

**AMENDMENTS TO ARTICLE 8-1  
ENVIRONMENTAL REQUIREMENTS  
(Includes Critical Area Map Amendments)**

**Critical Area Submittal**

**January 28, 2010**

Additions shown in **bold underline**.

Deletions shown in ~~strikethrough~~.

Where two options are proposed, the State option is shown in **red** and the County option shown in **blue**. Possible revised wording shown in **green**.

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8-1 Critical Area District

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**Unless otherwise specified, development activities are subject to: the building permit process (Section 4-1.01); the site plan review process (Section 4-4.01); the plot plan review process (Section 4-4.02), and the subdivision process (Article 7).**

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8-1.01 General Requirements **Introduction**

**State law created the Critical Area regulations. The Critical Area Act recognizes that the land immediately surrounding the Chesapeake Bay and its tributaries has the greatest potential to affect water quality and wildlife habitat and thus designated all lands within 1,000 feet of tidal waters or adjacent tidal wetlands as the "Critical Area." General regulations are defined in Section 8-1.02. State law requires that the Critical Area be divided into three types of development areas based on land uses in existence when the regulations were adopted in 1985: Intensely Developed Areas, Limited Development Areas, and Resource Conservation Areas. Descriptions of and regulations for each of these three subareas are outlined in Sections 8-1.03, 8-1.04 and 8-1.05.**

8-1.02 **General Requirements**

**The following regulations apply to all lands in the Critical Area.** Also see Section ~~2-10.04.A~~ **2-10.03.A**, Purpose and Section ~~2-10.04.B~~ **2-10.03.B**, District Boundaries.

A. Limitation on Uses in the Critical Area

1. Agriculture in the Critical Area **is permitted subject to the following:**

- a. ~~Definition~~ [Moved to Article 12]
- a.** The creation of new agricultural land in the Critical Area District shall not be accomplished:
  - i. By diking, draining, or filling of any class or subclass of palustrine wetland, which have a seasonally flooded or wetter water regime, ~~unless mitigation as provided for in Section 8-2.08 of the Zoning Ordinance is accomplished~~ **unless the wetlands are mitigated on a one-to-one basis and the appropriate permits are obtained from the Maryland Department of the Environment;**
  - ii. By clearing of forests or woodland on soils with a slope greater than 15 percent; or on soils with a "K" value greater than 0.35 and slope greater than five percent;
  - iii. If the clearing will adversely affect water quality or will destroy plant and wildlife habitat as defined in Sections ~~5-4, 8-2, 8-1.01.D~~ **8-1.08 and 8-2** of the Zoning Ordinance; or
  - iv. By the clearing of existing natural vegetation within the **Critical Area** Buffer as defined in Section ~~8-1.01.C~~ **8-1.08.D** of the Zoning Ordinance.
- ~~e.b.~~ The drainage of non-tidal wetlands for the purpose of agriculture shall be done in accordance with a Soil Conservation and Water Quality Plan, approved by the Soil Conservation District.
- ~~d.c.~~ Best Management Practices for the control of nutrients, animal wastes, pesticides, and sediment runoff shall be used to protect the productivity of the land base and enhance water quality. These practices shall minimize contamination of surface and groundwater and, further, shall minimize adverse effects on plants, fish, and wildlife resources.
- ~~e.d.~~ Animal feeding operations, including retention and storage ponds, feed lot waste storage, and manure storage shall minimize the contamination of water bodies.
- ~~f.e.~~ Agricultural activity permitted within the Critical Area shall use Best Management Practices (BMP) in accordance with a Soil Conservation and Water Quality Plan approved by the Soil Conservation District.
- ~~g.~~ ~~By May 13, 1991, all farms within the Critical Area shall have in place and be implementing a currently approved Soil Conservation and Water Quality Plan approved by the~~

~~Soil Conservation District. Landowners who have signed up as conservation district cooperators, but who do not have a conservation plan developed for them by the District, shall be allowed to continue farming until a conservation plan is developed, provided that the goals, policies and all other requirements of the County's Critical Area Program are being met.~~

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## 2. Non-Agricultural Uses in the Critical Area

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- a. ~~Certain~~ **The following** new development or redevelopment activities or facilities, because of their intrinsic nature, or because of their potential for adversely affecting habitats or water quality, ~~may not be~~ **are only** permitted in the Critical Area ~~except in~~ Intensely Developed Area and only after the **applicant has demonstrated** ~~activity or facility has demonstrated~~ to all appropriate local and State permitting agencies that there will be a net improvement in water quality ~~to~~ **of** the adjacent body of water. These activities include:
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- i. Non-maritime heavy industry;
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- ii. Transportation facilities and utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters (utility transmission facilities do not include power plants); or
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- iii. Permanent sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the 100-foot Buffer.
- b. Certain new development activities or facilities, or the expansion of certain existing facilities, because of their intrinsic nature, or because of their potential for adversely affecting habitat and water quality, may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem. These include:
- i. Solid or hazardous waste collection or disposal facilities;  
or
- ii. Sanitary landfills.

- c. Existing, permitted facilities of the type noted in 2(a) and (b) **above of this sub-section** shall be subject to the standards and requirements of the Maryland Department of Health and Mental Hygiene **the Environment**.

**B. Critical Area Text and Map Amendments**

1. **The requirements of Section 1-6.01 of the Zoning Ordinance shall be met.**
2. ~~Amendments shall be submitted to and acted on by the Critical Area Commission, before they can be deemed effective. [See 4 & 5 below]~~
2. The Critical Area District provisions of the Zoning Ordinance and the Critical Area maps shall be **comprehensively** reviewed at least every ~~four~~ **six** years.
3. **An amendment to a zoning map the LDA, LDA-3, RCA, or IDA boundaries** may be granted only upon proof of a mistake in the existing zoning **existing at the time of adoption of the Critical Area Law in 1985** (Critical Area Law, Section 8-1809(h)) **or by the use of Growth Allocation as per Section 8-1.06.**
4. **For Critical Area Program Refinements (pertains to Section 8-1 of the Zoning Ordinance, Critical Area Maps and other County regulations and programs that are pertinent to the Critical Area Program). The County shall not adopt the refinements until the Chairman of the Critical Area Commission has approved them.**
5. **For Critical Area Program Amendments (pertains to Section 8-1 of the Zoning Ordinance, Critical Area Maps and other County regulations and programs that are pertinent to the Critical Area Program), a panel of the Critical Area Commission will hold a public hearing in the County. The panel will then make a recommendation to the full Critical Area Commission. The County shall not adopt the amendments until the Critical Area Commission has approved them.**
6. **When the County submits a request for review and approval of changes to any element of the County's Critical Area Program including, but not limited to, the Zoning Ordinance, subdivision regulations, or Critical Area Maps, the request shall include all relevant information necessary for the Chairman of the Critical Area Commission, and as appropriate, the Critical Area Commission, to evaluate the**

changes. The Chairman, and as appropriate, the Critical Area Commission, shall determine if the requests for program changes are consistent with the purposes, policies, goals, and provisions of the Critical Area Law and all criteria of the Critical Area Commission.

7. In accordance with the determination of consistency as outlined in Section 6 above, the Chairman of the Critical Area Commission, or as appropriate, the Critical Area Commission shall:
  - a. Approve the proposed program refinement or amendment and notify the County;
  - b. Deny the proposed program refinement or amendment;
  - c. Approve the proposed program refinement or amendment subject to one or more conditions; or
  - d. Return the proposed program refinement or amendment to the County with a list of changes to be made.

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C. Public and Critical Area Commission Notification

1. Public Notification

- a. For all State and County Government major development projects and other State and County projects not exempt as provided in Section c, below, shall, as part of a project submittal to the Commission, provide proof of the following:
  - i. Public notice published in a newspaper of general circulation in the area where the proposed development activity would occur;
  - ii. A minimum 14 day comment period in the local jurisdiction in which the proposed development activity will occur was provided; and
  - iii. Certification that the property was posted.
- b. Proof of public notice and public comment shall include the following minimum documentation:
  - i. A copy of the notice as it appeared in the newspaper;
  - ii. The name of the newspaper in which the notice appeared;
  - iii. The date the notice appeared in the newspaper;
  - iv. All copies of correspondence received as a result of the public notice; and
  - v. A list of any neighborhood associations contacted, if applicable.

- c.** **The following classes of development activities of State and local governments in the Critical Area of the Chesapeake Bay are exempt from the notice and comment requirement in Section 8-1.02.C.1:**
- i.** **Any State or local agency development activity of local significance on private lands or lands owned by local jurisdictions that have been determined by the Commission to be consistent with the local Critical Area Program as provided by COMAR 27.02.02 and for which the local agency has submitted a consistency report relative to its Critical Area Program;**
  - ii.** **Any State or local government development activity that is included in a General Approval as provided by COMAR 27.02.03; and**
  - iii.** **Any State development activities on State lands for which the Commission has approved a Memorandum of Understanding including notice requirements.**

**2. Critical Area Commission Notification**

- a.** **Significant Actions in the Critical Area require Critical Area Commission staff review. Any activity listed in Table 8-1.1 and indicated with a “Y”, is considered a Significant Action.**
- b.** **Minor Actions in the Critical Area do not require Critical Area Commission staff review. Any activity listed in Table 8-1.1 and indicated by either an “N” or “NA” is considered a minor action.**
- c.** **Significant actions in the Critical Area by the County require Critical Area Commission staff review and a “Consistency Report” from the County.**
- d.** **For activities that require notification, notification consists of copies of preliminary site plans and subdivisions, grading and building permit applications for activities that are not a site plan or subdivision and complete variance applications. If comments are not received from the Critical Area Commission within 30 days of notification to the Commission, the County shall proceed with the review and potential approval of these projects. The County will also submit copies of final Site Plans and Subdivision to the Critical Area Commission. No permits shall be issued until at least 30 days after the approval of final site plans, subdivisions and variances.**

- e. Reporting on the Critical Area Fees in Lieu Fund. Each year by April 1, the County shall report to the Critical Area Commission regarding its Critical Area Fees-in-lieu Fund over the course of the previous calendar year, including: the number of projects for which a fee was collected and the amount of the fee per project, the total square footage of Buffer impact that generated a portion of the fee, a short description of each planting project including the amount spent on each project, the square footage area of Buffer replanted, and the account balance as of December 31 of the preceding year.

[New Table]

**Table 8-1.1**

| <b>Require Notification to the Critical Area Commission (Yes/No/Not Applicable)</b>  |            |            |            |
|--|------------|------------|------------|
| <b>Type of Application</b>   | <b>IDA</b> | <b>LDA</b> | <b>RCA</b> |
| <b>Disturbance to Habitat Protection Areas*</b>  | <b>Y</b>   | <b>Y</b>   | <b>Y</b>   |
| <b>Physical disturbance to Buffer**</b>  | <b>Y</b>   | <b>Y</b>   | <b>Y</b>   |
| <b>Variance from Critical Area Regulations*</b>  | <b>Y</b>   | <b>Y</b>   | <b>Y</b>   |
| <b>Less than 5,000 sf disturbance</b>  | <b>N</b>   | <b>N</b>   | <b>N</b>   |
| <b>Between 5,000 and 15,000 sf of disturbance</b>  | <b>N</b>   | <b>N</b>   | <b>Y</b>   |
| <b>Greater than 15,000 sf of disturbance*</b>  | <b>Y</b>   | <b>Y</b>   | <b>Y</b>   |
| <b>Subdivision of three lots or fewer*</b>   | <b>N</b>   | <b>N</b>   | <b>Y</b>   |
| <b>Subdivision of four to ten lots*</b>  | <b>N</b>   | <b>Y</b>   | <b>Y</b>   |
| <b>Subdivision of greater than ten lots*</b>   | <b>Y</b>   | <b>Y</b>   | <b>Y</b>   |
| <b>Use of growth allocation</b>  | <b>NA</b>  | <b>Y</b>   | <b>Y</b>   |
| <b>Intrafamily transfer*</b>   | <b>NA</b>  | <b>NA</b>  | <b>Y</b>   |
| <b>Rezoning that occurs wholly or partially within the Critical Area*</b>  | <b>Y</b>   | <b>Y</b>   | <b>Y</b>   |
| <b>Special exception or conditional use for industrial, commercial, institutional, non-residential or multi-family*</b>  | <b>N</b>   | <b>Y</b>   | <b>Y</b>   |
| <b>Substantial alteration to applications previously submitted to the Critical Area Commission</b>   | <b>Y</b>   | <b>Y</b>   | <b>Y</b>   |
| <b>Lot consolidation or reconfiguration</b>  | <b>Y</b>   | <b>Y</b>   | <b>Y</b>   |
| <p><b>* For columns in these rows indicated with a “Y”, final subdivision plats, final site plans, final decisions or orders shall be submitted to the Critical Area Commission.</b></p> <p><b>**Shore erosion control measures and private piers that do not involve disturbance to the Buffer and are permitted by MDE do not require Commission notification.</b></p> |            |            |            |

