

Critical Area Commission

STAFF REPORT

December 5, 2025

APPLICANT: Town of North East

PROPOSAL: Refinement - Comprehensive Review of Critical Area Program

JURISDICTION: Town of North East (Cecil County)

COMMISSION ACTION: Concurrence with Chair's Determination of Refinement

STAFF RECOMMENDATION: Approval with Conditions

STAFF: Charlotte Shearin

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

DISCUSSION:

The Town of North East recently completed an effort to comprehensively review and update their Critical Area program as required by State law. On September 24, 2025, the North East Town Commissioners voted to amend the Town's Critical Area program within the North East Zoning Ordinance through the adoption of Ordinance No. 2025-09-01. 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).

North East Critical Area Overview

The Town of North East is located along the North East River in Cecil County. The portion of the Town within the Critical Area is located on land designated as Limited Development Area (LDA) and Intensely Developed Area (IDA).

Comprehensive Review and Update to Town of North East'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 2005.

The comprehensive update of the Town of North East's Critical Area program brings the Critical Area portion of the Town's Zoning Ordinance into conformance with the requirements of the Critical Area law and criteria. Changes to the Town's Critical Area program were based upon the model ordinance for municipalities, which was created by Critical Area Commission staff. The model provides all the basic elements of the State Critical Area regulations, including development standards, density and use standards, amendment procedures, variance procedures, and enforcement procedures. The Town has also chosen to opt into the non-water dependent structures on piers language.

With this comprehensive review, the Town's Critical Area program is up to date with existing State regulations and law; however, there are minor administrative changes that staff recommend as a condition of approval (Attachment 1).

RECOMMENDATION

The comprehensive update of the Town of North East'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 North East shall incorporate into their Zoning Ordinance the recommended text edits described in Attachment 1 of this staff report.

ATTACHMENTS

1. Recommended Changes
2. Adopted Ordinance No. 2025-09-01

ATTACHMENT 2

Recommended Changes to North East's Critical Area Ordinance No. 87

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 (all text in underline should be added; all text in ~~striketrough~~ should be deleted).

9. General Requirements

1. Non-Water Dependent Structures on Piers

(2)(vii) Is up to 1,000 square feet in total area.~~;~~ ~~or~~

(3) The Town of North East may issue a building permit or any other approval to authorize a non-water dependent project located on State or private wetlands within the Critical Area if the project:

- (A) Is located on a pier that was in existence on or before December 31, 2012;
- (B) Satisfies all of the requirements under Section (2)(a)-(c) of this paragraph; and
- (C) If applicable, has a temporary or permanent roof structure or covering that is up to 1,000 square feet in total area.

*Renumber subsequent sections accordingly.

10. Limited Development Areas (LDAs)

c. (7) For replacement of forest and developed woodland, if more than 20 percent is to be removed from forest use, an applicant may clear or develop not more than 30 percent of the total forest area provided that the afforested area shall consist of 1.5 times the entire areal extent of the forest or developed woodlands cleared, including the first 20 percent of the forest or developed woodlands cleared. Clearing above 30% may only be authorized by the granting of variance.

12. Resource Conservation Areas

- c. (8) In calculating the 1 in 20-acre density of development that is permitted on a parcel located within the Resource Conservation Area, the Town may 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. ~~under the following conditions:~~
- ~~(a) — The density of development on the upland portion of the parcel may not exceed one dwelling unit per eight acres; and~~

~~(9) The area of private wetlands shall be estimated on the basis of vegetative information as designated on the State wetlands maps or by private survey approved by the Town and the State Department of Natural Resources.~~

~~d. (8) Other uses determined by the Town and the Critical Area Commission to be similar to those listed above.~~

16. Water Dependent Facility Requirements

b.(1)(c) That adverse effects on water quality, fish, plant and wildlife habitat are first avoided, or if unavoidable, minimized;

h. A new or expanded commercial marina or related commercial maritime facility or activity may be permitted in the Buffer of an IDA or LDA; A redeveloped or expanded commercial marina or related commercial maritime facility or activity may be permitted in the Buffer of a RCA; or 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 j) of this Part.

j. (2) Sanitary and Service facilities are, to the extent possible, located outside the Buffer;

17. Shore Erosion Control Measures

Delete all of “c. Standards.” Replace with the following from the Model Ordinance:

c. Standards.

