

## CHAPTER 6: WATER-DEPENDENT FACILITIES

### Description

Water-dependent facilities are those structures and works associated with industrial, maritime, recreational, educational, or fisheries activities that must be located at or near the shoreline within the 100-foot Buffer. An activity is water-dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water-dependent facilities include ports, marinas, community piers, public beaches and recreational areas, and fisheries. Restaurants, restrooms, and concession stands are not water-dependent. (Note that private individual piers, while water-dependent, are not regulated under the water-dependent facilities provisions of Maryland's Critical Area Program.) Water-dependent facilities may be located within the Buffer as long as the local Critical Area program includes the following requirements for these facilities:

- The facility must be water-dependent.
- The facility must meet a recognized private right or public need.
- Adverse effects on water quality and fish, plant, and wildlife habitat are minimized.
- Nonwater-dependent structures associated with water-dependent projects are located outside the Buffer.
- The facility meets specific requirements in the local Critical Area program that are used to identify and plan areas that are suitable for water-dependent activities.

- *New and expanded water-dependent facilities must be sited and designed to avoid adverse effects on water quality and important commercial fish and shellfish species, such as oysters.*



**An activity is water-dependent if it is dependent on the water as part of the intrinsic nature of its operation.**



- *Proposals to develop or expand water-dependent facilities require the evaluation of many factors, including water circulation patterns, flushing, salinity regimes, and aquatic resources.*

### **General Requirements for Water-Dependent Facilities**

Local governments are required to work closely with the appropriate State agencies to ensure that new or expanded water-dependent facilities are located, designed, constructed, and operated in a way that does not create adverse impacts to the Bays' water quality and ecosystems. Many jurisdictions have addressed the siting of new water-dependent facilities in their comprehensive plans and have mapped appropriate areas for this type of development. Other local governments review applications on a project-by-project basis; however, the expansion of existing facilities is generally preferred over the development of new facilities.

In evaluating proposals to develop or expand water-dependent facilities, the Critical Area Program requires that a variety of factors be evaluated. Existing water circulation patterns, salinity regimes, and flushing characteristics of the water body must be analyzed. Potential impacts of the proposed water-dependent

- *The expansion of existing marinas is generally preferred over the development of new facilities.*





■ *In general, new marinas and other commercial maritime facilities must be located in LDAs or IDAs.*

activities on wetlands, submerged aquatic vegetation (SAV), shellfish beds, and other aquatic habitats must be identified and assessed. Potential water quality impacts associated with water-dependent activities, such as stormwater runoff, sewage discharge from land activities or boats, and pollution from boat cleaning and maintenance operations, must be considered and rigorously managed.

In many cases, the construction or expansion of water-dependent facilities will involve dredging to increase water depths to improve accessibility for a wider variety of vessels. When dredging is proposed, it must be conducted in a manner that causes the least disturbance to water quality and aquatic and terrestrial habitats. Dredged material, even if it is determined to be free of any pollutants or contaminants, cannot be placed in the Buffer unless it is part of a shore erosion control measure, is part of a beach nourishment

project, or will be placed on a previously approved channel maintenance disposal area. By carefully considering and evaluating all impacts associated with water-dependent facilities, regulatory agencies and local officials can ensure that these facilities are sited in areas where they are necessary, where water quality impacts can be minimized and managed, and where adverse impacts to aquatic and terrestrial habitats can be avoided.

### **Specific Requirements for Certain Facilities**

In addition to the general criteria outlined above for permitting water-dependent facilities in the Buffer, specific categories of water-dependent facilities may have additional considerations. In general, water-dependent facilities can be located in Resource Conservation Areas (RCAs), Limited Development Areas (LDAs), and Intensely Developed Areas (IDAs). However, some types of uses, because of the nature

and intensity of the use, may have locational restrictions or additional water quality considerations. These requirements are summarized as set forth below.

### **INDUSTRIAL AND PORT FACILITIES**

Industrial and port facilities, such as container-ship loading docks and power plant cooling facilities, may only be located in IDAs that are designated as Buffer Exemption Areas.

### **MARINAS AND OTHER COMMERCIAL MARITIME FACILITIES**

In general, commercial marinas and similar facilities may not be located in RCAs unless they provide public access or if they involve the expansion of an existing facility. Expansions must demonstrate that the project will not affect water quality and will result in an overall net improvement in water quality at or leaving the site. All facilities must meet the State's sanitary requirements and include a method for minimizing the discharge of bottom wash waters into tidal waters.

### **COMMUNITY PIERS AND OTHER NON-COMMERCIAL BOATING FACILITIES**

Non-commercial boating facilities can be located in RCAs, LDAs, and IDAs; however, these types of uses cannot involve the sale of goods or services, such as food or fuel. They must also provide adequate and clean sanitary facilities. Generally, these facilities are associated with a residential subdivision and are established and operated for the community's benefit. Community piers must be designed with a single point of access through the Buffer and must be located and configured to minimize disturbance to the Buffer. If a project includes a community pier, then individual private piers are not allowed. The Critical Area Law specifies the number of slips that may be permitted as part of the facility, which is based on the linear feet of shoreline and the number of platted lots or dwellings in the Critical Area.

### **PUBLIC BEACHES AND OTHER PUBLIC WATER-ORIENTED RECREATION OR EDUCATION AREAS**

Public facilities that provide beach access or accommodate recreational or educational activities can be located in RCAs, LDAs, and IDAs. Maryland's Critical Area Program encourages public access to the water, and the State and local governments work



■ *Community piers can provide access to the water and recreational opportunities, but they cannot involve the sale of goods or services.*

■ *The Critical Area Commission works closely with the Maryland Department of the Environment to review applications involving the expansion of existing marinas.*





- *The construction or expansion of water-dependent facilities often involves dredging, which can only be permitted in areas where aquatic habitat will not be degraded or destroyed.*

together closely to locate, design, and construct these facilities in an environmentally sensitive manner. In order to minimize adverse impacts associated with human activity at the shoreline, when these facilities are located in LDAs and RCAs, there are additional requirements. Adequate sanitary facilities must be provided, service facilities must be located outside the Buffer, permeable surfaces should be used where practicable, and disturbance to natural vegetation must be minimized.

