

HB1253/790118/1

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL 1253
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Rosenberg” and substitute “Rosenberg, Stein, Hucker, and Glenn”; in line 7, after “Area;” insert “authorizing the Home Builder Registration Unit to deny, reprimand, suspend, or revoke a home builder’s registration, or impose certain civil penalties on a registrant, for failure to comply with certain critical area legal terms and requirements; authorizing the Department of Natural Resources to revoke or suspend the license of a licensed tree expert for failure to comply with certain critical area legal terms and requirements;”; in line 9, strike “on a contractor’s failure” and substitute “, the Home Builder Registration Unit, or the Department of Natural Resources on the failure of certain contractors”; in line 11, after “regulations” insert “regarding certain matters”; in line 13, after “elements;” insert “repealing a provision of law that allows for the omission of certain runoff prevention measures on certain sites”; in line 18, after “variance” insert “or issuing certain authorizations”; strike beginning with “requiring” in line 21 down through “decisions;” in line 23; and in line 28, after “exceptions” insert “and subject to a certain construction”.

On page 2, strike beginning with “requiring” in line 4 down through “determination;” in line 6 and substitute “requiring the Department of the Environment to adopt certain regulations to include a certain waiver process;”; in line 16, strike “a certain map” and substitute “certain maps; requiring the Department of Natural Resources to notify the Department of Legislative Services regarding the date of completion of a certain mapping project”; in line 19, strike “a certain construction” and substitute “certain constructions”; in line 30, strike “8-101(g)” and substitute “4.5-308(a), 8-101(g),”; after line 37, insert:

“BY repealing and reenacting, with amendments,

(Over)

Article – Natural Resources
Section 5–421(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2007 Supplement)”;

in line 40, strike “8-1802(a)(15) through (18)” and substitute “8-1802(a)(13) through (23)”; and in lines 41 and 42, strike “8-1809(h) and (o)(1)” and substitute “8-1809(o)(1)”.

AMENDMENT NO. 2

On page 4, after line 23, insert:

“4.5-308.

(a) (I) The Unit may deny registration to an applicant, reprimand a registrant, suspend or revoke a registration, or impose a civil penalty on a registrant if the Unit determines that the applicant or registrant:

[(1) (I) fraudulently or deceptively obtained or attempted to obtain a registration;

[(2) (II) fraudulently or deceptively used a registration;

[(3) (III) presented or attempted to present the home builder registration number of another registrant as the applicant’s or registrant’s home builder registration number;

[(4) (IV) used or attempted to use an expired, suspended, or revoked home builder registration number;

[(5) (V) impersonated or falsely represented oneself as a registered home builder;

[(6)] (VI) repeatedly violated this title;

[(7)] (VII) engaged in a pattern of unfair or deceptive trade practices under the Consumer Protection Act, as determined by a final administrative order or judicial decision;

[(8)] (VIII) repeatedly violated a local building, development, or zoning permit law or regulations, or a State or federal law or regulation, including an environmental protection law or regulation, that relates to the fitness and qualification or ability of the applicant or registrant to build homes;

[(9)] (IX) engaged in a pattern of poor workmanship as evidenced by one or more of the following:

[(i)] 1. repeated unresolved building code violations;

[(ii)] 2. repeated unsatisfied arbitration awards in favor of consumers against the applicant or registered home builder based on incomplete or substandard work; or

[(iii)] 3. an unsatisfied final judgment in favor of a consumer;

[(10)] (X) repeatedly engaged in fraud, deception, misrepresentation, or knowing omissions of material facts related to home building contracts;

[(11)] (XI) had a similar registration or license denied, suspended, or revoked in another state or jurisdiction; [or]

[(12)] (XII) had the renewal of a similar registration or license denied for any cause other than failure to pay a renewal fee; OR

(Over)

**(XIII) IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS
CRITICAL AREA, AS DEFINED UNDER § 8-1802 OF THE NATURAL RESOURCES
ARTICLE, FAILED TO COMPLY WITH:**

**1. THE TERMS OF A STATE OR LOCAL PERMIT,
LICENSE, OR APPROVAL; OR**

**2. ANY STATE OR LOCAL LAW, AN APPROVED PLAN,
OR OTHER LEGAL REQUIREMENT.**

**(2) THE CRITICAL AREA COMMISSION FOR THE CHESAPEAKE
AND ATLANTIC COASTAL BAYS, AS ESTABLISHED UNDER TITLE 8, SUBTITLE 18
OF THE NATURAL RESOURCES ARTICLE, SHALL NOTIFY THE UNIT OF ANY
APPLICANT OR REGISTRANT WHO FAILS TO COMPLY WITH ANY REQUIREMENT
UNDER PARAGRAPH (1)(XIII) OF THIS SUBSECTION.”;**

and in line 34, after “landscaping,” insert “**DECK, PIER,**”.

On page 5, in line 8, strike the brackets; and strike beginning with “; AND” in line 9 down through “**ARTICLE**” in line 13.

On page 7, after line 14, insert:

“5-421.

**(a) (1) The Department may permanently revoke or temporarily suspend
the license of any licensed tree expert who [is]:**

(I) IS found guilty of any fraud or deceit in obtaining the license, or guilty of negligence of wrongful conduct in the practice of tree culture or care; OR

(II) IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA, AS DEFINED UNDER § 8-1802 OF THIS ARTICLE, FAILS TO COMPLY WITH:

1. THE TERMS OF A STATE OR LOCAL PERMIT, LICENSE, OR APPROVAL; OR

2. ANY STATE OR LOCAL LAW, AN APPROVED PLAN, OR OTHER LEGAL REQUIREMENT.

(2) THE CRITICAL AREA COMMISSION SHALL NOTIFY THE DEPARTMENT OF ANY TREE EXPERT WHO FAILS TO COMPLY WITH ANY REQUIREMENT UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.”.

