

## ***Critical Area Commission***

### **STAFF REPORT**

December 5, 2025

**APPLICANT:** Town of Greensboro

**PROPOSAL:** Refinement - Comprehensive Review of Critical Area Program

**JURISDICTION:** Town of Greensboro (Caroline County)

**COMMISSION ACTION:** Concurrence with Chair's Determination of Refinement

**STAFF RECOMMENDATION:** Approval with Conditions

**STAFF:** Annie Sekerak

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

### **DISCUSSION:**

The Town of Greensboro recently completed an effort to comprehensively review and update their Critical Area program as required by State law. On August 6, 2025, the Mayor and Council of Greensboro voted to repeal and replace the Town's Critical Area program within the Greensboro Land and Development Ordinance through the adoption of Ordinance 2025-O-5. The proposed updates ensure compliance and consistency with the Critical Area law and regulations.

A copy of the adopted ordinance is attached to this staff report (Attachment 2).

### **Greensboro Critical Area Overview**

The Town of Greensboro is located along Choptank River in Caroline 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 Critical Area map was updated in 2017.

### **Comprehensive Review and Update to Town of Greensboro's Critical Area Program**

Natural Resources Article §8-1809(g) requires each local jurisdiction to comprehensively review and update their 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 last updated their Critical Area program in 2013.

The comprehensive update of the Town of Greensboro's Critical Area program brings the Critical Area portion of the Town's Land and Development Ordinance into conformance with the requirements of the Critical Area law and criteria. Changes to the Town's Critical Area program were based upon 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, and enforcement procedures.

With this comprehensive review, the Town adopted the Commission's model ordinance; however, there are several minor administrative changes that staff recommend as a condition of approval (Attachment 1).

### **Natural Resources Inventory**

COMAR 27.01.10.01 requires a jurisdiction during its comprehensive review to map or inventory (or both) Habitat Protection Areas, including threatened and endangered species habitats and species in need of conservation, anadromous fish propagation waters, plant and wildlife habitats, and locally significant habitats. The Commission coordinates with the Maryland Department of Natural Resources Wildlife and Heritage Service (DNR WHS) to provide a Natural Resources Inventory that includes updated narratives and maps to meet this requirement. The most recent inventory was completed in December 2021 and identifies site management considerations for the Upper Choptank River, a Listed Species site.

The adopted ordinance inadvertently left out the reference to the updated inventory; therefore, one of the changes recommended by staff as a condition of approval (Attachment 1) is the addition of the updated inventory and site management considerations.

### **RECOMMENDATION**

The comprehensive update of the Town of Greensboro'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 Greensboro shall incorporate into their Land and Development Ordinance the recommended text edits described in Attachment 1 of this staff report.

### **ATTACHMENTS**

1. Recommended Changes
2. Adopted Ordinance 2025-O-5

## ATTACHMENT 1

### Recommended Changes to Greensboro's Critical Area Ordinance 2025-O-5

Commission staff's recommended changes are listed below. These changes are required to bring the Town's Critical Area program into compliance with current Critical Area law and regulations.

Please have the Town update the following general comments:

- 1) Adjust formatting for new definitions to match existing definitions
- 2) Remove all **bold** formatting not associated with headings
- 3) Remove footnotes

In addition, please have the Town make the following changes (all text in underline should be added; all text in ~~striketrough~~ should be deleted):

#### *Section 3. Definitions*

UNDERREPRESENTED COMMUNITY - Has the meaning stated in the Business Regulation, §19-106, Annotated Code of Maryland. "Underrepresented community" means a community whose members self-identify:

- a) As Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, or Alaska Native; or
- b) With one or more of the racial or ethnic groups listed in item (a) of this paragraph.

#### *Section 17.00 Implementation of the Critical Area Program Purpose and Goals*

##### **B. The Town of Greensboro Critical Area Program.**

1. "Notwithstanding any provision in this ordinance, or the lack of a provision in this ordinance, all of the requirements of Natural Resources Article 8-1801 through 8-1817 and COMAR Title 27 shall apply to, and be applied by, ~~{Town}~~ the Town of Greensboro as minimum standards."

C. Regulated activities and applicability. "Any applicant for a permit or license to pursue activities within the Critical Area, including but not limited to, development or redevelopment, grading, sediment and erosion control, timber harvesting, shoreline erosion control, installation of a septic system and drain field, operation of a waste collection or disposal facility, operation of a commercial or private marina or other water-related commercial or industrial operation (whether public or private), mining (whether surface or sub-surface) or quarrying, farming or other agriculture-related activities shall have such permits or licenses issued by the Zoning Administrator after review to determine compliance with the Town of Greensboro Land Development Ordinance. The ~~{Zoning Administrator}~~ Zoning Administrator shall review a permit, license, or other authorization for a development or redevelopment activity in the Critical Area for compliance with this Critical Area Ordinance prior to issuance of that permit or license. Should an infraction of the provisions contained in any law, regulation, or plan related to the Town's Critical Area Program be brought to the attention of any Town official, said official shall contact the ~~{Code Enforcement Officer}~~ Code Enforcement Officer."

F. General Requirements in all Critical Area Overlay Zones.

11. Non-Water Dependent Structures on Piers

(b)(iv) “Is approved by the Planning Commission and the Zoning Board after ~~{Date of NWD opt-in}~~ December 17, 2025;”

(d)(ii) “Is approved by the Town of Greensboro Planning Commission and the Zoning Board after ~~{Date of NWD opt-in}~~ December 17, 2025;”

*Section 17.08 Growth Allocation*

C. Process. “An applicant shall submit to Town of Greensboro 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 ~~{Local Approving Authority}~~ the Mayor and Council prior to submission to the Commission.”

D. Requirements.

(1) A new Intensely Developed Area shall be at least 20 acres in size unless it is adjacent to existing IDA ~~(or<sup>4</sup>)~~.

E. Standards.

~~3. No more than one-half of the Town of Greensboro’s growth allocation may be located in Resource Conservation Areas (RCAs) except as provided in subparagraph 9 below.~~

~~8. If the Town of Greensboro 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 under program measure specifically approved by the Critical Area Commission.~~

9. “Locate new intensely developed areas and limited development areas outside of areas vulnerable to climate change as identified by ~~{Municipality}~~ the Town, unless Town of Greensboro 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.”

*Section 17.12 Local Development Projects*

B. Procedures.

(1) “If the project meets the provisions of this Ordinance and is minor development, the ~~{Planning Department}~~ Town 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 provisions of this Ordinance, the ~~{Planning Department}~~ Town shall seek a conditional approval by the Critical Area Commission per the requirements of COMAR 27.02.06.

### *Section 17.19 Other Habitat Protection Areas*

B. ~~Standards~~. “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 on ~~[INSERT DATE]~~ in December 2021 and recommendations contained in ~~[INSERT REFERENCE TO THE REPORT]~~ the Upper Choptank River Inventory Report are hereby incorporated into this Ordinance.”

#### 1. Key Wildlife Habitats

- a. Coastal Plain River
- b. Coastal Plain Stream
- c. Coastal Plain Floodplain
- d. Coastal Plain Seepage Swamp
- e. Mesic Mixed Hardwood Forest
- f. Basic Mesic Forest
- g. Coastal Plain Oak-Pine Forest

#### 2. Important Features

- a. Mature forest
- b. Migratory fish spawning area
- c. Shield darter (*Percina peltata*, watchlist)
- d. Triangle floater (*Alasmidonta undulata*, state-listed as Threatened)
- e. Sparkling jewelwing (*Calopteryx dimidiata*, state rare)
- f. Blackwater bluet (*Enallagma weewa*, state rare)
- g. Creeping burhead (*Echinodorus cordifolius*, state-listed as Endangered)
- h. Lowland loosestrife (*Lysimachia hybrida*, state-listed as Threatened)
- i. Climbing dogbane (*Thrysanthella difformis*, state-listed as Endangered)
- j. Core habitat for forest interior dwelling species

#### 3. Ecological Significance

The fresh tidal and nontidal portions of the upper reaches of the Choptank River, bordered by extensive tracts of mature floodplain forest, are the centerpiece of the Upper Choptank River area. Considered a stronghold watershed, the Upper Choptank River is of the most important watersheds in Maryland for the protection of aquatic biodiversity. The river is well known for its importance as a spawning area for migratory fishes such as blueback herring, alewife, yellow

perch, and white perch. Uncommon fish species like shield darter (*Percina peltata*, watchlist) and bluespotted sunfish (*Enneacanthus gloriosus*) also occur here. The river's upper nontidal reaches support exceptionally dense and diverse freshwater mussel beds where thousands of these filter-feeding bivalves can be found along the stream bottom, including the triangle floater (*Alasmidonta undulata*, state-listed as Threatened) and creeper (*Strophitus undulatus*, state-listed as In Need of Conservation). Two rare damselflies, the blackwater bluet (*Enallagma weewa*, state rare) and sparkling jewelwing (*Calopteryx dimidiata*, state rare), also occur along the upper Choptank, the latter being closely tied to the river's scattered beds of pondweed, eel-grass, and the other submerged aquatic vegetation.

Freshwater marsh plants such as small water plantain, lizard's-tail, and pickerelweed grow in sloughs and along the river's edge. Other plants found within the floodplain include Virginia dayflower, water purslane, prickly hornwort, lowland loosestrife (*Lysimachia hybrida*, state-listed as Threatened) and creeping burhead (*Echinodorus cordifolius*, state-listed as Endangered). Flanking most of the river and stream reaches is a high quality floodplain forest community dominated by green ash and red maple in the canopy, along with black gum, sweetgum, black birch, ironwood, American holly, spicebush, deciduous holly (*Ilex decidua*, state rare), and dense thickets of common greenbrier. Portions of the floodplain south of Red Bridges Road support climbing dogbane (*Thrysanthella difformis*), which is state-listed as Endangered. Mature forest is found throughout the floodplain and is defined by standing dead trees, large trees with wide-spreading canopies, logs in various stages of decomposition, scattered canopy openings, and a well-developed and diverse herb layer. The extensive deciduous floodplain forest habitats of the Upper Choptank River also provide important habitat for forest interior dwelling bird species, which need large areas of interior forest for breeding and successful nesting. Scarlet tanagers, ovenbirds, and wood thrush are just a few members of this bird assemblage that thrive here.

Steep forested slopes bordering the river are dominated by beech, sycamore, tulip tree, willow oak, white oak, and red oak. The understory consists of American holly, common greenbrier, mountain laurel, and flowering dogwood. Pockets of nutrient-rich, moist woods habitat occupy patches along the slopes, containing plants such as bloodroot and spring beauty. Other plants that occur in the floodplain include mayapple, skunk cabbage, yellow trout lily, perfoliate bellwort, false solomon's seal, turtlehead, and a variety of sedges. The dry, open, sandy areas of habitat harbor downy milkpea (*Galactia volubilis*, watchlist) and reflexed flatsedge (*Cyperus refractus*, state rare).

#### 4. Site Management Considerations

Upper Choptank River is included as a Listed Species Site under the Chesapeake Bay Critical Area Regulations (COMAR 27.01.09.04). This site is also designated as a wetland of special state concern by the Maryland Department of the Environment (COMAR 26.23.06.02). The habitats in the Upper Choptank River are vulnerable to incompatible logging practices, invasion of non-native plants into the floodplain from adjacent fields, alterations in the flooding regime of the Choptank River, or adverse changes in water quality or wetland hydrology. These threats could degrade the floodplain community, reduce its significance as a high quality natural area, and diminish its ability to support rare species. Reducing disturbances wherever possible and allowing portions of adjacent fields to revert to forest would create a buffer against invasive weeds. The high quality floodplain and swamp forest communities are dependent upon the flooding regime of the Choptank River watershed as well as the local groundwater hydrology. If that regime is altered, the floodplain community will also undergo change. The Maryland Natural Heritage Program and cooperative partners completed a State Wildlife Action Plan in 2015 as a requirement of State Wildlife Grant funding. The plan details key wildlife habitats, natural communities, and Species of Greatest Conservation Need (SGCN) statewide in addition to threats, and conservation of Maryland's wildlife resources. For more information and additional management considerations, the full Plan can be accessed at [http://dnr.maryland.gov/wildlife/Pages/plants\\_wildlife/SWAP\\_Submission.aspx](http://dnr.maryland.gov/wildlife/Pages/plants_wildlife/SWAP_Submission.aspx).