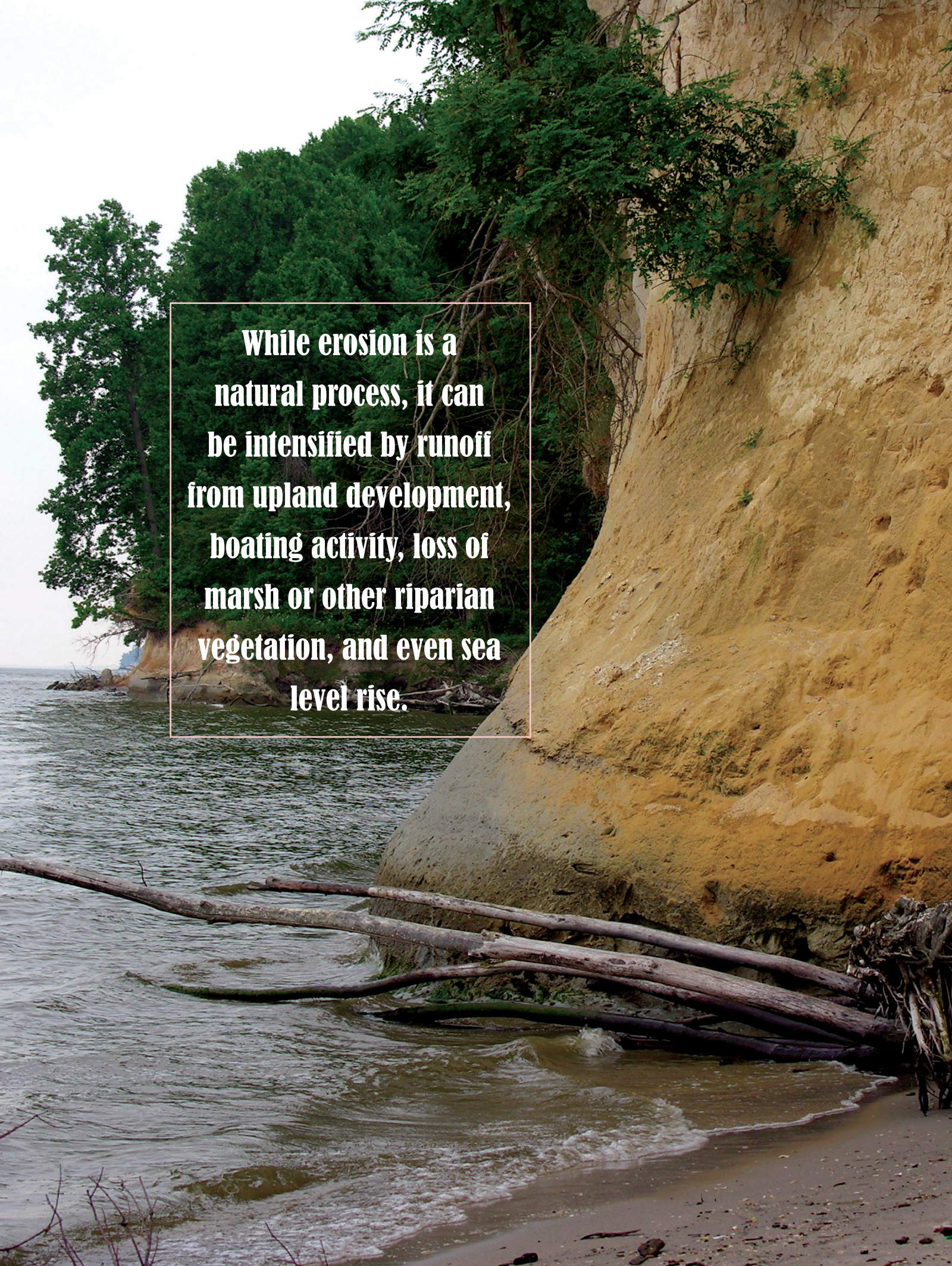
#### **RESEARCH AREAS**

Water-dependent research facilities operated by local, State, or federal agencies or educational institutions may be located in the Buffer, regardless of the Critical Area designation. These facilities shall be designed so that nonwater-dependent structures or facilities are located outside the Buffer to the extent possible.

#### **FISHERIES ACTIVITIES**

Facilities associated with commercial fisheries, such as structures for crab shedding, fish off-loading docks, shellfish culture operations, and shore-based structures required for aquaculture operations, may be located in the Buffer in RCAs, LDAs, and IDAs. Local governments are encouraged to identify areas with high potential for successful aquacultural activities and to provide necessary and appropriate protection measures so that these areas are protected from degradation by other types of land and water use or by adjacent land and water uses.

**Maryland's Critical Area  
Program encourages public  
access to the water...**

A photograph of a sandy cliffside with trees and driftwood. The cliff is a light tan color and shows signs of erosion. Several large, dark brown logs are lying horizontally across the base of the cliff, partially submerged in the water. The water is a murky, greenish-brown color. In the background, there are several large, green trees with dense foliage. The sky is overcast and grey.

**While erosion is a natural process, it can be intensified by runoff from upland development, boating activity, loss of marsh or other riparian vegetation, and even sea level rise.**