On page 8, in line 21, strike “BE SUFFICIENT TO”; and in line 37, after “State” insert “AND LOCAL”.

On page 9, after line 2, insert:

“(13) (I) “INTENSELY DEVELOPED AREA” MEANS AN AREA OF AT LEAST 20 ACRES OR THE ENTIRE UPLAND PORTION OF THE CRITICAL AREA WITHIN A MUNICIPAL CORPORATION, WHICHEVER IS LESS, WHERE:

1. RESIDENTIAL, COMMERCIAL, INSTITUTIONAL, OR INDUSTRIAL DEVELOPED LAND USES PREDOMINATE; AND

(Over)

2. A RELATIVELY SMALL AMOUNT OF NATURAL HABITAT OCCURS.

(II) "INTENSELY DEVELOPED AREA" INCLUDES:

1. AN AREA WITH A HOUSING DENSITY OF AT LEAST FOUR DWELLING UNITS PER ACRE;

2. AN AREA WITH PUBLIC WATER AND SEWER SYSTEMS WITH A HOUSING DENSITY OF MORE THAN THREE DWELLING UNITS PER ACRE; OR

3. A COMMERCIAL MARINA REDESIGNATED BY A LOCAL JURISDICTION FROM A RESOURCE CONSERVATION AREA OR LIMITED DEVELOPMENT AREA TO AN INTENSELY DEVELOPED AREA THROUGH A MAPPING CORRECTION THAT OCCURRED BEFORE JANUARY 1, 2006.

(14) "Land classification" means the designation of land in the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in accordance with the criteria adopted by the Commission as an intensely developed area or district, a limited development area or district, or a resource conservation area or district.

(15) (I) "LIMITED DEVELOPMENT AREA" MEANS AN AREA:

1. THAT IS DEVELOPED IN LOW OR MODERATE INTENSITY USES AND CONTAINS AREAS OF NATURAL PLANT AND ANIMAL HABITAT; AND

2. WHERE THE QUALITY OF RUNOFF HAS NOT BEEN SUBSTANTIALLY ALTERED OR IMPAIRED.

(II) “LIMITED DEVELOPMENT AREA” INCLUDES AN AREA:

- 1. WITH A HOUSING DENSITY RANGING FROM ONE DWELLING UNIT PER FIVE ACRES UP TO FOUR DWELLING UNITS PER ACRE;**
- 2. WITH A PUBLIC WATER OR SEWER SYSTEM;**
- 3. THAT IS NOT DOMINATED BY AGRICULTURAL LAND, WETLAND, FORESTS, BARREN LAND, SURFACE WATER, OR OPEN SPACE;
OR**
- 4. THAT IS LESS THAN 20 ACRES AND OTHERWISE QUALIFIES AS AN INTENSELY DEVELOPED AREA UNDER PARAGRAPH (13) OF THIS SUBSECTION.**

[(14)] (16) “Local jurisdiction” means a county, or a municipal corporation with planning and zoning powers, in which any part of the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area, as defined in this subtitle, is located.”;

in line 3, strike “(15)” and substitute “(17)”; in line 6, after “DRIVEWAY,” insert “WALKWAY,”; in line 7, strike “A PAVER, WALKWAY” and substitute “GRAVEL, STONE, SHELL”; in the same line, after “DECKING,” insert “A PAVER, PERMEABLE PAVEMENT,”; in line 8, strike “OTHER” and substitute “ANY”; in line 9, strike “TOTAL”; strike beginning with “, INCLUDING” in line 10 down through “BALCONY” in line 12 and substitute “BY A STAIRWAY OR DECK”; in line 13, strike “INCLUDE A” and substitute “INCLUDE:”

- 1. A**;

(Over)

in line 15, strike “FOOTER” and substitute “FOOTER;”

2. A WALKWAY IN THE BUFFER OR EXPANDED BUFFER, INCLUDING A STAIRWAY, THAT PROVIDES DIRECT ACCESS TO A COMMUNITY OR PRIVATE PIER; OR

3. A WOOD MULCH PATHWAY;

and in lines 16, 19, and 25, strike “(16)”, “(17)”, and “(18)”, respectively, and substitute “(18)”, “(19)”, and “(20)”, respectively.

On page 10, in line 8, strike “(19)” and substitute “(21)”; and after line 18, insert:

“(22) (I) “RESOURCE CONSERVATION AREA” MEANS AN AREA THAT IS CHARACTERIZED BY:

1. NATURE DOMINATED ENVIRONMENTS, SUCH AS WETLANDS, SURFACE WATER, FORESTS, AND OPEN SPACE; AND

2. RESOURCE-BASED ACTIVITIES, SUCH AS AGRICULTURE, FORESTRY, FISHERIES, OR AQUACULTURE.

(II) “RESOURCE CONSERVATION AREA” INCLUDES AN AREA WITH A HOUSING DENSITY OF LESS THAN ONE DWELLING PER FIVE ACRES.”;

after line 18, insert:

“(23) “TRIBUTARY STREAM” MEANS A PERENNIAL STREAM OR AN INTERMITTENT STREAM WITHIN THE CRITICAL AREA THAT HAS BEEN IDENTIFIED BY SITE INSPECTION OR IN ACCORDANCE WITH LOCAL PROGRAM PROCEDURES APPROVED BY THE COMMISSION.”;

and in line 25, strike “NECESSARY AND APPROPRIATE TO” and substitute **“AUTHORIZED UNDER THIS SUBTITLE FOR”**.