C. Standards.

## ORDINANCE NO. 2025-O-5

Introduced by: Commissioner Joe Noon

### AN ORDINANCE OF THE MAYOR AND COUNCIL OF GREENSBORO TO AMEND ARTICLE I SECTION 3 OF THE GREENSBORO LAND AND DEVELOPMENT ORDINANCE TITLED, “DEFINITIONS”, AND TO REPEAL AND REPLACE ARTICLE I SECTION 17 TITLED, “CRITICAL AREA OVERLAY DISTRICT” TO COMPLY WITH RECENT LEGISLATION

WHEREAS, Md. Code Ann. Land Use Article § 4-202 authorizes municipalities to adopt zoning regulations as it determines are in the public health, safety, and welfare; and

WHEREAS, in accordance with Md. Code Ann. Natural Resources Article § 8-1808, the Town of Greensboro adopted a Critical Area Program, which is set forth in Article I, Section 17 of the Greensboro Land and Development Ordinance, titled Critical Area Overlay District”; and

WHEREAS, in the 2024 legislative session, House Bill 233 and Senate Bill 268 were enrolled which modified the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program to incorporate climate resilience, environmental justice, and equity measures, and amended enforcement provisions; and

WHEREAS, the Greensboro Planning Commission considered amendments to the Zoning Ordinance to comply with House Bill 233 and Senate Bill 268 and recommended amendments contained herein; and

WHEREAS, the Mayor and Council held a duly advertised public hearing on the amendments to the Critical Area Program on \_\_\_\_\_, 2025; and

WHEREAS, the Greensboro Planning Commission and the Mayor and Council have determined that the amendments set forth herein are consistent with the Town’s planning goals and objectives set forth in the Town’s Comprehensive Plan and the standards sets forth in Md. Code Ann. Natural Resources Article § 8-1808(b)(1) through (4).

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF GREENSBORO AS FOLLOWS:

**Section 1.** The Greensboro Land and Development Ordinance, Article I Section 3 is hereby amended as follows:

### SECTION 3. DEFINITIONS

#### § 3.00 - General

As used in this Ordinance, the following terms shall have the meanings indicated.

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



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

**ADDITION** - A newly constructed area that increases the size of a structure.

**ADMINISTRATOR** - The Zoning Administrator.

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

**Agricultural Best Management Practice.**

(a) "Agricultural best management practice" means an agronomic, conservation, or pollution control practice, installation, or structure that manages soil loss, nutrients, animal wastes, or agricultural chemicals so as to minimize their movement into State waters.

(b) "Agricultural best management practice" includes strip cropping, terracing, cover crops, grass waterways, animal waste management, conservation tillage, riparian buffers, nutrient management, and stream protection practices such as fencing, stream crossings, and remote watering devices.

(c) "Agricultural best management practice" does not include a shoreline erosion control measure authorized by the Department of the Environment under COMAR 26.24.04.

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

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

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

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

**APARTMENT** - A part of a building containing cooking and housekeeping facilities, consisting of a room or suite of rooms intended, designed, and used as a residence by an individual or a single family.

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

BARREN LAND - Unmanaged land having sparse vegetation.

BASEMENT - That portion of a building between the floor and ceiling having more than one-half of its height below grade.

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

BOARD - The Board of Appeals of the Town of Greensboro.

BUFFER - Means an area that:

(a) Based on conditions present at the time of development, is immediately landward from mean high water of tidal waters, the edge of each bank of a tributary stream, or the landward edge of a tidal wetland; and

(b) Exists or may be established in natural vegetation to protect a stream, tidal wetland, tidal waters, or terrestrial environment from human disturbance.

(i) "Buffer" includes an area of: and At least 100 feet, even if that area was previously disturbed by human activity;

(ii) Expansion for contiguous areas, including a steep slope, hydric soil, highly erodible soil, nontidal wetland, or a Nontidal Wetland of Special State Concern as defined in COMAR 26.23.01.01.

BUFFER MANAGEMENT PLAN - "Buffer Management Plan" means a narrative, graphic description, or plan of the Buffer that is necessary when an applicant proposes a development activity that will:

(a) Affect a portion of the Buffer;

(b) Alter Buffer vegetation; or

Require the establishment of a portion of the Buffer in vegetation

Includes a major Buffer management plan, a minor Buffer management plan, and a simplified

Buffer management plan.

**BUILDABLE AREA** - The area of that part of a lot not included within the yards or open spaces herein required.

**BUILDABLE WIDTH** - The width of that part of a lot not included within the open spaces herein required.

**BUILDING** - Any structure having a roof supported by columns or walls and intended for the housing or enclosure of persons or property of any kind.

**BUILDING LINE** - The line, parallel to the street line, that passes through the point of the main building nearest the front lot line.

**BUILDING, MAIN** - A building in which the primary use of the lot on which the building is located is conducted.

**BUILDING OR STRUCTURE, HEIGHT OF** - The vertical distance from the average finished grade to the highest point of the coping of a flat roof; the deck line of a mansard roof; the mean height level between eaves and ridge for gable, hip, and gambrel roofs; or the highest point on other structures.

**BULK** - Describes the size and shape of a building or structure and its relationship to other buildings, to the lot area for a building, and to open spaces and yards.

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

"Clearcutting" means 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.

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

**CLIMATE RESILIENCY INCLUDES ADAPTING A NATURAL SYSTEM TO BE BETTER PREPARED FOR FUTURE CLIMATE IMPACTS INCLUDING SEA LEVEL RISE, SALTWATER INTRUSION, WETLAND MIGRATION, STORM SURGE, PRECIPITATION-INDUCED FLOODING, AND OTHER EXTREME WEATHER EVENTS.**

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

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

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

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

Commercial harvesting" means a commercial operation that would alter the existing composition or profile, or both, of a forest, including all commercial cutting operations done by companies and private individuals for economic gain.

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

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

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

Conforming.

- (a) "Conforming" means a parcel or lot that meets all Critical Area requirements.
- (b) "Conforming" 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.

"Conservation easement" means a non-possessory interest in land which restricts the manner in which the land may be developed in an effort to reserve natural resources for future use.

"Consistent 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;
- © Development patterns;

- (d) Land uses; and
- €. Densities or intensities.

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.

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

COURT - An open space which may or may not have direct street access and around which is arranged a single building or a group of related buildings.

CRITICAL AREA - The Chesapeake Bay Critical Area and the Atlantic Coastal Bays Critical Area except areas excluded under Natural Resources Article, 8-1807(d). "Critical Area" includes:

- (a) The initial planning area of the Chesapeake Bay Critical Area consisting of all waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Title 16 of the Environment Article;

- (b) The initial planning area of the Atlantic Coastal Bays Critical Area consisting of all waters of and lands under the coastal bays and their tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Title 16 of the Environment Article;

- (c) Except in accordance with subparagraph (iv) of this paragraph, all water and land 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;

- (d) All water and land areas within 1,000 feet beyond the landward boundaries of State or private wetlands as shown on the Statewide Base Map in accordance with Ch. 119, Acts of 2008, where the process of transition from reliance on the State wetlands maps to the Statewide base maps has occurred and these maps were approved by Commission; and

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

DECK - A platform with one or more levels above ground which is supported on a firm footing sufficient to support the structure and loads required. This may be attached or detached from the main building and may include entrance steps.

"Deduction" means 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.

DECK FOR CONVERSION - In addition to the "deck" definition, its footing and structure must conform to those of living quarters when initially built.

DEMOLITION BY NEGLECT: Any willful neglect in the maintenance and repair of a site or structure that does not result from an owner's financial inability to maintain and repair such site or structure, and which results in any of the following conditions:

(a) The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist; or

(b) The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, the lack of adequate waterproofing, or the deterioration of interior features which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors, or windows.

"Density" means the number of dwelling units per acre within a defined and measurable area.

"Developed woodlands" means an area of trees or of trees and natural vegetation that is interspersed with residential, commercial, industrial, or recreational development.

DEVELOPER - A person who undertakes development activity as defined in this Ordinance; or a person who undertakes development activity as defined in the Criteria of the Commission.

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

DEVELOPMENT - Activity that materially affects the condition or use of dry land, land under water, or any structure.

DEVELOPMENT or DEVELOPMENT ACTIVITIES - Any construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination thereof, including the subdivision of land.

DISTRICT - Any section of Greensboro in which the zoning regulations are uniform.

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

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

**DOG KENNEL, COMMERCIAL** - The keeping of any dog or dogs, regardless of number, for sale, breeding, boarding or treatment purposes, except in an animal hospital, dog beauty parlor or pet shop, as permitted by these regulations, or the keeping of four or more dogs, six months or older, for any purpose.

**DRAINAGEWAYS** - Minor watercourses that are defined by soil type or by the presence of intermittent or perennial streams or by topography that indicates a swale where surface sheet flows join.

**DWELLING** - A building or portion thereof designed or used exclusively for residential occupancy, but not including trailers, mobile homes, hotels, motels, motor lodges, boarding and lodging houses, tourist courts, or tourist homes.

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

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

**ENDANGERED SPECIES** - Any species of fish, wildlife, or plants that have been designated as endangered by regulation by 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. Natural Resources Article, Title 4, Subtitle 2A or Title 10, Subtitle 2A, Annotated Code of Maryland; or COMAR 08.03.08

**ESTABLISHMENT** - The planting or regeneration of native vegetation throughout the Buffer.

**EXCESS STORMWATER RUN-OFF** - All increases in stormwater resulting from:

- (a) An increase in the imperviousness of the site, including all additions to buildings, roads, and parking lots;
- (b) Changes in permeability caused by compaction during construction or modifications in contours, including the filling or drainage of small depression areas;
- (c) Alteration of drainageways, or regrading of slopes;

(d) Destruction of forest; or

(e) Installation of collection systems to intercept street flows or to replace swales or other drainageways.

FAMILY - One or more persons occupying a single dwelling unit and using common cooking facilities; no such family shall contain over five persons unless all members are related by blood or marriage.

FAMILY, IMMEDIATE - Father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.

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

FILLING STATION - Any building, structure or land used for the sale, at retail, of motor vehicle fuels, lubricants or accessories or for the servicing of automobiles or repairing of minor parts and accessories in a completely enclosed facility, but not including major repair work, such as motor replacement, body and fender repair, or spray painting.

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

FLOOR AREA - For commercial, business and industrial buildings or buildings containing mixed uses, the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two adjoining buildings, but not including (1) attic space providing headroom of less than seven feet, (2) basement space not used for retailing, (3) uncovered steps or fire escapes, (4) accessory water towers or cooling towers, (5) accessory off-street parking spaces, and (6) accessory off-street loading spaces.

For residential buildings, the sum of the gross horizontal areas of the several floors of a dwelling, exclusive of garages, basements and open porches, measured from the exterior faces of the exterior walls.

FOREST - Has the meaning stated in Natural Resources Article, §5-1601, Annotated Code of Maryland.

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



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

"Forest practice" means the alteration of the forest either through tree removal or replacement in order to improve the timber, wildlife, recreational, or water quality values.

**FULLY ESTABLISHED** -Means 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.

**GARAGE, PRIVATE** - A garage used for storage purposes only and having a capacity of not more than four automobiles.

**GRADE** - Grade elevation shall be determined by averaging the elevations of the finished ground at all the corners and/or other principal points on the perimeter wall of the building.

**GRANDFATHERED** - The status accorded certain properties and development activities that are of record prior to the date of adoption of the Zoning Code or provisions of the Zoning Code. In the context of the Critical Area provisions of this Ordinance, "Grandfathered parcel" or "Grandfathered lot" means 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.

**GROUP HOME** - A place, home, or institution which is licensed to provide board, shelter, and personal services to persons, regardless of age, who have a need for supervision or assisted community living based on emotional, mental, physical, familial, or social differences. (Examples of such persons include, but shall not be limited to, the mentally retarded, physically handicapped, alcoholics, elderly, drug-dependent, and juveniles under the jurisdiction of the courts, the Department of Social Services, or the Department of Juvenile Justice). Group homes shall not include public or private schools organized and operated under Maryland laws; persons related by blood or marriage within the third degree to the custodial person; or to churches or other religious or public institutional caring for such persons within the building while parents or other custodial persons are attending services, activities, or meetings.

**GROWTH ALLOCATION** -The number of acres of land in the Critical Area that the Town of Greensboro may use, or Dorchester County may allocate to municipal jurisdictions to use, to create new Intensely Developed Areas and new Limited Development Areas. The Growth Allocation acreage is five percent of the total Resource Conservation Area acreage in the Town of Greensboro at the time the Critical Area Commission approved the Town of Greensboro's original Critical Area Program, not including tidal wetlands, plus additional acres included from the County's calculated amount [5%] of County Resource Conservation Areas that existed when the Critical Area Commission approved Caroline County's original Critical Area Program [that the Town may request and the County may allocate].

Growth allocation envelope" means all of the proposed components of a growth allocation that are necessary to serve the proposed development, including an individually owned lot, lot coverage, a road, a utility, a stormwater management measure, an on-site sewage disposal measure, an active recreation area, and

additional acreage needed to meet the development requirements of the Critical Area criteria.

GUEST HOUSE - Living quarters within a detached accessory building located on the same premises with the main building, for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utility meters, and not rented or otherwise used as a separate dwelling.

#### Habitat Protection Area

- (a) "Habitat protection area" means an area that is designated for protection:
  - (i) Under Natural Resources Article, §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 27.01.01.01B(8);
  - (ii) A nontidal wetland as defined in COMAR 26.24.01.02B;
  - (iii) A habitat of a threatened species as defined in COMAR 27.01.09.03A;
  - (iv) A habitat of an endangered species as defined in COMAR 27.01.09.03A;
  - (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 27.01.09.04A;
  - (vii) A wildlife habitat as defined in COMAR 27.01.09.04A; and
  - (viii) Anadromous fish propagation waters as defined in COMAR 27.01.09.05A.

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.

#### 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 property 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.

(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.

**HIGHLY ERODIBLE SOILS** - Those soils with a slope greater than 15 percent; or those soils with a K value greater than .35 and with slopes greater than 5 percent.

