

# ***Critical Area Commission***

## **STAFF REPORT**

June 4<sup>th</sup>, 2025

<b>APPLICANT:</b>	Somerset County
<b>PROPOSAL:</b>	RCA Use – Special Events
<b>JURISDICTION:</b>	Somerset County
<b>COMMISSION ACTION:</b>	Concurrence with Chair’s Determination of Refinement
<b>RECOMMENDATION:</b>	Approval with Conditions
<b>STAFF:</b>	Margaret White
<b>APPLICABLE LAW/ REGULATIONS:</b>	Natural Resources Article 8-1809(p) and Natural Resources Article 8-1809(r)

### **DISCUSSION:**

Somerset County is requesting approval by the Critical Area Commission of a text amendment to allow Special Events as an approved use within the Resource Conservation Area (RCA). On March 11, 2025, the Board of County Commissioners of Somerset County approved Ordinance #1207, which amends the county’s Critical Area Ordinance to include the definition of Special Events, adds Special Events to the Resource Conservation Area (RCA) use list, and includes standards that must be met to allow the use. A copy of the text amendment is attached.

### **Special Events in the RCA**

COMAR 27.01.02.05.C(6) allows for new commercial uses in the RCA without growth allocation, if the specific uses are approved by the Commission as a part of the local Critical Area program. There are many examples of small commercial or institutional uses that are allowed in the RCA including bed and breakfasts, small inns in existing structures, or churches with a limit on impervious surface. When these uses have been added by a local Program, the Commission has determined that the uses are consistent with the goals of the Critical Area law.<sup>1</sup>

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<sup>1</sup> There are five goals: (1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands; (2) Conserve fish, wildlife, and plant habitat; and (3) Establish land use policies for development in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts; 4) reduce vulnerability to the impacts of climate change and incorporate measures to improve the climate resiliency of the Bay and its tributaries; and 5) ensure an equitable distribution of the burdens and benefits of development mitigation, restoration, conservation, and adaptation to climate change within the Critical Area.

In 2013, a workgroup of Critical Area Commission members was established to review a proposal by Queen Anne's County to permit special events in the RCA. The purpose of the workgroup was to examine the significance of such uses and make recommendations to the Commission regarding allowing such uses in the RCA. Because special events are commercial uses, there is the risk that a significant number of events, the length of the event, the number of guests, and the intensity of the use, or other factors, will conflict with the defined land uses and policies of the RCA. Therefore, the workgroup reviewed Queen Anne's County's special events text amendment with the following RCA land use policies in mind. Key components are *italicized*:

A. Resource conservation areas are those *areas characterized by nature-dominated environments (that is, wetlands, forests, abandoned fields) and resource-utilization activities (that is, 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.*

B. In developing their Critical Area programs, local jurisdictions shall follow these policies when addressing resource conservation areas:

(1) *Conserve, protect, and enhance the overall ecological values of the Critical Area, its biological productivity, and its diversity;*

(2) *Provide adequate breeding, feeding, and wintering habitats for those wildlife populations that require the Chesapeake and Atlantic Coastal Bays, their tributaries, or coastal habitats in order to sustain populations of those species;*

(3) *Conserve the land and water resource base that is necessary to maintain and support land uses such as agriculture, forestry, fisheries activities, and aquaculture; and*

(4) *Conserve the existing developed woodlands and forests for the water quality benefits that they provide.*

The Commission approved the Queen Anne's County text amendment, with conditions, in May 2013. The County's standards included a definition for special events, measures to meet RCA lot coverage and clearing limits, a requirement to minimize impacts to the natural resources on site, prohibition of any lot coverage or temporary structures in the Buffer unless the structures legally existed at the time of application, and limits on the length and number of special events that can be hosted per year; events were limited to 48 hours, and the maximum number of events is set to 35 (the number of allowed events is reduced for parcels smaller than 100 acres).