**D. Delay of Critical Area Permits for Approved Variances**

**1.**

**Permits for activities that require a Critical Area variance shall not be issued until at least 30 days after the variance approval by the Board of Appeals.**

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8-1.0203 Intensely Developed Area (**IDA**)

A. Purpose **and Goals**

1. **Purpose. The purpose of the IDA is to** ~~To~~ serve as the area where future intense development activities shall be directed.
2. **Goals. The following goals will guide development in the IDA:**
  - a. **Improve the quality of runoff from developed areas that enters the Chesapeake Bay or its tributary streams;**
  - b. **Accommodate additional development of the type and intensity designated by the local jurisdiction provided that water quality is not impaired;**
  - c. **Minimize the expansion of intensely developed areas into portions of the Critical Area designated as Habitat Protection Areas**
  - d. **Conserve and enhance fish, wildlife, and plant habitats, to the extent possible, within intensely developed areas; and**
  - e. **Encourage the use of retrofitting measures to address existing stormwater management problems.**

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B. Area Boundaries

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Boundaries are as shown on the official Calvert County Critical Area Map **as IDA.**

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C. Designation of IDAs

1. IDAs are those areas within the Critical Area District where residential, commercial, institutional, and/or industrial developed land uses predominate, and where relatively little natural habitat occurs. **At the time of the initial mapping, t**hese areas shall have **had** at least one of the following features:
    - a. Housing density **is** equal to or greater than four dwelling units per acre;
    - b. Industrial, institutional, or commercial uses are concentrated in the area; or
    - c. Public sewer and water collection and distribution systems are currently serving the area and housing density is greater than three dwelling units per acre.
  2. In addition, these features (**Sections 1.a, b and c above**) shall be concentrated in an area of at least 20 adjacent acres, or that entire upland portion of the Critical Area within the boundary of a municipality, whichever is less.
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|    |  |
|----|--|
| D. | Permitted Uses   |
|    | Uses permitted in the underlying district are permitted as long as they meet the conditions of Section <del>8-1.02.F</del> <b><u>8-1.03.F</u></b> .  |
| E. | Special Exception Uses   |
|    | Uses allowed as special exceptions may also be allowed as long as they meet the conditions in Section <del>8-1.02.F</del> <b><u>8-1.03.F</u></b> .   |
| F. | Criteria for Development in the IDA  |
|    | <ol style="list-style-type: none"> <li>1. <b><u>In addition to the development requirements contained in Articles 4, 5, 6 and 7 of this Zoning Ordinance, development and redevelopment shall be subject to the criteria contained in Section <del>8-2</del> <u>8-1.08</u>, the Habitat Protection District <u>Areas</u>.</u></b></li> </ol>   |
|    | <ol style="list-style-type: none"> <li>2. Stormwater: <ol style="list-style-type: none"> <li>a. The County <b><u>Department of Planning and Zoning</u></b> shall require, at the time of the development or redevelopment, technologies as required by applicable State and local ordinances to minimize adverse impacts to water quality caused by stormwater.</li> <li>b. In the case of redevelopment, if these technologies do not reduce pollutant loadings by at least 10 percent below the level of pollution on the site prior to redevelopment, then offsets shall be provided to achieve this 10 percent reduction.</li> <li>c. In <b><u>the</u></b> case of new development, if these technologies do not reduce pollutant loadings by at least 10 percent below the level of pollution on the site prior to redevelopment, then offsets as determined by the County <b><u>Engineer</u></b> shall be used if they reduce pollutant loadings by at least 10 percent of the pre-development levels.</li> <li>d. Offsets may be provided either on or off site, provided that water quality benefits are equivalent, that their benefits are obtained within the same watershed, and that the benefits can be determined through the use of modeling, monitoring, or other computation of mitigation measures. <b><u>The offsets shall be approved by the County Engineer.</u></b></li> <li>e. <ol style="list-style-type: none"> <li>i. <del>The 10 percent reduction shall be calculated in the manner developed by the <b><u>Critical Area Commission in its document entitled "Critical Area 10% Rule Guidance Manual – Fall 2003"</u></b>, and as amended from time to time. Metropolitan Washington Council of Governments in its guidelines entitled "A Framework for Evaluating Compliance with the 10 percent Rule in the Chesapeake Bay Critical Area".</del></li> <li>ii. <del>The offsets shall be approved by the County Engineer.</del></li> </ol> </li> </ol> </li> </ol> |

iii **To meet the 10 percent reduction requirement, priority shall be given to planting pervious areas with native vegetation.** Examples of acceptable offsets include but are not limited to:

- i. Installing a new BMP in an existing urbanized area not already served by a stormwater BMP (NOTE: No offset credits can be taken for a new BMP that is already required under State Stormwater law).
- ii. Installing or financing an agricultural BMP in the Resource Conservation Area.
- iii. Modifying an existing stormwater BMP to improve its pollutant removal capability.
- iv. Modifying a public storm sewer network to trap pollutants (e.g., modify catchbasins, installing plate separators or swirl concentrators).
- v. Establishing a forested buffer strip in an existing developed or cropped area where one does not presently exist.

3. If practicable, permeable areas shall be established in **native** vegetation, and whenever possible, redevelopment shall reduce existing levels of pollution.
4. Areas of public access to the shoreline, such as foot paths, scenic drives, and other public recreational facilities, should be maintained and are encouraged to be established within IDAs. **Such areas should be pervious where feasible.**
5. Ports and industries which use water for transportation and derive economic benefits from shore access, shall be located near existing port facilities. The **Board of County Commissioners** may identify other sites for planned future port facility development and use, if this use will provide significant economic benefit to the State or County and is consistent with the provisions of **Article 3, Sections 3-4.01, 8-2, and 9-7,** and State and Federal regulations.
6. To the extent practicable, future development shall use cluster development as a means to reduce impervious areas and to maximize areas of natural vegetation.
7. When the cutting or clearing of trees in forests and developed woodland areas is associated with current or planned development activities, the following are required **and require approval from the Department of Planning and Zoning:**

- a. ~~Establishment of programs~~ **Planting plans** for the enhancement of forest and developed woodland resources such as ~~programs for urban forestry (for example, street tree plantings, gardens, landscaping, and open land Buffer plantings);~~
- b. ~~Development activities shall be designed and implemented to~~ **Minimization e of** the destruction of forest and woodland vegetation; and
- c. Protection for existing forests and developed woodlands ~~identified as Habitat Protection Districts~~ **located in Habitat Protection Areas (Section 8-1.08) and as prescribed in a Habitat Protection Plan.**

8-1.03 **8-1.04 Limited Development Area (LDA and LDA-3)**

A. Purpose **and Goals**

- 1. **Purpose. The purpose of the LDA and LDA-3 is to serve as areas for additional low or moderate intensity development.**
- 2. **Goals. The following goals will guide development in the LDA:**
  - a. **Maintain or, if possible, improve the quality of runoff and ground water entering the Chesapeake Bay and its tributaries;**
  - b. **Maintain, to the extent practicable, existing areas of natural habitat; and**
  - c. **Accommodate additional low or moderate intensity development if:**
    - i. **This development conforms to the habitat protection criteria; and**
    - ii. **The overall intensity of development within the limited development area is not increased beyond the level established by the prevailing character as identified by density and land use currently established in the area.**

B. Area Boundaries

Boundaries are as shown on the official Calvert County Critical Area Map **as LDA or LDA-3.**

C. Designation of LDAs

LDAs are those areas within the Critical Area District which are currently developed in low or moderate intensity uses. They also contain areas of natural plant and animal habitats, and the quality of runoff from these areas has not been substantially altered or impaired.

**At the time of the initial mapping,** these areas shall have **had** at least one of the following features:

1. Housing density ranging from one dwelling unit per five acres up to four dwelling units per acre;
2. Areas not dominated by agriculture, wetland, forest, barren land, surface water, or open space;
3. Areas meeting the conditions of Section ~~8-1.02.C.1~~ **8-1.03.C.1**, but not Section ~~8-1.02.C.2~~ **8-1.03.C.2**;
4. Areas having public sewer or public water, or both.

D. Density Limitation

1. **In the LDA, the maximum density is four dwelling units per acre, regardless of the underlying zoning. If the primary zoning district is more restrictive, then those regulations apply.**
2. All properties which are designated LDA-3 but zoned Rural shall have a minimum lot size of three acres except for those one-acre lots created under Section 5-1.02.B of the Zoning Ordinance which can not be accommodated outside of the Critical Area and those created under the residential cluster development Section (5-2.01.A-E) of the Zoning Ordinance. ~~In addition, when LDA and LDA-3 areas are adjacent, LDA density may be clustered onto the LDA-3 area only if the following conditions are met:~~
  1. ~~Density is not increased within 300 feet from the landward edge of tidal wetlands and tidal waters; and~~
  2. ~~Environmental impacts are reduced.~~

E. Permitted Uses

Uses permitted in the underlying district are permitted as long as they meet the conditions of **Section 8-1.03.G. 8-1.04.G.**

F. Special Exception Uses

Uses allowed as special exceptions may also be allowed as long as they meet the conditions in Section ~~8-1.03.G.~~ **8-1.04.G.**

G. Criteria for Development, **Redevelopment, and Maintenance**

1. ~~For all development activities in the Limited Development Area, t~~ **In addition to State law and the development requirements contained in Articles 4, 5, 6 and 7 of this Ordinance,** the following regulations shall apply:

- a. **1. For development and redevelopment,** the developer-**owner or agent of the owner** is required to identify **and locate** any environmental or natural features described below **in this Section**, and shall meet all of the following standards of environmental protection:

- i. Criteria as ~~provided for~~ **required for** the Habitat Protection Districts **Areas** in **Section 8-2 8-1.08** and those for the Water-Dependent Facilities in **Section 9-7**.
- ii. **Roads, bridges, or utilities shall not be located in any Habitat Protection Area (Section 8-1.08) unless no feasible alternative exists.** All roads, bridges, and utilities that must cross a Habitat Protection District **Area** shall be located, designed, constructed, and maintained so as to provide maximum erosion protection and minimize negative impacts to wildlife, aquatic life and their habitats and maintain hydrologic processes and water quality. **If a Habitat Protection Area is impacted, a Habitat Protection Plan shall be required as per Section 8-1.08.** ~~Roads, bridges, or utilities may not be located in any Habitat Protection District unless no feasible alternative exists.~~
- iii. All development activities that must cross or affect streams shall be designed to:
  - (a) **i.** ~~Reduce increases in flood frequency and severity that are~~ **or maintain existing levels of flooding** attributable to **the** development **activity**;
  - (b) ~~Retain tree canopy so as to maintain stream water~~ **ii.** temperature within normal variation;
  - (c) **iii.** Provide a natural substrate for streambeds; and
  - (d) ~~Minimize adverse water quality and quantity~~ **iv.** impacts of stormwater.
- iv. **d.** All development sites shall incorporate a wildlife corridor system that connects the largest undeveloped, or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. The wildlife corridor system may include Habitat Protection Districts **Areas**. The establishment of conservation easements, restrictive covenants, or similar instruments through which the corridor is preserved by public or private groups, including homeowners associations, nature trusts, and other organizations is required before final approval of the site plan **or subdivision** may be granted.

Moved from former  
Section 8-1.03.G.1.e  
and f.

- e.** Development on slopes greater than or equal to 15 percent, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope. and is consistent with the policies in Section 8-1.04 of this Ordinance. Chapter III(E) of the Critical Area Plan. . For new subdivisions, slopes greater than or equal to 15 percent shall be platted as “steep slope conservation areas” unless a variance has been granted to disturb these slopes.
- f.** To reduce stormwater runoff, lot coverage shall be limited as described below:
- i.** In general, lot coverage is limited to 15% of a lot or parcel.
- ii.** If a parcel or lot existed on or before December 1, 1985 in the Chesapeake Bay Critical Area and is one-half acre or less in size, then the lot coverage is limited to 25% of the lot or parcel.
- iii.** For lots of one acre or less in size, as part of a subdivisions approved after December 1, 1985 the adoption of this amendment ( / / ), the impervious surface lot coverage shall be limited to 15% of the entire parcel being subdivided. The impervious surface lot coverage on each lot may be increased to 25 exceed 15% as long as the impervious surface lot coverage over the entire parcel land area being subdivided does not exceed 15%.
- iv.** For lots created after December 1, 1985 and prior to ( / / ) under the Critical Area Program, the recorded impervious surface limits will be as specified on the record plat if so specified. For future development, the lot coverage limits will be equal to the impervious surface limits recorded for the subdivision and for each lot in the subdivision. If impervious surface limits were not recorded for the subdivision, the lot coverage requirements given in Section i above apply.

