

Critical Area Commission

STAFF REPORT

April 8, 2026

APPLICANT:	Town of Church Hill
PROPOSAL:	Comprehensive Review
JURISDICTION:	Town of Church Hill, Queen Anne's County
COMMISSION ACTION:	Concurrence with Chair's Determination of Refinement
RECOMMENDATION:	Approval with conditions
STAFF:	Margaret White
APPLICABLE LAW/ REGULATIONS:	Natural Resources Article §8-1809(g) and §8-1809(r)

DISCUSSION:

The Town of Church Hill recently completed a comprehensive review of their Critical Area program as required by State law noted above. On December 15, 2025, the Town of Church Hill Town Commissioners voted to amend the Town's Critical Area program, located within Chapter 75 of the Town Zoning Code, through the adoption of Ordinance 190/25. The proposed updates ensure compliance and consistency with the Critical Area law and regulations.

A copy of Ordinance 190/25 is attached to this staff report (Attachment 1).

Church Hill Critical Area Overview

The Town of Church Hill is located along the Southeast Creek, a tributary off of the Chester River in Queen Anne's County. The Town encompasses all three Critical Area land designations; Intensely Developed Area (IDA), Limited Development Area (LDA), and Resource Conservation Area (RCA). The Town's 1,000-foot Critical Area boundary map update was approved by the Critical Area Commission on August 2, 2017.

Comprehensive Review and Update to the Town of Church Hill's Critical Area Program

Natural Resources Article §8-1809(g) requires each local jurisdiction to comprehensively review and update its local Critical Area program at least every 10 years to ensure conformance with the requirements of the Critical Area law, criteria, and regulations. The Town first adopted its Critical Area program in 1989 and has not completed a comprehensive update since then.

The comprehensive update to the Town of Church Hill's Critical Area program brings the Critical

Area portion of the Town's Zoning Ordinance into conformance with the requirements of the Critical Area law and criteria. Changes to the Town's Critical Area program were based on the model ordinance for municipalities, which was created by Critical Area Commission staff. The model provides all of the basic elements of the State Critical Area regulations, including development standards, density and use standards, amendment procedures, variance procedures, enforcement procedures, and definitions.

With this comprehensive review, the Town used the Commission's model ordinance to identify necessary updates; however, there are several minor administrative changes that staff recommend as a condition of approval (Attachment 2).

RECOMMENDATION

The comprehensive update of the Town of Church Hill's Critical Area program meets the goals of the Critical Area law and standards for comprehensive review, therefore, Commission staff recommend that the Commission concur with the Chair's determination that this comprehensive review be processed as a refinement.

Further, staff recommend the Chair approve this refinement with the following condition:

- Within 180 days of the date of Commission approval, the Town of Church Hill shall incorporate the recommended text edits described in Attachment 2 of this staff report.

ATTACHMENTS

1. Town Ordinance 190/25
2. Recommended changes

ORDINANCE NO. 190/25

**AN ORDINANCE OF THE COMMISSIONERS OF THE TOWN OF CHURCH HILL,
MARYLAND AMENDING THE CODE OF THE TOWN OF CHURCH HILL,
CHAPTER 75 "ZONING," ARTICLE 8 "CRITICAL AREA REGULATIONS," AND
ARTICLE 9 "DEFINITIONS" TO UPDATE THE TOWN'S CRITICAL AREA OVERLAY
DISTRICT PROVISIONS AND DEFINITIONS RELATING THERETO IN
ACCORDANCE WITH STATE LAW**

WHEREAS, MD Code Ann., Local Government, § 5-213 "Legislative authority--Zoning regulations" authorizes a municipality to adopt zoning regulations; and

WHEREAS, pursuant to this authority, and MD Code Ann., Natural Resources, § 1808 "Program Development, implementation and approval," the Commissioners of the Town of Church Hill adopted Town Code, Chapter 75 "Zoning," Article 8 "Critical Area Regulations" and certain definitions contained in Town Code, Chapter 75, Article 9 "Definitions;" and

WHEREAS, the Town of Church Hill is required to periodically comprehensively review and update its critical area program; and

WHEREAS, upon introduction of this Ordinance, the Town Administrator forwarded the Ordinance to the Town Planning Commission¹ as required by Town Code, Chapter 75; and

WHEREAS, as required by Town Code, Chapter 75, the Planning Commission reviewed the request, conducted a public hearing on the request and made a recommendation to the Commissioners of the Town of Church Hill in support of adopting the Ordinance; and

WHEREAS, the Town Commissioners desire to amend Chapter 75 of the Town Code to update its Critical Area Regulations and to comply with State law; and

WHEREAS, MD Code, Land Use, § 4-203 "Zoning regulations – Procedure; public hearings" requires that a legislative body hold at least one public hearing on a proposed zoning regulation at which parties in interest and citizens have an opportunity to be heard; and

WHEREAS, the Commissioners of the Town of Church Hill conducted a public hearing on this Ordinance on the 15th day of December, 2025, after notice of the date, time and place of

¹ The Town of Church Hill Planning Commission also previously reviewed the draft ordinance transmitted to the Town by the Critical Areas Commission, before it was incorporated into this ordinance.

the public hearing was provided in at least one newspaper of general circulation in the Town once each week for 2 successive weeks in accordance with State law; and

WHEREAS, this Ordinance shall not become effective until it is approved by the State Critical Area Commission as required by Md Code Ann., Natural Resources, Sec. 8-1809.

Section 1. NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Commissioners of the Town of Church Hill, Maryland, that Town Code, Chapter 75 “Zoning”, Art. 8 “Critical Area Regulation” is hereby amended to read as follows:

Article 8

Critical Area Regulations

Part 1. Critical Area Program Purpose and Goals

§75-163. The Church Hill Critical Area Program.

- (1) The Church Hill Critical Area Program consists of the Church Hill Zoning Ordinance, [including] the Official TOWN Critical Area [Map] **MAP(S)**, AND ANY OTHER RELATED PROVISIONS SET FORTH IN THE TOWN CODE.
- (2) **NOTWITHSTANDING THE PROVISIONS OF THIS CHAPTER, ALL APPLICABLE REQUIREMENTS OF MD CODE ANN., NATURAL RESOURCES ARTICLE, TITLE 8 “WATERS,” SUBTITLE 18 “CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA PROTECTION AREA” AND CODE OF MARYLAND REGULATIONS, TITLE 27 “CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS” SHALL APPLY TO AND BE APPLIED BY THE TOWN OF CHURCH HILL AS MINIMUM STANDARDS .**
- (3) **IN THE CASE OF CONFLICTING PROVISIONS OF THE TOWN CODE AND STATE LAW REFERENCED IN (2) ABOVE, THE STRICTER PROVISION SHALL APPLY.**

§75-164. Goals and Implementation.

The goals of the Church Hill Critical Area Program are to accomplish the following:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or, that have run off from surrounding

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lands;

2. Conserve fish, wildlife, and plant habitat; [and]
3. Establish land use policies for development in the Critical Area that accommodates growth as well as addresses 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 TRIBUTARIES; AND**
- 5. ENSURE AN EQUITABLE DISTRIBUTION OF THE BURDENS AND BENEFITS OF DEVELOPMENT, MITIGATION, RESTORATION, AND CONSERVATION WITHIN THE CRITICAL AREA.**

§75-165. Regulated Activities and Applicability.

A. 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 sub-surface) or quarrying, farming or other agriculture-related activities shall have such permits or licenses issued by the Town after review to determine compliance with the Church Hill Zoning Ordinance, Article 8 **CRITICAL AREA REGULATIONS**.

B. **THE TOWN'S CRITICAL AREA PROGRAM, WHICH INCLUDES ALL APPLICABLE PROVISIONS OF THIS CHAPTER, SHALL BE IMPLEMENTED AND ENFORCED BY THE TOWN ZONING ADMINISTRATOR. THE ZONING ADMINISTRATOR SHALL REVIEW ALL PERMITS, LICENSES AND OTHER AUTHORIZATIONS FOR DEVELOPMENT OR REDEVELOPMENT ACTIVITY IN THE CRITICAL AREA FOR COMPLIANCE WITH THIS CHAPTER PRIOR TO ISSUING SUCH PERMIT, LICENSE OR AUTHORIZATION.**

C. **SHOULD A VIOLATION OF ANY PROVISION OF THIS CHAPTER OR ANY OTHER LAW, REGULATION OR PLAN RELATED TO THE TOWN'S CRITICAL AREA PROGRAM BE BROUGHT TO THE ATTENTION OF ANY TOWN OFFICIAL, THE TOWN OFFICIAL SHALL SO ADVISE THE ZONING ADMINISTRATOR.**

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§75-166. Critical Area Overlay District Map.

A. The official Critical Area Overlay District Map is maintained in force as part of the official Zoning Map for Church Hill. The official Critical Area Map delineates the extent of the Critical Area Overlay District that shall include:

1. All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the Statewide Wetland Maps, and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland, and
2. 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 [state or private wetlands and the heads of tides designated under Title 16 of the] Environment Article of the Annotated Code of Maryland.

B. Within the designated Critical Area Overlay District, all land shall be assigned one of the following land management and development area classifications:

1. Intensely Developed Area (IDA).
2. Limited Development Area (LDA).
3. Resource Conservation Area (RCA).

C. The Critical Area Overlay District Map may be amended by the Town Commissioners in compliance with the provisions in this Article, the Maryland Critical Area law, and Critical Area Regulations.

§75-167. [General Requirements] **NOTIFICATION OF PROJECT APPROVAL**

THE TOWN OF CHURCH HILL SHALL SEND COPIES OF APPLICATIONS FOR ALL DEVELOPMENTS, SUBDIVISIONS, AND SITE PLANS REGARDING PROPERTY THAT IS LOCATED WHOLLY OR PARTIALLY WITHIN THE CRITICAL AREA AS SPECIFIED IN COMAR 27.03.01.04 TO THE CRITICAL AREA COMMISSION FOR REVIEW AND COMMENT. SUCH APPLICATIONS SHALL BE ACCOMPANIED BY A COMPLETED "PROJECT NOTIFICATION APPLICATION," WHICH CAN BE OBTAINED FROM THE CRITICAL AREA COMMISSION'S

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WEBSITE. THE TOWN OF CHURCH HILL MAY NOT PROCESS AN APPLICATION THAT HAS BEEN SENT TO THE CRITICAL AREA COMMISSION FOR NOTIFICATION UNTIL IT HAS RECEIVED NOTICE OF RECEIPT BY THE CRITICAL AREA COMMISSION. ANY ACTION TAKEN BY THE TOWN IN VIOLATION OF THESE PROCEDURES SHALL BE VOID.

§75-168. DEVELOPMENT STANDARDS IN THE CRITICAL AREA

A. GENERAL REQUIREMENTS IN ALL CRITICAL AREA OVERLAY ZONES

(1) Development and redevelopment shall be subject to the Habitat Protection Area requirements AND THE WATER-DEPENDENT FACILITIES REQUIREMENTS prescribed in this Article.

(2) DEVELOPMENT SHALL COMPLY WITH ALL APPLICABLE STATE OF MARYLAND STATUTES AND REGULATIONS, INCLUDING, BUT NOT LIMITED TO:

(A) MD CODE ANN., ENVIRONMENT, TITLE 4 WATER MANAGEMENT, SUBTITLE 1 SEDIMENT CONTROL, AND COMAR 26.17.01 (SOIL EROSION AND SEDIMENT CONTROL).

(B) MD CODE ANN., ENVIRONMENT, TITLE 4 WATER MANAGEMENT, SUBTITLE 2 STORMWATER MANAGEMENT AND COMAR 26.17.02 (STORMWATER RUNOFF AND STORMWATER MANAGEMENT).

(C) MD CODE ANN., ENVIRONMENT, TITLE 16 WETLANDS AND RIPARIAN RIGHTS AND COMAR 26.24.04 (SHORE EROSION AND SHORELINE STABILIZATION).

(3) 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 OF PART 6 OF THIS ARTICLE; 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

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(ii) THE ACTIVITY OR FACILITY IS NECESSARY IN ORDER TO CORRECT A WATER QUALITY OR WASTEWATER MANAGEMENT PROBLEM.

(4) A TRANSPORTATION FACILITY OR A UTILITY TRANSMISSION FACILITY MAY NOT BE AUTHORIZED IN THE CRITICAL AREA UNLESS IT IS:

- (A) A FACILITY THAT SERVES A USE IDENTIFIED UNDER THE CRITICAL AREA PROGRAM;
- (B) A LINEAR REGIONAL OR INTERSTATE TRANSPORTATION FACILITY THAT MUST CROSS TIDAL WATERS; OR
- (C) A LINEAR REGIONAL OR INTERSTATE TRANSMISSION FACILITY THAT MUST CROSS TIDAL WATERS.

(5) 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 MD CODE ANN., AGRICULTURE, TITLE 8, SUBTITLE 8 AND COMAR 15.20.04 AND COMAR 15.20.06 --.08, SLUDGE IS APPLIED ON AGRICULTURAL LAND THAT IS NOT IN THE BUFFER.

(6) 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.

(7) 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.

[B.] (8) Reasonable accommodations for the needs of disabled citizens.

[1.] (A) An applicant seeking relief from the Critical Area standards contained in this article in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating by a preponderance of THE evidence the

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following:

- [A.](i) The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act;
 - [B.](ii) Literal enforcement of the provisions of this article would result in discrimination by virtue of such disability or deprive a disabled resident or user of the reasonable use and enjoyment of the property;
 - [C.](iii) A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this article or restore the disabled resident's or user's reasonable use or enjoyment of the property;
 - [D.](iv) The accommodation requested will not substantially impair the purpose, intent, or effect, of the provisions of this article as applied to the property; and
 - [E.](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.
- [2.](B) The Board of Appeals shall determine the nature and scope of any accommodation under this article 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 article. The board may also consider the size, location, and type of accommodation proposed and whether alternatives exist [which]THAT accommodate the need with less adverse effect.
- [3.](c) The Board of Appeals 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 [article]ARTICLE. Appropriate bonds may be collected or liens placed in order to ensure the Town's ability to restore the property should the applicant fail to do so.