### **Summary of Proposed Text Amendment**

Natural Resources Article 8-1808 requires a County program to establish land use policies for development which accommodate growth while also minimizing adverse impacts to water

quality, conserving habitat, reducing vulnerability to climate change, and ensuring an equitable distribution of the benefits and burdens of development. Somerset County's Critical Area program currently does not contain provisions to allow special events within the Resource Conservation Area. The adoption of Ordinance #1207 includes the addition of special events on page 17, item number 130, and the inclusion of special event standards in Chapter 1-108, Resource Conservation Areas on page 49-50.

Much of the language within the proposed Somerset County text amendment follows the aforementioned special event regulations for Queen Anne's County as approved by the Commission. The proposed text amendment includes the following:

- 1) Ordinance #1207 adds the definition of "Special Events" on page 17, item 130, to define any personal or business social engagements or activities conducted where guests assemble.
- 2) Chapter 1-108 sets out special event standards:
  - a. Section 9(a) requires all special events to be submitted to the Department of Technical and Community Services with scaled drawings showing location of proposed temporary structures and how the special event will minimize impacts to natural resources.
  - b. Section 9(b) specifies that all lot coverage must be located outside of the Critical Area Buffer.
  - c. Section 9(c) sets lot coverage and clearing limits in accordance with RCA requirements.
  - d. Section 9(d) specifies all lot coverage and temporary structures must comply with the requirements for impacts to Habitat Protection Areas in accordance with Somerset County Code.
  - e. Section 9(e) states that there shall be no time of year restrictions for special events, however the use of a property for special events is limited to 20 days a year, and no event shall exceed 72 hours.<sup>2</sup>
  - f. Section 9(f) states that no permanent structure is permitted to be constructed for special events.

## **Recommendation**

The proposed text amendment to the Somerset County Critical Area program meets the goals, policies, and procedures of the Critical Area law and regulations; therefore, Commission staff and the Program Committee recommend that the Commission concur with the Chair's determination that this text amendment be processed as a refinement.

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<sup>2</sup> The County originally proposed a length of 48 hours; however, during the public hearing, a request was made to increase the event length to 72 hours. Somerset County Commissioners approved this change with the adoption of Ordinance #1207.

During the Program Committee meeting May 23rd, 2025, the following conditions were added to the Committee's recommendation of approval:

1. Prior to the full Critical Area Commission meeting, Commission staff and the County shall coordinate to ensure that accessibility is addressed in the Critical Area program and applies to special events.
2. The County shall amend the following provision within 1-102 E.9(e) with the underlined text :  
There shall be no limit on the time of year that special events are allowed, however, the use of a property for special events is limited to twenty (20) special events per calendar year. No event shall be permitted to exceed seventy-two (72) hours, including set up and take down.

Commission staff will provide an update to address Condition #1 during the June 4<sup>th</sup>, 2025 Commission meeting.

**BOARD OF COUNTY COMMISSIONERS  
FOR SOMERSET COUNTY, MARYLAND  
ORDINANCE NO. 1207**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF SOMERSET COUNTY TO AMEND CERTAIN SECTIONS OF THE SOMERSET COUNTY CRITICAL AREA ORDINANCE (#1071) TO INCLUDE LANGUAGE FOR SPECIAL EVENTS IN THE RESOURCE CONSERVATION AREAS.**

**WHEREAS**, Somerset County is required by State of Maryland Law to regulate land use activities within the Chesapeake Bay Critical Area; and

**WHEREAS**, those lands are defined as being within one thousand (1,000) feet of the tidal waters of the Chesapeake Bay and its tributaries; and

**WHEREAS**, Somerset County has regulated these lands since September 10, 1988 through the Somerset County Zoning Ordinance and since 2014 through the Somerset County Critical Area Ordinance; and

**WHEREAS**, Somerset County understands the desire to allow special temporary events on properties located in the Resource Conservation Area (RCA) and has presented text amendments to Ordinance 1071 to accommodate this; and

**WHEREAS**, after due public notice as required by law, the said Board of County Commissioners did conduct a Public Hearing on Tuesday, March 11, 2025 at 2:00pm, in the County Commissioners Meeting Room in Princess Anne, Maryland in regard to the hereinafter described matter; and

**WHEREAS**, proponents and opponents thereto were given an opportunity to present testimony and such other evidence;

**NOW, IT IS THEREFORE ORDAINED**, by the Board of County Commissioners for Somerset County that the Somerset County Critical Area Ordinance is forwarded to the State of Maryland Critical Area Commission for final review and approval.