- v. ~~For lots created after December 1, 1985 under the Critical Area Program and before the adoption of this amendment (—/—/—), gravel or blue chip driveways will be considered pervious. For Lots created after December 1, 1985 or properly permitted in accordance with this ordinance and impervious surface policies in effect prior to July 1,2008 may be considered “legally non-conforming” for purposes of lot coverage requirements.~~
- vi. Lot coverage limits do not apply to a manufactured home community that was in residential use on or before December 1, 1985 in the Critical Area.
- vii. A walkway or stairway through the Buffer that provides direct access to a pier is not included in lot coverage calculations.
- viii. There is no allowable, by right, percentage of lot coverage within the 100-foot Buffer. Exceptions include projects defined as water-dependent facilities, projects in a Special Buffer Management Area, and variances granted by the Board of Appeals.
- ix. ~~Addition or alteration of any impervious surface lot coverage beyond authorized existing impervious areas including but not limited to paving of sidewalks, paving of driveways, construction of sheds, decks, etc. requires either a grading exemption, grading permit, or building permit.~~
- x. For grandfathered lots of record that pre-date the Critical Area Program (December 13, 1988), a local government may allow a property owner to exceed the lot coverage limits outlined above and comply with the lot coverage limits set forth in the table below if the following requirements are met:
  - (1) Lot coverage associated with new development activities has been minimized;
  - Water quality impacts associated with
  - (2) runoff from development activities that contribute to lot coverage have been minimized; and
  - The property owner performs on-site mitigation or pays a fee-in-lieu of mitigation as required by the local jurisdiction to offset potential adverse water quality impacts.
  - (3)

| Table 8-1.2 <del>Impervious Surface</del> Lot Coverage Limitations  |  |
|---|--|
| Lot/Parcel Size (in square feet)  | <del>Impervious Surface</del> Lot Coverage Limit |
| 0 – 8,000   | 25% of <u>lot</u> /parcel plus 500 square feet*  |
| 8,001 – 21,780  | 31.25% of <u>lot</u> /parcel*                    |
| 21,781 – 36,300   | 5,445 square feet*                               |
| Greater than or equal to 36,301   | 15% of <u>lot</u> /parcel                        |
| <p>* (i) the property owner shall performs mitigation as per Section 8-1.04.G.3. for the square feet of added <del>Impervious Surface</del> Lot Coverage above 15 percent of the parcel or shall uses Best Management Practices approved by the Department of Public Works to offset potential adverse water quality impacts from the new impervious surfaces; or</p> <p>* (ii) if paragraph (i) is not feasible, the property owner may pay a fee-in-lieu of performing the on-site mitigation equal to <del>\$0.80</del> <b>\$1.20</b> multiplied by the area in square feet of the new <del>Impervious Surface</del> Lot Coverage that exceeds 15 percent of the parcel. All fees-in-lieu collected under this Section will be placed in the Critical Area fees-in-lieu fund to support projects that improve water quality.</p> |  |

**xi.** Grandfathering Provisions

- (1)** The lot coverage provisions do not apply to development projects for which a building permit was issued before July 1, 2008 as long as construction is initiated and an inspection is performed by July 1, 2009. Impervious surface limits existing at the time of permit approval apply to these permitted projects.

(2)

Projects that are under design may be exempted from the strict application of the lot coverage provisions if: An application for a building permit or grading permit was filed by October 1, 2008, and the permit was issued by January 1, 2010; or if an initial application for development was filed by October 1, 2008, and the development plan is approved by July 1, 2010. In addition, projects under design must meet the following requirements: There must be a detailed lot coverage plan, drawn to scale, showing the amounts of impervious surface area, partially pervious surface area, and developed pervious surface area for the project; the lot coverage plan must be approved by the local government and maintained in the local jurisdiction's files; and the development plan must remain valid in accordance with local procedures, except that a moratorium or an adequate public facilities ordinance cannot terminate the validity of an approved development plan for purposes of lot coverage.

(3)

Development plans and lot coverage plans may be modified with appropriate permits; however, the amounts of impervious surface, partially pervious, and developed pervious areas cannot be increased beyond set limits. Reductions in these areas are permitted.

(4)

Projects, including new subdivisions, for which an initial application for development was filed by October 1, 2008 and approval is obtained by July 1, 2010, but for which there is no approved lot coverage plan, will be required to comply with all of the lot coverage provisions.

vii. g. Modifications in road standards to reduce potential impacts to the site and Critical Area resources will be allowed where the reduced standards do not significantly affect safety.

viii. h. To reduce the extent of impervious areas and maximize areas of natural vegetation, cluster development shall be encouraged as the preferred development method.

- ix. i. **If less than 15 percent forest cover is established on proposed development sites, these sites shall be planted with native vegetation to provide a forest or developed woodland cover of at least 15 percent of the lot area within the Critical Area.**
- b. 2. For the alteration **maintenance** of forest and developed woodland in the LDA, the following standards apply:
  - i. a. The developer shall follow the recommendations, when provided, of the Maryland Department of Natural Resources **shall be followed** when planning development on forested lands;
  - ii. b. Development activities shall be designed and implemented to minimize destruction of **forest and developed** woodland vegetation; and **a Developed Woodland Management Plan (DWMP) shall be submitted to the Department of Planning and Zoning. The Department of Planning and Zoning may, at its discretion, send the DWMP to the Maryland Department of Natural Resources for review and comment. The DWMP shall include methods for:**
    - i. **Minimizing forest loss;**
    - ii. **Maintaining the health of the existing or remaining forest;**
    - iii. **Maintaining the functions of the forest or developed woodland area relative to removing stormwater, preventing flooding, providing habitat, controlling runoff and the uptake of nutrients and other pollutants;**
    - iv. **Removal or inhibition of invasive species; and**
    - v. **Mitigation as per Section 8-1.04.G.3.e.**
  - c. **Forest maintenance activities proposed in Habitat Protection Areas are subject to the provisions of Section 8-1.08.**
  - iii. d. **Development activities proposed in Habitat Protection Areas are subject to the provisions of Section 8-1.08, the Habitat Protection Program Areas.**
- e. 3. For the cutting or clearing of trees **natural vegetation** in forests and developed woodland areas within the LDA, **a permit is required and** the following criteria apply:
  - a. **If no more than 6,000 square feet or 20 percent (whichever is greater) of a forested area or developed woodland natural vegetation is cleared, replacement**

Text moved from  
Section 8-1.09

on an equal area basis (1:1) is required. **The remaining natural vegetation shall be designated on the permit to remain in perpetuity.**

- b. **If more than 6,000 square feet and more than 20 percent, but less than 30 percent, of a forested area or developed woodland natural vegetation is cleared, replacement required for the amount of clearing is one-and-a-half times the area of the entire clearing (1 ½: 1). The remaining natural vegetation shall be designated on the permit to remain in natural vegetation in perpetuity.**
- c. **Clearing of forest or developed woodland in excess of 30% is prohibited. If Board of Appeals approval is obtained and greater than 6,000 square feet and 30 percent of forest or developed woodland is cleared, replacement on a three-to-one (3:1) basis is required. The remaining natural vegetation shall be designated on the permit to remain in natural vegetation in perpetuity.**
- v. Any disturbance within the Critical Area buffer requires replacement on a two-to-one (2:1) basis except under the following circumstances **No person shall cut or clear natural vegetation, or cause natural vegetation to be cut or cleared before a permit for such cutting or clearing has been issued by the Department of Planning and Zoning; or in excess of the amount permitted in a permit issued by the Department of Planning and Zoning.**
- d. **Clearing or alteration of vegetation inconsistent with this Section or unauthorized clearing or alteration of vegetation prior to having obtained the required permit shall be subject to fines and mitigation as described in Section 8-1.09.**
- e. **The area of native vegetation planted to mitigate these requirements shall be designed to replicate a natural forest and shall be comprised for each 400 square feet of one large canopy tree and two understory trees or three shrubs or as approved by the Department of Planning and Zoning. Guidance on allowed tree and shrub species and coverage is given in the document entitled, "Calvert County Native Plant List", which has been adopted by the Board of County Commissioners and is available from the Department of Planning and Zoning.**
- f.

- (a) ~~Where clearing for development activities on the property exceeds 30 percent and 6,000 square feet, required replacement is three-to-one (3:1), as specified in Section 8-1.02.C.1~~
- (b) ~~Where proposed clearing of natural vegetation is appropriate for approved water access and shore erosion control projects, required replacement is one-to-one (1:1). Clearing shall be minimized to the greatest extent possible.~~
- (c) ~~Where unauthorized clearing is determined to be a violation, required replacement is four-to-one (4:1).~~
- (d) ~~All buffer disturbance must comply with the provisions of Section 8-1.01.C.~~

d. In addition:

- i. ~~vi.~~ Surety shall be provided by the owners or developers in an amount acceptable to the County and suitable to assure satisfactory replacement as required by Section 8-1.01.C (See Critical Area Program, Part III, Chapter III.C. and Chapter V.A. for details of implementation).
- (a) ~~Afforestation and reforestation as required under this Section shall be accomplished according to the following priority schedule:~~
  - (i) ~~Buffers adjacent to tidal and nontidal wetlands and waterways~~
  - (ii) ~~Eroding or destabilized areas~~
  - (iii) ~~Slopes 15 percent or greater~~

#### **4. Bonding**

- a. A person required to conduct replanting as part of a mitigation plan or afforestation requirement shall post a bond or other financial security to insure compliance with the mitigation plan.**
- b. Requirements**

- i. Financial security shall be furnished in the form of a surety bond, an irrevocable letter of credit, cash bond, certificate of guarantee, or other surety as authorized from time to time by the Board of County Commissioners and approved by the Office of the County Attorney. The surety shall:**

  - (a) Name the Board of County Commissioners as obligee;**
  - (b) Assure that the mitigation replanting is conducted in accordance with the approved mitigation plan;**
  - (c) Be in an amount equal to 1.0 times the cost as approved by the Department of Planning and Zoning of performing the mitigation plus a review and inspection fee as set by the County Commissioners, to cover the costs of inspections and handling of the bond. This fee will be submitted with the bond and will not be reimbursed, but placed in the Critical Area Fees-in-lieu fund; and**
  - (d) Remain in force until all requirements of the mitigation plan have been fulfilled to the satisfaction of the Department of Planning and Zoning.**
- ii. The surety may not be cancelled by the issuing entity unless both of the following requirements are fulfilled:**

  - (a) The issuer notifies the Board of County Commissioners and the principal of its intention to cancel the surety, in writing, by registered mail, not less than 90 days before cancellation; and**
  - (b) At least 45 days before the cancellation date indicated in the notice, the principal files a commitment from another entity to provide a substitute surety that will be effective on the cancellation date indicated in the notice.**

**c. Forfeiture of Surety.**

- i. The surety shall be subject to forfeiture if the principal fails to comply with the mitigation plan.**
- ii. Before forfeiture of the surety, the Board of County Commissioners shall notify the principal and the issuer, by certified mail, of the failure of the principal to comply with the mitigation plan and shall give the principal 30 days to come into compliance.**
- iii. If the principal fails to come into compliance within the 30-day period, the surety shall be forfeited and the County and its agents shall be allowed access to the property to accomplish the previously bonded planting.**

**d. Release of Surety.**

- i. Bonds will be held for two years from the planting.**
- ii. If, after the time period described in Section 'i' above, the survival of the plantings associated with the mitigation plan meets or exceeds the standards of the mitigation plan, the amount of surety shall be released minus the administration fee.**

ii. **5.** Grading permits **or grading exemptions** shall be required before forest or developed woodland is cleared **or graded**.

iii. ~~Forests which have been cleared before obtaining a grading permit, or that exceed the maximum area allowed in Section 8-1.03.F shall be replanted at three times the areal extent of the cleared forest.~~

iv. **6.** ~~If the areal extent of the site limits the application of Section 8-1.03.G above~~ **there is not sufficient area on the site to plant the required reforested area**, the County **Department of Planning and Zoning** shall collect fees-in-lieu from the developer **owner**. The amount of the fees-in-lieu shall be established by the Board of County Commissioners. The fees-in-lieu shall be used for urban forestry, **invasive species eradication and control**, or to plant trees **native woody vegetation** in the following types of areas:

- ~~(a.)~~ State, and County, **and private** lands in need of reforestation, Buffers, or habitat corridors
- ~~(b.)~~ Severely eroding land (non-farm)

- (c.) Severely eroding farm land
- (d.) Unreclaimed surface mines which were abandoned prior to the current reclamation regulations
- (e.) Fallow fields
- (f.) Community open space
- (g.) Currently operating surface mines
- (h.) Abandoned pastures
- (i.) **Subdivision lots**
- (j.) **Replanting of forested areas following the eradication of invasive species that have effectively destroyed a native forested area.**

ix. **7.** ~~In addition, i~~ If reforestation exceeds 100 percent of the areal extent of forest lost in the Critical Area, then the remaining funds may be used for the following activities in priority order within the Critical Area:

- (a.) Projects that improve water quality
- (b.) Enforcement
- (c.) Public education
- (d.) Purchase of open space
- (e.) Research on Program effectiveness
- (f.) Water quality monitoring
- (g.) Tracking cumulative impacts
- (h.) Program development

v. ~~If less than 15 percent forest cover is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15 percent.~~

vi. **8.** All forests designated on development plans **subdivision plats and site plans** shall be maintained to the extent practicable, through conservation easements, restrictive covenants, or other protective instruments. **For subdivisions, forest areas to be retained shall be shown on the preliminary plan and record plat as Forest Preservation Areas (FPA). For site plans and plot plans, forest areas to be retained shall be shown on the plan as Forest Preservation Areas. The following note shall be added to all plans and plats : Forest Preservation Areas shall remain undisturbed for water quality benefits and to provide habitat for wildlife. No clearing or removal of vegetation shall be allowed in the Forest Preservation Area unless a habitat protection plan is**

**developed and approved by the Department of Planning and Zoning and a grading permit or grading exemption is also approved.**

- vii. ~~The developer shall designate, subject to the approval of the County, a new forest area on a part of the site not forested; and~~
- viii. ~~The afforested area shall be maintained as forest cover through easements, restrictive covenants, or other protective instruments.~~

d. **9.- The following regulations apply for cutting or clearing of forests or developed woodland for utility corridors and percolation tests:**

(a.) ~~For utility corridors and percolation test access (access lanes or trails necessary to conduct percolation tests for septage system approval) in the Critical Area, For~~ **percolation tests**, reforestation or payment of fees-in-lieu will ~~only~~ **shall** be required for clearing corridors greater than ~~15~~ **12** feet in width. Clearing for percolation access should be limited and removal of trees greater than six inches in diameter should be avoided. Clearing for percolation test sites ~~will~~ **shall** be limited to the number of test sites required by the Health Department and shall not exceed a total of ~~5,000~~ **2,500** square feet **per test site** (does not include area cleared for access). If clearing will exceed ~~5,000~~ **2,500** square feet for the percolation test sites, then a grading permit and reforestation or payment of fees-in-lieu ~~will~~ **shall** be required.