(9) SHORE EROSION PROTECTION.

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- A. ALL SHORE EROSION CONTROL ACTIVITIES OR PROJECTS SHALL MEET THE REQUIREMENTS OF **COMAR 26.24.02 AND COMAR 26.24.04.**
- B. **CHURCH HILL** SHALL REQUIRE ANY AUTHORIZED SHORE EROSION CONTROL PROJECT TO SUBMIT A **BUFFER MANAGEMENT PLAN.**
- C. **THE BUFFER MANAGEMENT PLAN SHALL MEET THE REQUIREMENTS OF PART 3 OF THIS ARTICLE AND COMAR 27.01.09.**
- D. A COPY OF THE APPROVED **BUFFER MANAGEMENT PLAN SHALL BE FORWARDED TO THE CRITICAL AREA COMMISSION.**

[§75.168] **§75.169.** [Districts -] Intensely Developed Areas – Development Standards.

[For all] **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) **INTENSELY DEVELOPED AREAS (IDA) 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 UNLESS IT IS THE ENTIRETY OF THE UPLAND AREA OF THE TOWN, OR IT IS CONSISTENT WITH THE GROWTH ALLOCATION PROVISIONS OF THIS CHAPTER;**
- (3) **LAND USE ACTIVITIES WITHIN THE IDA WILL BE MANAGED IN ACCORDANCE WITH THE LAND USE POLICIES OF COMAR 27.01.02.03;**
- (4) **CHURCH HILL MAY DEVELOP A STRATEGY TO REDUCE THE IMPACTS ON WATER QUALITY GENERATED BY EXISTING DEVELOPMENT, WHICH MAY 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,**

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AND OPEN LAND BUFFER PLANTINGS;

- [1.] (5) Development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation;
- [2. 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:
- A. Provide maximum erosion protection;
 - B. Minimize negative impact on wildlife, aquatic life, and their habitats; and
 - C. Maintain hydrologic process and water quality.
3. 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 storm water.]
- [4.]6. All development and redevelopment activities shall include storm water management technologies that reduce pollutant loadings by at least 10 percent 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.

[§75.169] §75.170. Limited Development Areas.

A. [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:

- 1. Development and redevelopment shall be subject to the water-dependent facilities requirements of this article;
- 2. 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;

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- B. Minimize negative impacts on wildlife, aquatic life and their habitats; and
 - C. Maintain hydrologic processes and water quality.
3. 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 or stream beds; and
 - D. Minimize adverse water quality and quantity impacts of storm water.]

LIMITED DEVELOPMENT AREAS (LDA) 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 COMPROMISING LESS THAN 20 ACRES; OR**
- (D) AREAS HAVING PUBLIC SEWER OR PUBLIC WATER, OR BOTH.**

B. LAND USE ACTIVITIES WITHIN THE LDA WILL BE MANAGED IN ACCORDANCE WITH THE LAND USE POLICIES OF COMAR 27.01 .02.04.

[4.]C. 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 article. Church 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 through which the corridor is preserved by public or private groups, including homeowners associations, nature trusts and other organizations.

[5.]D. Development on slopes 15 percent 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

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development areas.

[6.]E. Except as otherwise provided in this subsection, **FOR STORMWATER RUNOFF**, lot coverage as defined in §75-186 critical area definitions is limited to 15% of a lot or parcel or any portions of a lot or parcel that are designated **AS LDA**.

A. If a parcel or lot of one-half acre or less in size existed on or before December 1, 1985, then lot coverage is limited to twenty-five (25%) of the parcel or lot.

B. If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then lot coverage is limited to fifteen percent (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 fifteen percent (15%) of the individual [December 1, 1985, then lot coverage may exceed fifteen percent (15%) of the individual] lot; however the total lot coverage for the entire subdivision may not exceed fifteen percent (15%).

D. Lot coverage limits provided in (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.
- (ii) Lot coverage associated with new development activities on the property have been minimized;
- (iii) For a lot or parcel one-half acre or less in size, total lot coverage does not exceed the lot coverage limits in §[(a)]**A** by more than twenty-five percent (25%) or five hundred square feet (500 square feet), whichever is greater;
- (iv) For a lot or parcel greater than one-half acre and less than one acre in size, total lot coverage does not exceed the lot coverage limits in §[(B)]**B** or five thousand, four hundred and forty-five (5,445) square feet, whichever is greater;
- (v) The following summarizes the limits set forth in (a) through (c) above:

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

E. If the Planning Commission or its designee makes the findings set forth in (D)

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above and authorizes an applicant to use the lot coverage limits set forth in that paragraph, 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; and
- (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 times the area of the development activity.
- (iii) If the applicant cannot provide appropriate storm water treatment and plantings due to site constraints, then the applicant shall pay a fee to ~~[Church Hill]~~**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.

F. FOR PURPOSES OF CALCULATING LIMITATIONS ON LOT COVERAGE, THE FOLLOWING APPLIES:

- (I) WHEN A SITE IS MAPPED ENTIRELY AS LDA, LOT COVERAGE IS BASED ON THE ENTIRE SITE AREA; AND**
- (II) WHEN A PORTION OF THE LOT OR PARCEL IS MAPPED AS LDA, LOT COVERAGE IS BASED ON THE AREA OF THE LDA.**

(G) THE PLANNING COMMISSION MAY AUTHORIZE AN APPLICANT TO EXCEED THE LIMITS ESTABLISHED IN §(D) ABOVE BY 500 SQUARE FEET FOR DEVELOPMENT THAT USES THE FOLLOWING PERVIOUS MATERIALS:

- (i) PERVIOUS PAVER; AND**
- (ii) PERVIOUS CONCRETE**

[7.]F. 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 OF CHURCH HILL's** 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 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 of the forest or developed woodlands cleared.

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D. An applicant may not clear more than 30 percent of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance and the applicant replaces forest or developed woodlands at a rate of 3 times the areal extent of the forest or developed woodlands cleared.

E. If an applicant is authorized to clear any percentage of forest or developed woodland the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by the town.

[8. The following are required for forest or developed woodland clearing as required in (7) above:

A. **G.** The applicant shall ensure that any plantings that die within twenty-four (24) months of installation shall be replaced. A Performance Bond in an amount determined by **[Church Hill]THE TOWN** shall be posted to assure satisfactory replacement as required in (7) above and plant survival;

[B.]H. No clearing is allowed until the Town has issued a permit. Forests and developed woodlands which have been cleared before obtaining a Town permit is a violation and shall be replanted at three times the areal extent of the cleared forest

[C.]I. Clearing of forest or developed woodlands that exceed the maximum area allowed in (7) above or prior to the issuance of a permit shall be replanted at three times the areal extent of the cleared forest; and

[D.]J If the areal extent of the site limits the application of the reforestation standards in this section the applicant may be allowed to plant offsite or pay a fee in lieu of planting.

[9. **K.** If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15 percent.

A. The applicant shall designate, subject to town approval, 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.

L. NEW, EXPANDED OR REDEVELOPD INDUSTRIAL FACILITIES MAY ONLY BE PERMITTED IN LIMITED DEVELOPMENT AREAS (LDA) IF SUCH A USE IS PERMITTED IN THE UNDERLYING ZONING DISTRICT AND PROVIDED SUCH FACILITIES MEET ALL REQUIREMENTS FOR DEVELOPMENT IN THE LDA.

[§75-170] §75.171 . Resource Conservation Areas [- Development Standards].

A. 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

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FEATURES: (1) DENSITY IS LESS THAN ONE DWELLING UNIT PER 5 ACRES; OR (2) DOMINANT LAND USE IS IN AGRICULTURE, WETLAND, FOREST, BARREN LAND, SURFACE WATER, OR OPEN SPACE.

B. LAND USE ACTIVITIES WITHIN THE RCA WILL BE MANAGED IN ACCORDANCE WITH THE LAND USE POLICIES OF COMAR 27.01 .02.05.

C. DEVELOPMENT ACTIVITY WITHIN THE RESOURCE CONSERVATION AREAS SHALL BE CONSISTENT WITH THE REQUIREMENTS AND STANDARDS FOR LIMITED DEVELOPMENT AREAS AS SPECIFIED IN IN COMAR 27.01 .02.04 AND THIS ARTICLE.

FOR PURPOSES OF CALCULATING LIMITATIONS ON LOT COVERAGE, THE FOLLOWING SHALL APPLY:

(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.

D. NOTHING IN THIS SECTION SHALL LIMIT THE ABILITY OF A LAND OWNER TO PARTICIPATE IN ANY AGRICULTURAL EASEMENT PROGRAM OR 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.

E. DENSITY

1. LAND WITHIN THE RESOURCE CONSERVATION AREA 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. WHEN CALCULATING THE 1-IN-20 ACRE DENSITY OF DEVELOPMENT THAT IS PERMITTED ON A PARCEL LOCATED WITHIN THE RESOURCE CONSERVATION AREA, THE TOWN:

(a) SHALL COUNT EACH DWELLING UNIT;

(b) MAY ONLY PERMIT THE AREA OF ANY PRIVATE WETLANDS LOCATED ON THE PROPERTY TO BE INCLUDED WHEN USING TRANSFER OF DEVELOPMENT RIGHTS AND THE AREA OF PRIVATE WETLANDS SHALL BE FIELD DELINEATED WHEN CERTIFYING DEVELOPMENT RIGHTS FOR TRANSFER.

2. ONE ADDITIONAL DWELLING UNIT (ACCESSORY DWELLING UNIT) AS PART OF A PRIMARY DWELLING UNIT MAY BE PERMITTED IN THE RESOURCE CONSERVATION AREA, WHEN SUCH UNIT IS AUTHORIZED IN THIS CHAPTER, 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

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(ii) IS LOCATED WITHIN THE PRIMARY DWELLING UNIT AND BY IT'S CONSTRUCTION DOES NOT INCREASE THE AMOUNT OF LOT COVERAGE ALREADY ATTRIBUTED TO THE PRIMARY DWELLING UNIT BY GREATER THAN 900 SQUARE FEET.

3. 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

4. AN ADDITIONAL DWELLING UNIT THAT EXCEEDS 900 SQUARE FEET SHALL COUNT TOWARDS THE DENSITY CALCULATIONS.

F. PERMITTED USES IN THE CRITICAL AREA SHALL BE LIMITED TO THOSE USES ALLOWED BY THE UNDERLYING ZONING DISTRICTS AS MODIFIED BY BOTH TABLE 1, TOWN CODE, SEC. 75-50 AND THE SUPPLEMENTAL USE STANDARDS PROVIDED IN §8.3.2 PROVIDED SUCH USES MEET ALL STANDARDS ESTABLISHED FOR THE CRITICAL AREA OVERLAY DISTRICT.

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

1. Land use management practices shall be consistent with the policies and criteria for the habitat protection area provisions of this article.
2. Land within the Resource Conservation Area may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres.
3. Development activity within the Resource Conservation Areas shall be consistent with the requirements and standards for Limited Development Areas as specified in this article.
4. Nothing in this section shall limit the ability of a landowner to participate in any agricultural easement program or 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.]

[§75-171] §75.172. Land Use[and Density]; Permitted Uses.

[A.] Permitted uses in the Critical Area shall be limited to those uses allowed by the underlying zoning districts as modified by both Table 5 BELOW and the supplemental use standards provided in §75-172 provided such uses meet all standards established for the Critical Area Overlay District.

Table 5: Permitted Uses in the Critical Area

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[B. Maximum Permitted Density

1. The maximum permitted density for properties located in the Church Hill Critical Area shall be as follows:

- A. In the Intensely Developed Area, maximum density shall be as permitted by the underlying zoning.
- B. In the Limited Development Area, maximum density shall be as permitted by the underlying zoning.
- C. In the Resource Conservation Area, maximum density shall be one dwelling unit per 20 acres.

2. Calculation of 1 per 20 acre density of development.

In calculating the 1 per 20 acre density of development that is permitted on a parcel located within the Resource Conservation Area, the Town:

- 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 (8) acres; and
- 2. The area of private wetlands shall be estimated on the basis of vegetative information as designated on the state wetlands maps or by private survey approved by the Town, the Commission, and the State Department of the Environment.]

[\$75-172] §75.173 . Supplemental Use Standards.

The following supplemental use standards apply to the permitted uses listed in table a(1)A above and shall apply when the permitted use is allowed in the underlying zoning district.

A. [Accessory Dwelling Unit See Table 5 (#1.10)

1. If a permitted use in the underlying zoning district, one additional dwelling unit (AN accessory dwelling unit) as part of a primary dwelling unit may be permitted in the Resource Conservation Area (RCA) 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

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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 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 (#2.10)

1. Existing institutional facilities 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 non-conforming use provisions of this article and the grandfathering provisions in §8 and may require growth allocation.

[C.]B. New Institutional Uses (#2.20)

1. New institutional facilities and uses, except those specifically listed below shall not be permitted in Resource Conservation Areas (RCAs).

2. Certain institutional uses may be permitted in Resource Conservation Areas (RCAs) if allowed in the underlying zoning district and if the use complies with all requirements for such uses in this article. These institutional uses are limited to:

A. A cemetery that is an accessory use to an existing use; provided manmade lot coverage is limited to 15 percent of the site or 20,000 square feet, whichever is less; and

B. A home day care facility as defined in this ordinance;

C. A group home, halfway house, or intermediate care institution as defined in this ordinance;

D. Churches and other buildings for religious assembly;

E. Nursing care institutions, child care institutions

F. Other similar uses determined by the town and approved by the Critical Area Commission to be similar to those listed above.