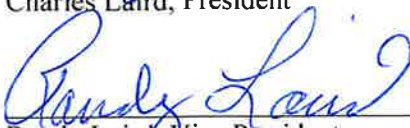
**ADOPTED AND EFFECTIVE THIS 25<sup>th</sup> DAY OF MARCH 2025**

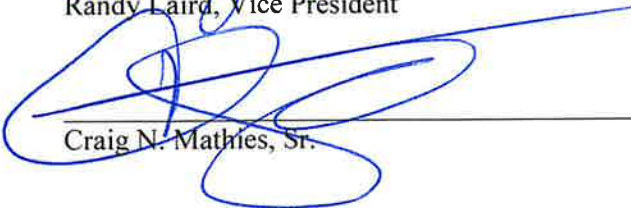
ATTESTED BY:

  
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Ralph D. Taylor, County Administrator

BOARD OF COUNTY COMMISSIONERS  
FOR SOMERSET COUNTY, MARYLAND

  
\_\_\_\_\_  
Charles Laird, President

  
\_\_\_\_\_  
Randy Laird, Vice President

  
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Craig N. Mathies, Sr.

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Eldon Willing

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Darryl Webster

frequent interchange between boats and land.

- (125) "Significantly eroding areas" means areas that erode two feet or more per year.
- (126) "Simplified Buffer Management Plan" means a type of Buffer Management Plan and all supporting documentation required under COMAR 27.01.09.01-3H.
- (127) "Small shrub" means a shrub that, when mature, reaches a height no greater than six feet.
- (128) "Soil Conservation and Water Quality Plans" means 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:
  - a) How the landowner plans to treat a farm unit;
  - b) Which best management practices the landowners plans to install to treat undesirable conditions; and
  - c) The schedule for applying those Best Management Practices.
- (129) "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 Secretary 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.
- (130) "Special Events" means personal or business social engagements or other activities conducted on a lot where guests assemble for parties, wedding events, birthday or anniversary celebrations, children's parties, corporate and employee appreciation parties, or other similar events for compensation, during which food and beverages may be served to guests and music or other entertainment is allowed.
- (131) "Spoil pile" means the overburden and reject materials as piled or deposited during surface mining.
- (132) "Steep slopes" means slopes of 15 percent or greater incline.
- (133) "Structure" means anything constructed or erected on or over land or water that may or may not result in lot coverage.
- (134) "Substantial alteration" means any repair, reconstruction, or improvement of a principal structure, where the proposed total footprint is at least 50 percent greater

than that of the existing principal structure.

- (135) "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.
- (136) "Surface mining" means the breaking of the surface soil in order to extract or remove minerals in the Critical Area. Surface mining includes any activity or process constituting all or part of a process for the extraction or removal of minerals from their original location in the Critical Area and the extraction of sand, gravel, rock, stone, earth or fill from borrow pits for highway construction purposes or for other facilities. For the purpose of this ordinance, surface mining is also defined as operations engaged in processing minerals at the site of extraction; removal of overburden and mining of limited amounts of any mineral when done for the purpose of prospecting and to the extent necessary to determine the location, quantity or quality of any natural deposit; and mining operations, if the affected land exceeds one acre or more in area.
- (137) "Temporary disturbance" means a short-term change in the landscape that occurs as part of a development or redevelopment activity. "Temporary disturbance" includes:
- a) Storage of materials that are necessary for the completion of the development or redevelopment activity;
  - b) Construction of a road or other pathway that is necessary for access to the site of the development or redevelopment activity, if the road or pathway is removed immediately after completion of the development or redevelopment activity and the area is restored to its previous vegetative condition;
  - c) Grading of a development site, if the area is restored to its previous vegetative condition immediately after completion of the development or redevelopment activity; and
  - d) 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.

"Temporary disturbance" does not include a violation.