~~ii.~~ **b. If these areas, which are exempt from reforestation and fees-in-lieu, are later changed to another development use (e.g. access lanes to percolation test sites become roadways) these areas will be considered as having been forested in calculations of clearing limits and clearing mitigation.**

~~iii.~~ **c.** Clearing in public utility rights-of-way should be minimized to the greatest extent possible, may exceed 30 percent of the right-of-way, and required mitigation (~~corridors greater than 15 feet in width~~) will be on an equal area basis **as described in Section 8-1.04.G.3.e**. Those portions of utility corridors in which small trees and shrubs are maintained will be exempt from reforestation requirements. ~~Danger~~ Trees or their limbs that may strike utility lines or structures may be removed without reforestation if small trees and shrubs are maintained.

~~If these areas, which are exempt from reforestation and fees-in-lieu, are later changed to another development use (e.g. access lanes to percolation test sites become roadways) these areas will be considered as having been forested in calculations of clearing limits and clearing mitigation.~~

- ~~iv.~~ **d.** A grading permit or grading exemption ~~would be necessary~~ **shall be obtained** for the following clearing activities **associated with percolation test sites and utility corridors**:
  - i.** Total clearing for percolation test site areas per proposed lot exceed 5,000 **2,500** square feet.
  - ii.** Proposed utility corridors or percolation access lanes are greater than 45 **12** feet in width.
  - iii.** For any-sized utility corridor or percolation access lane proposed in a habitat protection area such as a waterway Buffer or wetland Buffer, wetland, **rare, threatened, or** endangered species habitat, or forest dwelling bird habitat. ~~If a project is covered by a regional letter of authorization from the State concerning wetlands, waterways and their buffers, then activities covered by the authorization would be exempt from grading permits and fees-in-lieu based on clearing.~~
- ~~v.~~ **e.** Abandoned **utility** corridors, percolation access and percolation site areas shall be allowed to naturally regenerate unless, at time of development, these areas have been mitigated for by reforestation or payment of fees-in-lieu.
  - ~~(b)~~ **i.** Though mitigation requirements for clearing for utility corridors are as described ~~above~~ **in this Section**, the limits to the percentage allowed to be cleared ~~would do~~ not apply to utility corridor rights-of-way. These clearing limits ~~would also do~~ not apply to public road rights-of-way which are external to subdivisions. Though clearing should be minimized, up to 100 percent of these rights-of-way may be cleared. Mitigation for clearing public road rights-of-way that are external to subdivisions is on a one-for-one basis.
  - ii.** Offsite mitigation ~~would be~~ **is** allowed for public entities including public utilities with the following conditions:

- (i**a**) It is on a site within the Calvert County Critical Area (excluding Chesapeake Beach and North Beach);
- (i**b**) It is on property owned by the public entity;
- (i**c**) The mitigation meets the requirements of the Calvert County Critical Area Program in extent, stocking type, size, and density; **Section 8-1.04.G.3.e**; and
- (i**d**) A planting plan is submitted to and approved by the Department of Planning and Zoning.

2. **10.** In approving development in the Critical Area, ~~The following complementary existing State laws and regulations apply~~ **for development of slopes greater than 15% and highly erodible soils:**

- a. ~~For soil erosion and sediment control (COMAR 08.05.1):~~ **Super silt fence shall be installed and maintained around the disturbed area until grading is stabilized with vegetative cover.-**
  - i. ~~In order to prevent soil erosion and sedimentation, a Soil Erosion and Sedimentation Control Plan shall be required whenever a development within the Critical Area will involve any clearing, grading, transporting, or other form of disturbance to land by the movement of earth. This plan shall be consistent with the Requirements of Environment Article, Section 4-101 et seq., Annotated Code of Maryland, and local ordinances. Sediment control practices shall be appropriately designed to reduce adverse water quality impact.-~~
  - ii. ~~The County shall require erosion control as the basis of sediment control plans within the Critical Area District.-~~
- b. ~~For stormwater runoff (COMAR 08.05.05):~~ **After final grading, erosion control matting or sod shall be installed over the entire area of disturbed soil.**
  - i. ~~Limitation on Stormwater Runoff. Development may not cause downstream property, watercourses, channels, or conduits to receive stormwater runoff at a higher volume or rate than would have resulted from a 10 year storm were the land in its pre-development state.-~~

- ii. ~~Storage Capacity. All stormwater storage facilities shall be designed with sufficient capacity to achieve water quality goals of this ordinance and to eliminate all runoff caused by the development in excess of that which would have come from the site if it were in its pre-development state.~~
- iii. ~~Stormwater management measures shall be consistent with the requirements of Environment Article, Section 4-201 et seq., Annotated Code of Maryland.~~

**c. Stormwater management measures shall be consistent with the requirements of the Calvert County Stormwater Management Ordinance. (Chapter 123 of the Code of Calvert County).**

**8-1.04 8-1.05 Resource Conservation Area (RCA)**

**A. Purpose and Goals**

- 1. Purpose.** This Area **The RCA** is chiefly designated for agriculture, forestry, fisheries activities, other resource utilization activities and for habitat protection. Development is limited in the RCA.
- 2. Goals. The following goals will guide development in the RCA:**
  - a. Conserve, protect, and enhance the overall ecological values of the Critical Area, its biological productivity, and its diversity;**
  - b. Provide adequate breeding, feeding, and wintering habitats for those wildlife populations that require the Chesapeake Bay, its tributaries, or coastal habitats in order to sustain populations of those species;**
  - c. 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**
  - d. Conserve the existing developed woodlands and forests for the water quality benefits that they provide.**

B. Area Boundaries

Boundaries are as shown on the official Calvert County Critical Area Map **as RCA**.

C. Designation of RCAs

RCAs are those areas within the Critical Area District characterized by nature-dominated environments (that is, wetlands, forests, abandoned fields) and resource-utilization activities (that is, agriculture, forestry, fisheries activities, or aquaculture). **At the time of the initial mapping,** these areas shall have **had** at least one of the following features:

- 1.** a- Density is less than one dwelling unit per five acres; or
- 2.** b- Dominant land use is in agriculture, wetland, forest, barren land, surface water, or open space.

D. Density Limitation

- 1.** Land within the RCA may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres. Within this limit of overall density, minimum lot sizes shall be in accordance with the requirements of Article 3 **5** of this Zoning Ordinance.
- 2.** In calculating the one-~~in-~~ **dwelling-unit-per-20-acre** density of development that is permitted on a parcel located within the RCAs, the County may permit the area of any private **or State tidal and non-tidal** wetlands located on the property to **shall not** be included, under the following conditions:
- 3.** **An accessory apartment will not be considered an additional dwelling unit if the criteria under either Section 'a' or Section 'b' and Sections 'c' through 'e' of this Section are met.**
  - a.** **The accessory apartment is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit; the accessory apartment does not exceed 900 square feet in total enclosed area; and the accessory apartment is served by the same sewage disposal system as the primary dwelling unit; or**
  - b.** **The accessory apartment is located within the primary dwelling unit; by its construction, the accessory apartment does not increase the amount of impervious surface already attributed to the primary dwelling unit; and the accessory apartment is served by the same sewage disposal system as the primary dwelling unit.**

- c. An additional dwelling unit meeting all the criteria of this Section that is separate from the primary dwelling unit may not be subdivided or conveyed separately from the primary dwelling unit.
- d. The provisions of this Section apply to density calculations only and may not be construed to authorize the County to grant a variance, unless the variance is granted in accordance with the requirements and standards in this Ordinance for variances in the Critical Area.
- e. The County shall maintain records of all building permits issued under this Section for additional dwelling units considered part of a primary dwelling unit, and shall provide this information on a quarterly basis to the Critical Area Commission.

E. Permitted Uses

Uses permitted in the underlying district are ~~permitted~~ **allowed** as long as they meet the conditions of Section ~~8-1.04.G~~ **8-1.05.G**.

F. Special Exception Uses

Uses allowed as special exceptions may also be allowed as long as they meet the conditions in Section ~~8-1.04.G~~ **8-1.05.G**.

G. Criteria for Development

1. In addition to the development requirements contained in Articles 4, 5, 6 and 7 of this Ordinance, ~~For development activities in the RCA,~~ **shall comply with** the following regulations ~~shall apply:~~
  - a. Development activity within the RCA shall be in accordance with the criteria for the LDA (Section 8-1.04).
  - ~~a.~~ **b.** Land use management practices shall be consistent with the policies and criteria for Habitat Protection ~~Districts~~ **Areas,** ~~for Agriculture and for Forestry.~~
  - ~~b.~~ **c.** Agricultural and conservation easements are strongly encouraged in RCAs.
  - ~~e.~~ **d.** Existing industrial, commercial and institutional facilities, including those that directly support agriculture, forestry, aquaculture, or residential development not exceeding the density specified in Section ~~8-1.04.D~~ **8-1.05.D** ~~above~~ shall be allowed in RCAs. Expansion or intensification of such uses may be permitted only if ~~the criteria for development in the Resource Conservation Areas have~~

~~been met~~ **in accordance with the grandfathering or non-conforming use provisions of Section 8-1.07.**

Additional land may not be zoned for industrial or commercial development, except as provided in Section ~~8-1.01.G.2~~ **8-1.06.**

- d. **e.** The County **Department of Planning and Zoning** shall assure **ensure** that the overall acreage of forest and woodland within the RCAs does not decrease by:
  - i. Not permitting cutting of trees without replacement unless it is approved thinning or timber stand improvement under a Forest Management Plan.
  - ii. Requiring that commercially harvested land shall be reforested **or mitigated as per Section 8-1.04.G.3.e.**
  - iii. ~~Whenever wooded lots are developed in such a manner that the trees cannot be replanted on site, fees in lieu as specified in the Conservation Manual will be charged which will be used to plant trees on other sites approved by the County.~~
- e. ~~Development activity within the Resource Conservation Area shall be consistent with the criteria for Limited Development Area (Section 8-1.03.G).~~
- f. **f.** Nothing in this Section shall limit the ability of a participant in the Agriculture **Easement Land Preservation** Program to convey real property impressed with such an **conservation** easement to family members provided that no such conveyance will result in a density greater than one dwelling unit per 20 acres except as described in the following Section.

