, prisons, hospitals, public housing projects, public beaches, and intensely developed park and recreation facilities.

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 (MHWL) — The average level of high tides at a given location.

MITIGATION — An action taken to compensate for adverse impacts to the environment resulting from development, development activity, or a change in land use or intensity.

MODIFIED BUFFER AREA (MBA) — An area officially mapped by the Town of Snow Hill and approved by the Critical Area Commission as a BMA, where it has been sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional, or recreational development prevents the buffer from fulfilling its water quality and habitat functions, and where development in accordance with specific BMA provisions can be permitted in the buffer without a variance.

NATURAL HERITAGE AREA — Any communities of plants or animals which are considered to be among the best statewide examples of their kind and are designated by regulation by the Secretary of the Department of Natural Resources.

NATURAL REGENERATION — The natural establishment of trees and other vegetation with at least 400 free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.

NATURAL VEGETATION — Those plant communities that develop in the absence of human activities.

NEW DEVELOPMENT — For purposes of implementing specific provisions of this chapter, new developments (as opposed to redevelopment) mean a development activity that takes place on a property with predevelopment imperviousness (in Intensely Developed Areas) or lot coverage (Limited Development Areas and Resource Conservation Areas) of less than 15% as of December 1, 1985.

NONTIDAL WETLANDS — Those areas regulated under Subtitle 9 of the Environment Article that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. The determination of whether an area is a nontidal wetland shall be made in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended. Nontidal wetlands do not include tidal wetlands regulated under Title 16 of the Environment Article of the Annotated Code of Maryland.

OFFSETS — Structures or actions that compensate for undesirable impacts.

OPEN SPACE — Land and water areas retained in an essentially undeveloped state.

OVERBURDENED COMMUNITY - Has the meaning stated in §1-701 of the Environment Article.

PERSON — An individual, partnership, corporation, contractor, property owner, or any other person or entity.

PIER — Any pier, wharf, dock, walkway, bulkhead, breakwater, piles or other similar structure. Pier does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of state or private wetlands.

PLANT HABITAT — A community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics.

PORT — A facility or area established or designated by the state or local jurisdictions for purposes of waterborne commerce.

PRINCIPAL STRUCTURE — The primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling.

PROGRAM AMENDMENT — Any change or proposed change to an adopted ordinance that is not determined by the Chairman of the Critical Area Commission to be an ordinance refinement.

PROGRAM REFINEMENT — Any change or proposed change to an adopted ordinance that the Chairman of the Critical Area Commission determines will result in a use of land or water in the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in a manner consistent with the adopted ordinance, or that will not significantly affect the use of land or water in the Critical Area. Ordinance refinement may include:

A. A change to an adopted ordinance that results from state law;

- B. A change to an adopted ordinance that affects local processes and procedures;
- C. A change to a local ordinance or code that clarifies an existing provision; and
- D. A minor change to an element of an adopted ordinance that is clearly consistent with the provisions of State Critical Area law and all the Criteria of the Commission.

PROPERTY OWNER — A person holding title to a property or two or more persons holding title to a property under any form of joint ownership.

PUBLIC WATER-ORIENTED RECREATION — Shore-dependent recreation facilities or activities provided by public agencies that are available to the general public.

RECONFIGURATION — A change of the arrangement of an existing lot or parcel line of any legal parcel of land or recorded legally buildable lot. An application for reconfiguration may include a subdivision, a lot line adjustment, a boundary line adjustment, a replatting request, or a revision of acreage to increase density.

REDEVELOPMENT — The process of developing land which is or has been developed. For purposes of implementing specific provisions of this chapter, redevelopment (as opposed to new development) means a development activity that takes place on property with predevelopment imperviousness (in Intensely Developed Areas) or lot coverage (in Limited Development Areas and Resource Conservation Areas) of 15% or greater.

REFORESTATION — The establishment of a forest through artificial reproduction or natural regeneration.

RESOURCE CONSERVATION AREA — An area that is characterized by nature-dominated environments, such as wetlands, surface water, forests, and open space; and resource-based activities, such as agriculture, forestry, fisheries, or aquaculture. Resource Conservation Areas include areas with a housing density of less than one dwelling per five acres.

RESOURCE UTILIZATION ACTIVITIES — Any and all activities associated with the utilization of natural resources such as agriculture, forestry, surface mining, aquaculture, and fisheries activities.

RESTORATION — The act of returning a site or area to an original state or any action that reestablishes all or a portion of the ecological structure and functions of a site or area.