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

"Home improvement" means 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, fall-out 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.

**HOSPITAL** - A building or group of buildings having room facilities for overnight patients, used for providing services for the in-patient medical or surgical care of sick or injured humans, and which may include related facilities, central service facilities, and staff offices; provided, however, that such related facility must be incidental and subordinate to the main use and must be an integral part of the hospital operations.

**HOUSING FOR THE ELDERLY** - A building or buildings containing dwelling units and related service facilities for elderly persons, and which is subject to management or other legal restrictions that require the units in the project to be occupied by households of persons aged 62 or over. Occupancy is restricted as provided in the Conditional Use Article. The use may also include facilities for such occasional services to residents as meal preparation and service, day care, personal care, nursing, or therapy, or any service to the elderly population of the community that is an ancillary part of one of the above operations.

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

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

**IMMEDIATE FAMILY** - Means a father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.

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

**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 and/or an area with public water and sewer systems with a housing density of more than three dwelling units per acre.

**INVASIVE SPECIES** - A species that is 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.

**JUNK** - Dilapidated automobiles, trucks, tractors, and other such vehicles and parts thereof; dilapidated wagons, trailers and other kinds of vehicles and parts thereof; scrap building materials, scrap contractor's equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper, hair, mattresses, beds or bedding; or any other kind of scrap or waste material which is stored, kept, handled, or displayed.

**JUNKYARD** - Any land or building or part thereof used for the abandonment, sale, storage, collecting, or baling of paper, rags, scrap metals, other scrap, or discarded materials, or for the abandonment, demolition, dismantling, storage, salvaging, or sale of automobiles or other vehicles not in running condition or machinery or parts thereof.

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

"Land-based aquaculture" means the raising of fish or shellfish in any natural or man-made, enclosed or impounded, water body.

**LAND CLEARING** - Means any activity that removes the vegetative ground cover.

**LANDFORMS** - Features of the earth's surface created by natural causes.

"Landward edge" means the limit of a site feature that is farthest away from a tidal water, tidal wetland, or

tributary stream.

LARGE SHRUB - Means a shrub that, when mature, reaches a height of at least six feet.

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

LIMITED DEVELOPMENT AREA - Means 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 Ordinance.

LIVING SHORELINE - Means 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.

LOADING SPACE - A space within the main building or on the same lot, providing for the standing, loading or unloading of trucks, having a minimum area of 540 square feet, a minimum width of 12 feet, a minimum depth of 35 feet, and a vertical clearance of at least 14.5 feet.

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

Locally significant habitat" means 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.

LOT - A parcel of land which may include one or more platted lots, occupied or intended for occupancy by a use permitted in this Chapter, including one main building, together with its accessory buildings and the yard areas and parking spaces required by this Chapter, and having its principal frontage upon an improved public street or upon an officially approved place (see definition of "place").

LOT AREA - The total horizontal area within the lot lines of a lot.

LOT, CORNER - A lot abutting upon two or more streets at their intersection.

**LOT COVERAGE** - Means 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, decking, a paver, permeable pavement, or other any manmade material. Lot coverage includes the ground area covered or occupied by a stairway or deck, but does not include: a fence or wall that is less than one foot in width that has not been constructed with a footer; a walkway in the Buffer or expanded Buffer, including a stairway, that provides direct access to a community or private pier; a wood mulch pathway; or a deck

**LOT, DEPTH** - The average horizontal distance between the front and rear lot lines.

**LOT, INTERIOR** - A lot other than a corner lot.

**LOT LINE** - The boundary line of a lot.

**LOT LINE, FRONT** - On an interior lot, the lot line coincident with the street line; or, on a corner lot, the shorter lot line coincident with the street line; or, on a through lot, each lot line coincident with a street line.

**LOT LINE, REAR** - The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. Where the side lot lines of a lot meet in a point, the rear lot line shall be assumed to be a line not less than ten feet long, lying with the lot and parallel to the front lot line.

**LOT LINE, SIDE** - Any lot line not a front or rear lot line. On a corner lot, a side lot line may be a street line.

**LOT OF RECORD** - A lot which is part of a subdivision recorded in the office of the Clerk of the Circuit Court, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**LOT, THROUGH** - A lot that has a pair of opposite lot lines along two substantially parallel streets, and which is not a corner lot. On a through lot, both street lot lines shall be deemed front lot lines.

**LOT WIDTH** -The horizontal distance between the side lot lines, measured at the required front yard line.

**MARINA** - Means any facility for the mooring, berthing, storing, or securing of watercraft, but not including community piers, private piers and other non-commercial boat docking and storage facilities.

Major Buffer Management Plan” means a type of Buffer Management Plan and all supporting documentation required under this Ordinance.

**MAJOR DEVELOPMENT** - Means 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 to the Critical Area of a local jurisdiction. This development includes, but is not limited to, airports, powerplants, wastewater treatment plants, highways, regional utility transmission facilities, prisons, hospitals, public housing projects, public beaches, and intensely developed park and recreation facilities.

MEAN HIGH WATER LINE (MHWL) - Means the average level of high tides at a given location.

Minor Buffer Management Plan” means a type of Buffer Management Plan and all supporting documentation required under this Ordinance

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

MOBILE HOME - A mobile home is a structure, regardless of size, capable of being transported in one or more sections, built on a chassis designed to accommodate wheels, the principal purpose of which is to provide enclosed space for residential or commercial purposes.

MODULAR OR MANUFACTURED HOME - A structure intended for residential use and manufactured off-site in accordance with the BOCA Basic Building Code.

Modified Buffer Area.

(a) "Modified buffer area" means an area of land:

- (i) Where a pattern of residential, industrial, commercial, or recreational development exists in the 100-foot Buffer on December 1, 1985 in the Chesapeake Bay Critical Area or on June 1, 2002 in the Atlantic Coastal Bays Critical Area; and
- (ii) That, as part of a local program approved by the Commission, is shown on a map maintained on file by the local jurisdiction and is subject to modified development provisions.

(b) "Modified buffer area" includes an area referred to by a local jurisdiction as a buffer exemption area, buffer exempted area, buffer modification area, buffer management area, buffer management overlay, buffer modified area, special buffer management area, special buffer area, or any other similar term that has the same substantive meaning as modified buffer area.

NATURAL FEATURES - 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, floodplains, aquatic life, and wildlife.

NATIVE PLANT - Means a species that is indigenous to the physiographic area in Maryland where the planting is proposed.

NATURAL HERITAGE AREA - Means any community of plants or animals which are considered to be among the best State-wide examples of their kind, and are designated by regulation by the Department of Natural Resources.

“Natural parks” means areas of natural habitat that provide opportunities for those recreational activities that are compatible with the maintenance of natural conditions.

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

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

NATURE -DOMINATED - A condition where landforms or biological communities, or both, have developed by natural processes in the absence of human activities.

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

NONCONFORMITIES -

(a) Nonconforming Lot - A validly recorded lot which, at the time it was recorded, fully complied with all applicable laws and ordinances, but which does not fully comply with the lot requirements of this Article concerning density, area, or dimension.

(b) Nonconforming Structure - A structure or building, not including signs, which lawfully existed on the effective date of this Article, but which does not comply with one or more of the development standards for the district in which it is located.

(c) Nonconforming Use - A use or activity that was lawful prior to the effective date of this Article, but fails to comply with the present requirements of the Article.

NONCONFORMING, CONTIGUOUS LOTS - Two or more lots, or combination of lots and portions of lots, with continuous frontage in single ownership and of record at the time of passage or amendment of this Chapter, that, all or in part, do not meet the requirements for lot width and area as established by this Chapter.

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.

NON-RENEWABLE RESOURCES - Resources that are not naturally regenerated or renewed.

NON-TIDAL WETLANDS - Means those areas regulated under Subtitle 9 of the Environment Article that are inundated or saturated by surface water or groundwater at a frequency and duration



sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. The determination of whether an area is a non-tidal 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. Non-tidal wetlands do not include tidal wetlands regulated under Title 16 of the Environment Article of the Annotated Code of Maryland.

Nonwater-dependent project.

- (a) “Nonwater-dependent project” means a temporary or permanent structure that, by reason of its intrinsic nature, use, or operation, does not require location in, on, or over State or private wetlands.
- (b) “Nonwater-dependent project” includes:
  - (i) A dwelling unit on a pier;
  - (ii) A restaurant, a shop, an office, or any other commercial building or use on a pier;
  - (iii) A temporary or permanent roof or covering on a pier;
  - (iv) A pier used to support a nonwater-dependent use; and
  - (v) A small-scale renewable energy system on a pier, including:
    - (aa) A solar energy system and its photovoltaic cells, solar panels, or other necessary equipment;
    - (bb) A geothermal energy system and its geothermal heat exchanger or other necessary equipment; and
    - (cc) A wind energy system and its wind turbine, tower, base, or other necessary equipment.
- (c) “Non-water dependent project” does not include:
  - (i) A fuel pump or other fuel-dispensing equipment on a pier;
  - (ii) A sanitary sewage pump or other wastewater removal equipment on a pier; or
  - (iii) An office on a pier for managing marina operations, including monitoring vessel traffic, registering vessels, providing docking services, and housing electrical or emergency equipment related to marina operations.

**NURSING HOME** - Any rest home, convalescent home, or home for the aged and any place devoted primarily to the maintenance and operation of facilities for the treatment and care of any person suffering from illnesses, diseases, deformities, or injuries, not requiring extensive or intensive care that is normally provided in a general hospital or other specialized hospital, but who do require care in excess of room and board and who need medical, nursing, convalescent, or chronic care.

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

**OPEN SPACE** - Land and water areas retained in an essentially undeveloped state. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, water courses, and

driveways providing access to residential dwellings.

OVERBURDEN - The strata or material in its natural state, before its removal by surface mining, overlying a mineral deposit, or in between mineral deposits.

Overburdened community” has the meaning stated in §1-701 of the Environment Article.

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

PARKING SPACE, OFF-STREET - An all-weather surfaced area not in a street or alley and having an area of not less than two hundred square feet, exclusive of driveways, permanently reserved for the temporary storage of one vehicle, and connected with a street or alley by a paved driveway which affords ingress and egress for a vehicle without requiring another vehicle to be moved.

PATIO - A hard-surfaced, outdoor, uncovered space.

PERFORMANCE STANDARDS A minimum requirement or maximum allowable limit on the effects of a use. Such standards are placed on individual uses in addition to the general zoning requirements.

Permanent Disturbance.

- (a) “Permanent disturbance” means a material, enduring change in the topography, landscape, or structure that occurs as part of a development or redevelopment activity.
- (b) “Permanent disturbance” includes:
  - (i) Construction or installation of any material that will result in lot coverage;
  - (ii) Construction of a deck;
  - (iii) Except under §B(18-2)(b)(iii) of this regulation, grading;
  - (iv) Except under §B(18-2)(b)(ii) of this regulation, clearing of a tree, forest, or developed woodland; and
  - (v) A septic system in a forest or developed woodland on a lot created before local program approval, if clearing is required.
- (c) “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

PERSON - Means an individual, partnership, corporation, contractor, property owner, or any other person or entity.

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

PIER - Means 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.

PLACE - An open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.

PLANT HABITAT - Means a community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics.

PORCH - An unenclosed structure with a roof, added to the body of building.

PORT - Means a facility or area established or designated by the State or local jurisdictions for purposes of waterborne commerce.

PREMISES - A lot, together with all buildings and structures thereon.

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

"Private harvesting" means the cutting and removal of trees for personal use.

PROGRAM AMENDMENT – In the context of the Critical Area provisions of this Ordinance, means any change or proposed change to an adopted Ordinance that is not determined by the Chairman of the Critical Area Commission to be an ordinance refinement.

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

- (a) A change to an adopted Ordinance that results from State law;
- (b) A change to an adopted Ordinance that affects local processes and procedures;
- (c) A change to a local ordinance or code that clarifies an existing provision; and
- (d) A minor change to an element of an adopted Ordinance that is clearly consistent with the provisions of State Critical Area law and all the Criteria of the Commission.

PROJECT APPROVALS – In the context of the Critical Area provisions of this Ordinance, means the approval of development, other than development by a State or local government agency, in the 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.

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

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

**RECLAMATION** - Means the reasonable rehabilitation of disturbed land for useful purposes, and the protection of the natural resources of adjacent areas, including waterbodies.

**RECONFIGURATION** - Means 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.

**REDEVELOPMENT** - Means the process of developing land which is or has been developed. For purposes of implementing the specific Critical Area provisions of this Ordinance, redevelopment (as opposed to new development) means a development activity that takes place on property with pre-development imperviousness (in Intensely Developed Areas) or lot coverage (in Limited Development Areas and Resource Conservation Areas) of 15 percent or greater.

**REFORESTATION** - Means the establishment of a forest through artificial reproduction or natural regeneration.

**RENEWABLE RESOURCE** - A resource that can renew or replace itself and, therefore, with proper management, can be harvested indefinitely.

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

**RESOURCE UTILIZATION ACTIVITIES** - Means any and all activities associated with the utilization of natural resources such as agriculture, forestry, surface mining, aquaculture, and fisheries activities.