[D.]C. Existing Commercial Uses (3.10)

1. Existing commercial facilities and uses, including those that directly support agriculture, forestry, aquaculture or residential development shall be allowed in Resource Conservation Areas.

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2. Expansion of existing commercial facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this article and the grandfathering provisions in §8 and may require growth allocation.

[E.]D, New Commercial Uses (3.20)

1. New commercial uses, except those specifically listed, shall not be permitted in Resource Conservation Areas (RCAs).

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 in this article. These commercial uses are limited to:

A. A home occupation as an accessory use on a residential property and as provided

for in this article;

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 Town of Church Hill and approved by the Critical Area Commission to be similar to those listed above.

[F. Expansion of Existing Commercial Marinas (4.10)

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 Department of the Environment; and

D. Expansion is permitted under the nonconforming use provisions of this article.

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 and best management practices are applied to address impacts;

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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 article.

G. New Marina, Commercial (4.20)

1. New commercial marinas shall not be permitted in Resource Conservation Areas (RCAs).

2. New commercial marinas may be permitted in Limited Development Areas (LDAs) and

Intensely Developed Areas (IDAs) 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:

(i) The project meets a recognized private right or public need;

(ii) Adverse effects on water quality, fish, plant and wildlife habitat are minimized and best management practices are applied to address impacts; and

(iii) 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 Non-Commercial Boat Docking and Storage (4.30)

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 article 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 the

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requirements of this article applicable to the Critical Area;

4. Disturbance to the buffer is the minimum necessary to provide a single point of access to the facilities and best management practices are applied to address impacts; 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 Intensely Developed and Limited Development areas and one slip for each 300 feet of shoreline in the subdivision in the Resource Conservation Area; 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 6 Number of Slips Permitted

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J. Public Beaches and Public Water-Oriented Recreational and Educational Areas (4.40)

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 best management practices are applied to address impacts; 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.

K. Research Areas (4.50)

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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.

L. Fisheries Activities (4.60)

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.

M. [Reserved.]

N] E. Golf Course (5.10)

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 (RCAs) provided:

- A. Such use is a permitted use allowed in the underlying zoning district; and
- B. Development is in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005.

[O.] F. Existing Industrial Uses (6.10)

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 use in the Resource Conservation Area shall be subject to the non-conforming use provisions of this article and the grandfathering provisions in §8 and may require growth allocation.

[P.] G. New Industrial Uses (6.20)

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 if permitted use in the underlying zoning district and provided such facilities meet all requirements for development in the **[LDA]IDA**.
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.

[Q.] H. Non-Maritime Heavy Industry (6.3)

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Non-maritime heavy industry may be permitted if:

- (A) The site is located in an Intensely Developed Area; and
- (B) 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.

[R.]I. Utility Transmission Facilities (7.10)

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.

[S.]J. Sanitary Landfill; Rubble Fill (8.10)

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.

[T]K. Solid or hazardous waste collection or disposal facilities (8.20)

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 wastewater management problem.

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

[U.]L. Sludge Facilities (8.40)

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

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- (A) The facility or activity is located in an 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. 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 100 foot-buffer.

[§75-173] §75.174 Growth Allocation.

[Acreage and Designation]

A. Growth Allocation Acreage AND DEDUCTION

Growth allocation available to Church Hill includes:

- 1. An area equal to five (5) percent of the RCA acreage located within Church Hill; and
- 2. Growth allocation available to Church Hill as provided for by Queen Anne’s County.

[B. Growth Allocation Floating Zone District GA.

1.] **2. Purpose.** [The growth]**GROWTH** allocation [floating zone is not mapped but] is [designated]**AVAILABLE** for use in areas classified as Resource Conservation Areas (RCA) [and/]or Limited Development Area (LDA) within the Church Hill Critical Area Overlay District. The purpose [of the floating Zone] is to [permit]**AUTHORIZE** a change in the [land management]**CRITICAL AREA** 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] **TO DEVELOP AT A HIGHER DENSITY OR USE THAN THE CURRENT** classification [or the land use management classification] **ALLOWS.** [Only projects which have been approved by the Town Commissioners for award of the Critical Area growth allocation are eligible for floating zones.]

2. [Designation of Floating Zones.

- (A) The growth allocation district ga shall be a floating zone.
- (B) The growth allocation district ga provides for changing the land management classification of Resource Conservation Areas (RCA's) and Limited Development Areas (LDAs) in the Critical Area overlay district.]

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PROCESS. AN APPLICANT SHALL SUBMIT TO THE TOWN OF CHURCH HILL 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 BE APPROVED BY THE COMMISSION OF THE TOWN OF CHURCH HILL PRIOR TO SUBMISSION TO THE CRITICAL AREAS COMMISSION.

[§75-174] **§75.175** Standards for Designation.

A. When locating new Intensely Developed or Limited Development Areas the following [standards]REQUIREMENTS shall apply:

1. A new Intensely Developed Area shall [only] BE AT LEAST TWENTY (20) ACRES UNLESS IT IS ADJACENT TO [be located in a Limited Development Area or adjacent to an] existing Intensely Developed Area; OR
2. [A]AN APPLICATION FOR A new INTENSELY DEVELOPED AREA OR Limited Development Area shall [only] be [located adjacent to an existing Limited Development Area or an Intensely Developed Area:] IN CONFORMANCE WITH THE REQUIREMENTS OF COMAR TITLE 27, SUBTITLE 01, AND DESIGNATED ON THE APPROVED CRITICAL AREA 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:
 - (i) A BUFFER MANAGEMENT PLAN
 - (ii) A HABITAT PROTECTION PLAN; AND
 - (iii) OTHER APPLICABLE CONDITIONS OF APPROVAL AS DETERMINED BY THE COMMISSION AT THE TIME OF PROJECT APPROVAL.

B. STANDARDS. WHEN LOCATING A NEW IDA OR LDA, 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 LIMITED DEVELOPMENT AREAS OR INTENSELY DEVELOPED AREAS SHALL BE LOCATED IN A MANNER THAT MINIMIZES IMPACTS TO HABITAT PROTECTION AREA AS DEFINED HEREIN AND IN

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COMAR 27.01.09 AND IN AN AREA ARID MANNER THAT OPTIMIZES BENEFITS TO WATER QUALITY;

D. NEW INTENSELY DEVELOPED AREAS SHALL ONLY BE LOCATED WHERE THEY MINIMIZE THEIR IMPACTS TO THE DEFINED LAND USES OF THE RESOURCE CONSERVATION AREA (RCA);

E. 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;

F. LOCATE NEW INTENSELY DEVELOPED AREAS AND LIMITED DEVELOPMENT AREAS OUTSIDE OF AREAS VULNERABLE TO CLIMATE CHANGE AS IDENTIFIED BY THE TOWN OF CHURCH HILL , UNLESS THE TOWN OF CHURCH HILL 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.

G. NEW INTENSELY DEVELOPED OR LIMITED DEVELOPMENT AREAS TO BE LOCATED IN RESOURCE CONSERVATION AREAS SHALL CONFORM TO ALL CRITERIA OF THIS ARTICLE FOR SUCH AREAS, SHALL BE SO DESIGNATED ON THE CHURCH HILL CRITICAL AREA MAPS AND SHALL CONSTITUTE AN AMENDMENT TO THIS ARTICLE SUBJECT TO REVIEW BY THE CHURCH HILL PLANNING COMMISSION AND APPROVAL BY THE TOWN COMMISSIONERS AND THE CRITICAL AREA COMMISSION AS PROVIDED HEREIN.

[New Intensely Developed Areas shall be at least 20 acres in size unless:

(A) They are contiguous to an existing Intensely Developed Area (IDA or LDA); or

(B) They are a grandfathered residential, commercial or industrial use, which

existed as of January 1, 1988. 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 one-half of the Church Hill's growth allocation may be located in Resource Conservation Areas (RCAs) except as provided in subsection (9) below;

5. New Limited Development Areas or Intensely Developed Areas shall be located in a manner that minimizes impacts to habitat protection area as defined herein and in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality;

6. New Intensely Developed Areas shall only be located where they minimize their impacts to the defined land uses of the Resource Conservation Area (RCA);

7. 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

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wetlands or tidal waters;

8. New Intensely Developed or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of this article for such areas, shall be so designated on the Church Hill Critical Area Maps and shall constitute an amendment to this article subject to review by the Church Hill Planning Commission and approval by the Town Commissioners and the Critical Area Commission as provided herein.

9. If Church Hill is unable to utilize a portion of its growth allocation as set out in (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 (4) above.]

B. Additional Factors

In reviewing map amendments or refinements involving the use of growth allocation the Planning Commission and Town Commissioners shall consider the following factors:

1. Consistency with Church Hill's 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 A SEPTIC SYSTEM USING THE BEST AVAILABLE NITROGEN REMOVAL TECHNOLOGY;**

(B) **[A completion of]TO COMPLETE** an existing subdivision;

(C) **[An expansion of]TO EXPAND** an existing business; or

(D) To be clustered.

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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) 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), ANNOTATED CODE OF MARYLAND;

(C) If greater than 20 acres, to be located in a designated priority funding area; and

(D) 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 or off-site;

6. Impacts on a priority preservation area;

7. Environmental impacts associated with wastewater and storm water management practices and wastewater and storm water 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 and/or sea level rise.

9. ENVIRONMENTAL IMPACTS ON UNDERSERVED OR OVERBURDENED COMMUNITIES.

Part 2. Administration and Enforcement.

[§75-175] **§75.176** . Grandfathering.

A. Continuation of Existing Uses

1. The continuation, but not necessarily the intensification or expansion, of any use in existence on January 1988 may be permitted, unless the use has been abandoned for more than one year or is otherwise restricted by existing **municipal articles**.

2. If any existing use does not conform with the provisions of this article, its intensification or expansion may be permitted only in accordance with the variance procedures in **§**.

B. Residential density on grandfathered lots

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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 article.

1. A legal parcel of land, not being part of a recorded or approved subdivision that was recorded as of December 1, 1985.
2. And that received a building permit subsequent to December 1, 1985, but prior to January 1, 1988.
3. Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984 and December 1, 1985.
4. 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 IDA, LDA or RCA requirements in this article or the area of the land has been counted against the growth allocation permitted under this article.

C. [Consistency

Nothing in this section may be interpreted as altering any requirements of this article related to water-dependent facilities or habitat protection areas.]

IMPLEMENTATION

FOR PURPOSES OF IMPLEMENTING THIS SECTION, 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 ARTICLE.

[§75-176] **§75.177.** Variances.

A. Applicability

Church Hill has established provisions where, owing to special features of a site or other circumstances, implementation of this article or a literal enforcement of provisions within this article would result in unwarranted hardship to an applicant, a critical area variance may be obtained.

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1. In considering an application for a variance, the Board of Appeals 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 article.

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 TOWN ADMINISTRATIVE PROCEEDING UNDER THIS SECTION.

C. Standards

The provisions for granting such a variance shall include **WRITTEN FINDINGS BASED ON COMPETENT AND SUBSTANTIAL** evidence [submitted by] **THAT** the applicant **HAS OVERCOME THE PRESUMPTION ESTABLISHED UNDER SECTION A ABOVE** that the following standards are met:

1. Special conditions or circumstances exist that are peculiar to the land or structure involved and that a literal enforcement of provisions and requirements of this article would result in unwarranted hardship;
2. A literal interpretation of the provisions of this article will deprive the applicant the use of land or a structure permitted to others in accordance with the provisions of this [Critical Area Ordinance] **ARTICLE**;
3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this article 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 actions by the applicant, including 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 non-conforming on any neighboring property.

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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 critical area law, **THE REGULATIONS IN COMAR TITLE 27, SUBTITLE 01**, and this article.

C. Process

Applications for a variance will be made in writing to the Board of Appeals with a copy provided to the Critical Area Commission. The Board of Appeals shall follow its established procedures for advertising and notification of affected landowners.

1. After hearing an application for a Critical Area variance, the Board of Appeals shall make written findings reflecting **AN** analysis of each standard. **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:**
 - (I) **THE APPLICANT;**
 - (II) **TOWN OF CHURCH HILL OFFICIALS OR STAFF OR ANY OTHER GOVERNMENT AGENCY; OR**
 - (III) **ANY OTHER PERSON DEEMED APPROPRIATE BY THE BOARD.**
2. If the variance request is based on conditions or circumstances that are the result of actions by the applicant, the Board of Appeals shall consider that fact **AND WHETHER THE APPLICANT 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 A above.
4. The Board of Appeals shall notify the Critical Area Commission of its findings and decision to grant or deny the variance request.

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 a above, and if applicable 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. Town officials or staff or any other government agency; or
3. Any other person deemed appropriate by the Board of Appeals.]

AFTER-THE-FACT REQUESTS

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1. **THE TOWN MAY NOT ACCEPT AN APPLICATION OF A VARIANCE TO LEGALIZE A VIOLATION OF THIS SUBTITLE, INCLUDING AN UNPERMITTED STRUCTURE OR OTHER DEVELOPMENT ACTIVITY UNTIL THE TOWN:**
 - (A) **ISSUES A NOTICE OF VIOLATION; AND**
 - (B) **ASSESSES AN ADMINISTRATIVE OR CIVIL PENALTY FOR THE VIOLATION.**
2. **THE TOWN MAY NOT ISSUE A PERMIT, APPROVAL, VARIANCE, OR SPECIAL EXCEPTION TO LEGALIZE A VIOLATION OF THIS ORDINANCE UNLESS AN APPLICANT HAS:**
 - (A) **FULLY PAID ALL ADMINISTRATIVE, CIVIL AND CRIMINAL PENALTIES IMPOSED UNDER NATURAL RESOURCES ARTICLE, §8-1808(c)(I), ANNOTATED CODE OF MARYLAND;**
 - (B) **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; AND**
 - (III) **PERFORMED THE ABATEMENT MEASURES IN THE APPROVED PLAN IN ACCORDANCE WITH THE TOWN'S CRITICAL AREA ORDINANCE.**
3. **IF THE BOARD 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.**

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 for variances. Variance decisions by the Board of Appeals may be appealed to the Circuit Court in accordance with the Maryland Rules of Procedure. Appeals may be taken by any person, firm, corporation or governmental agency aggrieved or adversely affected by any decision made under this article. or any person WITH STANDING AS DESCRIBED IN SECTION 2 ABOVE. THE TOWN MAY NOT ISSUE A PERMIT, OR ANY OTHER TYPE OF AUTHORIZATION, UNTIL THE APPLICABLE 30-DAY APPEAL PERIOD HAS EXPIRED.