(1) All shore erosion control activities or projects shall meet the requirements of COMAR 26.24.02 and COMAR 26.24.04.

(2) The Town shall require any authorized shore erosion control project to submit a Buffer Management Plan.

(3) The Buffer Management Plan shall meet the requirements of Part 18 of this Ordinance and COMAR 27.01.09.

(4) A copy of the approved Buffer Management Plan shall be forwarded to the Critical Area Commission.

18. The 110-Foot Buffer

c. (2) The Buffer shall be determined on a site-by-site basis as part of the environmental review and site analysis and shall be expanded beyond 110 feet as described ~~in section 16(1) or beyond 200 feet as described in 16(2) below~~ to include contiguous sensitive areas of steep slopes, hydric soils or highly erodible soils where development or disturbance may impact streams, wetlands or other aquatic environments.

c. (3) Applications for a subdivision or development activity on land located within the RCA requiring site plan approval after July 1, 2008 shall include a minimum Buffer of at least 200 feet from a tidal waterway or tidal wetlands, and 100 feet from a tributary stream.

(a) The 200-foot Buffer may be reduced if strict application of the 200-foot Buffer would preclude either subdivision at a density of one dwelling unit per 20 acres, or an intrafamily transfer subdivision.

(b) The reduced Buffer should be the minimum necessary to accommodate a dwelling and a sewage reserve area, as determined by the Planning Director, but no less than 100 feet.

(c) The Buffer shall be expanded beyond 200 feet to include contiguous land features as described in c. (2) above.

*Renumber the remainder of Section c. following this insertion.

22. Forest and Woodland Protection Standards

b. (4) Forest areas utilized as breeding areas by forest interior dwelling birds and other wildlife species (for example relatively mature forested areas within the Critical Area of 100 acres or more, riparian forests of at least 50 acres with an average wide of at least 300 feet, or forest connected with these areas) shall be conserved.

27. Variance

c. (1) Due to special features of the site or to Sspecial conditions or circumstances exist that are peculiar to the land or structure involved, and that a literal enforcement of provisions and requirements of the Town's Critical Area Program would result in unwarranted hardship.

d. ... The Town shall notify the Critical Area Commission of its findings and decision to grant or deny the variance request within ten (10) business days.

28. Growth Allocation

Delete c.(1)(b).

Appendix CA-2

3. Mitigation Ratios

- **Mitigation Ration for Clearing Outside of Buffer**

Clearing of Forest/Woodlands up to 20% 1:1 Clearing of Forest/Woodlands up to 30% 1.5:1
Clearing of Forest/Woodlands over 30% 3:1 with an approved variance Clearing Violation 3:1



**MAYOR AND COMMISSIONERS OF THE
TOWN OF NORTH EAST
PROPOSED ZONING AMENDMENT
ORDINANCE 2025-09-01**

AN ORDINANCE OF THE MAYOR AND COMMISSIONERS OF THE TOWN OF NORTH EAST FOR THE PURPOSE OF REPEALING FROM THE NORTH EAST ZONING ORDINANCE: ARTICLE 5. DISTRICT REGULATIONS PART II. SPECIAL DISTRICTS. SECTION 5-12. "CAO" CRITICAL AREA OVERLAY DISTRICT REGULATIONS, APPENDIX CA-1, CA-2.

AN ORDINANCE OF THE MAYOR AND COMMISSIONERS OF THE TOWN OF NORTH EAST FOR THE PURPOSE OF ENACTING ARTICLE 5. DISTRICT REGULATIONS PART II. SPECIAL DISTRICTS. SECTION 5-12. "CAO" CRITICAL AREA OVERLAY DISTRICT REGULATIONS, APPENDIX CA-I, II, III.