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

**RIPARIAN HABITAT** - Means a habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and wetlands.

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

**ROADSIDE STAND** - A temporary structure designed or used for the display and sale of local agricultural products.

**SEASONALLY FLOODED WATER REGIME** - Means a condition where surface water is present for extended periods, especially early in the growing season, and when surface water is absent, the water table is often near the land surface.

**SELECTION** - Means the removal of single, scattered, mature trees or other trees from uneven-aged stands by frequent and periodic cutting operations.

**SETBACK** - The required horizontal distance between the building line and the related front, side, or rear lot line.

**SHORE EROSION PROTECTION WORKS** - Means those structures or measures constructed or installed to prevent or minimize erosion of the shoreline in the Critical Area.

**SIGNIFICANTLY ERODING AREAS** - Means areas that erode two feet or more per year.

**Simplified Buffer Management Plan** means a type of Buffer Management Plan and all supporting documentation required under this Ordinance

**SITE PLAN** - A drawing illustrating a proposed development and prepared in accordance with the specifications of Article VI of this Ordinance.

**SOIL CONSERVATION AND WATER QUALITY PLANS** - Land-use plans for farms that show farmers how to make the best possible use of their soil and water resources, while protecting and conserving those resources for the future. It is a document containing a map and related plans that indicate (1) How the landowner plans to treat a farm unit, (2) Which Best Management Practices the landowner plans to install to treat undesirable conditions, and (3) The schedule for applying those Best Management Practices.

**SMALL SHRUB** - Means a shrub that, when mature, reaches a height no greater than six feet.

**SPECIAL EXCEPTION** - A use that would not be appropriate generally or without restriction throughout the zone, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zone as "special exceptions" if specific provision for such "special exceptions" is made in this Ordinance.

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

**STEEP SLOPES** - Means slopes of 15 percent or greater incline.

**STORY** - That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there is no floor next above it, then the space between such floor and the ceiling next above it

**STORY, HALF** - A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished for use. A half-story containing independent apartments for living quarters shall be counted as a full story.

**STREET** - A public or private thoroughfare which affords the principal means of access to abutting property.

**STREET LINE** - The right-of-way line of a street.

**STRUCTURAL ALTERATIONS** - Any change in the supporting members of a building, such as footings, bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls, except such repair as may be required for the safety of the building.

**STRUCTURE** - Means building or construction materials, or a combination of those materials, that are purposely assembled or joined together on or over land or water. Structure includes a temporary or permanent fixed or floating pier, piling, deck, walkway, dwelling, building, boathouse, platform, gazebo, or shelter for the purpose of marine access, navigation, working, eating, sleeping, or recreating. Structure also includes buildings, mobile homes, walls, fences, billboards, and poster panels.

**SUBSTANTIAL ALTERATION** - Means any repair, reconstruction, or improvement of a principal structure, where the proposed footprint equals or exceeds 50 percent of the existing principal structure.

**SUBDIVISION** - The division of any tract or parcel of land into two or more plots, parcels, lots, or sites for the purpose, whether immediate or future, of transfer of ownership or of building development; provided, however, that the sale or exchange of parcels between adjoining lot owners where such sale or exchange does not create additional building sites shall be exempted from this definition. The term shall include resubdivision and where appropriate to the context shall relate to the process of subdividing or to the land subdivided.

**Supplemental planting plan**” means 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.

**SWIMMING POOL** - Any portable pool or permanent structure containing a body of water

eighteen inches or more in depth and two hundred fifty square feet or more of water surface area, intended for recreational purposes, including a wading pool, but not including an ornamental reflecting pool or fish pond or other type of pool located and designed so as not to create a hazard and not to be used for swimming or wading.

Temporary Disturbance.

- (a) “Temporary disturbance” means a short-term change in the landscape that occurs as part of a development or redevelopment activity.
- (b) “Temporary disturbance” includes:
  - (i) Storage of materials that are necessary for the completion of the development or redevelopment activity;
  - (ii) 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;
  - (iii) Grading of a development site, if the area is restored to its previous vegetative condition immediately after completion of the development or redevelopment activity; and
  - (iv) Locating 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.
- (c) “Temporary disturbance” does not include:
  - (i) A septic system in a forest or developed woodland on a lot created before local program approval, if clearing is required; and
  - (ii) A violation.

THINNING - Means a forest practice used to accelerate tree growth of quality trees in the shortest interval of time.

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

TOPOGRAPHY - Means the existing configuration of the earth's surface including the relative relief, elevation, and position of land features.

TRAILER - Any vehicle or portable structure designed for temporary occupancy or which contains holding tanks for waste disposal or can operate independently of sewer, water, and electrical systems, including travel trailers, pickup campers, bus campers, tent campers, or other temporary vehicles which require installation to utility systems.

TRAILER PARK, TRAILER COURT, or MOBILE HOME PARK - Any site, lot, field, or tract of land upon which is located one or more occupied trailers or which is held out for the location of any occupied trailer. The terms shall include any building, structure, vehicle, or enclosure for

use as a part of the equipment for such park or court.

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

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

Tree” means a large, woody plant having 1 or several self-supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.

TRIBUTARY STREAM - Means a perennial stream or intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local Ordinance procedures approved by the Critical Area Commission.

“Underserved community” has the meaning stated in §1-701 of the Environment Article.

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

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

UNDERSTORY - Means the layer of forest vegetation typically located underneath the forest canopy.

UNDERSTORY TREE - Means a tree that, when mature, reaches a height between 12 and 35 feet.

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.

UPLAND BOUNDARY - Means the landward edge of a tidal wetland or non-tidal wetland.

UTILITY BUILDINGS - All outdoor structures used for storage and/or recreation over 48 square feet in area.

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

VARIANCE - A relaxation of the terms of this Ordinance, where such variance will not be contrary



to the public interest, and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces. The establishment or expansion of a use otherwise prohibited shall not be allowed by "variances" nor shall a "variance" be granted because of the presence of nonconformities in the zone or adjoining zones.

Vessel” means 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.

WATER-BASED AQUACULTURE - Means the raising of fish and shellfish in any natural, open, free-flowing water body.

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

WATER-USE INDUSTRY - Means an industry that requires location near the shoreline because it utilizes surface waters for cooling or other internal purposes.

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

Waterfowl staging and concentration area” means an area of open water and adjacent marshes where, as documented by the Department of Natural Resources, waterfowl gather during migration and throughout the winter season

WILDLIFE CORRIDOR - Means a strip of land having vegetation that provides habitat and safe passage for wildlife.

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

YARD - Any open space, other than a court, located on the same lot with a building, unoccupied and unobstructed from the ground upward, except for accessory buildings, or such projections as are expressly permitted in this Chapter. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line and the nearest point of the foundation wall of the main building.

YARD, FRONT - A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building line. On corner lots, the "front yard" shall be considered as parallel to the street upon which the lot has its least dimension.

YARD, REAR - A yard extending across the rear of the lot between the side lot lines, and measured between the rear lot line and the rear of the main building.

YARD, SIDE - A yard between the main building and the side line of the lot, and extending from the front yard to the rear yard, and being the minimum horizontal distance between the side lot line and side of the main building.

**Section 2.** The Greensboro Land and Development Ordinance, Article I Section 17 is hereby repealed in its entirety and replaced with the following:

**SECTION 17. CRITICAL AREA OVERLAY DISTRICT**

**§ 17.00 - Implementation of the Critical Area Program Purpose and Goals.**

- A. Goals. The goals of the Town of Greensboro 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 run off from surrounding lands;
  2. Conserve fish, wildlife, and plant habitat; and
  3. Establish land use policies for development in the Critical Area which accommodate growth as well as address the environmental impacts that the number, movement, and activities of people may have on the area.
  - (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, conservation, and adaptation to climate change with the Critical Area.
- B. The Town of Greensboro Critical Area Program. The Town of Greensboro Critical Area Program consists of the Town of Greensboro Land Development Ordinance and the Official Critical Area map(s). Related provisions may be found in the Town of Greensboro Subdivision Regulations.
1. Notwithstanding any provision in this ordinance, or the lack of a provision in this ordinance, all of the requirements of Natural Resources Article 8-1801 through 8-1817 and COMAR Title 27 shall apply to, and be applied by, [Town] as minimum standards.
  2. In the case of conflicting provisions, the stronger provision applies.

- C. Regulated activities and applicability. Any applicant for a permit or license to pursue activities within the Critical Area, including but not limited to, development or redevelopment, grading, sediment and erosion control, timber harvesting, shoreline erosion control, installation of a septic system and drain field, operation of a waste collection or disposal facility, operation of a commercial or private marina or other water-related commercial or industrial operation (whether public or private), mining (whether surface or sub-surface) or quarrying, farming or other agriculture-related activities shall have such permits or licenses issued by the Zoning Administrator after review to determine compliance with the Town of Greensboro Land Development Ordinance. The **[Zoning Administrator]** shall review a permit, license, or other authorization for a development or redevelopment activity in the Critical Area for compliance with this Critical Area Ordinance prior to issuance of that permit or license. Should an infraction of the provisions contained in any law, regulation, or plan related to the Town's Critical Area Program be brought to the attention of any Town official, said official shall contact the **[Code Enforcement Officer]**.
- D. Critical Area Overlay District Map. The Official Critical Area Overlay District Map is maintained in force as part of the Official Zoning Map for the Town of Greensboro. 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 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 Environment Article of the Annotated Code of Maryland.
  3. Within the designated Critical Area Overlay District, all land shall be assigned one of the following land management and development area classifications:
    - a. Intensely Developed Area (IDA).
    - b. Limited Development Area (LDA).
    - c. Resource Conservation Area (RCA).
  4. The Critical Area Overlay District Map may be amended by the Mayor and Council in compliance with amendment provisions in this Ordinance, the Maryland Critical Area Law, and COMAR Title 27.
- E. **Notification of project approval**
- The Town of Greensboro shall send copies of applications for all developments, subdivisions, and site plans wholly or partially within the Critical Area as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment. The Town of Greensboro may not process an application which has been sent to the Commission for notification until it has received notice of receipt by the Commission or the close of the fifth business day, whichever comes first. Any action by the **Town of Greensboro** in violation of these procedures shall be void.
- F. General Requirements in all Critical Area Overlay Zones .
1. Development and redevelopment shall be subject to the Habitat Protection Area requirements prescribed in this

Ordinance.

2. Development and redevelopment shall be subject to the water-dependent facilities requirements of Part 6 of this Ordinance;
- (3) The Town shall maintain areas of public access to the shoreline, and, if possible, encourage the establishment of additional areas of shoreline access for public use, such as foot paths, scenic drives, and other public recreational facilities.
- (4) Development shall comply with the following complementary State statutes and regulations, including:
  - (a) For soil erosion and sediment control, management measures shall be consistent with the requirements of Environment Article, §§4-101—4-116, Annotated Code of Maryland, and COMAR 26.17.01;
  - (b) For stormwater runoff, stormwater management measures shall be consistent with the requirements of Environment Article, §§4-201—4-215, Annotated Code of Maryland, and COMAR 26.17.02;
  - (c) For shore erosion, shoreline stabilization measures shall be consistent with the requirements of Environment Article, Title 16, Annotated Code of Maryland, and COMAR 26.24.04; and
  - (d) Any other applicable State statute or regulation.
- (5) A development activity or facility may not be authorized in the Critical Area if, by its intrinsic nature, the activity or facility has the potential to cause an adverse effect on water quality, wildlife, or fish habitat or plant habitat, unless:
  - (a) For an activity or facility such as nonmaritime heavy industry:
    - (i) It is located within an intensely developed area;
    - (ii) It fully complies with all requirements under Part 6 of this Ordinance of this chapter; and
    - (iii) The owner or operator of the activity or facility demonstrates to all applicable State and local agencies that there will be a net improvement in water quality to the adjacent body of water; or
  - (b) For an activity or facility such as a sanitary landfill or a solid or hazardous waste collection or disposal facility:
    - (i) There is no environmentally acceptable alternative outside the Critical Area; and
    - (ii) The activity or facility is necessary in order to correct a water quality or wastewater management problem.
- (6) A transportation facility or a utility transmission facility or activity may not be authorized in the Critical Area, unless it is:
  - (a) A facility that serves a use identified under this Critical Area program;
  - (b) A linear regional or interstate transportation facility that must cross tidal waters; or

- (c) A linear regional or interstate utility transmission facility that must cross tidal waters.
- (7) A permanent sludge handling, storage, or disposal activity or facility may not be authorized in the Critical Area, unless:
  - (a) The activity or facility is associated with a wastewater treatment facility; or
  - (b) In accordance with an approved nutrient management plan under Agriculture Article, Title 8, Subtitle 8, Annotated Code of Maryland, and COMAR 15.20.04 and COMAR 15.20.06 -- .08, sludge is applied on agricultural land that is not in the buffer.
- (8) Roads, bridges, and utilities are prohibited in a Habitat Protection Area unless no feasible alternative exists. If a road, bridge, or utility is authorized the design, construction and maintenance shall:
  - (a) Provide maximum erosion protection;
  - (b) Minimize negative impacts on wildlife, aquatic life, and their habitats; and
  - (c) Maintain hydrologic processes and water quality.
- (9) Development activities that cross or affect a stream are prohibited unless there is no feasible alternative. All development activities that must cross or affect streams shall be designed to:
  - (a) Reduce increases in flood frequency and severity that are attributable to development;
  - (b) Retain tree canopy so as to maintain stream water temperature within normal variation;
  - (c) Provide a natural substrate for stream beds; and
  - (d) Minimize adverse water quality and quantity impacts of stormwater.
- 10. Reasonable accommodations for the needs of disabled citizens.
  - a. An applicant seeking relief from the Critical Area standards contained in this Ordinance in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating by a preponderance of evidence the following:
    - i. The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act;
    - ii. Literal enforcement of the provisions of this Ordinance 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;
    - iii. A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this Ordinance or restore the disabled resident's or user's reasonable use or enjoyment of the property;
    - iv. The accommodation requested will not substantially impair the purpose, intent, or effect, of the provisions of

this Ordinance as applied to the property; and

- v. The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation, or other requirement; or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.
- b. The Planning Commission shall determine the nature and scope of any accommodation under this Ordinance 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 Ordinance. The Planning Commission may also consider the size, location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.
- c. The Planning Commission may require, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this Ordinance. Appropriate bonds may be collected or liens placed in order to ensure Town of Greensboro's ability to restore the property should the applicant fail to do so.