AMENDMENT NO. 3

On page 11, in line 1, strike “AT A MINIMUM, REGULATIONS” and substitute **“REGULATIONS”**; in line 3, after “STANDARDS” insert **“AND PROCEDURES”**; strike beginning with “BUFFER” in line 3 down through the first “THE” in line 7 and substitute “:

(I) BUFFER ESTABLISHMENT, MAINTENANCE, MEASUREMENT, MITIGATION, AND ENFORCEMENT;

(II) BUFFER EXEMPTION AREAS;

(III) IMPACTS OF SHORE EROSION CONTROL ACTIVITIES ON THE BUFFER;

(IV) COMMUNITY PIERS;

(V) COMMERCIAL MARINAS;

(VI) WATER DEPENDENT FACILITIES;

(VII) PUBLIC WATER ACCESS;

(Over)

(VIII) THE;

in line 9, strike the second “AND”; after line 9, insert:

“(IX) MAPPING THE CRITICAL AREA, WITH RESPECT TO REVISION OF THE 1,000 FOOT BOUNDARY AND VOLUNTARY ADDITIONS OF PROPERTY TO THE CRITICAL AREA;

(X) DEVELOPMENT IN THE CRITICAL AREA, WITH RESPECT TO:

1. CLEARING, GRADING, AND CONSTRUCTION ACTIVITY;

2. CLUSTERING TO PROMOTE CONSERVATION OF NATURAL SITE FEATURES;

3. FLEXIBILITY FOR REDEVELOPMENT;

4. STORMWATER MANAGEMENT;

5. APPLICATION OF THE 10% POLLUTANT REDUCTION RULE;

6. FOREST AND DEVELOPED WOODLANDS PROTECTIONS;

7. CLEARING OF NATURAL VEGETATION;

- 8. LOT COVERAGE STANDARDS;**
- 9. COMMISSION REVIEW OF LOCAL PROVISIONS FOR LOT CONSOLIDATION; AND**
- 10. THE EXCLUSION OF STATE TIDAL WETLANDS FROM CALCULATIONS OF DENSITY, FOREST AND DEVELOPED WOODLANDS PROTECTIONS, LIMITATIONS ON CLEARING NATURAL VEGETATION, AND LOT COVERAGE STANDARDS;**
 - (XI) CONSISTENT ENFORCEMENT OF STATE AND LOCAL CRITICAL AREA LAW, WITH RESPECT TO THE ESTABLISHMENT OF MINIMUM PENALTIES AND MITIGATION REQUIREMENTS;**
 - (XII) GROWTH ALLOCATION APPLICATIONS, WITH RESPECT TO:**
 - 1. THE DEDUCTION OF GROWTH ALLOCATION ACREAGE;**
 - 2. COMMISSION REVIEW AND DETERMINATIONS;**
 - 3. ACCOMMODATION OF VARIATIONS AMONG LOCAL JURISDICTIONS CONCERNING LAND USES IN THE RESOURCE CONSERVATION AREA THAT DO NOT REQUIRE GROWTH ALLOCATION;**
 - 4. THE LOCATION OF SEPTIC SYSTEMS;**
 - 5. GOLF COURSES; AND**

6. THE COMMISSION'S EVALUATION OF A LOCAL JURISDICTION'S USE OF CLUSTER DEVELOPMENT UNDER § 8-1808.1 OF THIS SUBTITLE;

(XIII) IN CONSULTATION WITH APPROPRIATE STATE AND FEDERAL AGENCIES, THE CONSERVATION AND PROTECTION OF:

- 1. HABITAT PROTECTION AREAS;**
- 2. THREATENED AND ENDANGERED SPECIES;**
- 3. SPECIES IN NEED OF CONSERVATION;**
- 4. FOREST INTERIOR DWELLING BIRDS;**
- 5. ANADROMOUS FISH PROPAGATION WATERS; AND**
- 6. PLANT AND WILDLIFE HABITAT;**

(XIV) DIRECTIVES FOR LOCAL PROGRAM DEVELOPMENT AND IMPLEMENTATION, WITH RESPECT TO:

- 1. NOTIFICATION OF PROJECT APPLICATIONS;**
- 2. THE 6-YEAR COMPREHENSIVE REVIEW OF A LOCAL CRITICAL AREA PROGRAM;**
- 3. PUBLIC NOTICE AND COMMENT FOR A STATE OR LOCAL GOVERNMENT DEVELOPMENT ACTIVITY;**

4. REPORTING REQUIREMENTS;

5. THE SUBMISSION AND PROCESSING OF A PROPOSED PROGRAM AMENDMENT OR REFINEMENT; AND

6. PROVISIONS APPLICABLE TO AREAS REQUESTED FOR EXCLUSION FROM THE CRITICAL AREA;

(XV) IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT, SURFACE MINING IN THE CRITICAL AREA; AND

(XVI) THE APPLICATION FOR AND PROCESSING OF A VARIANCE, WITH RESPECT TO:

1. AMENDING A VARIANCE APPLICATION;

2. ADVANCE NOTICE TO THE COMMISSION;

3. THE CONTENTS OF A COMPLETE VARIANCE APPLICATION;

4. ENSURING THAT COMMISSION RECOMMENDATIONS ARE MADE PART OF THE VARIANCE RECORD;

5. THE USE OF VARIANCE STANDARDS; AND

6. NOTICE OF A VARIANCE DECISION; AND”;

and in line 22, after “(II)” insert “WITH THE APPROVAL OF THE COMMISSION, A LOCAL JURISDICTION MAY ESTABLISH PROCEDURES FOR THE GRANTING OF AN ADMINISTRATIVE VARIANCE.”