* * *

[§ 75-177] **§75.178.** Lot Consolidation and Reconfiguration

* * *

[§ 75-178]**§75.179 LOCAL DEVELOPMENT PROJECTS**

A. APPLICABILITY.

FOR ALL DEVELOPMENT IN THE CRITICAL AREA RESULTING FROM ANY ACTION BY THE TOWN OF CHURCH HILL ON TOWN OR PRIVATELY OWNED LANDS, THE TOWN OF CHURCH HILL SHALL ADHERE TO COMAR 27.02.02, COMAR 27.02.04 AND COMAR 27.02.06.

B. PROCEDURES.

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(1) IF THE PROJECTS MEET THE PROVISIONS OF THIS ORDINANCE AND IS MINOR DEVELOPMENT, THE TOWN PLANNER SHALL PREPARE A CONSISTENCY REPORT AND SUBMIT A COPY OF THE REPORT WITH RELEVANT PLANS AND INFORMATION ABOUT THE PROJECT TO THE CRITICAL AREA COMMISSION PER THE REQUIREMENTS OF COMAR 27.02.02.

(2) IF THE PROJECT DOES NOT MEET THE P-PROVISIONS OF THIS ARTICLE, THE TOWN PLANNER SHALL SEEK A CONDITIONAL APPROVAL BY THE CRITICAL AREA COMMISSION PER THE REQUIREMENTS OF COMAR 27.02.06.

(3) THE TOWN OF CHURCH HILL SHALL SUBMIT INFORMATION AS REQUIRED IN THE CRITICAL AREA COMMISSION'S PROJECT SUBCOMMITTEE APPLICATION AND CHECKLIST.

C. NOTICE AND POSTING REQUIREMENTS FOR PROJECTS REVIEWED AND APPROVED BY THE CRITICAL AREA 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 THE TOWN OF CHURCH HILL AND EVIDENCE THAT THOSE REQUIREMENTS HAVE BEEN MET SHALL BE INCLUDED AS PART OF THE SUBMITTAL TO THE CRITICAL AREA COMMISSION.

[§ 75-179] **§75.180.** [Amendments]**PROGRAM CHANGES.**

A. [Amendments the]**THE** Town Commissioners may from time to time amend the Critical Area provisions of this article. Changes may include, but are not limited to amendments, revisions, and modifications to these zoning regulations, Critical Area maps, implementation procedures, and local policies that affect Church 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 §8-1809(d), respectively.

B. **THE TOWN OF CHURCH HILL WILL REVIEW ITS ENTIRE PROGRAM AND PROPOSE ANY NECESSARY AMENDMENTS TO ITS ENTIRE PROGRAM, INCLUDING THIS ARTICLE, AT LEAST ONCE EVERY TEN (10) YEARS IN ACCORDANCE WITH NATURAL RESOURCES ARTICLE, §8-1809(9). THE TOWN SHALL NOTIFY THE COMMISSION IN WRITING IF IT REQUIRES A ONE (1) YEAR EXTENSION TO THE TEN YEAR DEADLINE. FURTHERMORE, THE TOWN SHALL NOTIFY THE COMMISSION IN WRITING, WITHIN 60 DAYS AFTER THE**

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COMPLETION OF ITS REVIEW, IN ACCORDANCE WITH ALL REQUIREMENTS ESTABLISHED IN NATURAL RESOURCES ARTICLE, §8-1809(9).

C. Zoning map amendments. [except for program amendments or program refinements developed during a six-year comprehensive review, a zoning map amendment may only be granted by the Town Commissioners 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] **THE TOWN OF CHURCH HILL MAY GRANT A ZONING MAP AMENDMENT IN THE CRITICAL AREA IF THE MAP AMENDMENT:**

1. [Are]Is wholly consistent with the **CRITICAL AREA** 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 article is proposed.] **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.**
3. **THE TOWN OF CHURCH HILL 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

* * *

4. IF APPROVED BY THE CRITICAL AREA-COMMISSION, CHURCH HILL SHALL INCORPORATE A PROGRAM AMENDMENT OR REFINEMENT INTO ITS ADOPTED CRITICAL AREA PROGRAM, INCLUDING ANY CONDITIONS OF APPROVAL, WITHIN 120 DAYS OF RECEIVING NOTICE FROM THE CHAIRMAN OF THE COMMISSION.

[§ 75-180] **§75.181.** Enforcement

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* * *

D. Required enforcement action in the case of violations of this Article, the Town shall take the following action including:

* * *

2. Issue 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 (c)]
- (C) [require]**REQUIRE** 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[.];
- (D) **ASSESSING AN ADMINISTRATIVE FINE OR PURSUING A CIVIL PENALTY IN ACCORDANCE WITH PART 7 BELOW.**

3. **RESTORATION AND MITIGATION**

- (A) **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 ORDINANCE.**
- (B) **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.**
- (C) **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.**
- (D) **A PROPERTY OWNER MAY REQUEST CHURCH HILL TO SCHEDULE INSPECTIONS AS NECESSARY TO ENSURE COMPLIANCE AND THE RETURN OF THE BOND OR OTHER FINANCIAL SECURITY.**

* * *

H. Injunctive relief

1. The Town may institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this article, an administrative order, a

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permit, a decision, or other imposed condition. **THE TOWN SHALL BE AUTHORIZED TO PURSUE VIOLATIONS IN CIRCUIT COURT OR DISTRICT COURT IN ACCORDANCE WITH MD CODE ANN., NATURAL RESOURCES, § 8-1815(A)(2).**

2. The pendency of an appeal to the Board of 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.

I. Variances pursuant to a violation. **[the]THE** Town 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 article in accordance with **AND SUBJECT TO** the **[variance]** provisions of this article **RELATING TO AFTER-THE-FACT VARIANCES**. 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.

* * *

Part 3. The 100-Foot Buffer

§ **[75-180]75.182** Applicability and delineation.

* * *

§ **[75-181]75.183** Permitted Activities.

A. Buffer Disturbance

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 as required per section e of this part:

* * *

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 percent or is expanded for a hydric soil and the expanded buffer occupies at least 75% of the lot or parcel;

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- (b) the development or redevelopment is located in the expanded portion of the buffer and not within the 100-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[.];
- (D) A SEPTIC SYSTEM ON A LOT CREATED BEFORE *INSERT DATE PROGRAM BEGAN*, WHERE MITIGATION IS PROVIDED AT A 1:1 RATIO FOR AREA OF CANOPY CLEARED OF ANY FOREST OR DEVELOPED WOODLAND; AND**
- (E) ASSOCIATED WITH THE PLACEMENT OF DREDGED MATERIAL UNDER COMAR 27.01.03.03D.**

B. 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 on a riparian lot or parcel that includes the minimum 100-foot buffer, shall establish the buffer in vegetation if the buffer is not fully forested or fully established in woody or wetland vegetation. A buffer management plan in accordance with the standards of section e below is required.

1. The provisions of this section apply to:
 - (A) Approval of a subdivision **THAT INCLUDES A BUFFER TO TIDAL WATERS, A TIDAL WETLAND OR A TRIBUTARY STREAM;**
 - (B) 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;**
 - (C)** A lot or parcel that is converted from one land use to another;
 - [(C)](D)** Development or redevelopment on a lot or parcel created before January 1, 2010.
2. The provisions of this section do not apply to an in-kind replacement of a structure.
3. When the buffer is not fully forested or fully established in existing, naturally occurring woody or wetland vegetation, the buffer shall be established through planting in accordance with COMAR 27.01.09.01-1.
4. 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 January 1988 or was allowed by local procedures; and
 - (b) the total area is stabilized with native vegetation.

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5. 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 PART F OF THIS ARTICLE; AND**
- (B) IF AUTHORIZED BY THE TOWN, MAY DELAY IMPLEMENTATION OF THE BUFFER MANAGEMENT PLAN UNTIL THE USE OF THE LOT IS CONVERTED TO A NONAGRICULTURAL PURPOSE.**

C. Mitigation for Impacts to 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, **AND** special exception [and a permit from the Town and the county health department for the installation, repair or replacement of a septic system].

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

3. [Mitigation for a development or redevelopment activity in the buffer or for the removal of an individual tree, developed woodland, or forest shall be calculated according to COMAR 27.01.09.01-2c(1).

4.]All unauthorized development activities in the buffer shall be mitigated at a ratio of 4:1 for the area of disturbance in the buffer.

[5]4. Planting for mitigation shall be planted onsite within the buffer. If mitigation planting cannot be located within the buffer, 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

5. FOR THE REMOVAL OF A DEAD TREE, THE AFFECTED AREA SHALL BE STABILIZED WITH NATIVE GROUND COVER 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 3/4-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.

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[§75-182. Buffer Management Area (BMA) Provisions.

A. Development and Redevelopment standards.

New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces or septic systems will not be permitted in the buffer in a designated BMA 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 complies 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 multi-family 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 minimum 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 minimum 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).

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(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 (HPA) other than the buffer, including nontidal wetlands, other state or federal permits notwithstanding.

7. 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.

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 in the BMA 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 100-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 §(A) above, may use 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 §(A) or §(B) above shall pay into a fee-in-lieu program as follows:

(i) Applicants shall submit to the Planning Commission two cost estimates from qualified landscape businesses for planting the equivalent of twice the extent of the development within the 100-foot buffer. The estimate shall include the cost of stock, planting, staking, mulching and a one year survival guarantee.

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(ii) the Planning Commission shall determine the amount of the fee-in-lieu based on the average of the two estimates.

(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 Church Hill's Critical Area Program. 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 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 75-129 other instrument approved by the town and recorded among the land records of the county.]

Part 4. Other Habitat Protection Areas

§ [175-183]75.184. Identification.

A. 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 include:

* * *

B. MAPS IDENTIFYING THESE SPECIFIC HABITAT PROTECTION AREAS ARE MAINTAINED BY THE DEPARTMENT OF NATURAL RESOURCES WILDLIFE AND HERITAGE DIVISION. THE MOST RECENT UPDATED INVENTORY WAS COMPLETED SEPTEMBER 2024 AND RECOMMENDATIONS CONTAINED ARE HEREBY INCORPORATED INTO THIS ORDINANCE:

**SOUTHEAST CREEK BioNET TIER: 1
COUNTY: QUEEN ANNE'S SIZE: 3,192 ACRES**

KEY WILDLIFE HABITATS

- COASTAL PLAIN STREAM**
- COASTAL PLAIN FLOODPLAIN**
- BASIC MESIC FOREST**
- MESIC MIXED HARDWOOD FOREST**

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COASTAL PLAIN OAK-PINE FOREST

IMPORTANT FEATURES

DWARF WEDGE MUSSEL (*ALASMIDONTA HETERODON*, STATE- AND FEDERALLY LISTED AS ENDANGERED)

CREEPER (*STROPHITUS UNDULATUS*, STATE LISTED AS IN NEED OF CONSERVATION)

NORTHERN LANCE (*ELLIPTIO FISHERIANA*, WATCHLIST)

FOREST INTERIOR DWELLING SPECIES (FIDS) HABITAT

ECOLOGICAL SIGNIFICANCE

THIS AREA INCLUDES ALL CONTIGUOUS WETLANDS WITHIN THE SOUTHEAST CREEK STREAM CORRIDOR, AS WELL AS SOME SURROUNDING UPLAND BUFFER. THE STREAM CORRIDOR CONTAINS HABITAT FOR A NUMBER OF FRESHWATER MUSSELS, INCLUDING THE STATE- AND FEDERALLY LISTED ENDANGERED DWARF WEDGE MUSSEL (*ALASMIDONTA HETERODON*), NORTHERN LANCE (*ELLIPTIO FISHERIANA*, WATCHLIST), EASTERN ELLIPTIO, EASTERN FLOATER, AND SCATTERED POPULATIONS OF CREEPER (*STROPHITUS UNDULATUS*, STATE-LISTED AS IN NEED OF CONSERVATION). THE DWARF WEDGE MUSSEL IS KNOWN TO EXIST IN FEWER THAN TEN STREAMS IN MARYLAND. FRESHWATER MUSSELS REQUIRE FISH HOSTS FOR PART OF THEIR LIFE CYCLE AND ARE FILTER-FEEDERS; THEREFORE WATER QUALITY AND QUANTITY IS OF CRUCIAL IMPORTANCE FOR THEIR CONTINUED EXISTENCE. SOUTHEAST CREEK IS A SHALLOW, NARROW STREAM WITH A GENTLE GRADIENT AND A WIDE RIPARIAN FOREST ALONG MUCH OF THE CREEK. THE STREAM RUNS THROUGH SHALLOW, SANDY POOLS AND A FEW SMALL RIFFLES AND RUNS. THE CONTIGUOUSLY FORESTED HABITAT ALONG THIS STREAM SYSTEM PROVIDES POTENTIAL HABITAT FOR FOREST INTERIOR DWELLING BIRD SPECIES, WHICH REQUIRE LARGE TRACTS OF UNFRAGMENTED FOREST FOR BREEDING. MOST FIDS ARE NEOTROPICAL MIGRANTS, BIRDS THAT TRAVEL LONG DISTANCES TO BREED IN NORTH AMERICA AND OVERWINTER IN CENTRAL AND SOUTH AMERICA. THIS RIPARIAN FOREST ALSO PROVIDES MIGRATION CORRIDORS FOR A VARIETY OF WILDLIFE AND CONNECTIVITY BETWEEN FORESTED TRACTS.