- (138) "Thinning" means a forest practice used to accelerate tree growth of quality trees in the shortest interval of time.
- (139) "Threatened species" means any species of fish, wildlife, or plants designated as such by regulation by the Secretary of the Department of Natural Resources that appear likely, within the foreseeable future, to become endangered, including any



species of wildlife or plant determined to be a "threatened" species pursuant to the federal Endangered Species Act, 16 U.S.C. § 1431 et seq., as amended.

- (140) "Topography" means the existing configuration of the earth's surface including the relative relief, elevation, and position of land features.
- (141) "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.
- (142) "Transportation facilities" means anything that is built, installed, or established to provide a means of transport from one place to another.
- (143) "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.
- (144) "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 program procedures approved by the Critical Area Commission.
- (145) "Understory" means the layer of forest vegetation typically located underneath the forest canopy.
- (146) "Understory tree" means a tree that, when mature, reaches a height between 12 and 35 feet.
- (147) "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."
- (148) "Upland boundary" means the landward edge of a tidal wetland or nontidal wetland.
- (149) "Utility transmission facilities" means fixed structures that convey or distribute resources, wastes, or both, including but not limited to electrical lines, water conduits and sewer lines.
- (150) "Wash plant" means a facility where sand and gravel is washed during processing.
- (151) "Water-based aquaculture" means the raising of fish and shellfish in any natural, open, free-flowing water body.
- (152) "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.

- (153) "Water-use industry" means an industry that requires location near the shoreline because it utilizes surface waters for cooling or other internal purposes.
- (154) "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.
- (155) "Wildlife corridor" means a strip of land having vegetation that provides habitat and safe passage for wildlife.
- (156) "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.

## **Chapter 1-102. Purpose and Intent <sup>(1)</sup>**

### **A. Intent.**

In 1984, the Maryland General Assembly passed the Chesapeake Bay Critical Area Act in response to growing concern over the decline of the quality and productivity of the waters of the Chesapeake Bay and its tributaries. The decline was found to have resulted, in part, from the cumulative effects of human activity that caused increased levels of pollutants, nutrients, and toxins, and also from declines in protective land uses such as forest land and agricultural land in the Bay region. In 2002, the Atlantic Coastal Bays were added to the Critical Area because these bays were experiencing a similar decline.

### **B. Purpose.**

The General Assembly enacted the Critical Area Act for the following purposes:

- (1) To establish a resource protection program for the Chesapeake Bay and Atlantic Coastal Bays and their tributaries by fostering more sensitive development activity for certain shoreline areas so as to minimize impacts to water quality and natural habitats; and

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<sup>1</sup> Natural Resources Article 8-1801 and 8-1808.

**E. Land use in the RCA.**

In addition to the uses specified above, certain nonresidential uses may be permitted in Resource Conservation Areas if it is determined by the Director or designee that the proposed use is one of the following:

- (1) A home occupation as an accessory use on a residential property and as provided for in the County's zoning ordinance;
- (2) A golf course developed in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005, excluding main buildings and/or structures such as the clubhouse, pro-shop, parking lot, etc.;
- (3) A cemetery that is an accessory use to an existing church; provided impervious surfaces are limited to 15 percent of the site or 20,000 square feet, whichever is less;
- (4) A bed and breakfast facility located in an existing residential structure and where meals are prepared only for guests staying at the facility;
- (5) A gun club or skeet shooting range or similar use, excluding main buildings and/or structures, such as a clubhouse, snack bar, etc.;
- (6) A day care facility in a dwelling where the operators live on the premises and there are no more than eight children;
- (7) A group home or assisted living facility with no more than eight residents;
- (8) An essential services, provided the service meets a public need and is not solely for the purposes of a commercial enterprise;
- (9) A Special Event, subject to the following standards:
  - (a) An application for a special event must be submitted to DTCS along with a scaled drawing showing the location of the proposed temporary structures and how the special event use will minimize impacts to natural resources and protect the defined land uses in the Resource Conservation Area found in this chapter.
  - (b) All lot coverage pertaining to the special events activities, including, but not limited to, temporary structures, temporary tents and otherwise must occur outside the buffer.

