

**CRITICAL AREA COMMISSION**  
**CHESAPEAKE AND ATLANTIC COASTAL BAYS**  
1804 West Street, Suite 100  
Annapolis, Maryland 21401

**MEMORANDUM**

To: Program Committee, Critical Area Commission

From: Jamileh Soueidan, Natural Resources Planner

Date: December 5, 2025

Jurisdiction: Somerset County

Subject: RCA Use Text Amendment – Restaurants

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Somerset County is requesting preliminary feedback from the Program Committee regarding a proposed text amendment to revise Chapter 1-108.E. of Somerset County’s Code to allow “Restaurants” (Use Type 10) in the Resource Conservation Area (RCA). The new RCA use is proposed to allow an existing Bed and Breakfast to open their dining facilities to patrons that are not guests of the Bed and Breakfast; however, it could potentially apply to a number of properties throughout the RCA in the County.

As a note, this proposed text amendment was submitted in conjunction with a separate amendment to the County’s RCA uses which would allow Places of Worship and Religious Assembly in the RCA. Commission Staff are currently coordinating with the County to revise this portion of the draft amendment prior to bringing it before the Program Committee for review and feedback.

**Background on Restaurants**

Restaurants are defined within this text amendment as “any establishment where food and drink are prepared, served, and consumed, and whose design or principal method of operation is characterized by customers being provided with an individual menu and being served their food and drink by a restaurant employee at the same table or counter at which said items are consumed.” The proposed text amendment would add this definition to the County’s Critical Area program ordinance, and to the RCA use list within that ordinance.

Within the Critical Area, this use is currently allowed in the Intensely Developed Area (IDA) and Limited Development Area (LDA) but is currently prohibited in the RCA. In the underlying zoning districts, this use is currently permitted in Mixed Use Village (C-1) and General Commercial (C-2) Districts and, with a Special Exception approved by the County’s Board of Zoning Appeals, within their Maritime Residential Commercial District (MRC).

### **Considerations for New RCA Uses**

In reviewing whether a new use is appropriate in the RCA, the Commission must consider whether the proposal meets the goals of the Critical Area law as well as the defined land uses and policies of the RCA. The goals are to:

1. Minimize adverse impacts on water quality;
2. Conserve fish, wildlife, and plant habitat;
3. Establish land use policies for development which accommodate growth and also address the fact that the number, movement and activities of persons in the Critical Area can create adverse environmental impacts;
4. Reduce vulnerability to the impacts of climate change and incorporate measures to improve climate resilience; and
5. Ensure an equitable distribution of burdens and benefits of development, mitigation, restoration, conservation, and adaptation to climate change within the Critical Area.

The defined land uses and policies of the RCA are to:

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 Bay, its tributaries, or coastal habitat in order to sustain populations of those species;
3. Conserve the land and water resources 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 they provide.

In addition, the Program Committee should also consider the following when reviewing a proposed new use in the RCA:

- The number of properties that this proposed RCA use text amendment could potentially apply to throughout the County
- The scope of the proposed RCA use, not only within the limits of the County but also across all jurisdictions. Approved RCA uses are often shared across jurisdictions and Critical Area programs and used as templates for future text amendments.
- The need for this use in the County and how the proposed use may or may not assist the County in meeting the goals of the Critical Area law.
- How the proposed text amendment addresses coastal hazards and impacts that may stem from the new use within the RCA and climate vulnerable areas.

### **Proposed Text Amendment**

The County proposes to allow “Restaurants” as a permitted use in the RCA (see Attachment 1: Draft Ordinance). The use is subject to the following additional standards: 1) it must be

permitted within the underlying County Zoning District; 2) it must obtain Somerset County Health Department and State Fire Marshall Approval; and 3) Somerset County Commercial Development standards and processes will apply.