SITE MANAGEMENT CONSIDERATIONS

BECAUSE MUCH OF THIS WATERSHED IS ACTIVELY FARMED, THE EFFECTS OF AGRICULTURAL PRACTICES, SUCH AS RUNOFF OF POLLUTION, EXCESS NUTRIENTS, AND SEDIMENT FROM ADJACENT FARM FIELDS, HAVE THE POTENTIAL TO DEGRADE THE AQUATIC HABITAT. INCREASING RESIDENTIAL DEVELOPMENT IN THE AREA WILL INCREASE THE AMOUNT OF IMPERVIOUS SURFACE IN THE WATERSHED, ALLOWING ADDITIONAL RUNOFF TO REACH THE SOUTHEAST CREEK WATERSHED.

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OTHER THREATS TO THIS STREAM SYSTEM INCLUDE TIMBER HARVESTING IN THE FLOODPLAIN OR SURROUNDING UPLANDS, CHANGES IN RAINFALL, AND INCREASED GROUNDWATER EXTRACTION FOR DEVELOPMENT OR AGRICULTURE. MUSSELS MAY BECOME STRANDED IN ISOLATED POOLS IN YEARS OF SEVERE DROUGHT. THIS MAY BECOME A MORE COMMON ISSUE IF DROUGHTS ARE MORE PERSISTENT, IF GROUNDWATER IS APPROPRIATED AT A HIGHER RATE FOR IRRIGATION IN THE AREA, OR IF EXTENSIVE AREAS OF IMPERVIOUS SURFACE ARE CONSTRUCTED. WHEN ISOLATED IN POOLS, MUSSELS ARE MORE VULNERABLE TO PREDATION BY OPPORTUNISTIC MAMMALS SUCH AS RACCOONS.

THIS SITE IS DESIGNATED AS A HABITAT PROTECTION AREA FOR STATE-LISTED SPECIES UNDER THE CHESAPEAKE BAY CRITICAL AREA REGULATIONS (COMAR 27.01 .09.03).

§[75-184]75.185. Standards.

A. 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.

B. 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, AND AS NECESSARY UNITED STATES FISH WILDLIFE SERVICE.

(A) IF POTENTIAL FOREST INTERIOR DWELLING SPECIES (FIDS) 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.

C. The applicant shall obtain approval of the Habitat Protection Plan from the Planning Commission or the appropriate designated approving authority. The specific protection and conservation measures included in the plan shall be considered conditions of approval of the project.

§[75-184] 75-185. Environmental Impact Assessment.

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§75-186. WATER DEPENDENT FACILITIES.

A. APPLICABILITY

- 1. 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.**
- 2. THE PROVISIONS OF THIS CHAPTER ARE NOT APPLICABLE TO:**
 - (A) A PRIVATE PIER THAT:**
 - (i) IS INSTALLED OR MAINTAINED BY A RIPARIAN LANDOWNER; AND**
 - (ii) IS NOT PART OF A RESIDENTIAL PROJECT THAT PROVIDES A COMMUNITY PIER OR OTHER COMMUNITY BOAT-DOCK[ING OR STORAGE FACILITY UNDER REGULATION .07 OF THIS CHAPTER; OR**
 - (B) A NON-WATER-DEPENDENT PROJECT COVERED UNDER COMAR 27.01 .13.**
- 3. THE REQUIREMENTS OF COMAR 27.01 .02 APPLY TO THIS ARTICLE.**

B. GENERAL CRITERIA.

THE FOLLOWING STANDARDS SHALL APPLY TO NEW OR EXPANDED DEVELOPMENT ACTIVITIES ASSOCIATED WITH WATER-DEPENDENT FACILITIES:

- 1. IN ACCORDANCE WITH NATURAL RESOURCES_ARTICLE §8-1808.3, 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 .**
- 2. NEW OR EXPANDED DEVELOPMENT ACTIVITIES MAY BE PERMITTED IN THE BUFFER IN THE INTENSELY DEVELOPED AREAS AND LIMITED DEVELOPMENT AREAS PROVIDED THAT IT CAN BE SHOWN:**
 - (A) THAT THE FACILITY OR ACTIVITY ARE WATER-DEPENDENT;**
 - (B) THAT THE FACILITY OR ACTIVITY MEETS A RECOGNIZED PRIVATE RIGHT OR PUBLIC NEED;**
 - (C) THAT ADVERSE EFFECTS ON WATER QUALITY, FISH, PLANT AND WILDLIFE HABITAT ARE FIRST AVOIDED, OR IF UNAVOIDABLE, MINIMIZED;**
 - (D) THAT, INSOFAR AS POSSIBLE, A NON-WATER-DEPENDENT PROJECT ASSOCIATED WITH THE WATER-DEPENDENT FACILITY OR ACTIVITY IS 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 CANOPY COVERAGE REMOVED.**
- 3. EXCEPT AS OTHERWISE AUTHORIZED IN THIS SECTION, A WATER-DEPENDENT FACILITY OR ACTIVITY IS PROHIBITED IN THE BUFFER OF THE RESOURCE CONSERVATION AREA.**

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4. THE PLACEMENT OF DREDGED MATERIAL IN THE BUFFER OR A PORTION OF THE CRITICAL AREA THAT HAS BEEN DESIGNATED AS A HABITAT PROTECTION AREA IS PROHIBITED, EXCEPT AS NECESSARY FOR:

(I) A BENEFICIAL USE APPROVED BY THE BOARD OF PUBLIC WORKS OR THE DEPARTMENT OF THE ENVIRONMENT, SUCH AS:

- (A) BACKFILL FOR A SHORELINE STABILIZATION MEASURE;
- (B) USE IN A NONSTRUCTURAL SHORELINE STABILIZATION MEASURE, INCLUDING A LIVING SHORELINE;
- (C) BEACH NOURISHMENT;
- (D) RESTORATION OF AN ISLAND;
- (E) THE CREATION, RESTORATION, OR ENHANCEMENT OF A WETLAND, OR A FISH, WILDLIFE, OR PLANT HABITAT; OR
- (F) ANY OTHER APPROVED BENEFICIAL USE; OR
- (G) PLACEMENT IN AN AREA THAT WAS APPROVED FOR THE DISPOSAL OF CHANNEL MAINTENANCE DREDGED MATERIAL BEFORE JUNE 11, 1988

5. GENERAL REQUIREMENTS FOR THE LOCATION OF WATER-DEPENDENT FACILITIES OR ACTIVITIES.

(A) 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.

(B) THE FOLLOWING SITING FACTORS SHALL BE CONSIDERED WHEN EVALUATING PROPOSALS FOR NEW OR EXPANDED WATER DEPENDENT FACILITIES:

(I) THE IMPACT ON THE WATER BODY UPON WHICH THE WATER-DEPENDENT FACILITY OR ACTIVITY IS PROPOSED THAT WOULD LIKELY RESULT FROM THE APPROVAL OF THAT LOCATION, INCLUDING:

- (A) ALTERATION OF AN EXISTING WATER CIRCULATION PATTERN OR SALINITY REGIME;
- (B) ADEQUACY OF AREA FLUSHING CHARACTERISTICS;
- (C) NECESSITY OF, AND PROXIMITY TO, A DREDGING OPERATION; AND
- (D) INTERFERENCE WITH THE NATURAL TRANSPORT OF SAND;

(II) DISTURBANCE TO:

- (A) AN OYSTER HARVEST AREA, AS DEFINED IN COMAR 08.02.04.11;
- (B) AN AREA COVERED IN A CURRENT AQUACULTURE LEASE, AS DEFINED IN NATURAL RESOURCES ARTICLE, §4-11A-01, ANNOTATED CODE OF MARYLAND;

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(C) A HARVEST RESERVE AREA, AS DESIGNATED UNDER NATURAL RESOURCES ARTICLE, §4-1009.1, ANNOTATED CODE OF MARYLAND;

(D) AN OYSTER SANCTUARY, AS ESTABLISHED IN COMAR 08.02.04.1 SA; AND

(E) ANY OTHER SHELLFISH LOCATED IN A SHELLFISH AREA REGULATED BY THE DEPARTMENT OF NATURAL RESOURCES;

(III) AVOIDANCE OF DISTURBANCE TO WATER QUALITY AND AQUATIC OR TERRESTRIAL HABITAT

RESULTING FROM THE METHOD OR MANNER OF DREDGING; AND

(IV) THE AVOIDANCE OR, IF UNAVOIDABLE, THE MINIMIZATION OF DISTURBANCE TO:

A. A WETLAND;

B. SUBMERGED AQUATIC VEGETATION;

C. A HABITAT OF THREATENED OR ENDANGERED SPECIES OR SPECIES IN NEED OF CONSERVATION;

D. IN ACCORDANCE WITH COMAR 26.08.02.04-1, A WATER BODY IDENTIFIED BY THE DEPARTMENT OF THE ENVIRONMENT AS A TIER

II, HIGH QUALITY WATER BODY AND ITS WATERSHED; AND

E. A NONTIDAL WETLAND OF SPECIAL STATE CONCERN, AS SET FORTH IN COMAR 26.23.01 .01 AND .04 AND COMAR 26.23.06.01 ;

AND

F. ADVERSE IMPACT ON WATER QUALITY THAT WOULD LIKELY RESULT FROM THE FACILITY OR ACTIVITY, SUCH AS NONPOINT SOURCE RUNOFF, SEWAGE DISCHARGE, OR OTHER POLLUTION RELATED TO VESSEL MAINTENANCE.

6. PUBLIC BEACHES AND OTHER PUBLIC WATER-ORIENTED RECREATION OR EDUCATION AREAS OR ACTIVITIES.

(A) IN ADDITION TO MEETING THE REQUIREMENTS OF §8.8(3) & (4); , PUBLIC BEACHES OR OTHER PUBLIC WATER-ORIENTED RECREATION OR EDUCATION AREAS OR ACTIVITIES MAY BE PERMITTED IN THE

BUFFER OF:

(I) AN INTENSELY DEVELOPED AREA; OR

(II) A LIMITED DEVELOPMENT AREA OR A RESOURCE CONSERVATION AREA PROVIDED THAT:

(I) ADEQUATE SANITARY FACILITIES EXIST;

(II) SANITARY AND SERVICE FACILITIES ARE, TO THE EXTENT POSSIBLE, LOCATED OUTSIDE THE BUFFER;

(III) PERMEABLE SURFACES ARE USED TO THE EXTENT PRACTICABLE, IF NO DEGRADATION OF GROUNDWATER WOULD LIKELY RESULT; AND

(IV) DISTURBANCE TO NATURAL VEGETATION IS FIRST AVOIDED OR, IF UNAVOIDABLE,

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MINIMIZE.

(B) AREAS FOR PUBLIC PASSIVE OUTDOOR RECREATION, SUCH AS NATURE STUDY, AND HIKING, HUNTING, AND TRAPPING, AND FOR EDUCATION, MAY BE PERMITTED IN THE BUFFER WITHIN A LIMITED DEVELOPMENT AREA OR A RESOURCE CONSERVATION AREA IF SANITARY AND SERVICE FACILITIES FOR THESE USES ARE LOCATED OUTSIDE OF THE BUFFER.

7. RESEARCH-ASSOCIATED AND EDUCATION-ASSOCIATED WATER-DEPENDENT FACILITIES OR ACTIVITIES. IN ADDITION TO MEETING THE REQUIREMENTS OF §8.8(3) & (4); , 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 NON-WATERDEPENDENT PROJECT OR ACTIVITY IS LOCATED OUTSIDE THE BUFFER.

8. 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:

(A) A SHORE-BASED FACILITY OR ACTIVITY NECESSARY FOR A COMMERCIAL AQUACULTURE OPERATION;

(B) 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

(c) A facility or activity that supports water quality restoration in the Chesapeake Bay, the Atlantic Coastal Bays, or their watersheds.

Section 2. NOW, THEREFORE, BE IT FURTHER ORDAINED AND ENACTED, by the Commissioners of the Town of Church Hill, Maryland, that Town Code, Chapter 75 “Zoning”, Art. 9 “Definitions” is hereby amended to read as follows:

Article 9 Definitions

Part 1. Definitions of Terms

§ 75-187. Definitions.

As used in this Chapter the following terms shall have the meaning indicated. **THE SINGULAR ALWAYS INCLUDES THE PLURAL, AND VICE VERSA, EXCEPT WHERE SUCH CONSTRUCTION WOULD BE UNREASONABLE:**

1. ABATEMENT.

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THE ACT OF PUTTING AN END TO A LAND ALTERATION OR DEVELOPMENT ACTIVITY OR REDUCING THE DEGREE OR INTENSITY OF THE ALTERATION OR ACTIVITY.

1A. Accessory Building or Structure.

An accessory building OR STRUCTURE is a IS A BUILDING OR STRUCTURE THAT IS subordinate TO THE PRINCIPAL STRUCTURE OR building THAT IS DETACHED FROM THE PRINCIPAL STRUCTURE [or a portion of the main building], the use of which is customarily incidental to or customarily found in connection with, and [(except as otherwise provided in this replace)] located on the same lot as the main building or principal use of the land.

* * *

3A. ADDITION.

NEWLY CONSTRUCTED AREA THAT INCREASES THE SIZE OF A STRUCTURE.

3B. 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.