(III)”.

On page 12, in line 5, strike “13” and substitute “12”; in line 7, strike “project” and substitute “:

A. PROJECT”; in line 9, after “section” insert a semi-colon; in the same line, strike “THAT THE” and substitute “**B. THE**”; in line 10, strike “ON” and substitute “**REGARDING**”; strike beginning with “WITHIN” in line 10 down through “ISSUANCE” in line 11 and substitute “**OR DENIALS IN ACCORDANCE WITH LOCAL PROCEDURES APPROVED BY THE COMMISSION**”; and strike beginning with “Provisions” in line 32 down through “12.” in line 35.

On page 13, in line 9, strike “ANY” and substitute “**IN THE CHESAPEAKE BAY CRITICAL AREA, ANY**”; in line 11, strike “AND”; in line 12, strike “LAND” and substitute “**IN THE CHESAPEAKE BAY CRITICAL AREA, LAND**”; after line 14, insert:

“C. IN THE ATLANTIC COASTAL BAYS CRITICAL AREA, ANY LEGAL PARCEL OF LAND, NOT BEING PART OF A RECORDED OR APPROVED SUBDIVISION, THAT WAS RECORDED AS OF JUNE 1, 2002; AND

D. IN THE ATLANTIC COASTAL BAYS CRITICAL AREA, LAND THAT WAS SUBDIVIDED INTO RECORDED LEGALLY BUILDABLE LOTS, WHERE THE SUBDIVISION RECEIVED THE LOCAL JURISDICTION’S FINAL APPROVAL BEFORE JUNE 1, 2002;”;

in line 20, strike the first “a” and substitute “EACH”; in line 23, strike “A” and substitute “THE”; strike beginning with the colon in line 23 down through “IS” in line 24 and substitute “IS”; strike lines 25 and 26 in their entirety; in line 22, after “ASSISTED,” insert “AUTHORIZED,”; and strike beginning with “IN” in line 27 down through “ADMINISTRATIVE” in line 28 and substitute “ADMINISTRATIVE”.

On page 13, in lines 5, 15, 19, and 27, strike “13.”, “14.”, “15.”, “16.”, respectively, and substitute “12.”, “13.”, “14.”, “15.”, respectively.

On page 14, strike beginning with the second “JURISDICTION’S” in line 10 down through “PERSONNEL” in line 11 and substitute “JURISDICTION”; in line 11, strike “AND”; strike beginning with “PAYMENT” in line 12 down through “VIOLATION” in line 13 and substitute “SATISFACTION OF ALL CONDITIONS SPECIFIED UNDER PARAGRAPH (4) OF THIS SUBSECTION”; in line 15, after “PROPERTY” insert “; AND”

H. UNLESS AN EXTENSION OF TIME IS APPROPRIATE BECAUSE OF ADVERSE PLANTING CONDITIONS, WITHIN 60 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;

On page 14, in line 16, after “(2)” insert “(I)”; in line 17, strike “(1)(II)15” and substitute “(1)(II)14”; and in line 27, strike “(1)(II)16” and substitute “(1)(II)15”; in lines 19, 20, 21, and 22, strike “(i)”, “(ii)”, “(iii)”, and “(IV)”, respectively, and substitute “1.”, “2.”, “3.”, and “4.”, respectively; after line 26, insert:

“(II) IN PARAGRAPH (1)(II)15 OF THIS SUBSECTION, “PROPERTY OWNER” INCLUDES TWO OR MORE PERSONS HOLDING TITLE TO THE PROPERTY UNDER ANY FORM OF JOINT OWNERSHIP.”;

and after line 32, insert:

“(4) A LOCAL JURISDICTION MAY NOT ISSUE A PERMIT, APPROVAL, VARIANCE, OR SPECIAL EXCEPTION UNLESS THE PERSON SEEKING THE PERMIT, APPROVAL, VARIANCE, OR SPECIAL EXCEPTION HAS:

(I) FULLY PAID ALL ADMINISTRATIVE, CIVIL, AND CRIMINAL PENALTIES IMPOSED UNDER PARAGRAPH (1)(III)16 OF THIS SUBSECTION;

(II) 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

(III) PERFORMED THE ABATEMENT MEASURES IN THE APPROVED PLAN IN ACCORDANCE WITH THE LOCAL CRITICAL AREA PROGRAM.”.

On page 15, in line 4, after “(i)” insert “A LOCAL JURISDICTION SHALL PROCESS AN APPLICATION FOR A VARIANCE REGARDING A PARCEL OR LOT THAT IS SUBJECT TO A CURRENT VIOLATION OF THIS SUBTITLE, A REGULATION ADOPTED UNDER THE AUTHORITY OF THIS SUBTITLE, OR ANY PROVISION OF AN ORDER, PERMIT, PLAN, OR LOCAL PROGRAM IN ACCORDANCE WITH SUBSECTION (C)(1)(III)15 OF THIS SECTION.