H. Intrafamily Transfers

- 1. Bona fide intrafamily transfers **lots** may be ~~made~~ **created** only from parcels of land that:
  - a. Were of record on March 1, 1986;
  - b. Are seven acres or more and less than 60 acres in size; and
  - c. Do not have the potential to create six lots or more including the intrafamily transfer lots.**
- 2. A parcel of land may only be subdivided into the number of lots indicated in this subsection by means of a bona fide intrafamily transfer:

- a. **After subtracting out the tidal wetlands, a** A parcel that is seven acres or more and less than 12 acres in size may be subdivided into two lots.
  - b. **After subtracting out the tidal wetlands, a** A parcel that is 12 acres or more and less than 60 acres in size may be subdivided into three lots. **Two of the lots shall be intrafamily transfer lots and shall be recorded as such.** The lots may be created at different times.
3. It is required as a condition of approval of the County that:
- a. **An intrafamily transfer lot may only be created for an immediate family member and that family member shall be identified on the subdivision preliminary and final plats.**
  - a. **b.** Any deed for a lot that is created by a bona fide intrafamily transfer shall **identify the member of the family to receive the lot and** contain a covenant stating that the lot is created subject to the provision of this Section; and
  - b. **c.** A lot created by a bona fide intrafamily transfer may not be conveyed subsequently to any person other than a member of the owner's immediate family **than the person identified in paragraphs 3. a and b of this Section,** except under procedures established pursuant to subsection **paragraph '4'** of this Section.
  - e. **d.** This subsection does not prevent the conveyance of the lot to a third party as security for a mortgage or deed of trust.
  - e. **e.** The number of **intrafamily** lots **created** ~~conveyed~~ shall be limited to one per immediate family member. ~~No more than three such lots (two intra family lots) may be created per parcel.~~
4. The subsequent conveyance of lots to persons other than immediate family members is permitted if **the following conditions are met:**
- a. The lot was created as part of a bona fide intrafamily transfer and not with the intent of subdividing the original parcel of land for purposes of ultimate commercial sale; and
  - b. **The Planning Commission determines that** either:
    - i. A change in circumstances, **including but not necessarily limited to declining health, military or professional transfer, divorce or death,** has occurred since the original transfer was made that is

not inconsistent with this Section and that warrants an exception; or

- ii. Other circumstances that are consistent with this Section and with the County's Critical Area Program to maintain land areas necessary to support the protective uses of agriculture, forestry, open space, and natural habitats in RCAs warrant an exception.
- c. An affidavit affirming the truth of **the requirements of subparagraph 'b.i'** and/or **'b.ii'** is signed by the family member who ~~originally conveyed the lot~~ **received the lot through the intrafamily transfer provisions.**
- d. **If the legal recipient of the intrafamily transfer lot wishes to convey the lot to persons other than immediate family members prior to maintaining ownership of this lot for seven years:**
  - i. **A change of circumstance must be demonstrated (as in paragraph 'b.i' of this Section) and**
  - ii. **Five Transferable Development Rights (TDRs) shall be applied or the equivalent value as set by the Board of County Commissioners shall be paid into the County Purchase and Retirement (PAR) fund or the Leveraging and Retirement (LAR) program prior to the transfer using the formula in Table 8-1.3:**

| <b><u>Table 8-1.3</u></b> | <b><u># of Years of</u></b>                 | <b><u># of TDRs to be Paid</u></b>  |
|---------------------------|---|---|
| <b><u>TDR Formula</u></b> | <b><u>Ownership</u></b>                     |   |
|                           | <b><u>Up to 2 years</u></b>                 | <b><u>5 TDRs</u></b>  |
|                           | <b><u>&gt; 2 years and &lt; 7 years</u></b> | <b><u>7 years minus # of years of ownership. The difference shall be multiplied by 1 TDR per year</u></b> |

- I. Expansion into the Resource Conservation Area  
Refer to Section ~~8-1.01.G.~~ **8-1.06.**
- J. Cove Point **Liquid Natural Gas (LNG)** Facility
  - 1.** Calvert County recognizes the industrial nature of the Cove Point LNG Facility's industrially zoned property within the Critical Area boundary and hereby acknowledges the Cove Point LNG Facility's right to operate, maintain or replace the underground tunnel and pipeline facilities and all above-ground buildings, pipelines and appurtenant facilities, including but not limited to,

any excavation required to access underground facilities and the maintenance of a corridor above the underground facilities, and shall be further permitted to undertake any construction or other acts required for the operation of the LNG terminal, including those required for compliance with any Federal, State or County laws, orders or regulations.

- 2.** If disturbance to the 100-foot vegetative **Critical Area** Buffer is required to accomplish the foregoing, **the owner of the Columbia Cove Point LNG Corporation facility will shall** reestablish the vegetation in this Buffer.

~~K. Clustering Outside the Critical Area-~~

~~In cases where a single property is designated Rural Community Overlay District and Resource Conservation Area, Transfer Zones shall be permitted and the density shall be calculated for the entire tract, both within and outside the Critical Area. However, any lots which a property owner is entitled to under the Rural Zoning but which are not permitted in the Resource Conservation Area shall be clustered on that portion of the property which is outside the Critical Area, with the exception of the 20-acre density lots and family conveyance lots.~~

L. **K.** Sale **Certification** of TDRs Outside of **Within** the Critical Area

- 1.** Under the County's Agricultural Preservation Program, **for Agricultural Preservation Districts recorded prior to January 1, 2009**, an owner of property in the Resource Conservation Area ~~can sell~~ **is eligible for** the same number of TDRs to which he was entitled under the Rural zoning **as properties located outside the Critical Area.**
- 2.** **For Agricultural Preservation Districts recorded after January 1, 2009, the Board of County Commissioners shall certify TDRs separately for lands in the Critical Area, and such lands shall be allocated one TDR for every four acres of land in the RCA.**
- 3.** **Such TDRs may only be applied to land outside the Critical Area.**

M. Critical Area Preservation Program

- ~~1. Purpose-~~

The purpose of the Critical Area Preservation Program is to conserve and preserve natural resources in the Critical Area. Certain land areas within the Critical Area have been recognized, by County citizen groups, as being in need of preservation. These areas include important sections of Calvert Cliffs and wetlands with their associated large, contiguous, upland forested areas. To ensure that these natural areas are maintained for future generations, subsequent development should be directed away from these areas and toward locations that are less impacted by development and less in need of preservation. This program will preserve these sensitive areas from development by the establishment and sale of Critical Area Program Transferable Development Rights (CAP TDR's) within the Resource Conservation Area.

2. Criteria for Transfer Zone Districts (TZDs) in the RCA
  - a. The following criteria must be met if an area is to be acceptable as a Transfer Zone District:
    - i. Sending areas are restricted to designated Category 1 areas (see Cliff Category Map), the Critical Area portion of the Parkers Creek watershed, and certain portions of Plum Point Creek watershed. The following locations are potential sending areas:
      - Parkers Creek
      - Camp Canoy to Calvert Cliffs
      - Plum Point Creek
      - Calvert Beach Rd to Western Shores
      - Holiday Beach to Willows Colony
  - b. A sending area parcel must have the potential to be developed. If the parcel proves to be undevelopable, then no Development Rights may be sold. The following minimum criteria must be met for a parcel to be considered as having Development Rights:
    - i. Areas in zoned wetlands or in nontidal wetland shown on the "U.S. Fish and Wildlife Wetland Inventory Maps", shall not be considered in calculation of Development Rights.
    - ii. For each Development Right sold there must be at least 10,000 square feet of upland (not wetland) on the parcel that has less than 25 percent slope.

- iii. ~~Lots or parcels in the sending area that are less than 20 acres which have no dwelling units may have one Development Right which could be sold.~~
- e. ~~Potential receiving areas are within the RCA and have either a Rural Community Overlay (Rural zoning), R-1 zoning or are in Chesapeake Beach or North Beach and include:-~~
- ~~Rural Community Overlay:~~
- ~~Beaver Dam Rd/Fishing Creek~~
  - ~~Saint Leonard Creek~~
  - ~~Battle Creek~~
  - ~~Holland Cliff Rd~~
  - ~~Dares Beach to Plum Point~~
  - ~~Lyons Creek Rd~~
- ~~R-1 Zoning:-~~
- ~~Fishing Creek~~
  - ~~Scientist Cliffs~~
  - ~~Island Creek~~
  - ~~Helen Creek~~
  - ~~Turner Rd~~
  - ~~Mill Bridge Rd~~
  - ~~St. John's Creek~~
  - ~~Rousby Hall Rd~~
  - ~~Bayside Rd~~
  - ~~Cove Point Rd~~
  - ~~Back Creek~~
- ~~Municipalities:-~~
- ~~North Beach~~
  - ~~Chesapeake Beach~~
- ~~Receiving areas meet the following criteria:-~~
- i. ~~A parcel must have a minimum of 10 acres within the Critical Area and cannot be a lot within an existing subdivision,-~~
  - ii. ~~Allowed residential housing density of a parcel located in a designated receiving area within the Critical Area will be one dwelling unit per five acres, and-~~
  - iii. ~~For each dwelling unit above that allowed without~~

~~the TDRs, one TDR must be purchased.~~

- ~~d. Development within a TZD shall comply with applicable County requirements under Section 2-10.01.E.~~
- ~~e. An owner of land designated as a Critical Area sending area may apply to the County Commissioners' office for certification of Development Rights.~~
- ~~f. The number of CAP TDR's on a qualifying parcel is equal to the acreage of uplands (not wetlands) in the sending area divided by 20 (one TDR per twenty acres) minus any existing dwelling units. In addition, there must be at least 10,000 square feet of land with slope less than 25 percent for each Development Right. Furthermore, buildable lots or parcels in the sending area that are less than 20 acres and which have no dwelling units would have one Development Right which could be sold.~~

**8-1.06** Location and Extent of Future Intensely Developed and Limited Development Areas

a. **A.** Intensely Developed Areas (IDA) and Limited Development Areas (LDA) may be increased subject to these guidelines:

New Section 8-1.06 has been moved from former Section 8-1.01.C.C

- i. The area of expansion of IDAs or LDAs, or both, may **shall** not exceed an area equal to five percent of the County's portion of the Resource Conservation Area lands that are not tidal wetlands or Federally owned;
- 1.
- ii. When planning future expansion of Intensely-Developed and Limited Development Areas, the **Board of County Commissioners** will cooperate with the municipalities of North Beach and Chesapeake Beach to establish a process to accommodate the growth needs of the municipalities.
- 2.

b. **B.** When locating new Intensely Developed or Limited Development Areas, the **Board of County Commissioners** shall use these **following guidelines standards**:

- i. **1.** New **Locate new** IDAs should be located in LDAs or adjacent to **an existing IDAs and within growth areas defined by the Comprehensive Plan**. New IDA's must be at least 20 acres in size unless:
  - ~~(a)~~ **a.** They are contiguous to an existing IDA or LDA; or
  - ~~(b)~~ Grandfathered commercial, industrial or institutional uses existed as of the date of local Critical Area Program approval (**December 13, 1988**). The amount of growth allocation deducted shall be the equivalent to the area of the entire parcel or parcels subject to the
  - b.**

growth allocation request.

- ii. ~~2.~~ **New Locate new LDAs should be located adjacent to an existing LDAs or IDAs;**
- iii. ~~3.~~ Except as provided in Paragraph ~~'5'~~ **'6'** of this Section, no more than half of the expansion allocated in the ~~criteria of the~~ Critical Area Commission **Criteria** may be located in RCAs;
- iv. ~~4.~~ **New IDAs or LDAs to be located in the RCA shall conform to all criteria of the Critical Areas Commission **regulations of the Annotated Code of Maryland Natural Resources Article 8-1808.1(c), as amended from time to time,** for such areas.**
- 5. Locate a new LDA or an IDA in a manner that minimizes impacts to a Habitat Protection Area as defined in COMAR 27.01.09 and in Section 8-1.08 of the Zoning Ordinance and in an area and manner that optimizes benefits to water quality;**
- v. ~~6.~~ **If the Board of County Commissioners is unable to utilize designate a portion of the growth allocated to the County allocation in Sections '1' and '2' of this Section within or adjacent to existing IDAs or LDAs as demonstrated in the Calvert County Critical Area Program approved by the Critical Area Commission, or in any amended Critical Area Program approved by the Critical Area Commission, then that portion of the allocated expansion which cannot be so located may be located in the RCAs in addition to the expansion allocated in Paragraph (3) of this Section. Proof of this situation must be demonstrated to and approved by the Critical Areas Commission, or in any Critical Area Program amendment approved by the Critical Area Commission. A developer shall be required to cluster any development in an area of expansion authorized under this paragraph.**
- vi. ~~7.~~ **New Locate a new IDA or LDA in a manner that should be located where they **it will** minimizes their impacts to the defined land uses of the RCA;**
- vii. ~~8.~~ **New Locate a new IDA and or LDA in the a RCA should be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters.**
- viii. ~~9.~~ **Growth allocation shall only be used for commercial or industrial projects except where a mistake in the original designation of residential land can be demonstrated.**
- ix. ~~10.~~ **Only projects where the applicant can demonstrate that a measurable public benefit will be realized from the project shall be approved for use of the five percent growth allocation. This provision does not apply to properties where there was a mistake in the original designation of a residential property.**

- x. Growth allocation shall be allocated at a rate no greater than 10 percent per annum.
- xi. All projects submitted during the calendar year will be reviewed and allocated by the Board of County Commissioners upon the recommendation of the Planning Commission.
- 11. All projects submitted during the calendar year will be reviewed and allocated by the Board of County Commissioners upon the recommendation of the Planning Commission.
- xiii. 12. In approving the use of the growth allocation, priority shall be given to:
  - (a) a. Projects within the Solomons Town Center
  - (b) Projects outside the Solomons Town Center in which:
    - b.
      - (i) i. The building envelope is located at least 300 feet from the landward edge of tidal waters, tidal wetlands or tributary streams;
      - (ii) ii. The undeveloped remainder is contiguous and retains its natural features,
        - (i) contiguous, and
        - (ii) at least 20 acres in size, and
        - (iii) retains its natural features, and
      - iii. The undeveloped remainder is restricted from future development through covenants or other restrictive instruments; and
      - iv. Development activities shall be designed and implemented to minimize destruction of woodland vegetation.
- 13. No growth allocation is allowed that adversely affects Habitat Protection Areas.
- 14. When the County submits a request for Growth Allocation approval to the Critical Area Commission, the request shall state how the local jurisdiction has applied the standards of this Section. The Critical Area Commission shall ensure that the standards set forth in this Section have been applied in a manner that is consistent with the purposes, policies, goals, and provisions of the Critical Area Law and all criteria of the Critical Area Commission. In addition, the project shall meet all growth allocation submittal requirements outlined in Critical Area Criteria 27.01.02.05-1.