RIPARIAN HABITAT — A habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and wetlands.

ROAD

- A. A public thoroughfare under the jurisdiction of the State, a county, a municipal corporation, or any other public body.
- B. "Road" does not include a drive aisle or driveway.

SPECIES IN NEED OF CONSERVATION — Those fish and wildlife whose continued existence as part of the state's resources are in question and which may be designated by regulation by the Department of Natural Resources as in need of conservation pursuant to the requirements of Natural Resources Article, §§ 10-2A-06 and 4-2A-03, Annotated Code of Maryland.

STEEP SLOPES — Slopes of 15% or greater incline.

STRUCTURE — Building or construction materials, or a combination of those materials that are purposely assembled or joined together on or over land or water. "Structure" includes a temporary or permanent fixed or floating pier, piling, deck, walkway, dwelling, building, boathouse, platform, gazebo, or shelter for the purpose of marine access, navigation, working, eating, sleeping, or recreating.

SUBSTANTIAL ALTERATION Any repair, reconstruction, or improvement of a principal structure, where the proposed footprint equals or exceeds 50% of the existing principal structure.

THREATENED SPECIES — Any species of fish, wildlife, or plants designated as such by regulation by the Department of Natural Resources that appear likely, within the foreseeable future, to become endangered, including any species of wildlife or plant determined to be a "threatened" species pursuant to the Federal Endangered Species Act, 16 U.S.C. § 1431 et seq., as amended.

TRANSPORTATION FACILITIES Anything that is built, installed, or established to provide a means of transport from one place to another.

TRIBUTARY STREAM — A perennial stream or intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local ordinance procedures approved by the Critical Area Commission.

UNDERSERVED COMMUNITY - has the meaning stated in §1-701 of the Environment Article.

"Underserved community" means any census tract in which, according to the most recent U.S. Census Bureau Survey:

- (i) At least 25% of the residents qualify as low-income;
- (ii) At least 50% of the residents identify as nonwhite; or
- (iii) At least 15% of the residents have limited English proficiency.

UNWARRANTED HARDSHIP -- Without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

UPLAND BOUNDARY The landward edge of a tidal wetland or nontidal wetland.

UTILITY TRANSMISSION FACILITIES — Fixed structures that convey or distribute resources, wastes, or both, including but not limited to electrical lines, water conduits and sewer lines.

WATER-DEPENDENT FACILITIES — Those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the buffer. An activity is water-dependent if it cannot exist outside the buffer and is dependent on the water by reason of the intrinsic nature of its operation. Such activities include, but are not limited to, ports, the intake and outfall structures of power plants, water-use industries, marinas and other boat docking structures, public beaches and other public water-oriented recreation areas, and fisheries activities.

WATERFOWL — Birds that frequent and often swim in water, nest and raise their young near water, and derive at least part of their food from aquatic plants and animals.

WATER-USE INDUSTRY — An industry that requires location near the shoreline because it utilizes surface waters for cooling or other internal purposes.

WILDLIFE CORRIDOR — A strip of land having vegetation that provides habitat and safe passage for wildlife.

WILDLIFE HABITAT — Those plant communities and physiographic features that provide food, water, cover, and nesting areas, as well as foraging and feeding conditions necessary to maintain populations of animals in the Critical Area.

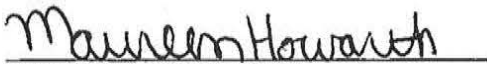
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INTRODUCED at a meeting of the Council of Snow Hill, Maryland held on June 10th, 2025, 2025.

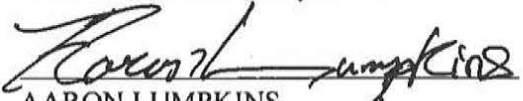
ADOPTED AND PASSED, by the required vote of the elected membership of the Council and approved by the Mayor at its meeting held on July 8th, 2025.

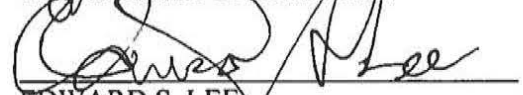

RICHARD POLLITT, Town Manager

Approved as to form:


MAUREEN HOWARTH
Ayres, Jenkins, Gordy & Almand, P.A.
Office of Town Solicitor


JANET SIMPSON, Mayor


AARON LUMPKINS,
Central District Councilmember


EDWARD S. LEE,
Eastern District Councilmember


MARGARET ANN FLETCHER,
Western District Councilmember