(II)”;

in line 9, strike “(ii)” and substitute “(III)”; in line 12, strike “may” and substitute “SHALL”; and in line 14, strike “(2)(i)” and substitute “(2)(II)”.

On page 16, in line 4, after “(5)” insert “(I)”; in the same line, strike “ISSUANCE” and substitute “A WRITTEN DECISION REGARDING A VARIANCE APPLICATION IS ISSUED”; in line 5, strike “WRITTEN NOTICE” and substitute “A COPY OF THE DECISION”; in line 6, strike “REGARDING ITS DECISION ON EACH VARIANCE APPLICATION”; after line 6, insert:

“(II) A LOCAL JURISDICTION MAY NOT ISSUE A PERMIT FOR THE ACTIVITY THAT WAS THE SUBJECT OF THE VARIANCE APPLICATION UNTIL THE APPLICABLE 30-DAY APPEAL PERIOD HAS ELAPSED.”;

strike beginning with “FIRST” in line 13 down through “ISSUES” in line 14 and substitute “FIRST ISSUES”; in line 15, after “ADMINISTRATIVE” insert “OR CIVIL”; strike beginning with “; AND” in line 15 down through “ASSESSED” in line 26; and in line 27, strike “THE” and substitute “A”.

On page 17, in line 9, strike “PROPOSED”; and strike in their entirety lines 11 through 18, inclusive.

On page 18, in line 26, after “AREAS” insert “AND LIMITED DEVELOPMENT AREAS”.

On page 19, in line 14, after “(2)” insert “A LOCAL JURISDICTION MAY USE A STANDARD THAT VARIES FROM THE STANDARDS REQUIRED UNDER PARAGRAPH (1)(I) AND (II) OF THIS SUBSECTION IF:

(I) THE ALTERNATIVE STANDARD IS CONSISTENT WITH THE JURISDICTION’S ADOPTED COMPREHENSIVE PLAN; AND

(II) THE COMMISSION HAS APPROVED THE ALTERNATIVE STANDARD AS PART OF THE LOCAL PROGRAM.

(3)”;

in line 16, after “CONSIDER” insert “**THE FOLLOWING FACTORS**”; strike beginning with “CONSISTENCY” in line 20 down through “INFRASTRUCTURE” in line 26 and substitute:

“1. FOR A MAP AMENDMENT OR REFINEMENT INVOLVING A NEW INTENSELY DEVELOPED AREA, WHETHER THE DEVELOPMENT IS:

A. TO BE SERVED BY A PUBLIC WASTEWATER SYSTEM;

B. TO HAVE AN ALLOWED AVERAGE DENSITY OF AT LEAST 3.5 UNITS PER ACRE, AS CALCULATED UNDER § 5-7B-03(H) OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

C. FOR A NEW INTENSELY DEVELOPED AREA THAT IS GREATER THAN 20 ACRES, TO BE LOCATED IN A PRIORITY FUNDING AREA, AS DESCRIBED UNDER §§ 5-7B-02(1) AND 5-7B-03 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

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;

in line 27, after “(III)” insert “**THE USE OF EXISTING PUBLIC INFRASTRUCTURE, WHERE PRACTICAL;**

(IV)”;

strike beginning with “AND” in line 28 down through “PROTECT” in line 29 and substitute “**CONCERNING THE PROTECTION OF**”; in line 31, strike “(IV) LOCATION IN OR NEAR” and substitute “**(V) IMPACTS ON**”; and strike in their entirety lines 33 and 34.

AMENDMENT NO. 4

On page 20, in line 2, in each instance, before “STORMWATER” insert “**WASTEWATER AND**”; in line 3, after “STREAMS;” insert “**AND**”; strike beginning with “DEVELOPMENT;” in line 6 down through “CONTEXT” in line 8 and substitute “**DEVELOPMENT**”; in line 9, strike “(3)” and substitute “**(4)**”; in line 10, strike “AND (2)” and substitute “**, (2), AND (3)**”; in line 30, after “(a)” insert “**(1)**”; in lines 31 and

(Over)

32, strike “(1)” and “(2)”, respectively, and substitute “(I)” and “(II)”, respectively; and after line 33, insert:

“(2) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT A CREDIT APPLICABLE TO A STORMWATER MANAGEMENT PRACTICE THAT IS APPROVED BY THE DEPARTMENT OF THE ENVIRONMENT.”

On page 21, in line 1, strike “(1)” and substitute “**LOT COVERAGE IN THE BUFFER MAY NOT EXCEED THE MINIMUM AMOUNT NECESSARY FOR WATER-DEPENDENT FACILITIES, REGARDLESS OF THE CRITICAL AREA CLASSIFICATION OR THE SIZE OF THE PARCEL OR LOT, EXCEPT:**

(1) FOR A BUFFER EXEMPTION AREA, AS MAPPED OR ESTABLISHED UNDER AN APPROVED LOCAL PROGRAM;

(2) FOR A VARIANCE GRANTED IN ACCORDANCE WITH THIS SUBTITLE; OR

(3) AS PROVIDED IN A WATERFRONT REVITALIZATION AREA OR A WATERFRONT INDUSTRIAL AREA UNDER A LOCAL PROGRAM.