As currently proposed, the text amendment does not appear to properly balance the goals of the Critical Area law, nor meet the land uses and policies of the RCA. Commission staff therefore recommend the Program Committee consider the following additional standards for “Restaurants (Use Type 10)” within the RCA to address this deficiency:

- Vesting provisions – The text amendment does not currently limit the establishment of new restaurants within the RCA to a vested structure. The Program Committee may wish to consider requiring the establishment of a restaurant in an existing structure with a specific vesting date. As the amendment relates to Bed and Breakfasts, the Program Committee may wish to specify the type and nature of the existing structure, for example establishment of a restaurant in the RCA may only occur within existing Bed and Breakfasts that are vested by a specific date.
- Lot coverage limitations – The existing draft of the text amendment does not limit additional development associated with this use. In other jurisdictions, lot coverage has been specifically limited when associated with more commercial type uses in the RCA. For example, in Anne Arundel County religious facilities are allowed within the RCA; however, lot coverage associated with this use is limited to 20,000 square feet or 15% of the site, whichever is less. The Program Committee may wish to consider the following options:
  - No additional lot coverage associated with the restaurant use is permitted;
  - Lot coverage expansion related to the restaurant use (e.g., additional parking, dining and kitchen facility upgrades, etc.) is limited to a certain percentage of the existing structure footprint or a specific amount of lot coverage;
  - A variance may not be granted to expand lot coverage above the lot coverage limit for the site.
- Impacts to the Critical Area Buffer and other Habitat Protection Areas - No new impacts to HPAs and/or Critical Area Buffer are allowed outside of the vested and permitted lot coverage.
- Number of patrons - The Commission has not previously approved a text amendment to allow similar commercial restaurants in the RCA; however for other RCA uses, such as Special Events, the number of participants is typically limited. As such, the Program Committee may wish to consider limiting the number of patrons allowed at a restaurant at a given time to reduce the impact to the RCA such a use would bring.
- Local Approvals and Authorizations – The proposed text amendment states that applicable properties who wish to establish a restaurant will need to obtain authorizations from the County Health Department and Fire Marshall. The Committee may wish to

consider further specifying which authorizations and approvals will be required, including Maryland Department of the Environment and Health Department compliance, floodplain ordinance compliance, and road safety and traffic division requirements. Additionally, the Program Committee may wish to consider stricter provisions for properties that are not served by public water and sewer (e.g., require updated septic inspection and water testing information). Given that the new use is proposed on a property that is not served by public water and sewer, the Program Committee may also wish to consider additional requirements regarding the continued adequate capacity and functioning of the well and onsite sewage disposal systems (OSDS) since it is reasonable to assume that a new restaurant use would require additional water and sewer capacity.

- Coastal Hazards/Resilience Analysis – The proposed text amendment will potentially apply to a number of properties within the RCA. With the potential for a new use within the RCA that may be associated with new development for the restaurant, the Program Committee may wish to consider provisions that address coastal hazards and resilience; this could include requiring a coastal hazards or resilience analysis for any development associated with the new use.

### **Program Committee Discussion**

The purpose of the Program Committee discussion is to provide preliminary feedback to Somerset County regarding the draft text amendment. If and when this text amendment is submitted to the Critical Area Commission for final review and approval, the Commission will consider, and the County will need to demonstrate, how the proposed changes to the RCA use will meet the aforementioned goals of the RCA.

- Are the above-recommended limitations aligned with what the Program Committee would want in order to bring the proposed text amendment in line with the land uses and policies of the RCA and the goals of the Critical Area Law? Are there any additional limitations that should be considered?
- Does the Program Committee have any additional concerns with the nature and scope of the proposed text amendment?

If you have any questions regarding the proposed text amendment prior to the upcoming discussion at the December 5, 2025 Program Committee meeting, please contact Jamileh Soueidan at (410) 260-3462 or [jamileh.soueidan@maryland.gov](mailto:jamileh.soueidan@maryland.gov).

### **Attachments:**

1. Draft Ordinance for Chapter 1-108.E. of Somerset County's Critical Area Code