(11) Non-Water Dependent Structures on Piers<sup>1</sup>

- (a) Except as provided in paragraphs (b)-(d) of this subsection and notwithstanding any other provisions of the law, **Town of Greensboro** may not issue a building permit or any other approval to authorize a non-water dependent project located on State or private wetlands within the Critical Area.
- (b) **Town of Greensboro** may issue a building permit or any other approval to authorize a non-water dependent project located on State or private wetlands within the Critical Area if the project:
  - (i) Involves a commercial activity that is permitted as a secondary or accessory use to a permitted primary commercial use;
  - (ii) Is not located on a pier that is attached to residentially, institutionally, or industrially used property;
  - (iii) Is located in an Intensely Developed Area (IDA) or an area that has been excluded from a local Critical Area program if the exclusion has been adopted or approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays;
  - (iv) Is approved by the Planning Commission and the Zoning Board after **[Date of NWD opt-in]**;
  - (v) Allows or enhances public access to State wetlands;
  - (vi) Does not expand beyond the length, width, or channelward encroachment of the pier on

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<sup>1</sup> This is an opt-in Section. A local jurisdiction may choose to adopt the commercial structures on piers language, the renewable energy structures language, or both, or neither. Additionally, Part 2(A)(8) may be relocated to the Supplemental Use Standards as provided in Attachment A.

which the project is constructed;

- (vii) Has a height of up to 18 feet unless the project is located at a marina; and
- (viii) Is up to 1,000 square feet in total area;
- (c) **Town of Greensboro** may issue a building permit or any other approval to authorize a non-water dependent project located on State or private wetlands within the Critical Area if the project:
  - (i) Is located on a pier that was in existence on or before December 31, 2012;
  - (ii) Satisfies all of the requirements under Section (b)(i)-(vii) of this paragraph; and
  - (iii) If applicable, has a temporary or permanent roof structure or covering that is up to 1,000 square feet in total area.
- (d) **Town of Greensboro** may issue a building permit or other approval to authorize a non-water dependent project for a small-scale renewable energy system on a pier located on State or private wetlands within the Critical Area if the project:
  - (i) Involves the installation or placement of a small-scale renewable energy system that is permitted as a secondary or accessory use on a pier that is authorized under Title 16 of the Environment Article;
  - (ii) Is approved by the Town of Greensboro Planning Commission and Zoning Board<sup>2</sup> after **[Date of NWD opt-in]**;
  - (iii) A building permit or other approval may include the installation or placement of:
    - (A) A solar energy system attached to a pier of the device or equipment associated with that system does not extend more than four (4) feet above or 18 inches below the deck of the pier; or one (1) foot beyond the length or width of the pier;
    - (B) A solar energy system attached to a piling if there is only one solar panel per boat slip;
    - (C) A solar energy system attached to a boathouse roof if the device or equipment associated with that system does not extend beyond the length, width, or height of the boathouse roof;
    - (D) A closed-loop geothermal heat exchanger under a pier if the geothermal heat exchanger or any associated devices or equipment do not extend beyond the length, width, or channelward encroachment of the pier, deleteriously alter longshore drift; or cause

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<sup>2</sup> Or other local approving authority.

significant individual or cumulative thermal impacts to aquatic resources; or

(E) A wind energy system attached to a pier if there is only one wind energy system per pier for which the height from the deck of the pier to the blade extended at its highest point is up to 12 feet; the rotor diameter of the wind turbine is up to four (4) feet; and the setbacks of the wind energy system from the nearest property line and from the channelward edge of the pier to which that system is attached are at least 1.5 times the total height of the system from its base to the blade extended at its highest point.

(12) Shore Erosion Protection.

- (a) All shore erosion control activities or projects shall meet the requirements of COMAR 26.24.02 and COMAR 26.24.04.
- (b) The Town of Greensboro 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 Ordinance and COMAR 27.01.09.
- (d) A copy of the approved Buffer Management Plan shall be forwarded to the Critical Area Commission

**§ 17.02 – Intensely Developed Areas.**

A. Development standards. For all development activities in the Intensely Developed Areas, the applicant shall identify any environmental or natural features 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 a growth allocation that is consistent with **§ 17.08**;
- (3) Land use activities within the IDA will be managed in accordance with the land use policies of COMAR 27.01.02.03;
- (4) Greensboro shall develop a strategy to reduce the impacts on water quality generated by existing



development. This shall include an assessment of water quality and impacts to biological resources prompted by community redevelopment plans and programs and may further include a public education program, the implementation of urban best management practices, and the use of such techniques as urban forestry programs, street tree plantings, gardens, and open land buffer plantings;

- (5) Development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation; and

- 6. All development and redevelopment activities shall include stormwater 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.

#### **§ 17.04 - 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) 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.

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

- 3. 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 Ordinance. Town of Greensboro shall ensure the maintenance of the wildlife corridors by requiring the establishment of conservation easements, restrictive covenants, or similar instruments approved by the Town of Greensboro Attorney through which the corridor is preserved by public or private groups, including homeowners associations, nature trusts and other organizations.
- 4. 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 Development Areas.
- 5. Except as otherwise provided in this subsection, for stormwater runoff, lot coverage is limited to 15% of a lot or parcel or any portions of a lot or parcel that are designated LDA.

- a. If a parcel or lot of 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 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:
  - (1) 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.
  - (2) Lot coverage associated with new development activities on the property have been minimized.
  - (3) For a lot or parcel one-half acre or less in size, total lot coverage does not exceed the lot coverage limits in §(a) by more than twenty-five percent (25%) or five hundred square feet (500 square feet), whichever is greater;
  - (4) 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 subsection b. above, or five thousand, four hundred and forty-five (5,445) square feet, whichever is greater.
  - (5) The following table summarizes the limits set forth in (1) through (3) above:

**Table 5 Lot Coverage Limits in the LDA**

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. above and authorizes an applicant to use the lot coverage limits set forth in that paragraph, the applicant shall:
  - (1) 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
  - (2) 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.

- (3) If the applicant cannot provide appropriate stormwater treatment and plantings due to site constraints, then the applicant shall pay a fee to Town of Greensboro in lieu of performing the on-site mitigation. The amount of the fee shall be determined from time to time by the Mayor and Council but shall not be less than \$1.50 per square foot of the required mitigation.
  - (f) For the purposes of calculating limitations on lot coverage, is as follows:
    - (1) When a site is mapped entirely as LDA, lot coverage is based on the entire site area; and
    - (2) When a portion of a lot or parcel is mapped as LDA, lot coverage is based on the area of the LDA.
  - (g) The Planning Commission may allow an applicant to exceed the limits established in §(d) above by 500 square feet for development that uses the following pervious materials:
    - (1) Permeable pavers; or
    - (2) Pervious Concrete.
6. 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 Greensboro in the Critical Area shall be maintained or preferably increased;
  - b. All forests and developed woodlands that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis;
  - c. If an applicant is authorized to clear more than 20 percent 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.
  - 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 woodlands associated with a subdivision or a site plan approval, the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by Town.
7. The following are required for forest or developed woodland clearing as required in subparagraph 7 above:
- a. 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 Town of Greensboro shall be posted to assure satisfactory replacement as required in subparagraph 7 above and plant survival;
  - b. No clearing is allowed until the Town has issued a permit; Forests and developed woodlands which have been cleared before obtaining a **Greensboro** permit is a violation and shall be replanted at three times the areal extent o

cleared forest;

c. Clearing of forest or developed woodlands that exceed the maximum area allowed in subparagraph 7 above shall be replanted at three times the areal extent of the cleared forest;

d. 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 at the required ration or pay a fee in lieu of planting at a rate of \$1.50 per square foot.

e. 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.

f. The applicant shall designate, subject to the approval of the Town of Greensboro, a new forest area on a part of the site not forested; and

g. The afforested area shall be maintained as forest cover through easements, restrictive covenants or other protective instruments approved by the Town of Greensboro Attorney.

h. The applicant may be allowed to pay a fee in lieu of planting to meet the requirements of this subsection provided the in lieu fees can be used to implement a comprehensive offset strategy developed by the Town and approved by the Critical Area Commission.

i. New, expanded or redeveloped 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

#### **§ 17.05 - Resource Conservation Areas.**

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

- (1) RCAs are those areas characterized by nature dominated environments (wetlands, forests, abandoned fields) and resource utilization activities (agriculture, forestry, fisheries activities, or aquaculture). These areas shall have at least one of the following features: (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.
- (2) Land use activities within the RCA will be managed in accordance with the land use policies of COMAR 27.01.02.05.
- (3) Development activity within the Resource Conservation Areas shall be consistent with the requirements and standards for Limited Development Areas as specified in COMAR 27.01.02.04 and this Ordinance.
  - (a) For the purposes of calculating limitations on lot coverage, is as follows:
    - (i) When a site is mapped entirely as RCA, lot coverage is based on the entire site area; and
    - (ii) When a portion of a lot or parcel is mapped as RCA, lot coverage is based on the area of the RCA.

(4) Density

- (a) 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. In calculating the 1-in-20 acre density of development that is permitted on a parcel located within the Resource Conservation Area, **Greensboro:**
  - (i) Shall count each dwelling unit;
  - (ii) 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.
- (b) One additional dwelling unit A(accessory dwelling unit) as part of a primary dwelling unit may be permitted in the Resource Conservation Area provided the additional dwelling unit does not require a variance to any Critical Area development standards; and:
  - (i) Is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit and does not exceed 900 square feet in total enclosed areas; or
  - (ii) Is located within the primary dwelling unit and by its construction, does not increase the amount of lot coverage already attributed to the primary dwelling unit by greater than 900 square feet.
- (c) An additional dwelling unit meeting all of the provisions of this section may not be subdivided or conveyed separately from the primary dwelling unit; and
- (d) An additional dwelling unit that exceeds 900 square feet shall count towards the density calculations.

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

**§ 17.06 - Land Use and Density.**

A. Permitted Uses.

1. Permitted uses in the Critical Area shall limited to those uses allowed by the underlying zoning classification as modified by Table 6 and the supplemental use standards in § 17.07 provided such uses meet all standards established by the Critical Area Overlay Zone.

**Table 6 Permitted Uses in the Critical Area**

	<b>LEGEND:</b> P = Permitted if allowed in the underlying zoning district PC = Permitted with conditions if allowed in the underlying zoning district NP = Not permitted			
		Land Use Management Designation		
Item	Use Description	IDA	LDA	RCA
1.00	RESIDENTIAL			
1.10	Accessory Dwelling Unit	P	P	PC
2.00	INSTITUTIONAL			
2.10	Existing institutional uses	P	P	PC
2.20	New institutional uses	P	P	NP
2.30	Cemetery	P	P	PC
2.40	Group Home	P	P	PC
2.50	Day Care	P	P	PC
3.00	COMMERCIAL			
3.10	Existing commercial uses	P	P	PC
3.20	New commercial uses	P	P	NP
3.30	Home occupation	P	P	PC
3.40	Bed and breakfast facility	P	P	PC
4.00	MARITIME/WATER DEPENDENT			
4.10	Expansion of existing commercial marinas	P	P	PC
4.20	New marina, commercial	P	P	NP
4.30	Community piers and noncommercial boat docking and storage	P	P	PC

	<b>LEGEND:</b> P = Permitted if allowed in the underlying zoning district PC = Permitted with conditions if allowed in the underlying zoning district NP = Not permitted			
		Land Use Management Designation		
Item	Use Description	IDA	LDA	RCA
4.40	Public beaches and public water-oriented recreational and educational areas	P	P	PC
4.50	Research Areas	P	P	PC
4.60	Fisheries activities	P	P	P
4.70	Structures on Piers	PC	PC	PC
4.80	Private pier	P	P	P
5.00	RECREATION			
5.10	Golf course	P	P	PC
6.00	INDUSTRIAL			
6.10	Existing industrial uses	P	P	PC
6.20	New industrial uses	P	PC	NP
6.30	Non-maritime heavy industry	P	NP	NP
7.00	TRANSPORTATION/PARKING/COMMUNICATIONS/UTILITIES			
7.10	Utility transmission facilities	PC	PC	PC
8.00	PUBLIC/QUASI-PUBLIC			
8.10	Sanitary landfill; rubble fill	PC	PC	PC
8.20	Solid or hazardous waste collection or disposal facilities	PC	PC	PC
8.30	Sludge Facilities	PC	PC	PC
9.00	OTHER (Reserved)			

B. Maximum Permitted Density.

1. The maximum permitted density in the Town of Greensboro Critical Area shall be as shown in Table 7.

**Table 7 Maximum Residential Density in the Critical Area (Dwelling Units Per Acre)**

Land Use Management Designation		
IDA	LDA	RCA
Density permitted by Underlying Zoning	Density permitted by Underlying Zoning	1 dwelling unit per 20 acres

**§ 17.07 - Supplemental Use Standards.** The following supplemental use standards apply to the permitted uses listed in Table 6

above and shall apply when the permitted use is allowed in the underlying zoning district.