(C)”;

strike in their entirety lines 4 through 14, inclusive; and strike beginning with “If” in line 26 down through “15%” in line 30 and substitute “**UNLESS OTHERWISE RESTRICTED BY A LOCAL JURISDICTION, LOT COVERAGE IN A SUBDIVISION APPROVED AFTER DECEMBER 1, 1985 IN THE CHESAPEAKE BAY CRITICAL AREA OR AFTER JUNE 1, 2002 IN THE ATLANTIC COASTAL BAYS CRITICAL AREA MAY NOT EXCEED 15%. HOWEVER, THE TOTAL LOT COVERAGE ON AN INDIVIDUAL LOT ONE ACRE OR LESS IN SIZE MAY EXCEED 15%.**”.

On page 22, in lines 15 and 16, strike “, INCLUDING CLEARING AND GRADING ACTIVITIES,”; and in line 32, after “AND” insert “IMPERVIOUS SURFACE”.

On pages 22 and 23, strike beginning with “IN” in line 34 on page 22 down through “LIMITATIONS” in line 1 on page 23.

On page 23, in lines 1 and 8, in each instance, strike “JUNE 30” and substitute “JULY 1”; in line 7, strike “PROJECT APPROVAL OR A” and substitute “A”; and in line 10, strike “BY JUNE 30” and substitute “BEFORE JULY 1”.

On pages 23 and 24, strike in their entirety the lines beginning with line 17 on page 23 through line 8 on page 24, inclusive, and substitute:

“(A) THIS SECTION APPLIES TO AN APPLICATION FOR SUBDIVISION OR SITE PLAN APPROVAL WITHIN THE RESOURCE CONSERVATION AREA THAT:

(1) RECEIVES FINAL LOCAL APPROVAL ON OR AFTER JULY 1, 2008, UNLESS AN APPLICATION FOR SUBDIVISION OR SITE PLAN APPROVAL IS SUBMITTED BEFORE JULY 1, 2008 AND LEGALLY RECORDED BY DECEMBER 31, 2009; AND

(2) DOES NOT INVOLVE THE USE OF GROWTH ALLOCATION.

(B) (1) EXCEPT AS PROVIDED UNDER SUBSECTION (C) OF THIS SECTION, THE MINIMUM BUFFER SHALL BE:

(I) 300 FEET FROM TIDAL WATERS OR A TIDAL WETLAND;
AND

(II) 100 FEET FROM A TRIBUTARY STREAM.

(2) ALL PROVISIONS UNDER COMAR 27.01.09.01 THAT ARE APPLICABLE TO DEVELOPMENT ACTIVITIES WITHIN THE 100-FOOT BUFFER, INCLUDING THE ESTABLISHMENT OF VEGETATION AND EXPANSION REQUIREMENTS, SHALL APPLY TO THE 300-FOOT BUFFER.

(C) THE 300-FOOT BUFFER MAY BE REDUCED IF:

(1) THE STRICT APPLICATION OF THE MINIMUM 300-FOOT BUFFER WOULD PRECLUDE:

(I) SUBDIVISION OF THE PROPERTY AT A DENSITY OF ONE DWELLING UNIT PER 20 ACRES, AND ALL OTHER STATE AND LOCAL REQUIREMENTS WILL BE SATISFIED; OR

(II) AN INTRA-FAMILY TRANSFER AUTHORIZED UNDER § 8-1808.2 OF THIS SUBTITLE; AND

(2) THE REDUCTION WILL OCCUR IN ACCORDANCE WITH LOCAL PROGRAM PROCEDURES APPROVED BY THE COMMISSION.”;

in line 10, before “IMPROVEMENTS” insert “(A)”; in line 15, after “FEASIBLE” insert “, INCLUDING AREAS OF EXCESSIVE EROSION, AREAS SUBJECT TO HEAVY TIDES, AND AREAS TOO NARROW FOR EFFECTIVE USE OF NONSTRUCTURAL SHORELINE STABILIZATION MEASURES”; and after line 15, insert:

“(B) (1) IN CONSULTATION WITH THE DEPARTMENT, THE DEPARTMENT OF THE ENVIRONMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.

(2) THE REGULATIONS SHALL INCLUDE A WAIVER PROCESS THAT EXEMPTS A PERSON FROM THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION ON A DEMONSTRATION TO THE SATISFACTION OF THE DEPARTMENT OF THE ENVIRONMENT THAT NONSTRUCTURAL SHORELINE STABILIZATION MEASURES ARE NOT FEASIBLE FOR THE PERSON’S PROPERTY.

On pages 24 and 25, strike in their entirety the lines beginning with line 17 on page 24 through line 6 on page 25, inclusive.

On page 25, in line 24, strike “A” and substitute “**EXCEPT AS OTHERWISE AUTHORIZED IN A LOCAL JURISDICTION, IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A**”; in line 30, after “(II)” insert “**1.**”; strike beginning with “, BUT” in line 32 down through “ACTION” in line 34; and after line 34, insert:

2. IF ENTRY IS DENIED, THE LOCAL AUTHORITY MAY SEEK AN INJUNCTION TO ENTER THE PROPERTY TO PURSUE AN ENFORCEMENT ACTION.

On page 26, in line 19, strike “subject” and substitute “:

1. SUBJECT;

in the same line, after “suit” insert “**IN CIRCUIT COURT OR DISTRICT COURT**”; in line 20, after “law” insert “;

2. GUILTY OF A MISDEMEANOR; AND

3. ON CONVICTION IN A COURT OF COMPETENT JURISDICTION, SUBJECT TO A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 90 DAYS OR BOTH, WITH COSTS IMPOSED IN THE DISCRETION OF THE COURT.