3C. AGRICULTURAL EASEMENT

A NON-POSSESSORY INTEREST IN LAND WHICH RESTRICTS THE CONVERSION OF USE OF THE LAND, PREVENTING NON-AGRICULTURAL USES.

4. Agriculture.

The use of land for the purpose of farming, dairying, pasturing, agriculture, horticulture, floriculture, viticulture, fish culture, and animal and poultry husbandry. The processing, packaging, or manufacture of agricultural products is not included. **FOR PURPOSES OF ARTICLE 8 "CRITICAL AREA REGULATIONS" OF THIS CHAPTER, "AGRICULTURE" MEANS AND 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.**

* * *

6A. 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.

* * *

8A. 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 HARVEST-

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ING 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. FOR THE PURPOSE OF THIS DEFINITION, RELATED ACTIVITIES SUCH AS WHOLESALE AND RETAIL SALES, PROCESSING AND PRODUCT STORAGE FACILITIES ARE NOT CONSIDERED AQUACULTURAL PRACTICES.

8B. "BARREN LAND"

UNMANAGED LAND HAVING SPARSE VEGETATION.

* * *

15. BUFFER.

[Naturally vegetated area or vegetated area established or managed to protect aquatic, wetland, shoreline, and terrestrial environments from man-made disturbances.] AREA THAT IS BASED ON CONDITIONS AT THE TIME OF DEVELOPMENT IS IMMEDIATELY LANDWARD FROM MEAN HIGH WATER OF TIDAL WATERWAYS, THE EDGE OF EACH BANK OF A TRIBUTARY STREAM, OR THE LANDWARD 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 .

15A. BUFFER MANAGEMENT PLAN

A NARRATIVE, GRAPHIC DESCRIPTION, OR PLAN OF THE BUFFER THAT IS NECESSARY WHEN AN APPLICANT PROPOSES A DEVELOPMENT ACTIVITY THAT WILL: AFFECT A PORTION OF THE BUFFER; ALTER BUFFER VEGETATION; OR REQUIRE THE ESTABLISHMENT OF A PORTION OF THE BUFFER IN VEGETATION. A BUFFER MANAGEMENT PLAN INCLUDES A MAJOR BUFFER MANAGEMENT PLAN, A MINOR BUFFER MANAGEMENT PLAN, AND A SIMPLIFIED BUFFER MANAGEMENT PLAN.

15B. BUFFERYARD

AN AREA AT LEAST 25 FEET WIDE, LOCATED BETWEEN DEVELOPMENT ACTIVITY AND TIDAL WATERS, TIDAL WETLANDS, OR A TRIBUTARY STREAM, PLANTED WITH VEGETATION CONSISTING OF NATIVE CANOPY TREES, UNDERSTORY TREES, SHRUBS, AND PERENNIAL HERBACEOUS PLANTS THAT IS USED IN BUFFER MANAGEMENT AREAS TO PROVIDE WATER QUALITY AND HABITAT BENEFITS. THIS AREA IS TO BE MANAGED AND MAINTAINED IN A MANNER THAT OPTIMIZES THESE BENEFITS.

* * *

20A. CALIPER.

THE DIAMETER OF A TREE MEASURED AT TWO INCHES ABOVE THE ROOT COLLAR.

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20B. CANOPY TREE.

A TREE THAT WHEN MATURE, COMMONLY REACHES A HEIGHT OF AT LEAST 35 FEET.

20C. CLEARCUTTING.

THE REMOVAL OF THE ENTIRE STAND OF TREES IN ONE CUTTING WITH TREE REPRODUCTION OBTAINED BY NATURAL SEEDING FROM ADJACENT STANDS OR FROM TREES THAT WERE CUT, FROM ADVANCED REGENERATION OR STUMP SPROUTS, OR FROM PLANTING OF SEEDS OR SEEDLINGS BY MAN.

20D. CLIMATE RESILIENCY.

MEANS THE CAPACITY OF A NATURAL SYSTEM TO MAINTAIN FUNCTION IN THE FACE OF STRESSES IMPOSED BY CLIMATE CHANGE. IT 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.

* * *

22A. COMAR

CODE OF MARYLAND REGULATIONS, AS AMENDED FROM TIME TO TIME.

22B. COMMISSION

THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS.

22C. 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.

22D. 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.

22E. CONFORMING.

A PARCEL OR LOT THAT MEETS ALL CRITICAL AREA REQUIREMENTS. IT DOES NOT INCLUDE A PARCEL OR LOT: (I) FOR WHICH A CRITICAL AREA VARIANCE IS SOUGHT OR HAS BEEN ISSUED; OR (II) THAT IS LOCATED IN THE RESOURCE CONSERVATION AREA AND IS LESS THAN TWENTY ACRES.

* * *

23A. CONSISTENT WITH.

THAT A STANDARD OR FACTOR WILL FURTHER., AND NOT BE CONTRARY TO, THE FOLLOWING ITEMS IN THE COMPREHENSIVE PLAN:

- I. POLICIES;
- II. TIMING OF THE IMPLEMENTATION OF THE PLAN, OF DEVELOPMENT, AND OF REZONING;
- III. DEVELOPMENT PATTERNS;

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- IV. LAND USES; AND
- V. DENSITIES OR INTENSITIES.

23B. CONSOLIDATION.

A COMBINATION OF ANY LEGAL PARCEL OF LAND OR RECORDED LEGALLY BUILDABLE LOT 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.

23C. 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 AS INDICATED ON STATE WETLAND MAPS;
- 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 COMMISSION AS SPECIFIED IN §8-1807 OF THE NATURAL RESOURCES ARTICLE, ANNOTATED CODE OF MARYLAND.

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24A. DEDUCTION.

THE TOTAL NUMBER OF GROWTH ALLOCATION ACRES THAT ARE NECESSARY FOR APPROVAL OF A GROWTH ALLOCATION PROJECT AND, AFTER APPROVAL BY THE COMMISSION, ARE SUBTRACTED FROM THE GROWTH ALLOCATION RESERVES OF THE LOCAL JURISDICTION IN WHICH THE PROJECT IS LOCATED.

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26A. DEVELOPER.

A PERSON WHO UNDERTAKES DEVELOPMENT ACTIVITY AS DEFINED IN THIS PROGRAM; OR A PERSON WHO UNDERTAKES DEVELOPMENT ACTIVITY AS DEFINED IN THE CRITERIA OF THE COMMISSION.

26B. DEVELOPMENT ACTIVITIES.

THE CONSTRUCTION OR SUBSTANTIAL ALTERATION OF RESIDENTIAL, COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL OR TRANSPORTATION FACILITIES OR STRUCTURES AND/OR THE SUBSTANTIAL ALTERNATION OF THE LAND, INCLUDING THE SHORELINE AND LAND UNDERWATER.

* * *

27A. 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

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EXISTING GRASS LAWN.

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36. Dwelling Unit.

[A room or group of rooms occupied or intended to be occupied as separate living quarters by a single family or other group of persons living together as a household or be a person living alone.] **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 A LIVING QUARTERS FOR A DOMESTIC OR OTHER EMPLOYEE OR TENANT, AN IN-LAW OR ACCESSORY APARTMENT, A GUEST HOUSE, OR A CARETAKER RESIDENCE.**

36A. ECOSYSTEM

A MORE OR LESS SELF-CONTAINED BIOLOGICAL COMMUNITY TOGETHER WITH THE PHYSICAL ENVIRONMENT IN WHICH THE COMMUNITY'S ORGANISMS OCCUR.

36B. ENDANGERED SPECIES.

ANY SPECIES OF FISH, WILDLIFE, OR PLANTS THAT HAVE BEEN DESIGNATED AS ENDANGERED BY REGULATION BY THE SECRETARY 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., AS AMENDED.

36C. ESTABLISHMENT.

THE PLANTING OR REGENERATION OF NATIVE VEGETATION THROUGHOUT THE BUFFER.

36D. EXCESS STORM WATER RUN-OFF.

ALL INCREASES IN STORM WATER RESULTING FROM :

- 1. AN INCREASE IN THE IMPERVIOUSNESS OR LOT COVERAGE OF THE SITE, INCLUDING ALL ADDITIONS TO BUILDINGS, ROADS, AND PARKING LOTS;**
- 2. CHANGES IN PERMEABILITY CAUSED BY COMPACTION DURING CONSTRUCTION OR MODIFICATIONS IN CONTOURS, INCLUDING THE FILLING OR DRAINAGE OF SMALL DEPRESSION AREAS;**
- 3. ALTERATION OF DRAINAGE WAYS, OR REGARDING OF SLOPES;**
- 4. DESTRUCTION OF FOREST; OR**
- 5. INSTALLATION OF COLLECTION SYSTEMS TO INTERCEPT STREET FLOWS OR TO REPLACE SWALES OR OTHER DRAINAGE WAYS.**

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39A. FINANCIAL ASSURANCE

A PERFORMANCE BOND, LETTER OF CREDIT, CASH DEPOSIT, INSURANCE POLICY, OR OTHER INSTRUMENT OF SECURITY ACCEPTABLE TO THE TOWN OF CHURCH HILL.

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39B. 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, GRAB SHEDDING, OFF-LOADING DOCKS, SHELLFISH CULTURE OPERATIONS, AND SHORE-BASED FACILITIES NECESSARY FOR AQUACULTURAL OPERATIONS.

* * *

42. FOREST

A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND OTHER WOODY PLANTS COVERING [a land area of approximately one (1) acre or more] **10,000 SQUARE FEET OR GREATER**. [Forest]THIS ALSO 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]FORESTS that have been cut, but not cleared. **FOREST DOES NOT INCLUDE ORCHARDS.**

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43A. FOREST MANAGEMENT

THE PROTECTION, MANIPULATION, AND UTILIZATION OF THE FOREST TO PROVIDE MULTIPLE BENEFITS, SUCH AS TIMBER HARVESTING, WATER TRANSPIRATION, WILDLIFE HABITAT, ETC.

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44A 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.

* * *

46A. 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**.

* * *

47A. GROWTH ALLOCATION

THE NUMBER OF ACRES OF LAND IN THE CRITICAL AREA THAT THE TOWN OF CHURCH HILL MAY USE TO CREATE NEW INTENSELY DEVELOPED AREAS AND NEW LIMITED DEVELOPMENT AREAS. THE GROWTH ALLOCATION IS FIVE PERCENT OF THE TOTAL RESOURCE CONSERVATION AREA ACREAGE IN THE TOWN OF CHURCH HILL AT THE TIME THE CRITICAL AREA COMMISSION APPROVED THE TOWN'S ORIGINAL CRITICAL AREA PROGRAM, NOT INCLUDING TIDAL WETLANDS OR LAND OWNED BY THE FEDERAL GOVERNMENT.

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48A. HABITAT PROTECTION AREA

(A) "HABITAT PROTECTION AREA" MEANS AN AREA THAT IS DESIGNATED FOR PROTECTION:

- (I) UNDER NATURAL RESOURCES ALTICLE, §8-1806, ANNOTATED CODE OF MARYLAND, REGULATIONS ADOPTED UNDER THAT AUTHORITY, OR A LOCAL PROGRAM; OR
- (II) BY THE SECRETARY OF NATURAL RESOURCES.

(B) "HABITAT PROTECTION AREA" INCLUDES:

- (I) THE BUFFER AS DESCRIBED IN COMAR 27.0L.0L.01B(8);
- (II) A NONTIDAL WETLAND AS DEFINED IN COMAR 26.24.0L.02B;
- (III) A HABITAT OF A THREATENED SPECIES AS DEFINED IN COMAR 27.01 .09.03A;
- (IV) A HABITAT OF ~ ENDANGERED SPECIES AS DEFINED IN COMAR 27.0L.09.03A;
- (V) A HABITAT OF A SPECIES IN NEED OF CONSERVATION AS DEFINED IN COMAR 27.01 .09.03A;
- (VI) A PLANT HABITAT AS DEFINED IN COMAR 27.0L.09.04A;
- (VII) A WILDLIFE HABITAT AS DEFINED IN COMAR 27.01 .09.04A; AND
- (VIII) ANADROMOUS FISH PROPAGATION WATERS AS DEFINED IN COMAR 27.01.09.0SA.

48B 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.

48C. HAZARDOUS TREE.

(A) "HAZARDOUS TREE" MEANS:

- (I) A TREE WITH A STRUCTURAL DEFECT, SUCH AS A CRACK, CANKER, WEAK BRANCH UNION, DECAY, DEAD WOOD, ROOT DAMAGE, OR ROOT DISEASE, THAT DECREASES THE STRUCTURAL INTEGRITY OF THE TREE AND WHICH, BECAUSE OF ITS LOCATION, IS LIKELY TO FALL AND CAUSE PERSONAL INJURY OR PROPE1TY DAMAGE, INCLUDING ACCELERATION OF SOIL EROSION; OR
- (II) BASED ON ITS LOCATION IN THE LANDSCAPE, A HEALTHY TREE THAT, WITH CONTINUED NORMAL GROWTH, WILL DAMAGE AN EXISTING PERMANENT STRUCTURE OR SIGNIFICANTLY INCREASE THE LIKELIHOOD OF SOIL EROSION.

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(B) "HAZARDOUS TREE" DOES NOT INCLUDE A TREE FOR WHICH THE LIKELIHOOD OF PERSONAL INJURY, PROPERTY DAMAGE, OR SOIL EROSION CAN REASONABLY BE ELIMINATED OR SIGNIFICANTLY DIMINISHED:

(I) WITH ROUTINE AND PROPER ARBORICULTURAL PRACTICES, SUCH AS REGULAR WATERING, APPLICATION OF FERTILIZER OR MULCH, AND PRUNING; OR

(II) BY RELOCATION OF PROPERTY THAT IS LIKELY TO BE DAMAGED.