AN ORDINANCE OF THE MAYOR AND COMMISSIONERS OF THE TOWN OF NORTH EAST FOR THE PURPOSE OF AMENDING ARTICLE 3. DEFINITIONS AND;

AN ORDINANCE OF THE MAYOR AND COMMISSIONERS OF THE TOWN OF NORTH EAST FOR THE PURPOSE OF AMENDING THE TABLE OF CONTENTS, PARAGRAPH RE-NUMBERING/RE-LETTERING; APPENDIXES, PAGE NUMBERS AND INDEX PAGES.

BE IT ENACTED THAT ARTICLE 5. DISTRICT REGULATIONS PART II. SPECIAL DISTRICTS. SECTION 5-12 "CAO" CRITICAL AREA OVERLAY DISTRICT REGULATIONS, APPENDIX CA-1, CA-2 BE REPEALED IN THEIR ENTIRETY.

NOW THEREFORE, BE IT ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF NORTH EAST THAT THE REVISED SECTION 5-12 "CAO" CRITICAL AREA OVERLAY DISTRICT REGULATIONS, APPENDIX CA-I, II, III BE ADOPTED. THE REVISED REGULATIONS PROVIDE A PURPOSE FOR THE REGULATIONS, INTENT AND GOALS, IMPLEMENTATION OF THE CRITICAL AREA PROVISIONS, RESPONSIBILITIES, MAP PROVISIONS, NOTIFICATION OF PROJECT APPROVAL, PROGRAM ENFORCEMENT, GENERAL REQUIREMENTS IN THE CRITICAL AREA OVERLAY ZONE, REGULATIONS PERTAINING TO INTENSELY DEVELOPED AREAS, LIMITED DEVELOPMENT AREAS, RESOURCE CONSERVATION AREAS, INTRAFAMILY TRANSFERS, GRANDFATHERING, LOT CONSOLIDATION AND RECONFIGURATION, WATER-DEPENDENT FACILITY REQUIREMENTS, SHORE EROSION CONTROL MEASURES, THE 110 FOOT BUFFER, MODIFIED BUFFER AREAS, MODIFIED BUFFER AREA MAPPING STANDARDS, HABITAT PROTECTION AREAS, FOREST AND WOODLAND PROTECTION STANDARDS, AGRICULTURE, SURFACE MINING IN THE CRITICAL AREA LOCAL DEVELOPMENT PROJECTS, PROGRAM CHANGES, VARIANCES OF THE CRITICAL AREA

OVERLAY DISTRICT, GROWTH ALLOCATION, AND A REVISED APPENDIX CA-I, II, III.

BE IT ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF NORTH EAST THAT AMENDMENTS TO ARTICLE 3. DEFINITIONS BE ADOPTED. THE DEFINITIONS SUPPORT THE "CAO" CRITICAL AREA OVERLAY DISTRICT REGULATIONS: ABATEMENT, ACCESSORY STRUCTURE, ADDITION, AGRICULTURAL BEST MANAGEMENT PRACTICE, AGRICULTURE, AGRICULTURAL EASEMENT, ANADROMOUS FISH PROPAGATION WATERS, AQUACULTURE, CANOPY TREE, CLEARCUTTING, CLIMATE RESILIENCY, COMAR, COMMERCIAL HARVESTING, CONFORMING, CONSISTENT WITH, CONSOLIDATION, DEDUCTION, DISTURBANCE, ECOSYSTEM, ESTABLISHMENT, EXCESS STORMWATER RUNOFF, FINANCIAL ASSURANCE, FULLY ESTABLISHED, GROWTH ALLOCATION ENVELOPE, HOME IMPROVEMENT, HYDROPHYTIC VEGETATION, IMMEDIATE FAMILY, IN-KIND REPLACEMENT, INTENSELY /DEVELOPED AREA, INTRAFAMILY TRANSFER, INVASIVE SPECIES, K FACTOR, LAND BASED AQUACULTURE, LANDFORMS, LANDWARD EDGE, LARGE SHRUB, LEGALLY DEVELOPED, LIMIT OF DISTURBANCE, LIMITED DEVELOPMENT AREA, LIVING SHORELINE, LOCAL SIGNIFICANCE, LOCALLY SIGNIFICANT HABITAT, LOT COVERAGE, MAJOR BUFFER MANAGEMENT PLAN, MAJOR DEVELOPMENT, MINERALS, MINOR BUFFER MANAGEMENT PLAN, MITIGATION, MODIFIED BUFFER AREA, NATIVE PLANT, NATURAL FEATURES, NATURAL FOREST VEGETATION, NATURAL REGENERATION, NATURE DOMINATED, NEW DEVELOPMENT, NONPOINT SOURCE POLLUTION, OVERBURDENED COMMUNITY, PERMANENT DISTURBANCE, PERSON, PIER, PLANT HABITAT, PORT, PROPERTY OWNER, PUBLIC WATER-ORIENTED RECREATION, RECLAMATION, RECONFIGURATION, RESOURCE CONSERVATION AREA, RESOURCE UTILIZATION ACTIVITIES, ROAD, SELECTION, SIGNIFICANTLY ERODING AREAS, SIMPLIFIED BUFFER MANAGEMENT PLAN, SMALL SHRUB, SPOIL PILE, SURFACE MINING, TEMPORARY DISTURBANCE, TRANSPORTATION FACILITIES, TREE, UNDERSERVED COMMUNITY, UNDERSTORY, UNDERSTORY TREE, UPLAND BOUNDARY, UTILITY TRANSMISSION FACILITIES, VESSEL, WATERFOWL, WATERFOWL STAGING AND CONCENTRATION AREA, WILDLIFE HABITAT.