AMENDMENT NO. 5

On page 27, in lines 19 and 28, in each instance, after “of” insert “**THE FOLLOWING AREAS, AS INDICATED ON THE STATEWIDE BASE MAP**”; in lines 21 and 22, strike beginning with “as” in line 21 down through “all” in line 22 and substitute “;

(2) ALL;

in line 24, strike “(2)” and substitute “**(3)**”; in lines 25 and 26, strike beginning with “State” in line 25 down through “Article” in line 26 and substitute “**THE RESOURCES IDENTIFIED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION**”; and in lines 30 and 31, strike beginning with “as” in line 30 down through “all” in line 31 and substitute “;

(2) ALL”.

On page 28, in line 1, strike “(2)” and substitute “**(3)**”; in lines 2 and 3, strike beginning with “State” in line 2 down through “Article” in line 3 and substitute “**THE RESOURCES IDENTIFIED UNDER PARAGRAPHS (1) AND (2) OF THIS SUBSECTION**”; and in line 4, after “That” insert “**the process of transition from reliance on the State wetlands maps to the Statewide Base Map for determination of the Chesapeake and Atlantic Coastal Bays Critical Area, as enacted under Section 2 of this Act, shall proceed as follows**”.

On pages 28 and 29, strike beginning with “shall” in line 5 on page 28 down through “time” in line 11 on page 29 and substitute “, **the Department of the**

Environment, and the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays shall:

(i) By October 1, 2008, complete a pilot project to develop and implement an appropriate mapping methodology for at least two counties with approved local Critical Area programs; and

(ii) Based on this pilot project, develop procedures, source documents, and joint regulations as necessary and appropriate to most accurately and effectively create new maps of the Critical Area, based on the Statewide Base Map, for the State and each affected local jurisdiction;

(2) In accordance with the following requirements and conditions, the Department of Natural Resources shall prepare a Statewide Base Map that includes a State-determined shoreline and landward boundary of tidal wetlands and a digitally generated, georeferenced 1,000-foot Critical Area boundary, as appropriate for integration into a Geographic Information System:

(i) Aerial imagery obtained in 2007 and 2008 or the best available imagery of comparable scale shall be used to identify the shoreline and landward boundary of tidal wetlands as part of the Statewide Base Map project;

(ii) The boundary shall be accurate to a scale of 1:1200; and

(iii) The mapped shoreline and landward boundary of tidal wetlands may not be construed to represent an official wetland delineation or to change in any way any statutory provision under Title 16 of the Environment Article, any regulatory provision under Title 26, Subtitle 24 of the Code of Maryland Regulations, or any other provision related to a project-specific wetland delineation that may be necessary and appropriate;

(Over)

(3) Within 4 months of the date of official completion of the Statewide Base Map project, the Department of Natural Resources shall:

(i) Distribute the appropriate portion of the Statewide Base Map to each local jurisdiction with an approved Critical Area Program; and

(ii) Notify the Critical Area Commission in writing regarding the distribution date applicable to each local jurisdiction;

(4) Following receipt of notice from the Department of Natural Resources and in accordance with the following conditions, the Commission shall notify each local jurisdiction in writing regarding the effective date of project completion applicable to that jurisdiction:

(i) A local jurisdiction shall formally adopt its amended Critical Area map based on the Statewide Base Map within 24 months of its receipt from the Department of Natural Resources; and

(ii) However, where practicable, and after submission by the local jurisdiction of evidence satisfactory to the Commission that reasonable progress has been made toward formal adoption of its amended map, the Commission may authorize the local jurisdiction to proceed toward formal adoption of its amended map in coordination with its required 6-year comprehensive review process;

(5) In accordance with notification from the Commission, each local jurisdiction, with assistance from the Department of Natural Resources, the Department of the Environment, and the Critical Area Commission, as appropriate, shall review and refine its portion of the Statewide Base Map prepared by the Department of Natural Resources and proceed to:

(i) Verify the boundaries of the existing Critical Area designations;

(ii) Appropriately designate unclassified areas that were not within the original Critical Area boundary in accordance with the mapping standards set forth under COMAR 27.01.02.03 through 27.01.02.05 and as further determined through regulations adopted by the Commission; and

(iii) Identify areas where there appear to be inconsistencies between the Statewide Base Map and the local jurisdiction's Critical Area map;

(6) In accordance with regulations adopted by the Critical Area Commission, each local jurisdiction shall provide public notice of changes anticipated in that jurisdiction as a result of the transition from the State wetlands maps to the Statewide Base Map and provide for a public hearing and public comment regarding those changes;

(7) Following resolution of any inconsistencies and as appropriate to its form of local government and in conformance with all applicable requirements, each jurisdiction with an approved Critical Area Program shall:

(i) Formally amend its program by adopting the Statewide Base Map for that jurisdiction, including the shoreline and landward boundary of tidal wetlands, the digitally generated and georeferenced 1,000-foot Critical Area boundary, and all applicable Critical Area designations as its official Critical Area Map; and

(ii) Within 90 days of formally amending its program under item (i) of this paragraph, provide the Critical Area Commission with a list of the development projects or activities within that jurisdiction that were newly mapped under this Act as within the critical area and that received growth allocation, final subdivision approval, final site plan approval, any other final approval, or were vested by December 31, 2008;

(8) Upon official adoption of its new Critical Area Map, each local jurisdiction shall ensure that, where applicable, each project submittal utilizes the digitally generated, georeferenced Critical Area boundary; and

(9) (i) The Department of Natural Resources shall adopt regulations providing for the periodic review and updating, at least once every 12 years, of the Statewide Base Map, including the State-determined shoreline and landward boundary of tidal wetlands and a digitally generated, georeferenced 1,000-foot Critical Area boundary, beginning with the date of initial preparation and official completion under paragraph (2) of this section; and

(ii) In coordination with the regulations adopted under subparagraph (i) of this paragraph, the Critical Area Commission shall adopt regulations providing for the periodic review and formal update of a local jurisdiction's Critical Area Map, in accordance with each jurisdiction's required 6-year comprehensive review, in order to reflect the State-determined shoreline and landward boundary of tidal wetlands and the digitally generated, georeferenced 1,000-foot Critical Area boundary shown on the Statewide Base Map in effect at the time of the comprehensive review".