A. Existing institutional uses.

1. Existing institutional facilities, including those that directly support agriculture, forestry, aquaculture, or residential development shall be allowed in 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 Ordinance and the Grandfathering provisions in § 17.09 and may require growth allocation.

B. New institutional uses.

1. New institutional facilities and uses, except those specifically listed in Table 1 shall not be permitted in Resource Conservation Areas.
2. Certain institutional uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in the Town of Greensboro Land Development Ordinance. These institutional uses are limited to:
  - a. A cemetery that is an accessory use to an existing church; provided manmade lot coverage is limited to 15 percent of the site or 20,000 square feet, whichever is less;
  - b. A day care facility in a dwelling where the operators live on the premises and there are no more than eight (8) children;
  - c. A group home or assisted living facility with no more than eight (8) residents; and
  - d. Other similar uses determined by the Town and approved by the Critical Area Commission to be similar to those listed above.

C. Existing Commercial Uses.

1. Existing commercial facilities and uses, including those that directly support agriculture, forestry, aquaculture, or residential development shall be allowed in Resource Conservation Areas.
2. Expansion of existing commercial facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Ordinance and the Grandfathering provisions in § 17.09 and may require growth allocation.

D. New commercial uses.

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



- b. A bed and breakfast facility located in an existing residential structure and where meals are prepared only for guests staying at the facility; and
  - c. Other uses determined by the Town and approved by the Critical Area Commission to be similar to those listed above.
- a. s.
- E. Golf course. A golf course, excluding main buildings and/or structures such as the clubhouse, pro-shop, parking lot, etc., may be permitted in Resource Conservation Area provided:
  - a. Such use is permitted in the underlying zoning; and
  - b. Development is in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005.
- F. Existing industrial uses.
  - a. Existing industrial facilities and uses, including those that directly support agriculture, forestry, or aquaculture may be permitted in Resource Conservation Areas.
  - b. Expansion of existing industrial facilities and use in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Ordinance and the Grandfathering provisions in § 16.09 and may require growth allocation.
- G. New industrial uses.
  - a. New industrial uses shall not be permitted in Resource Conservation Areas.
  - b. New, expanded or redeveloped industrial facilities may only be permitted in Limited Development Areas and Intensely Developed Areas if permitted uses in the underlying zoning district and provided such facilities meet all requirements for development in the Limited Development Area and Intensely Developed Areas.
  - c. New, expanded, or redeveloped water-dependent industrial or port-related facilities and the replacement of these facilities may be located only in those portions of Intensely Developed Areas that have been designated as a Modified Buffer Area in accordance with COMAR 27.01.09.01-8.
- H. Non-maritime heavy industry. 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.
- I. Utility transmission facilities.
  - a. 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:
    - i. The facilities are located in Intensely Developed Areas; and
    - ii. 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.

b. These provisions do not include power plants.

J. Sanitary landfill; rubble fill.

a. 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.

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

K. Solid or hazardous waste collection or disposal facilities.

a. 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.

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

L. Sludge Facilities.

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

i. The facility or activity is located in an Intensely Developed Areas; and

ii. 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.

b. 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.

#### § 17.08 - Growth Allocation.

A. Growth allocation available to the Town of Greensboro includes:

1. An area equal to five (5) percent of the RCA acreage located within Caroline County. The Town must petition the County to use any of this allocation.

B. Purpose.

Growth Allocation is available for use in a Resource Conservation Area (RCA) or in a Limited Development Area (LDA) in the **Town of Greensboro** Critical Area Overlay District. The purpose is to authorize a change in the Critical Area classification to develop at a higher density or use than the current classification allows.

C. Process.

An applicant shall submit to **Town of Greensboro** 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 [**Local Approving Authority**] prior to submission to the Commission.<sup>3</sup>

D. Requirements.

When locating new Intensely Developed or Limited Development Areas, the following requirements apply:

- (1) A new Intensely Developed Area shall be at least 20 acres unless it is adjacent to existing IDA (or<sup>4</sup>).
- (2) An application for a new IDA or LDA shall be:
  - (a) In conformance with the requirements of COMAR Title 27 Subtitle 01; and
  - (b) Designated on the approved 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:
  - (a) A buffer management plan
  - (b) A habitat protection plan; and
  - (c) Other applicable conditions of approval as determined by the Commission at the time of project approval.

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

1. A new Intensely Developed Area shall only be located in a Limited Development Area or adjacent to an existing Intensely Developed Area;
2. A new Limited Development Area shall only be located adjacent to an existing Limited Development Area or an Intensely Developed Area;
3. No more than one-half of the Town of Greensboro's growth allocation may be located in Resource Conservation Areas (RCAs) except as provided in subparagraph 9 below.
4. A new Limited Development Area or Intensely Developed Area 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;
5. A new Intensely Developed Areas shall only be located where they minimize their impacts to the defined land uses

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<sup>3</sup> Existing procedures may vary among jurisdictions and incorporate Counties into the approval process. Amend as necessary.

<sup>4</sup> A new IDA may be less than 20 acres if, as part of a local Program, the Commission has approved an alternative standard for designation of an IDA; and the area is part of a growth allocation approved by the Commission. Examples include provisions that allow for grandfathered industrial or commercial uses located on a parcel that is less than 20 acres.

of the Resource Conservation Area (RCA);

6. A new Intensely Developed Area or a Limited Development Area in a Resource Conservation Area shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters; unless Town of Greensboro proposes and the Commission approves alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources; and
7. New Intensely Developed or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of the Town of Greensboro for such areas, shall be so designated on the Town of Greensboro Critical Area Maps and shall constitute an amendment to this Ordinance subject to review and approval by the Town of Greensboro Planning Commission, the Mayor and Council and the Critical Area Commission as provided herein.
8. If the Town of Greensboro 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 under program measures specifically approved by the Critical Area Commission.
9. Locate new intensely developed areas and limited development areas outside of areas vulnerable to climate change as identified by [Municipality], unless Town of Greensboroproposes 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.

Additional Factors. In reviewing map amendments or refinements involving the use of growth allocation, the Town of Greensboro shall consider the following factors:

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

- d. To be clustered.
2. For a map amendment or refinement involving a new Intensely Developed Area, whether the development is:
- e. To be served by a public wastewater system;
  - f. If greater than 20 acres, to be located in a designated Priority Funding Area;  
and
  - g. To have a demonstrable economic benefit.
3. The use of existing public infrastructure, where practical;
4. 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;
5. Impacts on a Priority Preservation Area;
6. Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and
7. Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.
8. Environmental impacts on underserved or overburdened communities.

#### **§ 17.09 - Grandfathering.**

- A. Continuation of existing uses.
- 1. The continuation, but not necessarily the intensification or expansion, of any use in existence on June 11, 1990, may be permitted, unless the use has been abandoned for more than one year or is otherwise restricted by existing municipal ordinances.
  - 2. If any existing use does not conform with the provisions of this Ordinance, its intensification or expansion may be permitted only in accordance with the variance procedures in §16.10.
- B. Residential density on Grandfathered Lots.
- 1. 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 Ordinance.
    - a. A legal parcel of land, not being part of a recorded or approved subdivision that was recorded as of December 1, 1985.
    - b. Land that received a building permit subsequent to December 1, 1985, but prior to June 11, 1990.
    - c. Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984 and December 1, 1985.

- d. 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 Ordinance or the area of the land has been counted against the growth allocation permitted under this Ordinance.
- e. Any land on which development activity has progressed to the point of pouring of foundation footings or the installation of structural members;
- C. Implementation
  - 1. For purposes of implementing this regulation, a local jurisdiction shall have determined, based on land uses and development in existence on December 1, 1985, which land areas fall within the three types of development areas described in this chapter.
  - 2. Nothing in this Section may be interpreted as altering any requirements of this Ordinance related to water-dependent facilities or Habitat Protection Areas.

#### **§ 17.10 - Variances.**

- A. Applicability. The Town of Greensboro has established provisions where, owing to special features of a site or other circumstances, implementation of this Ordinance or a literal enforcement of provisions within this Ordinance would result in unwarranted hardship to an applicant, a Critical Area variance may be obtained.
  - 1. In considering an application for a variance, the Town of Greensboro 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 Ordinance.
  - 2. Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.
- B. Standing. In accordance with Natural Resources Article, §8-1808(d)(2), Annotated Code of Maryland, if a person meets the threshold standing requirements under federal law, the person shall have standing to participate as a party in a local administrative proceeding.
- C. Standards. The provisions for granting such a variance shall include evidence submitted by the applicant that the following standards are met:
  - 1. Due to special features of the site or special conditions or circumstances exist that are peculiar to the land or structure involved and that a literal enforcement of provisions and requirements of the this Ordinance would result in unwarranted hardship.
  - 2. A literal interpretation of the provisions of this Ordinance will deprive the applicant the use of land or a structure permitted to others in accordance with the provisions of this Critical Area ordinance;
  - 3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this Critical Area Ordinance to other lands or structures in accordance with the provisions of this Critical Area

Ordinance.

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

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

1. After hearing an application for a Critical Area Program variance, the Board of Appeals shall make written findings reflecting 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:
  - a. The applicant;
  - b. The Town of Greensboro or any other government agency; or
  - c. Any other person deemed appropriate by the Town of Greensboro
2. If the variance request is based on conditions or circumstances that are the result of actions by the applicant, the Town of Greensboro shall consider that fact, and whether the application has met the after-the fact request requirements below.
3. The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in § 17.10.A.1. above.
4. The Town of Greensboro shall notify the Critical Area Commission of its findings and decision to grant or deny the variance request.

E. After-the-Fact Requests

- (1) A local jurisdiction 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 local jurisdiction:
  - (a) Issues a notice of violation; and
  - (b) Assesses an administrative or civil penalty for the violation.
- (2) The **Town of Greensboro** 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)(1), Annotated Code of Maryland;

- (b) Prepared a restoration or mitigation plan, approved by the local jurisdiction, to abate impacts to water quality or natural resources as a result of the violation; and
  - (c) Performed the abatement measures in the approved plan in accordance with the local Critical Area Ordinance.
- (3) If the Board denies the requested after-the-fact variance, then the **Town of Greensboro** shall:
  - (a) Order removal or relocation of any structure; and
  - (b) Order restoration of the affected resources.
- F. Appeals. Appeals from decision concerning the granting or denial of a variance under these regulations shall be taken in accordance with all applicable laws and procedures of the Town of Greensboro 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 Ordinance.
- G. Conditions and mitigation. The Board of Appeals shall impose conditions on the use or development of a property which is granted a variance as it may find reasonable to ensure that the spirit and intent of this Ordinance is maintained including, but not limited to the following:
  - a. Adverse impacts resulting from the granting of the variance shall be mitigated as recommended by the appropriate local body or approving authority, but not less than by planting on the site per square foot of the variance granted at no less than a three to one basis
  - b. New or expanded structures or lot coverage shall be located the greatest possible distance from mean high water, the landward edge of tidal wetlands, tributary streams, nontidal wetlands, or steep slopes.
- H. Commission notification. Within ten (10) working days after a written decision regarding a variance application is issued, a copy of the decision will be sent to the Critical Area Commission. The Town of Greensboro may not issue a permit for the activity that was the subject of the application until the applicable 30-day appeal period has elapsed.

#### **§ 17.11 - Lot Consolidation and Reconfiguration.**

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



1. Those for which a Critical Area variance is sought or has been issued; and
  2. Those located in the Resource Conservation Area and are less than 20 acres in size
- B. Procedure. An applicant seeking a parcel or lot consolidation or reconfiguration shall provide the required information required in COMAR 27.01.02.08.E.
1. The Town of Greensboro may not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with COMAR 27.01.02.08.F.
  2. The Town of Greensboro shall issue a final written decision or order granting or denying an application for a consolidation or reconfiguration.
  3. The Town of Greensboro may not issue a permit or approval of any type on a property affected by the final written decision or order until after the expiration of the time within which the Commission may file an appeal or petition for judicial review.