### 8-1.07 Grandfathering

- 4. A. After Critical Area Program approval (December 13, 1988), the continuation, but not necessarily the intensification or expansion, of any use **legally** in existence on the date of Critical Area Program approval is

New Section 8-1.07 has been moved from former Section 8-1.01.B.

permitted, unless In the Critical Area, if the use has been abandoned for more than one year or is otherwise restricted by existing County ordinances, then it is no longer grandfathered is permitted. If any existing use does not conform with the provisions of the County Critical Area Program, its intensification or expansion may be permitted only in accordance with the variance procedures outlined in this Ordinance (See Section 2-6.01 and Section 11-1.01.B 11-1.01).

- 1. Lawns or landscaped areas may continue so long as they are cut or maintained at least once a year.
- 2. Nonconforming buildings are allowed to remain.
- 3. Nonconforming houses outside ER50 cliff setback (as described in Section 8-2.02.C) and greater than 100 feet from the cliff edge may be replaced or expanded upward with a second story.

2. B. Except as otherwise provided, the types of land described in the following subsections may be developed in accordance with density requirements in effect prior to the adoption of the Calvert County Critical Area Program:

- a. A single lot or parcel of land that was legally of record on the date of Critical Area Program approval (December 13, 1988) may be developed with a single-family dwelling, if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the density provisions of Calvert County's approved Critical Area Program.
- b. Any land on which development activity has progressed to the point of the pouring of foundation footings or the installation of structural members;
- c. Any legal parcel of land that was recorded as of December 1, 1985 and is not part of a recorded or approved subdivision and land that was subdivided into recorded, legally buildable lots, where the subdivision received the County's final approval prior to June 1, 1984, provided that:
  - i. Lots in subdivisions which received the County's approval prior to June 1, 1984 may be consolidated or reconfigured in order to bring them into conformance with the Critical Area Program insofar as possible without the consolidation or reconfiguration being considered a resubdivision.
  - ii. If any such land has received a building permit subsequent to December 1, 1985 but prior to the approval of Calvert County's Critical Area Program, and is located in a Resource Conservation Area, provided that steps have been taken to conform the development to the Critical Area criteria insofar as possible;

- d. Land that was subdivided into recorded, legally buildable lots, where the subdivision received the final approval between June 1, 1984 and December 1, 1985; and
  - e. Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval after December 1, 1985, provided that development of any such land conforms to the Critical Area criteria.
- 3- **C.** For purposes of implementing this regulation, the **Board of County Commissioners** has determined, based on land uses and development in existence on December 1, 1985, which land areas fall within the three types of development areas described in Sections 8-1.02, 8-1.03, and 8-1.04 **8-1.03, 8-1.04, and 8-1.05.**
- 4- **D.** Nothing in this regulation may be interpreted as altering any requirements **of this Ordinance** for development activities set out in **for Water Dependent Facilities and Habitat Protection Districts Areas** of this Ordinance.

**8-1.08 Habitat Protection Areas (HPA)**

- A.** Introduction. The State has designated certain areas and plant and animal species as meriting special protection. They are: Critical Area Buffers; nontidal wetlands; rare, threatened and endangered species and species in need of conservation; plant and wildlife habitat; and anadromous fish propagation waters.
- B.** Boundaries. The boundaries for each type of habitat protection area are described in the applicable Section.
- C.** Criteria for Development. Habitat Protection Plans (HPP) are required for all development activities, redevelopment, or maintenance in the Habitat Protection Areas.
  - 1. If proposed development activities ~~or the~~ including clearing or cutting of trees ~~is proposed that~~ impacts any known habitats of the types listed below in this Section, then a **HPP** protection program will shall be developed by the developer owner or the owners' agent and approved by the Department of Planning and Zoning using the expertise of the Maryland Forest Service; the Tidewater Administration; the Maryland Natural Heritage Program; the U.S. Fish and Wildlife Service; other appropriate State and Federal agencies, and adjacent jurisdictions. The process is included in Part III of the Critical Areas Program, the Conservation Manual. The programs should accomplish the following objectives:

New Section 8-1.08.C.1 was moved from former Section 8-1.01.E.4.

- a.** ~~i.~~ Establish Buffer areas for colonial water bird (~~heron, egret, tern, and glossy ibis~~) nesting sites so that these sites are protected from the adverse impacts of development activities and from disturbance during the breeding season;
- b.** ~~ii.~~ Provide that new water-dependent facilities ~~are so located as to prevent~~ **do not** disturbance to sites of significance to wildlife such as historic, aquatic staging and concentration areas for waterfowl;
- c.** ~~iii.~~ Provide protection measures, including a Buffer areas where appropriate, for the ~~other~~ plant and wildlife habitat ~~identified below~~;
- d.** ~~iv.~~ Protect and conserve those forested areas required to support wildlife species identified ~~below~~ **in this Section** by developing management programs which have as their objective, conserving the wildlife that inhabit or use the areas. The programs should assure that development activities, or the clearing or cutting of trees which might occur in the areas, is conducted so as to conserve riparian habitat, forest interior wildlife species, and their habitat. Management measures may include incorporating appropriate wildlife protection elements into forest management plans, and cluster zoning or other site design criteria which provide for the conservation of wildlife habitat. Measures may also be included in soil conservation plans which have wildlife habitat protection provisions appropriate to the areas defined in this Section, and incentive programs containing the acquisition of easements and other similar techniques;
- e.** ~~v.~~ ~~Require to the extent practical,~~ that, when development activities or the cutting or clearing of trees occurs in forested areas, corridors of existing forest or woodland vegetation be maintained to provide effective connections between wildlife habitat areas;
- f.** ~~vi.~~ Protect, by appropriate means, those plant and wildlife habitats ~~considered to be of significance~~ **designated and mapped** by the County **as Locally Significant Habitat**. Examples of these areas are those whose habitat values may not be of Statewide significance, but are of importance locally or regionally because they contain species uncommon or of limited occurrence in the jurisdiction, or because the species are found in unusually high concentrations; and

- g.** ~~vii.~~ Protect Natural Heritage Areas from alteration due to development activities or cutting or clearing so that the structure and species composition of the areas are maintained.

**b.2.** ~~If the State proposes new~~ **Hhabitats designated by the State and protective areas and protective measures, they shall be adopted within one year in accordance with procedures required by the Maryland Department of Natural Resources.** ~~developed by the developer and the Department of Planning and Zoning using the expertise of the Maryland Forest Service will not be accomplished unless the public is given an adequate opportunity to be heard.~~

**3. Criteria for Habitat Protection Plans (HPPs)**

- a.** For HPAs, except the Critical Area Buffer areas that do not have another Habitat Protection Area overlay, proposed plans for development activities, clearing, or cutting of vegetation in these areas shall be submitted to the Department of Planning and Zoning for review and approval. The Department of Planning and Zoning will forward copies of the proposed plans to the Critical Area Commission and Natural Heritage Divisions of Maryland Department of Natural Resources for review and comment. Criteria set by the State and Federal agencies and County review staff shall be included in the HPP. The criteria shall be consistent with Section 8-1.08.C.1. The applicant may appeal approval criteria to the Planning Commission. The HPP shall be recorded in the Land Records of Calvert County and/or on a record plat.
- b.** Critical Area Buffer areas (including expanded Buffer areas) that do not have another HPA overlay, require a Buffer Management Plan for development activities, afforestation or reforestation, clearing, or cutting of vegetation in these areas. The Buffer Management Plan shall be submitted to the Department of Planning and Zoning for review and approval and shall address the following:

  - i.** Minimization of the removal of vegetation;
  - ii.** Plant and wildlife habitat protection;
  - iii.** Reduction of the runoff of pollutants;
  - iv.** Required reforestation and/or afforestation including a planting plan and other mitigation measures; and

**v. Protection of the area during development activities.**

**The specific requirements of Buffer Management Plans are given in Section 8-1.08.D.3. Appeals of decisions made by the Department of Planning and Zoning with regard to HPPs including Buffer Management Plans for subdivisions and site plans may be appealed to the Planning Commission. Appeals of decisions regarding HPPs including Buffer Management Plans for other activities proposed in a HPA may be appealed to the Board of Appeals.**

**C** Critical Area Buffer  
**D.**

New Section  
8-1.08.D was moved  
from former Section  
8-1.01.C. Definition  
move to Article 12.

**1.** Definition

~~"Buffer" means an existing, naturally vegetated area, or an area established in vegetation and managed to protect aquatic, wetlands, shoreline, and terrestrial environments from man-made disturbances.~~

**2-1.** Purpose. The purpose of the Buffer is to:

- a. Provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries;
- b. Minimize the adverse effects of human activities on wetlands, shorelines, stream banks, tidal waters, and aquatic resources;
- c. Maintain an area of transitional habitat between aquatic and upland communities;
- d. Maintain the natural environment of streams; and
- e. Protect riparian wildlife habitat.

**3-2.** ~~District Boundary~~ **Critical Area Buffer Description.**

- a.** The Buffer shall consist at a minimum of the area 100 feet landward from the Mean High Water Line of tidal waters, **the edge of the bank of** tributary streams, and **the upland boundary of** tidal wetlands and shall be expanded as set out in paragraph 'b' below **of this Section.**
- ~~a. The Buffer is not required for agricultural drainage ditches if the adjacent agricultural land has in place Best Management Practices, as required in Section 8-1.01.~~

b. ~~The County shall expand the Buffer **shall be expanded** beyond 100 feet to include contiguous, sensitive areas, such as steep slopes, **and** hydric soils, or highly erodible soils, whose development or disturbance may impact streams, wetlands, or other aquatic environments. In the case of contiguous slopes of 15 percent or greater, the Buffer shall be expanded four feet for every one percent of slope, or to the top of the 15% slope, whichever is greater in extent. The percent of slope will be measured as an average of the entire extent of steep slope (along the slope) beyond 100 feet from mean high tide, edge of tidal wetlands and tributary streams. The extension of the Buffer shall be perpendicular to the shoreline, tidal wetland or tributary stream to be protected. The provisions of Section 8-1.03.G.1.c.v apply to clearing within the Buffer area. The minimum 100-foot Buffer shall be expanded to include the following contiguous areas:~~

- ~~i. In the case of slopes of 15 percent or greater, the Buffer shall be expanded four feet for every one percent of slope, or to the top of the slope, whichever is greater. The percent of slope will be measured as an average of the entire extent of steep slope (along the slope) beyond the 100-foot Buffer feet from mean high tide, upland boundary of tidal wetlands and the edge of the bank of tributary streams. The expansion of the Buffer shall be perpendicular to the shoreline, tidal wetland or tributary stream to be protected. The provisions of Section 8-1.08.D.3 apply to clearing within the expanded Buffer area;~~
- ~~ii. A nontidal wetland and its 50-foot buffer;~~
- ~~iii. A “Wetland of Special State Concern” and its contiguous 100-foot buffer;~~
- ~~iv. Highly erodible soils on a slope less than 15% and greater than 5% or a hydric soil to the landward edge of the highly erodible or hydric soil or 300 feet, whichever is less;~~
- ~~v. On a lot or parcel that was created before January 1, 2010, a development activity may be allowed that impacts the expanded buffer for highly erodible soils on slopes less than 15% or hydric soils,if~~

Option #1,  
State

Option #2,  
County

- (a) The development activity is in the expanded portion of the Buffer, but not in the 100-foot Buffer or expanded Buffer for 15% slopes;
- (b) The entire Buffer occupies at least 75 percent of the lot or parcel; and
- (c) Mitigation occurs at a 2:1 ratio based on the lot coverage of the proposed development activity that is in the expanded Buffer.