BE IT ENACTED THAT THE AMENDMENTS TO ARTICLE 3. DEFINITIONS BE ADOPTED. THE AMENDMENTS TO THE FOLLOWING DEFINITIONS SUPPORT THE "CAO" CRITICAL AREA OVERLAY DISTRICT REGULATIONS: BUFFER, BUFFER MANAGEMENT PLAN, COMMUNITY PIERS, CRITICAL AREA, ENDANGERED SPECIES, FOREST, GROWTH ALLOCATION, HABITAT PROTECTION AREAS, LAND CLEARING, NON-TIDAL WETLANDS, SPECIES IN NEED OF CONSERVATION, THREATENED SPECIES, AND WATER DEPENDENT FACILITIES.

BE IT ENACTED THAT ARTICLE 3. DEFINITIONS DELETES THE DEFINITION FOR SPECIAL BUFFER AREAS.

BE IT ENACTED THAT THIS ORDINANCE AMENDS THE TABLE OF CONTENTS, INDEX PAGES, PAGE NUMBERS, AND APPENDIXES TO REFLECT THE CHANGES TO THE TEXT.

WHEREAS, THE ANNOTATED CODE OF MARYLAND, LAND USE PLAN, SECTION 4-202. ZONING REGULATIONS-ADOPTION; PURPOSES, EMPOWERS THE LEGISLATIVE BODY OF A MUNICIPAL CORPORATION TO ENACT A ZONING ORDINANCE, TO ADOPT MAPS AND TO PROVIDE FOR ADMINISTRATION AND ENFORCEMENT OF THE ZONING ORDINANCE; AND

WHEREAS, THE MAYOR AND COMMISSIONERS OF THE TOWN OF NORTH EAST DEEM IT NECESSARY, IN ORDER TO PROMOTE THE HEALTH, SAFETY AND GENERAL WELFARE OF THE COMMUNITY TO ENACT "CAO" CRITICAL AREA OVERLAY DISTRICT REGULATIONS WHICH IMPLEMENT THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA PROTECTION PROGRAM AND TO PROVIDE SPECIAL REGULATORY PROTECTION FOR THE TOWN'S RESOURCES LOCATED WITHIN THE CRITICAL AREA AND TO FOSTER MORE SENSITIVE DEVELOPMENT ACTIVITY FOR THE SHORELINE AREAS; TO MINIMIZE ADVERSE IMPACTS ON WATER QUALITY; CONSERVE FISH, WILDLIFE AND PLANT HABITAT; AND TO ESTABLISH LAND USE POLICIES FOR DEVELOPMENT IN THE CRITICAL AREA WHICH ADDRESS THE ENVIRONMENTAL IMPACT OF DEVELOPMENT IN THE CRITICAL AREA; AND