- (c) Provisions pertaining to lot coverage and clearing limits in the critical area contained in this ordinance apply to special event activities. Special event activities shall be in close proximity to existing structures and facilities on the property to minimize adverse impacts to natural resources and are accessory to the principal use of the property.
  - (d) All lot coverage and proposed temporary structures associated with the special event must comply with Habitat Protection Areas in accordance with the provisions of Chapter 1-123 hereof. This includes protection of the one-hundred-foot buffer, threatened and endangered species and species in need of conservation, plant and wildlife habitat protection areas including non-tidal wetlands, and anadromous fish propagation waters.
  - (e) There shall be no limit on the time of year that special events are allowed, however, the use of a property for special events is limited to twenty (20) special events per calendar year. No event shall be permitted to exceed 48 hours.
  - (f) No permanent structure is permitted to be constructed for a special event.
- (10) Other uses determined by the County and the Critical Area Commission to be similar to those listed above.

**F. Special Provisions in Resource Conservation Areas (RCA).**  
Existing industrial, institutional and commercial facilities, including those directly supporting agriculture, forestry, aquaculture, or residential development shall be allowed in RCAs,

## **Chapter 1-109. Forest and Woodland Protection<sup>(25)</sup>.**

**A. General Policies.**  
The following policies for forest and woodland protection recognize the value of forested land for its water quality benefits and for habitat protection while accommodating the utilization of forest resources:

- (1) Maintain and increase the forested vegetation in the Critical Area;
- (2) Conserve forests and developed woodlands and provide for expansion of forested areas;

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25 COMAR 27.01.05

# ***Critical Area Commission***

## **STAFF REPORT**

May 23<sup>rd</sup>, 2025

<b>APPLICANT:</b>	Somerset County
<b>PROPOSAL:</b>	RCA Use – Special Events
<b>JURISDICTION:</b>	Somerset County
<b>COMMISSION ACTION:</b>	Concurrence with Chair’s Determination of Refinement
<b>RECOMMENDATION:</b>	Approval
<b>STAFF:</b>	Margaret White
<b>APPLICABLE LAW/ REGULATIONS:</b>	Natural Resources Article 8-1809(p) and Natural Resources Article 8-1809(r)

### **DISCUSSION:**

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### **Special Events in the RCA**

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In 2013, a workgroup of Critical Area Commission members was established to review a proposal by Queen Anne’s County to permit special events in the RCA. The purpose of the

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<sup>1</sup> There are five goals: (1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands; (2) Conserve fish, wildlife, and plant habitat; and (3) Establish land use policies for development in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts; 4) reduce vulnerability to the impacts of climate change and incorporate measures to improve the climate resiliency of the Bay and its tributaries; and 5) ensure an equitable distribution of the burdens and benefits of development mitigation, restoration, conservation, and adaptation to climate change within the Critical Area.

workgroup was to examine the significance of such uses and make recommendations to the Commission regarding allowing such uses in the RCA. Because special events are commercial uses, there is the risk that a significant number of events, the length of the event, the number of guests, and the intensity of the use, or other factors, will conflict with the defined land uses and policies of the RCA. Therefore, the workgroup reviewed Queen Anne's County's special events text amendment with the following RCA land use policies in mind. Key components are *italicized*:

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(1) Density is less than one dwelling unit per 5 acres; or

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page 17, item number 130, and the inclusion of special event standards in Chapter 1-108, Resource Conservation Areas on page 49-50.

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  - c. Section 9(c) sets lot coverage and clearing limits in accordance with RCA requirements.
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  - e. Section 9(e) states that there shall be no time of year restrictions for special events, however the use of a property for special events is limited to 20 days a year, and no event shall exceed 72 hours.<sup>2</sup>
  - f. Section 9(f) states that no permanent structure is permitted to be constructed for special events.

### **Staff Recommendation**

The proposed text amendment to the Somerset County Critical Area program meets the goals, policies, and procedures of the Critical Area law and regulations; therefore, Commission staff recommend that the Commission concur with the Chair's determination that this comprehensive review be processed as a refinement. Furthermore, staff recommend that the Chair approve this text amendment as proposed.

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<sup>2</sup> The County originally proposed a length of 48 hours; however, during the public hearing, a request was made to increase the event length to 72 hours. Somerset County Commissioners approved this change with the adoption of Ordinance #1207.