- iv. Highly erodible soils on a slope less than 15% and greater than 5% or a hydric soil to the landward edge of the highly erodible or hydric soil or 300 feet, whichever is less;
- v. On a lot or parcel that was created before January 1, 2010, a development activity may be allowed that impacts the expanded buffer for highly erodible soils on slopes less than 15% or hydric soils,if:
  - (a) The development activity is in the expanded portion of the Buffer, but not in the 100-foot Buffer or expanded Buffer for 15% slopes;
  - (b) The entire Buffer occupies at least 75 percent of the lot or parcel; and
  - (c) Mitigation occurs at a 2:1 ratio based on the lot coverage of the proposed development activity that is in the expanded Buffer.
- vi On a lot or parcel that is created on or after January 1, 2010, a development activity may be allowed that impacts the expanded buffer for highly erodible soils on slopes less than 15% or hydric soils,if:
  - (a) The development activity is in the expanded portion of the Buffer, but not in the 100 ft Buffer or expanded buffer for 15% slopes;
  - (b) The entire Buffer occupies at least 75 percent of the lot or parcel;
  - (c) Mitigation occurs at a 2:1 ratio based on the lot coverage of the proposed development activity that is in the

Possible  
Revision to  
County Option  
#2, Section vi

- expanded Buffer;
- (d) The maximum density cannot be achieved on site using minimum lot sizes and standard County setbacks without impacting the expanded Buffer. The minimum reduction in the expanded Buffer necessary to accommodate the proposed development shall be applied; and
  - (e) For lots created on or after December 13, 1988, the platted Critical Area Buffer and expanded Buffer shall be the Critical Area Buffer with the exception that the Buffer will be moved landward an equal amount to any land lost due to shore erosion.
- vi On a lot or parcel that is created on or after January 1, 2010 for which the maximum allowed density cannot be achieved on site using minimum lot sizes and standard County setbacks without impacting the expanded buffer, a development activity may be allowed that impacts the expanded buffer for highly erodible soils on slopes less than 15% or hydric soils,if:
- (a) The development activity is in the expanded portion of the Buffer, but not in the 100 ft Buffer or expanded buffer for 15% slopes;
  - (b) The entire Buffer occupies at least 75 percent of the lot or parcel; and
  - (c) Mitigation occurs at a 2:1 ratio based on the lot coverage of the proposed development activity that is in the expanded Buffer.
- vii For lots created on or after December 13, 1988, the platted and recorded Critical Area Buffer and expanded Buffer shall be the Critical Area Buffer with the exception that the Buffer will be moved landward an equal amount to any land lost due to shore erosion.

- C.** **For subdivisions in the RCA and all projects in the RCA that require a site plan and/or change in use which were submitted on or after July 1, 2008, the Critical Area Buffer shall be 200 foot landward from the Mean High Water Line of tidal waters and tidal wetlands and a 100-foot Buffer from the edge of the bank of tributary streams. If the Buffer is not forested, it shall be established in forest. The Buffer shall be expanded beyond 200 ft or 100 ft for tributary streams for the same reasons and in the fashion as described in Section 8-1.08.D.2.b. The 200-foot Buffer for these subdivisions may be reduced to no less than 100 ft or to the edge of the extended Buffer under the following conditions:**
- i.** **An application for subdivision or site plan approval was submitted before July 1, 2008 and legally recorded by July 1, 2010;**
  - ii.** **The subdivision or site plan receives growth allocation;**
  - iii.** **The maximum density (1 dwelling unit/20 acres) cannot be achieved on site using minimum lot sizes and standard County setbacks without impacting the 200-foot Buffer. The minimum reduction in the buffer necessary to accommodate the proposed development shall be applied.**
  - iv.** **An Intrafamily transfer allowed under Section 8-1.05.H of this ordinance is precluded. The minimum reduction in the buffer necessary to accommodate the proposed development shall be applied.**

4. Administration **Buffer Regulations**

**3.**

The following regulations shall govern activities within the Buffer.

- a.** **The Buffer shall be maintained in natural vegetation and shall be managed to achieve or enhance the functions stated in Section 8-1.08.D.1.**
  - i.** **Except as authorized in Subsection “b” of this Section, disturbance in the Buffer is prohibited.**

- ii.** Cutting, clearing or topping of trees and removal of existing natural vegetation, including understory trees, shrubs and ground cover within the Buffer is prohibited.
- iii.** **On areas of the property where land disturbance or clearing comes within 25 feet of the Critical Area Buffer, the Buffer shall be demarcated using snow fencing or a silt fence prior to clearing, grading, or construction and these protective devices shall remain until construction is complete.**
- iv.** **A 10-foot building setback shall be maintained from the edge of the vegetated Buffers. The Zoning Officer may grant a reduction of the setback after review and recommendation by the Environmental Planner. The setback reduction may only be granted to allow activities permitted in Section 8-2.05.C.6 and for construction of primary residences which could not normally be built because of unusual lot configuration or other site constraints.**
- v.** **Before recordation of a final subdivision:**

  - (a)** **Permanent signs delineating the upland boundary of the Buffer at a ratio of at least one sign per lot or per 200 linear feet of shoreline, whichever is greater, shall be posted.**
  - (b)** **The signs shall be designed to be at least 11” wide and 15” in height, placed at a height of 4.5 feet (but not attached to a tree), and shall state “Critical Area Buffer-No clearing or disturbance permitted.”**
- vi.** **Concurrent with the recordation of a final plat, an applicant shall record a protective easement for the Buffer.**
- vii.** **When a Buffer Management Plan (BMP) is required, a final subdivision application shall not be approved until the jurisdiction has reviewed and approved the BMP.**

Text moved from Section  
8-1.08.D.3.f.

**b. Notwithstanding the prohibitions of paragraph 'a' above, the following activities may be allowed with an approved Buffer Management Plan and either a Grading Permit, Grading Exemption, or Vegetation Removal Permit. No permits are required for pruning limited to the lower one-third of the height of the tree. Tree replacement is required at the ratios given below.**

**i. Cutting of trees or removal of natural vegetation may be permitted where necessary to provide for the following purposes:**

**(a) One access to the waterfront for a to private piers (mitigation ratio = 2:1) or**

**(b) A boat ramp (mitigation ratio = 2:1), or**

**(c) Other water dependent facility (mitigation ratio = 2:1),**

**(d) Development in a Special Buffer Management Area consistent with Section 8-1.08.D.4, or**

**(e) To install or construct a shore erosion protection device or measure, or a water-dependent facility, providing the device, measure, or facility has received all necessary State and Federal permits (mitigation ratio = 1:1). and the vegetation is replaced on a one-to-one (1:1) basis**

**No more than one access through the Buffer is permitted per waterfront lot. A four-foot-wide access is allowed if the access is for steps or a pathway; or a 12-foot-wide access is allowed for vehicular access to a boat ramp.**

**ii. Individual trees, living or dead, may be removed which are in danger of falling and causing damage to dwellings or other structures, or which are in danger of falling and therefore causing the blockage of streams, or resulting in accelerated shore erosion (mitigation ratio = 1:1).**

- iii. Appropriate horticultural practices may be used to maintain the health of individual trees, including removal of noxious, invasive, and exotic species which impair the function and growth of a forested Buffer. Inappropriate horticultural practices, such as topping, girdling, over pruning or severely damaging trees existing vegetation are prohibited **(mitigation ratio = 1:1)**.
  - iv. Other cutting techniques may be undertaken within the Buffer and under the advice and guidance of the Departments of Agriculture and Natural Resources, if necessary to preserve the forest from extensive pest or disease infestation, or threat from fire, **or to remove invasive species (mitigation ratio = 1:1)**.
  - v. **Selective thinning and cutting may be approved by the Department of Planning and Zoning if the Department determines that the function of the Buffer will not be impaired.**
  - vi. **Removal of vegetation for permitted development and redevelopment activities may be permitted (mitigation ratio = 3:1 in the Critical Area Buffer and 2:1 in the Buffer in Special Buffer Management Areas).**
  - vii. **As long as there is no removal of native vegetation, maintenance of existing lawns and gardens and planting or replacement (within 30 days) of ornamental shrubs is allowed without permits. Planting of native species is recommended.**
- c. Buffer Establishment. The Buffer to tidal waters, tidal wetlands or a tributary stream shall be established under the following conditions:**
- i **No establishment required for in-kind replacement of a primary structure or improvements within the existing footprint of existing primary structures.**
  - ii **For new development on a vacant lot or parcel created prior to December 13, 1988, an area of the Buffer shall be established equal to the total lot coverage approved.**
  - iii **For new development on a vacant lot or parcel created on or after December 13, 1988, the entire Buffer shall be established.**

- iv For a new subdivision or new lot, the entire Buffer shall be established.
- v For the conversion of a land use on a parcel or lot to another land use, the entire Buffer shall be established.
- vi For an addition or accessory structure, an area of the Buffer shall be established equal to two times the area of new lot coverage approved.
- vii For substantial alteration, an area of the Buffer shall be established equal to the total lot coverage; existing and newly approved.
- viii. All required buffer establishment will be bonded as described in Section 8-1.04.G.4 and will require a Buffer Management Plan.
- d. Disturbance within the Critical Area Buffer based on an approved variance from the Board of Appeals requires mitigation at a 3:1 ratio. Mitigation for a violation (see Section 8-1.09.B) is at a 4:1 ratio.
- a.e. New development activities, including structures, roads, parking areas and other impervious surfaces, mining and related facilities, or septic systems, ~~may~~ **shall** not be permitted in the Buffer, except for those necessarily associated with water-dependent facilities or for shore erosion control. If no vegetative Buffer exists, one shall be established using native vegetation for any planting required for the activity.
- b. ~~The Buffer shall be maintained in natural vegetation but may include planted native vegetation where necessary to protect, stabilize, or enhance the shoreline.~~
- e. f. Agricultural activities are permitted in the Buffer, if, as a minimum Best Management Practice, a 25-foot vegetated filter strip measured landward from the Mean High Water Line of tidal waters or tributary streams (excluding drainage ditches), or from the edge of tidal wetlands, whichever is further inland, is established, and further provided that:

- i. The filter strip shall be composed of either trees with a dense ground cover, or thick sod of grass, and shall be so managed as to provide water quality benefits and habitat protection. ~~consistent with the policies stated in the County's Critical Area Program Chapter X(C).~~ Noxious weeds, including Johnson grass, Canada thistle, and multiflora rose, which occur in the filter strip, may be controlled by authorized means;
- ii. The filter strip shall be expanded by a distance of four feet for every one percent of slope, for slopes greater than six percent;
- iii. The 25-foot vegetated filter strip shall be maintained until such time as the landowner is implementing, under an approved Soil Conservation and Water Quality Plan, a program of Best Management Practices for the specific purposes of improving water quality and protecting plan and wildlife habitat; and provided that the portion of the Soil Conservation and Water Quality Plan being implemented achieves the water quality and habitat protection objectives of the 25-foot vegetated filter strip;
- iv. The Best Management Practices shall include a requirement for the implementation of a grassland and manure management program, where appropriate, and that the feeding or watering of livestock, may not be permitted within 50 feet of the Mean High Water Line of tidal water and tributary streams, or from the edge of tidal wetlands, whichever is further inland;
- v. Farming activities including the grazing of livestock ~~do~~ **shall** not disturb stream banks, tidal shorelines or other Habitat Protection ~~District~~ **Areas** as described in this Section.
- vi. Where agricultural use of lands within the area of the Buffer ceases and the lands are proposed to be converted to other uses, the Buffer shall be established. In establishing the Buffer, management measures shall be undertaken to provide forest vegetation that ~~assures~~ **accomplishes** the Buffer functions set forth **elsewhere** in **this** Section. ~~8-1.01.C of this Article.~~

f. ~~g.~~ Commercial harvesting of trees by selection ~~or by the clearcutting of Loblolly Pine and Tulip Poplar~~ may be permitted to within 50 feet of the landward edge of the Mean High Water Line of tidal waters and perennial tributary streams, or the edge upland boundary of tidal wetlands, provided that this cutting does not occur in the Habitat Protection Districts Areas described in Sections 8-1.01.C, 8-1.01.D, 8-1.01.E, and 8-2.07 8-1.08.F-H and that the cutting is conducted ~~pursuant to the requirements of Section 3-2.01.D of the Zoning Ordinance~~ and in conformance with a Buffer Management Plan prepared by a registered, professional forester and approved by the Maryland ~~Forest Service~~ Department of Natural Resources. The plan shall be required for all commercial harvests within the Buffer, regardless of the size of the area to be cut, and shall contain the following minimum requirements:

- i. Disturbance to stream banks and shorelines shall be avoided;
- ii. The area disturbed or cut shall be replanted, or allowed to regenerate native vegetation in a manner that assures the availability of cover and breeding sites for wildlife, and reestablishes the wildlife corridor function of the Buffer; ~~and~~
- iii. The cutting does not involve the creation of logging roads and skid trails within the Buffer; and
- iv. Sediment and erosion control shall be addressed.