WHEREAS, THE MAYOR AND COMMISSIONERS HAVE ESTABLISHED THE PLANNING COMMISSION TO RECOMMEND APPROPRIATE REGULATIONS TO BE ENFORCED IN THE CRITICAL AREA AND TO UPDATE AND ADOPT REGULATIONS; AND

WHEREAS, THE PLANNING COMMISSION HAS PREPARED DRAFT REGULATIONS WHICH PERTAIN TO THE CRITICAL AREA IN ACCORDANCE WITH THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA PROTECTION PROGRAM, DESIGNED TO PROMOTE THESE GOALS AND OBJECTIVES; AND

WHEREAS, THE PLANNING COMMISSION HELD A PUBLIC HEARING ON THE PROPOSED "CAO" CRITICAL AREA OVERLAY DISTRICT REGULATIONS AND HAVE SUBMITTED THEIR RECOMMENDATIONS TO THE MAYOR AND COMMISSIONERS OF THE TOWN OF NORTH EAST; AND

WHEREAS, THE MAYOR AND COMMISSIONERS HAVE GIVEN DUE PUBLIC NOTICE OF PUBLIC HEARINGS AND HAVE CONDUCTED PUBLIC HEARINGS RELATED TO THE UPDATED REGULATIONS, IN ACCORDANCE WITH AND MEETING THE REQUIREMENTS OF THE ANNOTATED CODE OF MARYLAND AND THE NORTH EAST ZONING ORDINANCE.

NOW THEREFORE, BE IT ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF NORTH EAST THAT ARTICLE 5. DISTRICT REGULATIONS, PART II, SPECIAL DISTRICTS; CURRENT SECTION 5-12 "CAO" CRITICAL AREA

OVERLAY DISTRICT REGULATIONS AND APPENDIX CA-1 AND CA-2; BE REPEALED.

NOW THEREFORE, BE IT ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF NORTH EAST THAT REVISED ARTICLE 5. DISTRICT REGULATIONS, PART II, SPECIAL DISTRICTS; CURRENT SECTION 5-12 "CAO" CRITICAL AREA OVERLAY DISTRICT REGULATIONS AND APPENDIX CA-1, II, III BE ENACTED.

NOW THEREFORE, BE IT ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF NORTH EAST THAT THE AMENDMENTS TO ARTICLE 3. DEFINITIONS BE ENACTED.

NOW THEREFORE, BE IT ENACTED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF NORTH EAST THAT THE TABLE OF CONTENTS, PARAGRAPH RE-NUMBERING/RE-LETTERING; APPENDIXES, PAGE NUMBERS AND INDEX PAGES SHALL BE AMENDED TO REFLECT THE AMENDMENTS TO THE TEXT.


BE IT ALSO ORDAINED AND ESTABLISHED THAT THIS Ordinance is adopted this 24th day of September, 2025, and shall become effective after the Critical Area Commission has conducted their public hearing and endorses their approval and outlines an effective date.

BE IT FURTHER ENACTED that all acts or ordinances or parts of acts or ordinances are hereby repealed to the extent of such inconsistency; and that the adoption of the Ordinance shall not effect or prevent any pending or future prosecution of, or action to abate, any existing violation of said existing Zoning Ordinance as amended, if the violation is also a violation of the provisions of this Ordinance.

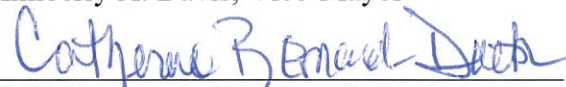
Introduction: 09/10/2025

Date Passed: 09/24/2025


Effective Date: 10/04/2025


Kelly A. Benson, Mayor


Kimberly A. Davis, Vice-Mayor


Catherine Bernard-Dutton, Commissioner


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Attested by:



Melissa B. Cook-Mac Kenzie