* * *

51A. HOME IMPROVEMENT

THE ADDITION TO OR ALTERATION, CONVERSION, IMPROVEMENT, MODERNIZATION, REMODELING, REPAIR, OR REPLACEMENT OF A BUILDING OR PART OF A BUILDING THAT IS USED OR DESIGNED TO BE USED AS A RESIDENCE OR DWELLING PLACE OR A STRUCTURE ADJACENT TO THAT BUILDING; OR AN IMPROVEMENT TO LAND ADJACENT TO THE BUILDING. HOME IMPROVEMENT INCLUDES CONSTRUCTION, IMPROVEMENT, OR REPLACEMENT, ON LAND ADJACENT TO THE BUILDING, OF A DRIVEWAY, FALLOUT SHELTER, FENCE, GARAGE, LANDSCAPING, DECK, PIER, PORCH, OR SWIMMING POOL; A SHORE EROSION CONTROL PROJECT, AS DEFINED UNDER § 8-1001 OF THE NATURAL RESOURCES ARTICLE, FOR A RESIDENTIAL PROPERTY; CONNECTION, INSTALLATION, OR REPLACEMENT, IN THE BUILDING OR STRUCTURE, OF A DISHWASHER, DISPOSAL, OR REFRIGERATOR WITH AN ICEMAKER TO EXISTING EXPOSED HOUSEHOLD PLUMBING LINES; INSTALLATION IN THE BUILDING OR STRUCTURE, OF AN AWNING, FIRE ALARM, OR STORM WINDOW; AND WORK DONE ON INDIVIDUAL CONDOMINIUM UNITS.

* * *

56A. IMMEDIATE FAMILY

A FATHER, MOTHER, SON, DAUGHTER, GRANDFATHER, GRANDMOTHER, GRANDSON, OR GRANDDAUGHTER.

* * *

56B. 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, AND USE.

* * *

57A. 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.

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57B. INVASIVE SPECIES

A SPECIES THAT IS NON-NATIVE OR ALIEN TO THE ECOSYSTEM UNDER CONSIDERATION WHOSE INTRODUCTION CAUSES OR IS LIKELY TO CAUSE ECONOMIC OR ENVIRONMENTAL HARM OR HARM TO HUMAN HEALTH.

* * *

61A. LANDWARD EDGE

THE LIMIT OF A SITE FEATURE THAT IS FARTHEST AWAY FROM A TIDAL WATER, TIDAL WETLAND, OR TRIBUTARY STREAM.

61B. LARGE SHRUB

A SHRUB THAT, WHEN MATURE, REACHES A HEIGHT OF AT LEAST SIX FEET.

* * *

62A. LEGALLY DEVELOPED

ALL PHYSICAL IMPROVEMENTS TO A PROPERTY THAT EXISTED BEFORE CRITICAL AREA COMMISSION APPROVAL OF A LOCAL PROGRAM, OR WERE PROPERLY PERMITTED IN ACCORDANCE WITH THE PROVISIONS OF THE LOCAL PROGRAM IN EFFECT AT THE TIME OF CONSTRUCTION.

62B. LIMIT OF DISTURBANCE MEANS THE AREA OF A DEVELOPMENT OR REDEVELOPMENT ACTIVITY THAT INCLUDES TEMPORARILY DISTURBANCE AND PERMANENT DISTURBANCE.

62C. 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 PROGRAM.

62D. 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.

* * *

63A. LOCAL SIGNIFICANCE

DEVELOPMENT OF A MINOR SCALE, WHICH CAUSES ENVIRONMENTAL OR ECONOMIC CONSEQUENCES THAT ARE LARGELY CONFINED TO THE IMMEDIATE AREA OF THE PARCEL OF LAND ON WHICH IT IS LOCATED; DOES NOT SUBSTANTIALLY AFFECT THE CRITICAL AREA PROGRAM OF THE TOWN OF CHURCH HILL; AND IS NOT CONSIDERED TO BE MAJOR DEVELOPMENT AS DEFINED IN THIS PROGRAM.

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64B. LOCALLY SIGNIFICANT HABITAT

A PLANT OR WILDLIFE HABITAT THAT MAY NOT BE OF STATEWIDE SIGNIFICANCE BUT, IN A LOCAL JURISDICTION'S CRITICAL AREA PROGRAM, IS CONSIDERED TO BE SIGNIFICANT IN

A LOCAL OR REGIONAL CONTEXT BECAUSE THE HABITAT CONTAINS A SPECIES:

- (A) UNCOMMONLY FOUND OR OF LIMITED OCCURRENCE IN THAT AREA; OR**
- (B) WITH AN UNUSUALLY HIGH CONCENTRATION IN THAT AREA.**

* * *

67A. 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 OTHER ANY MANMADE 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 L PATHWAY; OR A PERMEABLE DECK WITH GAPS TO ALLOW WATER TO PASS FREELY.

* * *

72A. MAJOR BUFFER MANAGEMENT PLAN

A TYPE OF BUFFER MANAGEMENT PLAN AND ALL SUPPORTING DOCUMENTATION REQUIRED UNDER CHAPTER ___ OF THIS ORDINANCE.

72B. MAJOR DEVELOPMENT

DEVELOPMENT OF A SCALE THAT MAY CAUSE STATE-WIDE, REGIONAL, OR INTER-JURISDICTIONAL, ENVIRONMENTAL OR ECONOMIC EFFECTS IN THE CRITICAL AREA, OR WHICH MAY CAUSE SUBSTANTIAL IMPACTS ON THE CRITICAL AREA PROGRAM OF A LOCAL JURISDICTION. THIS DEVELOPMENT INCLUDES, BUT IS NOT LIMITED TO, AIRPORTS, POWER PLANTS, MAJOR SOLAR ENERGY GENERATING SYSTEMS, WASTEWATER TREATMENT PLANTS, HIGHWAYS, REGIONAL UTILITY TRANSMISSION FACILITIES, PRISONS, HOSPITALS, PUBLIC HOUSING PROJECTS, PUBLIC BEACHES, AND INTENSELY DEVELOPED PARK AND RECREATION FACILITIES, AND ANY DEVELOPMENT OR PROJECT AUTHORIZED BY THE PUBLIC SERVICE COMMISSION UNDER A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

* * *

74. Marina

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[A place for docking pleasure boats or providing services to pleasure boats and the occupants thereof, including minor servicing and repair to boats while in the water, sale of fuel and supplies, and provision of lodging, food, beverages, and entertainment as accessory uses. A yacht club shall be considered as a marina, but a hotel, motel, or similar use, where docking of boats and provision of services thereto is incidental to other activities, shall not be considered a marina, nor shall boat docks accessory to a multiple dwelling where no boat-related services are rendered.] **ANY FACILITY FOR THE MOORING, BERTHING, STORING, OR SECURING OF WATERCRAFT, BUT NOT INCLUDING COMMUNITY PIERS AND OTHER NON-COMMERCIAL BOAT DOCKING AND STORAGE FACILITIES.**

74A. MEAN HIGH WATER LINE (MHWL)

THE AVERAGE LEVEL OF HIGH TIDES AT A GIVEN LOCATION.

74B. MINOR BUFFER MANAGEMENT PLAN

A TYPE OF A BUFFER MANAGEMENT PLAN AND ALL SUPPORTING DOCUMENTATION REQUIRED UNDER THIS ARTICLE.

74C. 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.

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75A. NATIVE PLANT

Q SPECIES THAT IS INDIGENOUS TO THE PHYSIOGRAPHIC AREA IN MARYLAND WHERE THE PLANTING IS PROPOSED.

(A) "NATURAL FEATURES" MEANS COMPONENTS AND PROCESSES PRESENT IN OR PRODUCED BY NATURE, INCLUDING, BUT NOT LIMITED TO, SOIL TYPES, GEOLOGY, SLOPES, VEGETATION, SURFACE WATER, DRAINAGE PATTERNS, AQUIFERS, RECHARGE AREAS, CLIMATE, FLOOD PLAINS, AQUATIC LIFE, AND WILDLIFE.

(B) "NATURAL FOREST VEGETATION" MEANS VEGETATION CONSISTING OF CANOPY TREES, UNDERSTORY TREES, SHRUBS, AND HERBACEOUS PLANTS THAT ARE TYPICALLY FOUND IN RIPARIAN AREAS IN THE STATE OF MARYLAND.

AREAS OF NATURAL FOREST VEGETATION PLANTED TO MEET THE MITIGATION REQUIREMENTS IN THIS ARTICLE.

75B. NATURAL HERITAGE AREA

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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.

75C. 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.

75D. NATURAL VEGETATION

THOSE PLANT COMMUNITIES THAT DEVELOP IN THE ABSENCE OF HUMAN ACTIVITIES.

75E. NATURE-DOMINATED" MEANS A CONDITION WHERE LANDFORMS OR BIOLOGICAL COMMUNITIES, OR BOTH, HAVE DEVELOPED BY NATURAL PROCESSES IN THE ABSENCE OF HUMAN ACTIVITIES.

75F. NEW DEVELOPMENT

THAT FOR PURPOSES OF IMPLEMENTING SPECIFIC PROVISIONS OF THIS PROGRAM, NEW DEVELOPMENTS (AS OPPOSED TO REDEVELOPMENT) MEANS A DEVELOPMENT ACTIVITY THAT TAKES PLACE ON A PROPERTY WITH PRE-DEVELOPMENT IMPERVIOUSNESS (IN IDA) OR LOT COVERAGE (LDA AND RCA) OF LESS THAN 15 PERCENT AS OF DECEMBER 1, 1985.

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77. Non-point 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. NON-POINT SOURCE POLLUTION IS NOT GENERALLY CORRECTED BY "END-OF-PIPE" TREATMENT, BUT RATHER BY CHANGES IN LAND MANAGEMENT PRACTICES.**

78. Non-tidal wetlands

[Lands where the water table is usually at or near the surface, or lands where the soil or substrate is covered by shallow water at some time during the growing season. One or both of the following usually characterize these lands: a) at least periodically, the lands support predominantly hydrophytic vegetation; and b) the substrate is predominantly undrained hydric soils.] **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 F VEGETATION TYPICALLY ADAPTED FOR LIFE IN SATURATED SOIL CONDITIONS, COMMONLY KNOWN AS**

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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.

* * *

80A. OPEN SPACE

LAND AND WATER AREAS RETAINED IN AN ESSENTIALLY UNDEVELOPED STATE.

80B. OVERBURDENED COMMUNITY

HAS THE MEANING STATED IN §1-701 OF THE ENVIRONMENT ARTICLE.

80C. PALUSTRINE

ALL NON-TIDAL WETLANDS DOMINATED BY TREES, SHRUBS, PERSISTENT EMERGENT PLANTS, OR EMERGENT MOSSES OR LICHENS AND ALL SUCH WETLANDS THAT OCCUR IN TIDAL AREAS WHERE THE SALINITY DUE TO OCEAN-DERIVED SALTS IS BELOW ONE-HALF PART PER 1,000 PARTS OF WATER.

* * *

81A. PERMANENT DISTURBANCE

A MATERIAL, ENDURING CHANGE IN THE TOPOGRAPHY, LANDSCAPE, OR STRUCTURE THAT OCCURS AS PART OF A DEVELOPMENT OF REDEVELOPMENT ACTIVITY. IT INCLUDES:

- (A) CONSTRUCTION OR INSTALLATION OF ANY MATERIAL THAT WILL RESULT IN LOT COVERAGE;
- (B) CONSTRUCTION OF A DECK;
- (C) EXCEPT UNDER §B (18-2)(8)(111) OF THIS REGULATION, GRADING; AND
- (D) EXCEPT UNDER §B (18-2)(8)(11) OF THIS REGULATION, CLEARING OF A TREE, FOREST, OR DEVELOPED WOODLAND.

PERMANENT DISTURBANCE DOES NOT INCLUDE A SEPTIC SYSTEM ON A LOT CREATED BEFORE LOCAL PROGRAM APPROVAL IF THE SEPTIC SYSTEM IS LOCATED IN EXISTING GRASS OR CLEARING IS NOT REQUIRED.

81B. PERSON

AN INDIVIDUAL, PARTNERSHIP, CORPORATION, CONTRACTOR, PROPERTY OWNER, OR ANY OTHER PERSON OR ENTITY.

81C. PHYSIOGRAPHIC FEATURES

THE SOILS, TOPOGRAPHY, LAND SLOPE AND ASPECT, AND LOCAL CLIMATE THAT INFLUENCE THE FORM AND SPECIES COMPOSITION OF PLANT COMMUNITIES.

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81D. 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.

* * *

83A. PLANT HABITAT

A COMMUNITY OF PLANTS COMMONLY IDENTIFIABLE BY THE COMPOSITION OF ITS VEGETATION AND ITS PHYSIOGRAPHIC CHARACTERISTICS.

* * *

84B. PRINCIPAL STRUCTURE

THE PRIMARY OR PREDOMINANT STRUCTURE ON ANY LOT OR PARCEL. FOR RESIDENTIAL PARCELS OR LOTS, THE PRINCIPAL STRUCTURE IS THE PRIMARY DWELLING.

84C. PROGRAM AMENDMENT

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

84D. Program Refinement

Any change or proposed change to an adopted program 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 program, or that will not significantly affect the use of land or water in the critical area.

Program refinement may include:

1. A change to an adopted program that results from state law;
2. A change to an adopted program that affects local processes and procedures;
3. A change to a local ordinance or code that clarifies an existing provision; and
4. A minor change to an element of an adopted program that is clearly consistent with the provisions of state critical area law and all the criteria of the commission.