## **§ 17. 12 – Local Development Projects**

### **A. Applicability.**

**For all development in the Critical Area resulting from any action by the Town of Greensboro on local or privately owned lands, the Town of Greensboro shall adhere to COMAR 27.02.02, COMAR 27.02.04 and COMAR 27.02.06.**

### **B. Procedures.**

**(1) If the project meets the provisions of this Ordinance and is minor development, the [Planning Department] 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 provisions of this Ordinance, the [Planning Department] shall seek a conditional approval by the Critical Area Commission per the requirements of COMAR 27.02.06.**

**(3) The Town of Greensboro 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 Town of Greensboro and evidence that those requirements have been met shall be included as part of the submittal to the Critical Area Commission.**

## **§ 17. 13 – Program Changes .**

A. Program Changes. The Greensboro Mayor and Council may from time to time amend the Critical Area provisions of this Ordinance. 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 the Town of Greensboro'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. Comprehensive Review

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

(2) The Town of Greensboro shall notify the Commission in writing if it requires a one (1) year extension to the ten year deadline of by [insert date]

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

C. Zoning map amendments.

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

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

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

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

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

(2) The Town of Greensboro 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 of Greensboro'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.

C.

D. Adoption of a Program Amendment or Refinement.

If approved by the Critical Area Commission, Town of Greensboro 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.

**§ 17.14 - Enforcement.**

- A. Consistency. The Critical Area provisions of this Ordinance, in accordance with the Critical Area Act and Criteria supersede any inconsistent law, Chapter or plan of the Town of Greensboro. In the case of conflicting provisions, the stricter provisions shall apply.
- B. Violations.
  - 1. No person shall violate any provision of this Land Development Ordinance. Each violation that occurs and each calendar day that a violation continues shall be a separate offense subject to separate fines, orders, sanctions, or other penalties.
  - 2. Each person who violates a provision of this Ordinance shall be subject to separate administrative civil penalties, abatement and restoration orders, and mitigation for each offense.
  - 3. Noncompliance with any permit or order issued by the Town of Greensboro related to the Critical Area shall be a violation of this Ordinance and shall be enforced as provided herein.
- C. Responsible persons. The following persons may each be held jointly or severally responsible for a violation: persons who apply for or obtain any permit or approval, contractors, subcontractors, property owners, managing agents, or any person who has committed, assisted, or participated in the violation.
- D. Required enforcement action. In the case of violations of this Ordinance, the Town of Greensboro shall take enforcement action including:
  - 1. Assess administrative civil penalties as necessary to cover the costs associated with performing inspections, supervising, or rendering assistance with identifying and citing the violation, issuing abatement and restoration orders, and reviewing mitigation plans and ensuring compliance with these plans;
  - 2. 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. 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 the provisions of § 17.17

#### **§ 17.15 – Restoration and Mitigation**

- (1) A restoration or mitigation order shall specify the amount of appropriate restoration and mitigation as necessary to offset the adverse impacts to the Critical Area, resulting from the violation, consistent with all other requirements of this Ordinance.
- (2) For restoration or mitigation that exceeds 1,000 square feet or involves expenses exceeding \$1,000, Greensboro shall collect a bond or other financial security.
- (3) If restoration or mitigation involves planting, a bond shall be held for at least 2 years after the date the plantings were installed to ensure plant survival.
- (4) A property owner may request Greensboro to schedule inspections as necessary to ensure compliance and the return of the bond or other financial security.

#### **§ 17.16 - Right to enter property.**

Except as otherwise authorized and in accordance with the procedures specified herein, the Mayor and Council or their designee may obtain access to and enter a property in order to identify or verify a suspected violation, restrain a development activity, or issue a citation if the Town of Greensboro has probable cause to believe that a violation of this Ordinance has occurred, is occurring, or will occur. The Town of Greensboro shall make a reasonable effort to contact a property owner before obtaining access to or entering the property. If entry is denied, the Town of Greensboro may seek an administrative search warrant or injunction to enter the property to pursue an enforcement action.

#### **§ 17.17 - Administrative civil penalties.**

- A. In addition to any other penalty applicable under state or town ordinance, every violation of a provision of Natural Resources Article, Title 8 Subtitle 18, the Critical Area provisions of this Ordinance shall be punishable by a civil penalty of up to \$10,000 per calendar day.
- B. Before imposing any civil penalty, the person(s) believed to have violated this Ordinance shall receive: written notice of the alleged violation(s) including which, if any, are continuing violations, and an opportunity to be heard. The amount of the civil penalty for each violation, including each continuing violation, shall be determined separately. For each continuing violation, the amount of the civil penalty shall be determined per day. In determining the

amount of the civil penalty, the Town of Greensboro shall consider:

1. The gravity of the violation;
  2. The presence or absence of good faith of the violator;
  3. Any willfulness or negligence involved in the violation including a history of prior violations;
  4. The environmental impact of the violation; and
  5. The cost of restoration of the resource affected by the violation and mitigation for damage to that resource, including the cost to the Town of Greensboro for performing, supervising, or rendering assistance to the restoration and mitigation.
- C. Administrative civil penalties for continuing violations shall accrue for each violation, every day each violation continues, with no requirements for additional assessments, notice, or hearings for each separate offense. The total amount payable for continuing violations shall be the amount assessed per day for each violation multiplied by the number of days that each violation has continued.
- D. The person responsible for any continuing violation shall promptly provide the Town of Greensboro with written notice of the date(s) the violation has been or will be brought into compliance and the date(s) for Town of Greensboro inspection to verify compliance. Administrative civil penalties for continuing violations continue to accrue as set forth herein until the Town of Greensboro receives such written notice and verifies compliance by inspection or otherwise.
- E. Assessment and payment of administrative civil penalties shall be in addition to and not in substitution for recovery by the Town of Greensboro of all damages, costs, and other expenses caused by the violation.
- F. Payment of all administrative civil penalties assessed shall be a condition precedent to the issuance of any permit or other approval required by this Ordinance.
- G. Cumulative remedies. The remedies available to the Town of Greensboro under this Ordinance are cumulative and not alternative or exclusive, and the decision to pursue one remedy does not preclude pursuit of others.
- H. Variances pursuant to a violation. The Town of Greensboro 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 Ordinance in accordance with the variance provisions of this Ordinance. However, the application shall not be reviewed, nor shall a final decision be made until all abatement, restoration, and mitigation measures have been implemented and inspected by the Town of Greensboro.
- I. Permits pursuant to a violation. The Town of Greensboro may not issue any permit, approval, variance, or special exception, that is subject to the violation, unless the person seeking the permit has: Fully paid all administrative, civil, or criminal penalties as set forth above;

1. Prepared a restoration or mitigation plan, approved by the Town of Greensboro, to abate impacts to water quality or natural resources as a result of the violation;
  2. Performed the abatement measures in the approved plan in accordance with the Town of Greensboro regulations; and
  3. Unless an extension of time is approved by the Town of Greensboro because of adverse planting conditions, within 90 days of the issuance of a permit, approval, variance, or special exception for the affected property, any additional mitigation required as a condition of approval for the permit, approval, variance, or special exception shall be completed.
- J. Appeals. An appeal to the Town of Greensboro Board of Appeals may be filed by any person aggrieved by any order, requirement, decision, or determination by the Town of Greensboro in connection with the administration and enforcement of this Ordinance.
1. An appeal is taken by filing a written notice of appeal with the Board of Appeals in accordance with the provisions in this Ordinance and accompanied by the appropriate filing fee.
  2. An appeal must be filed within thirty (30) days after the date of the decision or order being appealed; and
  3. An appeal stays all actions by the Town of Greensboro seeking enforcement or compliance with the order or decisions being appealed, unless the Town of Greensboro certifies to the Board of Appeals that (because of facts stated in the certificate) such stay will cause imminent peril to life or property. In such a case, action by the Town of Greensboro shall not be stayed except by order of the Board of Appeals or a court up on application of the party seeking the stay.
  4. Application for a variance pursuant to a violation constitutes a waiver of the right to appeal any order, requirement, decision, or determination related to the violation and its final adjudication including the payment of any penalties and costs assessed.

K. **Additional Enforcement Authorities.**

- (1) The **Town of Greensboro** is authorized to pursue violations in Circuit Court or District Court in accordance with Natural Resources Article §8-1815(a)(2).
- (2) **Town of Greensboro** is authorized to institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this Ordinance, an administrative order, a permit, a decision, or other imposed condition. The pendency of an appeal to the Board of Appeals or subsequent judicial review shall not prevent **Town of Greensboro** 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.

§ 17.18 - The Buffer.

- A. Applicability & Delineation. An applicant for a development activity or a change in land use shall apply all of the required standards for a minimum 100-foot Buffer as described in this subsection. The minimum 100-foot Buffer shall be delineated in the field and shall be shown on all applications as follows:
1. The minimum 100-foot Buffer is delineated landward from:
    - a. The mean high water line of tidal water;
    - b. The edge of each bank of a tributary stream; and
    - c. The upland boundary of a tidal wetland.
  2. The Buffer shall be expanded beyond the minimum 100-foot Buffer as described below and the minimum 200-foot Buffer as described in A.3. below, to include the following contiguous land features:
    - a. A steep slope at a rate of four feet for every one percent of slope or the entire steep slope to the top of the slope, whichever is greater;
    - b. A nontidal wetland to the upland boundary of the non-tidal wetland;
    - c. The 100-foot buffer that is associated with a Non-tidal Wetland of Special State Concern as stated in COMAR §26.23.06.01;
    - d. For an area of hydric soils or highly erodible soils, the lesser of:
      - (1) The landward edge of the hydric or highly erodible soils; or
      - (2) Three hundred feet where the expansion area includes the minimum 100-foot Buffer.
  3. Applications for a subdivision or for a development activity on land located within the RCA requiring site plan approval after July 1, 2008 shall include:
    - a. An expanded Buffer in accordance with b. above; or
    - b. A Buffer of at least 200 feet from a tidal waterway or tidal wetlands; and a Buffer of at least 100-feet from a tributary stream, whichever is greater.
  4. The provisions of A.3. above do not apply if:
    - a. The application for subdivision or site plan approval was submitted before July 1, 2008, and legally recorded (subdivisions) or received approval (site plans), by July 1, 2010;
    - b. The application involves the use of growth allocation.
- B. Permitted activities. If approved by the Town of Greensboro, disturbance to the Buffer is permitted for the following activities, provided mitigation is performed in accordance with approved Buffer Management requirements of this section:

1. A new development or redevelopment activity associated with a water- dependent facility or located in an approved Modified Buffer Area; or
2. A shore erosion control activity constructed in accordance with COMAR 26.24.02, COMAR 27.01.04, and this Ordinance;
3. A development or redevelopment activity approved in accordance with the variance provisions of this Ordinance;
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;
  - 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.
5. A new or replacement septic system on a lot created before June 11, 1990 where:
  - a. The Caroline County Health Department has determined the Buffer is the only available location for the septic system; and
  - b. Mitigation is provided at a 1:1 ratio for area of canopy cleared of any forest or developed woodland.
6. Associated with the placement of dredged material under COMAR 27.01.03.03D
7. 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. The Town of Greensboro shall require a Buffer Management Plan in accordance with the standards of this Part.
  - a. The provisions of this section apply to:
    - (1) A new subdivision or a new lot.
    - (2) A lot or parcel that is converted from one land use to another;
    - (3) Development or redevelopment on a lot or parcel created before January 1, 2010.
  - b. The provisions of this section do not apply to an in-kind replacement of a structure.



c. If a Buffer is not fully forested or fully established in existing, naturally occurring woody or wetland vegetation, the Buffer shall be established through planting shall be in accordance with COMAR 27.01.09.01-1.

d. If an applicant for a subdivision of a lot uses or leases the lot for an agricultural purpose, the applicant:

(1) In accordance with local land recordation requirements, shall record an approved buffer management plan under Section F of this Part; and

(2) If authorized by the local jurisdiction, may delay implementation of the buffer management plan until the use of the lot is converted to a nonagricultural purpose.

e. A local jurisdiction may authorize an applicant to deduct from the total establishment requirement an area of lot coverage removed from the buffer if:

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

(2) The total area is stabilized.

8. Mitigation for impacts to the Buffer. An applicant for a development activity that includes disturbance to the Buffer shall mitigate for impacts to the Buffer and shall provide a Buffer Management Plan in accordance with the standards set forth in this Part.

a. Authorized development activities may include a variance, subdivision, site plan, shore erosion control permit, building permit, grading permit, septic system approved by the Caroline County Health Department on a lot created before June 11, 1990, and/or a special exception.

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

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

d. Planting for mitigation shall be planted onsite within the Buffer. If mitigation planting cannot be located within the Buffer, then the Town of Greensboro may permit planting in the following order of priority:

(1) On-site and adjacent to the Buffer; and

(2) On-site elsewhere in the Critical Area.

(3) A fee-in-lieu as referenced in G below.

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

(f) The removal of a diseased, dying, invasive, or hazardous tree shall be

mitigated with one tree of at least ¾-inch caliper for each tree removed or the affected area shall be stabilized in native woody vegetation if a tree cannot be replanted due to space constraints.

- (g) The installation or cultivation of new lawn or turf in the Buffer is prohibited.
- (h) As applicable to a site, Town of Greensboro shall require that an area in the buffer that is temporarily disturbed by a development activity be restored to pre-disturbance conditions.

9. Buffer Planting Standards.

- a. An applicant that is required to plant the Buffer for Buffer establishment or Buffer mitigation shall apply the planting standards set forth in COMAR 27.01.09.01-2.
- b. A variance to the planting and mitigation standards of this Ordinance is not permitted.