On page 29, in line 12, strike "the" and substitute ":

(1) The Department of Natural Resources shall notify the Department of Legislative Services in writing on the date of official completion of the Statewide Base Map project, as specified under Section 3(2) of this Act;

(2) The";

in line 13, strike "24" and substitute "28"; strike beginning with "completion" in line 13 down through "Act" in line 14 and substitute "completion of the Statewide Base Map project; and

(3) The Critical Area Commission shall adopt regulations regarding the administration of local critical area programs related to mapping issues during the process of transition from reliance on the State wetlands maps to the Statewide Base Map for determination of the Chesapeake and Atlantic Coastal Bays Critical Area”;

strike beginning with “new” in line 15 down through “2008” in line 19 and substitute “criminal prosecution under § 8-1815(a)(2)(ii) of the Natural Resources Article, as enacted under Section 1 of this Act, this Act shall be construed prospectively to apply only to a Critical Area violation alleged to have arisen out of an act or omission that originated on or after July 1, 2008, and this Act may not be applied or interpreted to have any effect on or application to an alleged critical area violation that originated before the effective date of this Act”; in line 23, after “approval” insert “or denial and for bringing lots into Program conformance”; in the same line, after “8-1808(c)(1)(ii)4” insert “and 12”; and in line 25, after “7.” insert “AND BE IT FURTHER ENACTED, That the considerations required under § 8-1808.1(c)(3) of the Natural Resources Article, as enacted under Section 1 of this Act:

(1) Shall be a part of each growth allocation determination made by the Critical Area Commission at a formal meeting of the Commission occurring on July 1, 2008 or thereafter; and

(2) May not be applied to:

(i) Property in the town of St. Michael’s designated as an intensely developed area by an award of growth allocation approved by the Critical Area Commission before July 1, 2006; or

(ii) Any other award of growth allocation approved by the Critical Area Commission before July 1, 2008.

SECTION 8. AND BE IT FURTHER ENACTED, That:

(Over)

(1) The provisions of this Act regarding lot coverage under § 8-1808.3 of the Natural Resources Article, as enacted under Section 1 of this Act, may not be construed to affect a development project, including the plans for the development project and any subsequent permits related to those plans, if the development project meets the following requirements:

(i) 1. An application for a building permit or a grading permit is filed by October 1, 2008, and the permit is issued by January 1, 2010; or

2. An initial application for development that satisfies all local requirements for submittal is filed by October 1, 2008, and the development plan is approved by July 1, 2010;

(ii) The approved permit or approved development plan remains valid in accordance with local procedures and requirements;

(iii) By July 1, 2010:

1. In accordance with the requirements of the local jurisdiction regarding impervious surface limitations applicable before the effective date of this Act, the applicant prepares a detailed lot coverage plan that is drawn to scale and shows the amounts of impervious surface area, partially pervious surface area, and developed pervious surface area in the development project; and

2. The lot coverage plan is approved by the local jurisdiction and maintained in the local jurisdiction's files; and

(iv) The development project is implemented in compliance with the approved lot coverage plan, except as authorized under paragraph (3)(ii) of this section;

(2) By October 1, 2010, a local jurisdiction shall provide the Critical Area Commission with a list of the projects for which lot coverage plans have been approved under paragraph (1)(iii)2 of this section.

(3) If a change or revision to a lot coverage plan approved under paragraph (1)(iii)2 of this section operates so as to:

(i) Increase the amount of impervious surface area, partially pervious surface area, or developed pervious surface area in the development project, the provisions of paragraph (1) of this section may not apply and the project shall be completed in accordance with the lot coverage requirements under § 8-1808.3 of the Natural Resources Article, as enacted under Section 1 of this Act; or

(ii) Equal or decrease the amount of impervious surface area, partially pervious surface area, or developed pervious surface area in the development project, the provisions of paragraph (1) of this section shall continue to apply;

(4) If a development plan does not receive final approval by July 1, 2010, as required under paragraph (1)(i)2 of this section, this Act may not be construed to terminate the operation of paragraph (1) of this section as to that development project if the failure to meet that date is due solely to the application of a building moratorium or an adequate public facilities ordinance in the local jurisdiction in which the development project is located; and

(5) A property owner, through subsequent development or redevelopment, may not exceed the amounts of impervious surface, partially pervious, or developed pervious surface area shown and specified on the lot coverage plan approved under paragraph (1)(iii)2 of this section.

SECTION 9. AND BE IT FURTHER ENACTED, That, as a result of remapping under this Act, the designation of an unclassified area that was not previously within the Chesapeake and Atlantic Coastal Bays Critical Area may not affect the initial

construction of a development project or activity if by December 31, 2008, the development project or activity receives either growth allocation, final subdivision approval, final site plan approval, or any other final approval, or is vested.

SECTION 10.”.