84E. PROJECT APPROVALS

THE APPROVAL OF DEVELOPMENT, OTHER THAN DEVELOPMENT BY THE STATE OR LOCAL GOVERNMENT, IN THE CHESAPEAKE BAY CRITICAL AREA BY THE APPROPRIATE LOCAL APPROVAL AUTHORITY. THE TERM INCLUDES APPROVAL OF PRELIMINARY AND FINAL SUBDIVISION PLATS AND SITE PLANS; INCLUSION OF AREAS WITHIN FLOATING ZONES; ISSUANCE OF VARIANCES, SPECIAL EXCEPTIONS, AND CONDITIONAL USE PERMITS; AND ISSUANCE OF ZONING PERMITS. THE TERM DOES NOT INCLUDE BUILDING PERMITS.

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84F. 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.

84G. PUBLIC WATER-ORIENTED RECREATION

SHORE-DEPENDENT RECREATION FACILITIES OR ACTIVITIES PROVIDED BY PUBLIC AGENCIES THAT ARE AVAILABLE TO THE GENERAL PUBLIC.

84H. RECLAMATION

THE REASONABLE REHABILITATION OF DISTURBED LAND FOR USEFUL PURPOSES AND THE PROTECTION OF THE NATURAL RESOURCES OF ADJACENT AREAS, INCLUDING WATER BODIES.

84I. "RECONFIGURATION"

A CHANGE OF THE CONFIGURATION 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.

84J REDEVELOPMENT

THE PROCESS OF DEVELOPING LAND WHICH IS OR HAS BEEN DEVELOPED. FOR PURPOSES OF IMPLEMENTING SPECIFIC PROVISIONS OF THIS PROGRAM, REDEVELOPMENT (AS OPPOSED TO NEW DEVELOPMENT) MEANS A DEVELOPMENT ACTIVITY THAT TAKES PLACE ON PROPERTY WITH PRE-DEVELOPMENT IMPERVIOUSNESS (IN IDA) OR LOT COVERAGE (IN LDA AND RCA) OF 15 PERCENT OR GREATER.

* * *

88A. 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.

88B. RESOURCE UTILIZATION ACTIVITIES" MEANS ANY AND ALL ACTIVITIES ASSOCIATED WITH THE UTILIZATION OF NATURAL RESOURCES SUCH AS AGRICULTURE, FORESTRY, SURFACE MINING, AQUACULTURE, AND FISHERIES ACTIVITIES. - -

* * *

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89A. 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.

89B. RIPARIAN HABITAT

A HABITAT THAT IS STRONGLY INFLUENCED BY WATER AND WHICH OCCURS ADJACENT TO STREARRIS, SHORELINES, AND WETLANDS.

89C. ROAD

A PUBLIC THOROUGHFARE THAT IS UNDER THE JURISDICTION OF THE STATE, A COUNTY, A MUNICIPAL CORPORATION, OR ANY OTHER PUBLIC BODY. ROAD DOES INCLUDE A DRIVE AISLE OR DRIVEWAY.

* * *

91A. SELECTION

THE REMOVAL OF SINGLE, SCATTERED, MATURE TREES OR OTHER TREES FROM UNEVEN-AGED STANDS BY FREQUENT AND PERIODIC CUTTING OPERATIONS.

* * *

93A. SHORE EROSION PROTECTION WORKS

THOSE STRUCTURES OR MEASURES CONSTRUCTED OR INSTALLED TO PREVENT OR MINIMIZE EROSION OF THE SHORELINE IN THE CRITICAL AREA.

* * *

94A. SIGNIFICANTLY ERODING AREAS

AREAS THAT ERODE TWO FEET OR MORE PER YEAR.

* * *

97A. SIMPLIFIED BUFFER MANAGEMENT PLAN

A TYPE OF BUFFER MANAGEMENT PLAN AND ALL SUPPORTING DOCUMENTATION REQUIRED UNDER THIS ARTICLE.

* * *

98A. SMALL SHRUB

A SHRUB THAT, WHEN MATURE, REACHES A HEIGHT NO GREATER THAN SIX FEET.

98B. SOIL CONSERVATION AND WATER QUALITY PLAN

AN AGRICULTURAL PLAN APPROVED BY A LOCAL SOIL CONSERVATION DISTRICT TO MINIMIZE SOIL EROSION AND THE MOVEMENT OF SEDIMENT, ANIMAL WASTE, NUTRIENTS, OR AGRICULTURAL CHEMICALS INTO WATERS OF THE STATE.

* * *

110. Structure.

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Anything constructed or erected ON OR OVER LAND THAT MAY OR MAY NOT RESULT IN LOT COVERAGE. [, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground, including,] **IT MEANS BUILDING OR CONSTRUCTION MATERIALS, OR A COMBINATION OF THOSE MATERIALS THAT ARE PURPOSEFULLY ASSEMBLED OR JOINED TOGETHER ON OR OVER LAND OR WATER. STRUCTURE INCLUDES, [but without limiting the generality of the foregoing,] 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, trailers or mobile homes, signs, swimming pools, fences, backstops for tennis courts, and pergolas.

110A. SUBSTANTIAL ALTERATION

ANY REPAIR, RECONSTRUCTION, OR IMPROVEMENT OF A PRINCIPAL STRUCTURE, WHERE THE PROPOSED FOOTPRINT EQUALS OR EXCEEDS 50 PERCENT OF THE EXISTING PRINCIPAL STRUCTURE.

110B. SUPPLEMENTAL PLANTING PLAN

A DESCRIPTION AND LANDSCAPE SCHEDULE THAT SHOWS THE PROPOSED SPECIES TYPE, QUANTITY, AND SIZE OF PLANTS TO BE LOCATED WITHIN A BUFFER IF NATURAL REGENERATION DOES NOT MEET THE REQUIRED STEM DENSITY.

* * *

111A. TEMPORARY DISTURBANCE

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

- (A) STORAGE OF MATERIALS THAT ARE NECESSARY FOR THE COMPLETION OF THE DEVELOPMENT OR REDEVELOPMENT ACTIVITY;**
- (B) CONSTRUCTION OF A ROAD OR OTHER PATHWAY THAT IS NECESSARY FOR ACCESS TO THE SITE OF THE DEVELOPMENT OR REDEVELOPMENT ACTIVITY, IF THE ROAD OR PATHWAY IS REMOVED IMMEDIATELY AFTER COMPLETION OF THE DEVELOPMENT OR REDEVELOPMENT ACTIVITY AND THE AREA IS RESTORED TO ITS PREVIOUS VEGETATIVE CONDITION; AND**
- (C) GRADING OF A DEVELOPMENT SITE, IF THE AREA IS RESTORED TO ITS PREVIOUS VEGETATIVE CONDITION IMMEDIATELY AFTER COMPLETION OF THE DEVELOPMENT OR REDEVELOPMENT ACTIVITY.**

IT DOES NOT INCLUDE:

- (A) A SEPTIC SYSTEM IN A FOREST OR DEVELOPED WOODLAND ON A LOT CREATED BEFORE LOCAL PROGRAM APPROVAL, IF CLEARING IS REQUIRED; AND**

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(B) A VIOLATION.

111B. THINNING

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

111C. THREATENED SPECIES

ANY SPECIES OF FISH, WILDLIFE, OR PLANTS DESIGNATED AS SUCH BY REGULATION BY THE SECRETARY OF 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 ER SEQ., AS AMENDED.

111D. TOPOGRAPHY

THE EXISTING CONFIGURATION OF THE EARTH'S SURFACE INCLUDING THE RELATIVE RELIEF, ELEVATION, AND POSITION OF LAND FEATURES.

* * *

114A. 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.

114B. TRANSPORTATION FACILITIES

ANYTHING THAT IS BUILT, INSTALLED, OR ESTABLISHED TO PROVIDE A MEANS OF TRANSPORT FROM ONE PLACE TO ANOTHER.

114C. TREE

A LARGE, WOODY PLANT HAVING 1 OR SEVERAL SELF-SUPPORTING STEM S OR TRUNKS AND NUMEROUS BRANCHES THAT REACH A HEIGHT OF AT LEAST 20 FEET AT MATURITY.

* * *

115. Tributary Streams.

Perennial and intermittent streams WITHIN THE CRITICAL AREA THAT HAS BEEN IDENTIFIED BY SITE INSPECTION OR IN ACCORDANCE WITH LOCAL PROGRAM PROCEDURES AND APPROVED BY THE CRITICAL AREA COMMISSION [noted on the most recent U.S. Geological Survey 7-1/2 minute topographic quadrangle maps (scale 1:24,000)].

115A. UNDERSTORY

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THE LAYER OF FOREST VEGETATION TYPICALLY LOCATED UNDERNEATH THE FOREST CANOPY.

115B. UNDERSTORY TREE

A TREE THAT, WHEN MATURE, REACHES A HEIGHT BETWEEN 12 AND 35 FEET.

115C. UNDERSERVED COMMUNITY

HAS THE MEANING STATED IN § 1-701 OF THE ENVIRONMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND. IT 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

115D. 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.

115E. UPLAND BOUNDARY

THE LANDWARD EDGE OF A TIDAL WETLAND OR NONTIDAL WETLAND.

* * *

116A. UTILITY TRANSMISSION FACILITIES

FIXED STRUCTURES THAT CONVEY OR DISTRIBUTE RESOURCES, WATER, OR BOTH, INCLUDING BUT NOT LIMITED TO ELECTRICAL LINES, WATER CONDUITS AND SEWER LINES. IT DOES NOT INCLUDE A POWER PLANT.

116B. VESSEL

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

116C. WATER-BASED AQUACULTURE

THE RAISING OF FISH AND SHELLFISH IN ANY NATURAL, OPEN, FREE-FLOWING WATER BODY.

116D. 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

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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.

116E. WATER-USE INDUSTRY

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

116F. WATERFOWL MEANS A SPECIES OF BIRD THAT FREQUENTS AND OFTEN SWIMS IN WATER, NESTS AND RAISES THEIR YOUNG NEAR WATER, AND DERIVES AT LEAST PART OF THEIR FOOD FROM AQUATIC PLANTS AND ANIMALS.

* * *

119. WILDLIFE HABITAT MEANS A PLANT COMMUNITY AND PHYSIOGRAPHIC FEATURES THAT PROVIDE FOOD, WATER, AND COVER, NESTING, AND FORAGING OR FEEDING CONDITIONS NECESSARY TO MAINTAIN A POPULATION OF ANIMALS IN THE CRITICAL AREA, AS DESCRIBED IN COMAR 27.01.09.04

* * *

Section 3. BE IT FURTHER ORDAINED AND ENACTED that the Town Administrator in consultation with the Town Attorney, is hereby authorized to correct any errors in formatting (ie. indentation, section numbers and subsection numbers) encountered when incorporating the changes herein into Town Code, Chapter 75. No such changes shall change the meaning or intent of any provision of this ordinance.

Section 4. BE IT FURTHER ORDAINED AND ENACTED that if any section, subsection, provision, sentence, clause, phrase or word of this Ordinance is for any reason held to be illegal or otherwise invalid by any court of competent jurisdiction, such invalidity shall be severable, and shall not affect or impair any remaining section, subsection, provision, sentence,

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clause, phrase or word included within this Ordinance, it being the intent of the Town that the remainder of the Ordinance shall be and shall remain in full force and effect, valid and enforceable.

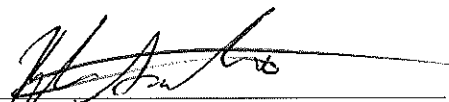
Section 4. BE IF FURTHER ORDAINED that upon adoption, a copy of this Ordinance shall be posted on the Town bulletin board for a period not less than one week after it becomes effective.

INTRODUCED by the Commissioners of the Town of Church Hill, Maryland at a regular meeting on November 17, 2025.

PASSED by the Commissioners of the Town of Church Hill, Maryland at a regular meeting of the Commissioners on December 15, 2025.

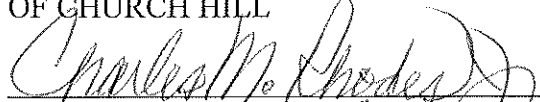
EFFECTIVE: the ____ day of _____, 2026, which shall be after approval of the Ordinance by the State of Maryland Critical Area Commission, but not less than twenty (20) calendar days after its date of adoption.

ATTEST:




Kyle P. Ambrose, Town Administrator

THE COMMISSIONERS OF THE TOWN
OF CHURCH HILL



Charles M. Rhodes, Jr., President



John P. Griffin, Jr., Commissioner



Margaret Coursey, Commissioner

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Attachment 2.

Proposed Revisions to the Town of Church Hill's Zoning Ordinance

Commission staff's recommended revisions to the Town of Church Hill's Zoning Ordinance are numbered below. These minor changes and clarifications are necessary to make the Town of Church Hill's Critical Area Program fully consistent with the Critical Area law and regulations as of October 1, 2024 (updates to Chapter 424 of the Natural Resources Article under House Bill 233). All text in underline should be added; all text in strikethrough should be deleted.

§75.177. Variances E. Appeals

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.

§75.173 . Supplemental Use Standards.

B. New Institutional Uses (#2.20)

1. New institutional facilities and uses, except those specifically listed below shall not be permitted in Resource Conservation Areas (RCAs).

2. Certain institutional uses may be permitted in Resource Conservation Areas (RCAs) if allowed in the underlying zoning district and if the use complies with all requirements for such uses in this article. These institutional uses are limited to:

A. A cemetery that is an accessory use to an existing use; provided manmade lot coverage is limited to 15 percent of the site or 20,000 square feet, whichever is less; and

~~B. A home day care facility as defined in this ordinance;~~

~~C. A group home, halfway house, or intermediate care institution as defined in this ordinance;~~

~~D. Churches and other buildings for religious assembly;~~

~~E. Nursing care institutions, child care institutions~~

~~F. Other similar uses determined by the town and approved by the Critical Area Commission to be similar to those listed above.~~

§ 75-187. Definitions.

UNDERREPRESENTED COMMUNITY - Has the meaning stated in the Business Regulation, §19-106, Annotated Code of Maryland.