10. Required Submittal of Buffer Management Plans. An applicant that is required to plant the Buffer to meet establishment or mitigation requirements shall submit a Buffer Management Plan as provided in COMAR 27.01.09.01-3 with the application for the specific activity. The provisions of this part do not apply to maintaining an existing grass lawn or an existing garden in the Buffer.

a. A Buffer Management Plan that includes planting for establishment shall be submitted with all other application materials, clearly specify the area to be planted and state if the applicant is:

- (1) Fully establishing the Buffer;
- (2) Partially establishing an area of the Buffer equal to the net increase in lot coverage, or
- (3) Partially establishing an area of the Buffer equal to the total lot coverage.

b. Any permit for development activity that requires Buffer establishment or Buffer mitigation will not be issued until a Buffer Management Plan is approved by the Town of Greensboro.

c. An applicant may not obtain final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved by the Town of Greensboro.

- (1) The Town of Greensboro may not approve a Buffer Management Plan unless: The plan clearly indicates that all planting standards under § 17.16.A.8. of this Ordinance will be met; and
- (2) Appropriate measures are in place for the long-term protection and maintenance of all Buffer areas.

e. For a Buffer Management Plan that is the result of an authorized disturbance to the Buffer, a permit authorizing final use and occupancy will not be issued until the

applicant:

- (1) Completes the implementation of a Buffer Management Plan; or
    - (2) Provides financial assurance to cover the costs for:
      - (i) Materials and installation; and
      - (ii) If the mitigation or establishment requirement is at least 5,000 square feet, long- term survivability requirements as set forth in COMAR 27.01.09.01-2.
  - f. Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the Buffer.
  - g. If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this Ordinance. A permit for development activity will not be issued for a property that has the violation.
  - h. An applicant shall post a subdivision with durable signs prior to final recordation in accordance with COMAR 2.7.01.09.01-2.
  - i. Buffer management plans that includes natural regeneration shall follow the provisions of COMAR 27.01.09.01-4
11. Fees-In-Lieu of Buffer Mitigation. A fee in-lieu of mitigation will be collected if the planting requirements of the Buffer Management Plan cannot be fully met onsite, in accordance with the following standards:
- a. Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to the Town of Greensboro's general fund;
  - b. Fee-in-lieu shall be assessed at \$1.50 per square foot of required Buffer mitigation;
  - c. A portion of fee-in-lieu money can be used for management and administrative costs; however, this cannot exceed 20% of the fees collected; and
  - d. Fee-in-lieu monies shall be used for the following projects:
    - (1) To establish the Buffer on sites where planting is not a condition of development or redevelopment;
    - (2) For water quality and habitat enhancement projects as approved by the Critical Area Commission or by agreement between the Town of Greensboro and the Critical Area Commission.
12. Shore Erosion Control Projects. Shore erosion control measures are permitted activities within the Buffer in accordance with the following requirements:
- a. An applicant for a shore erosion control project that affects the Buffer in any way, including, but not limited to access, vegetation removal and pruning, or backfilling shall submit a Buffer Management Plan in accordance with the requirements of this section; and

- b. Comply fully with all of the policies and criteria for a shore erosion control project stated in COMAR 27.01.04 and COMAR 26.24.

**§17.18 - Modified Buffer Area(MBA) Provisions.**

- A. Applicability. The following provisions apply to areas designated and mapped by Town of Greensboro as Modified Buffer Areas (MBA) and shown on maps available to the public held by the Town of Greensboro. All MBA maps and provisions must be approved by the Critical Area Commission.
- B. 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 MBA unless the applicant can demonstrate that there is no feasible alternative and the Planning Commission finds that efforts have been made to minimize Buffer impacts and the development shall comply with the following standards:
  - 1. Development and redevelopment activities have been located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.
  - 2. Variances to other local setback requirements have been considered before additional intrusion into the Buffer.
  - 3. Commercial, industrial, institutional, recreational, and 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 local setback for the zoning district or 25 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. A new structure may be constructed on the footprint of an existing structure.
  - 4. Single family residential development and redevelopment shall meet the following standards:
    - a. New development or redevelopment shall minimize the shoreward extent of intrusion into the Buffer. New development and redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the local setback for the zoning district, whichever is greater. In no case shall new development or redevelopment be located less than 50 feet from the water (or the edge of tidal wetlands).
    - b. Existing principal or accessory structures may be replaced in the same footprint.
    - c. New accessory structures may be located closer to the water than the setback if the Planning

Commission has determined there are no other locations for the structures. The area of new accessory structures shall not exceed 500 square feet within 25 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. Modified Buffer Area 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 MBA approved under the provisions of this subsection shall be implemented as follows:
  - a. Natural forest vegetation of an area twice the extent of the footprint of the development activity within the 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 \$1.50/ sq. ft. into a fee-in-lieu program.
  - d. Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of the Town of Greensboro'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 other instrument and recorded among the land records of the County.

#### **§ 17.19 - Other Habitat Protection Areas.**

- A. Identification. An applicant for a development activity, redevelopment activity, or change in land use shall identify all applicable Habitat Protection Areas and follow the standards contained in this section. Habitat Protection Areas includes:
  1. Threatened or endangered species or species in need of conservation;
  2. Colonial waterbird nesting sites;

3. Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands;
4. Existing riparian forests;
5. Forest areas utilized as breeding areas by future interior dwelling birds and other wildlife species;
6. Other plant and wildlife habitats determined to be of local significance;
7. Natural Heritage Areas; and
8. Anadromous fish propagation waters.
9. 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 on [INSERT DATE] and recommendations contained in [INSERT REFERENCE TO THE REPORT] are hereby incorporated into this Ordinance.

B. Standards. An applicant for a development activity proposed for a site within the Critical Area that is in or near a Habitat Protection Area listed above, shall request review by the Department of Natural Resources Wildlife and Heritage Service (DNR WHS), and as necessary United States Fish and Wildlife Service (USFWS) for comment and technical advice. Based on 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.

1. If the presence of a Habitat Protection Area is confirmed by the Department of Natural Resources, the applicant shall follow the requirements of COMAR 27.01.09.02 through 27.01.09.05, all recommendations from DNR WHS, and as necessary all recommendations from USFWS .
  - a. If potential 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.
2. 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.

**§ 17.20 - Environmental Impact Assessment (EIA).**

- A. Applicability. The Town of Greensboro may require an Environmental Impact Assessment (EIA) for the following:
  - 1. Development or redevelopment activities in the Critical Area requiring site plan approval;
  - 2. Development or redevelopment activities in the Critical Area requiring subdivision approval;
  - 3. Development or redevelopment activities within a Habitat Protection Area other than a detached single family dwelling;
  - 4. An application of Growth Allocation; or
  - 5. An application of a Variance other than for detached single family dwelling.

**§ 17.21 – 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-docking or storage facility under F. of this chapter; or
    - (b) A nonwater-dependent project covered under COMAR 27.01.13.
  - (3) The requirements of COMAR 27.01.02 apply to this chapter.
- 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.
- (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:
  - (a) A beneficial use approved by the Board of Public Works or the Department of the Environment, such as:
    - (i) Backfill for a shoreline stabilization measure;
    - (ii) Use in a nonstructural shoreline stabilization measure, including a living shoreline;
    - (iii) Beach nourishment;
    - (iv) Restoration of an island;
    - (v) The creation, restoration, or enhancement of a wetland, or a fish, wildlife, or plant habitat; or
    - (vi) Any other approved beneficial use; or



- (b) Placement in an area that was approved for the disposal of channel maintenance dredged material before June 11, 1988; and

(5) Shall ensure:

- (a) *The avoidance or, if unavoidable, the minimization of impacts to fish, wildlife, or plant habitat; and*
- (b) *Mitigation at a ratio of 1:1 based on the square footage of the area of the canopy coverage removed*

C. General Requirements for the Location of Water-Dependent Facilities or Activities.

- (1) **The Town of Greensboro** shall evaluate on a case-by-case basis all proposals for expansion of existing or new water-dependent facilities. The Town of Greensboro 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.
- (2) The following siting factors shall be considered when evaluating proposals for new or expanded water dependent facilities:
  - (a) 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:
    - (i) Alteration of an existing water circulation pattern or salinity regime;
    - (ii) Adequacy of area flushing characteristics;
    - (iii) Necessity of, and proximity to, a dredging operation; and
    - (iv) Interference with the natural transport of sand;
  - (b) Disturbance to:
    - (i) An oyster harvest area, as defined in COMAR 08.02.04.11;
    - (ii) An area covered in a current aquaculture lease, as defined in Natural Resources Article, §4-11A-01, Annotated Code of Maryland;
    - (iii) A harvest reserve area, as designated under Natural Resources Article, §4-1009.1, Annotated Code of Maryland;

- (iv) An oyster sanctuary, as established in COMAR 08.02.04.15A; and
- (v) Any other shellfish located in a shellfish area regulated by the Department of Natural Resources;
- (c) Avoidance of disturbance to water quality and aquatic or terrestrial habitat resulting from the method or manner of dredging; and
- (d) The avoidance or, if unavoidable, the minimization of:
  - (i) 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
  - (ii) 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.

D. Industrial and port-related facilities.

New, expanded or redeveloped industrial or port-related facilities or activities and the replacement of these facilities or activities may be permitted only in those portions of Intensely Developed Areas that have been designated as Modified Buffer Areas as described in this ordinance and are subject to the provisions set forth in that Chapter.<sup>5</sup>

E. Commercial Marinas and Other Water-Dependent Commercial Maritime Facilities and Activities.

- (1) In addition to meeting the requirements of 17.21.B and 17.21.C;
  - (a) A new or expanded commercial marina or related commercial maritime facility or activity may be permitted in the Buffer of an IDA or LDA;
  - (b) A redeveloped or expanded commercial marina or related commercial maritime facility or activity may be permitted in the Buffer of a RCA; or

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<sup>5</sup> A local jurisdiction may also allow an approved use in accordance with the local Critical Area Program.

- (c) A new commercial marina or related commercial maritime facility or activity may be permitted in the Buffer of an RCA, only if it is publicly owned and meets all the requirements of Section G of this Part.
- (2) **Town of Greensboro** shall require that the operation of each commercial marina and each related commercial maritime facility or activity complies with:
  - (a) The requirements of COMAR 26.08.04.09 and, as applicable, COMAR 26.24.04.03; and
  - (b) The stormwater, wastewater, noncontact cooling water discharge, and any other applicable requirements of the Department of the Environment.

F. Community Piers and Other Community Boat-Docking and Storage Facilities.

- (1) In addition to meeting the requirements of 17.21.B and 17.21.C, new or expanded community piers or other community boat-docking and storage facilities may be permitted in the Buffer if:
  - (a) The owner or operator of the pier or facility:
    - (i) Does not offer food, fuel, or other goods and services for sale in the buffer or on the community pier; and
    - (ii) As applicable, complies with the requirements of COMAR 26.24.04.03;
  - (b) The pier or facility is community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;
  - (c) The pier or facility is associated with a residential project approved by the Town for the Critical Area and consistent with all State requirements and program requirements for the Critical Area;
  - (d) Disturbance to the Buffer is the minimum necessary to provide a single point of access to the pier or facility; and
  - (e) If community piers are provided as part of a new residential project, private piers in the development are not allowed.
- (2) The number of slips authorized at a pier or facility shall be the lesser of (a) or (b) below:
  - (a) One slip for each 50 feet of shoreline in a residential project in the

Intensely Developed and Limited Development Areas, and one slip for each 300 feet of shoreline in a residential project in the Resource Conservation Area; or

- (b) A density of slips to platted lots or dwellings within a residential project in the Critical Area according to the following schedule:

**Table 6.F.2 Number of Slips Permitted**

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

G. Public Beaches and Other Public Water-Oriented Recreation or Education Areas or Activities.

- (1) In addition to meeting the requirements of 17.21.B and 17.21.C, public beaches or other public water-oriented recreation or education areas or activities may be permitted in the Buffer of:
- (a) An Intensely Developed Area; or
  - (b) 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, minimized.
- (2) Areas for public passive outdoor recreation, such as nature study, 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.



H. Research-Associated and Education-Associated Water-Dependent Facilities or Activities.

In addition to meeting the requirements of 17.21.B and 17.21.C, a research-associated water-dependent facility or activity or of an education-associated water-dependent facility or activity may be permitted in the Buffer of an IDA, LDA, or RCA, if any associated nonwater-dependent project or activity is located outside the Buffer.

I. Aquaculture and Fishery Facilities and Activities: Water Quality Restoration.

The following types of aquaculture and fishery facilities and activities may be permitted in the Buffer of an IDA, LDA, or RCA:

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

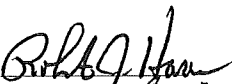
**Section 3.** This Ordinance shall take effect on the 17 day of July, 2025.

**Section 4.** This Ordinance and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect twenty (20) days from and after the date of its final passage and adoption.

ENACTED this 6 day of August, 2025.

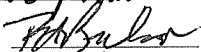
Yea/Nay

Bobby Harrison



Yea

Pete Brelia



Yea

Christina Robinson



Yea

Joe Noon

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Approved:

  
David Spencer, Mayor