~~Commercial harvesting of trees, by any method, may be permitted to the edge of intermittent streams provided that the cutting is conducted pursuant to the requirements of this Section.~~

d. ~~The Buffer shall be managed to achieve or enhance the functions stated in Section 8-1.01.C. Cutting or clearing of trees and removal of existing natural vegetation, including understory trees, shrubs and ground cover within the Buffer shall be prohibited except that~~

- i. ~~Cutting of trees or removal of natural vegetation may be permitted where necessary to provide access to private piers, or to install or construct a shore erosion protection device or measure, or a water dependent facility, providing the device, measure, or facility has received all necessary State and Federal permits, and the vegetation is replaced on a one to one (1:1) basis.~~

Text moved to  
Section 8-1.08.D.3

- ii. Individual trees may be removed which are in danger of falling and causing damage to dwellings or other structures, or which are in danger of falling and therefore causing the blockage of streams, or resulting in accelerated shore erosion.
- iii. Appropriate horticultural practices may be used to maintain the health of individual trees, including removal of noxious, invasive, and exotic species which impair the function and growth of a forested Buffer. Inappropriate horticultural practices such as topping, girdling, over pruning or severely damaging trees are prohibited.
- iv. Other cutting techniques may be undertaken within the Buffer and under the advice and guidance of the Departments of Agriculture and Natural Resources, if necessary to preserve the forest from extensive pest or disease infestation or threat from fire.

Removal of existing natural vegetation other than as specified above is not allowed. Permits are required for all buffer alteration activities listed above except that no permits are required for the removal of dead trees which may be a hazard to structures or personal property and tree pruning (limited to branches on the lower one-half of trees).

e-h. Grading or disturbance in the Buffer, without **tree vegetation** removal, is only allowed for erosion control or to enhance the Buffer function, and requires a grading permit and mitigation **as per Section 8-1.04.G.3.e.** according to the Critical Area Conservation Manual. Failure to comply with the provisions of this Section is considered a violation, and afforestation of four times the area disturbed shall be required.

g. Fences four feet or less than in height are permitted in the Critical Area Buffer **provided that the owner or the owners' agent obtains a permit and the fence is made of wood, a material that has a wood-like appearance, chain-link, or wire. Fences that require a foundation are not permitted. A variance from the Board of Appeals is required for any fences not meeting these criteria.**

- h. On grandfathered lots in the Critical Area (see Section 8-1.07), additions to the principal structure of less than 50 square feet are permitted in the Critical Area Buffer provided:
  - i. No trees are removed during construction; and
  - ii. The addition is greater **more** than 50 feet from mean high water, the edge of tidal wetlands, or a tributary streams;
  - iii. **The addition is not on slopes greater than 15 percent; and**
  - iv. **The addition is not within the cliff setbacks (see 8-2.02).**
  - v. **When grading and/or clearing is allowed in the Buffer, super silt fencing is required to be installed and a vegetative mat or sod shall be installed at finished grade.**
- k. **Buffer Management Plans (BMP)**
  - i. **A BMP shall address the criteria listed in Section 8-1.08.C.3.b.**
  - ii. **A BMP is not required for maintenance of an existing lawn or existing garden in the Buffer, or for the planting or replacement of ornamental shrubs or groundcover not required for afforestation, mitigation or other permit or violation requirement.**
  - iii. **A BMP shall be submitted for the following activities: when establishment of the buffer is required or when disturbance to the buffer will result from a variance, subdivision approval, site plan approval, shore erosion control permit, building permit, grading permit, grading exemption, vegetation removal permit, or special exception.**
  - iv. **A BMP shall include the following**
    - (a) **Show limits of disturbance (LOD) including type of vegetation and area of all vegetation removal including all area for which canopy is being removed;**
    - (b) **Planting schedule including species, size and spacing of proposed plantings;**

- (c) Maintenance plan including invasive species control, watering and monitoring; and**
- (d) Estimated amount of bond and review and inspection fee.**
- (e) See additional requirements in Sections v, vi, and vii of this Section.**

**v. Simplified Buffer Management Plan (SBMP)**

- (a) A SBMP is required for the following activities: providing access to a private pier or shoreline that is up to 3 feet wide; manually removing invasive or noxious vegetation; filling to maintain an existing grass lawn; or cutting a tree that is in imminent danger of falling and causing damage to a dwelling or other structure, in danger of falling and causing blockage to a stream, or likely to accelerate shore erosion. When homeowner actions are necessary in emergency situations (tree poses imminent danger of falling and causing damage to a dwelling or other structure) to remove trees in the Buffer, the homeowner shall take a photograph of the tree, remove the tree that poses imminent danger, and submit a SBMP within 7 days of removal.**
- (b) In addition to the requirement of Section iv above, a SBMP shall include: a brief narrative describing the proposed activity, including the anticipated start date and method to be used; the proposed mitigation, the proposed planting date, and the signature of the party responsible for the proposed activity and for ensuring the survival of the planting.**

- vi. Minor Buffer Management Plan (MiBMP)**
  - (a) A MiBMP is required when Buffer establishment or required mitigation (planting) is less than 5,000 square feet.**
  - (b) In addition to the requirement of Section iv above, a MiBMP shall include: A plan that shows the proposed LOD, the total number and size of trees to be removed and the arrangement of the planting to be done; a landscape schedule that shows the proposed species type, the quantity of plants, the size of plants to be installed, and the planting date; a maintenance plan for the control of invasive species, pests, and predation including invasive species and pest control practices, the provision of at least two years of monitoring, a reinforcement planting provision if survival falls below the standards set in Tables 8-1.4 through 8-1.6; an inspection agreement that grants permission to the County to inspect the plantings at appropriate times, the information on which calculation of the amount of Buffer to be planted was based; and the signature of the party responsible for the proposed activity and for ensuring the survival of the planting.**
  
- vii. Major Buffer Management Plan (MaBMP)**
  - (a) A MaBMP is required when Buffer establishment or required mitigation (planting) is equal to or greater than 5,000 square feet.**

**(b)**

**In addition to the requirement of Section iv above, a MaBMP shall include: A plan that shows the proposed LOD; the total number and size of trees to be removed and the arrangement of the planting to be done; a landscape schedule that shows the proposed species type, the quantity of plants, the size of plants to be installed, and the planting date; a maintenance plan for the control of invasive species, pests, and predation including invasive species and pest control practices, the provision of at least two years of monitoring; and a reinforcement planting provision if survival falls below the standards set in Tables 8-1.3 and 8-1.4; a long-term protection plan that includes evidence of financial assurance, an anticipated planting date before construction or the sale of the lot, an inspection agreement that grants permission to the County to inspect the plantings at appropriate times, the information on which calculation of the amount of Buffer to be planted was based; and the signature of the party responsible for the proposed activity and for ensuring the survival of the planting. A single species may not exceed 20 percent of the total planting requirement and shrubs may not exceed 50 percent of the total planting requirement.**

**viii. When a BMP is required, no permits shall be issued unless:**

**(a) The BMP is implemented, or**

**(b) The planting bond has been paid to assure the planting and long-term survivability of the planting.**

**ix. Failure to implement a BMP in the time period specified in the BMP, is a violation. No permits will be issued if a violation exists.**

**I. Buffer Mitigation**

- i. New areas of managed lawn or turf are prohibited. Beneath required plantings, vegetated ground cover or mulch is required.**
- ii. Mitigation is meant to offset area disturbed and to restore the ecological function.**
- iii. Mitigation shall require planting of overstory and understory unless otherwise approved by the Department of Planning and Zoning.**
- iv. Individual trees removed will be mitigated based on canopy coverage lost in square feet.**
- v. Forested areas will be mitigated based on square footage of forest removed including the canopy of trees removed at the edge of the forest. Where canopy does not exist, mitigation will be based on the square footage of subcanopy or herbaceous coverage.**
- vi. Only native plants listed in the “Calvert County Native Plant List”, approved by the Board of County Commissioners and available from the Department of Planning and Zoning may be used for mitigation plantings. Mitigation credits for plantings are also given in the “Calvert County Native Plant List”.**
- vii. Single species may not exceed 20% of the total planting requirement.**
- viii. Large and small shrubs may not exceed 50% of the total planting requirement.**
- ix. Long term protection shall be provided for the Buffer areas established under this provision (plats recorded in the land records).**
- x. For new subdivisions, signs shall be posted to delineate the Buffer at no less than one per lot or 200 linear feet of shoreline.**
- xi. Buffer stocking standards are given in the “Calvert County Native Plant List”, approved by the County Commissioners and available from the Department of Planning and Zoning.**
- xii. For the establishment of more than one acre, natural regeneration may be used for up to 50% of the area required to be established, if**

- (a) The Plan does not include any managed lawn or turf and includes invasive species control,
- (b) All of the natural regeneration is within 50 feet of a natural forest that contains a seed bank of native species adequate for natural regeneration,
- (c) The Plan includes a supplemental planting plan for subsequent implementation if the natural regeneration does not succeed, and
- (d) The financial assurance provided for implementing the Buffer Management Plan is sufficient to cover the cost of planting an equivalent area; and specifies that release of the financial assurance may not occur until 5 years after the date of Plan approval or the areal coverage of the Buffer is at least 300 native woody stems, on a per acre basis, that are at least 4 feet in height, whichever is later.
- (e) At the end of 5 years, after the date of approval of a natural regeneration Plan, an applicant shall implement a supplemental planting plan for at least 2 years if the areal coverage of the Buffer is not, on a per acre basis, at least 300 native woody stems of at least 4 feet in height.

**m.**

**Fee in Lieu of Buffer Mitigation**

- i. The County shall collect a fee in lieu of Buffer mitigation when planting requirements cannot be met onsite.
- ii. The fees in lieu of Buffer planting shall be \$1.50 per square foot of mitigation not accommodated onsite and shall be placed in the Critical Area Fees in Lieu Fund.

**State  
Option #1**

County  
Option #2

ii. The fees in lieu of Buffer planting shall be \$0.40 per square foot of mitigation required and not accommodated onsite and shall be placed in the Critical Area Fees in Lieu Fund.

n. Planting Requirements for Required Plantings in the Critical Area

i. The planting must meet the criteria listed in Tables 8-1.2, 8-1.3 and 8-1.4, below:

ii A variance to these requirements cannot be granted

Table 8-1.4

Requirement  
Establishment

Amount

Options

Less than 1/4 acre

Landscaping stock according to Table 8-1.3 for the entire area

1/4 acre to less than or equal to 1 acre

At least 50% of area in landscaping stock according to Table 8-1.3, the remainder according to Table 8-1.4

Greater than 1 acre to less than or equal to 5 acres

At least 25% of area in landscaping stock according to subsection (3), the remainder according to subsection (4)

Greater than 5 acres

At least 10% of area in landscaping stock according to subsection (3), the remainder according to subsection (4)

Mitigation

Less than 1 acre

Landscaping stock according to subsection (3) for the entire area

1 acre or greater

At least 50% of area in landscaping stock according to subsection (3), the remainder according to subsection (4)

**Table 8-1.5. Landscaping Stock**

| <b><u>Vegetation Type</u></b>       | <b><u>Minimum Size Eligible for Credit</u></b>   | <b><u>Maximum Credit Allowed (square feet)</u></b> | <b><u>Maximum Percent of Credit</u></b> |
|-------------------------------------|--|--|---|
| <b><u>Canopy tree</u></b>           | <b><u>2 inch caliper and 8 feet high</u></b>   | <b><u>200</u></b>                                  | <b><u>Not applicable</u></b>            |
| <b><u>Canopy tree</u></b>           | <b><u>1 inch caliper and 6 feet high</u></b>   | <b><u>100</u></b>                                  | <b><u>Not applicable</u></b>            |
| <b><u>Understory tree</u></b>       | <b><u>1 inch caliper and 6 feet high</u></b>   | <b><u>75</u></b>                                   | <b><u>Not applicable</u></b>            |
| <b><u>Large shrub</u></b>           | <b><u>1 gallon and 4 feet high</u></b>   | <b><u>50</u></b>                                   | <b><u>30</u></b>                        |
| <b><u>Small shrub</u></b>           | <b><u>1 gallon and 18 inches high</u></b>  | <b><u>25</u></b>                                   | <b><u>20</u></b>                        |
| <b><u>Herbaceous perennial*</u></b> | <b><u>1 quart</u></b>  | <b><u>2</u></b>                                    | <b><u>10</u></b>                        |
| <b><u>Planting Cluster 1 *</u></b>  | <b><u>1 canopy tree; and 3 large shrubs or 6 small shrubs of sizes listed above</u></b>      | <b><u>300</u></b>                                  | <b><u>Not applicable</u></b>            |
| <b><u>Planting Cluster 2*</u></b>   | <b><u>2 understory trees; and 3 large shrubs or 6 small shrubs of sizes listed above</u></b> | <b><u>350</u></b>                                  | <b><u>Not applicable</u></b>            |

**These options are available only for Buffer establishment and Buffer mitigation of less than 1**

**All landscaping stock planted shall be 100 percent guaranteed for at least 2 years after planting is completed.**

**Table 8-1.6. Smaller Tree Stock**

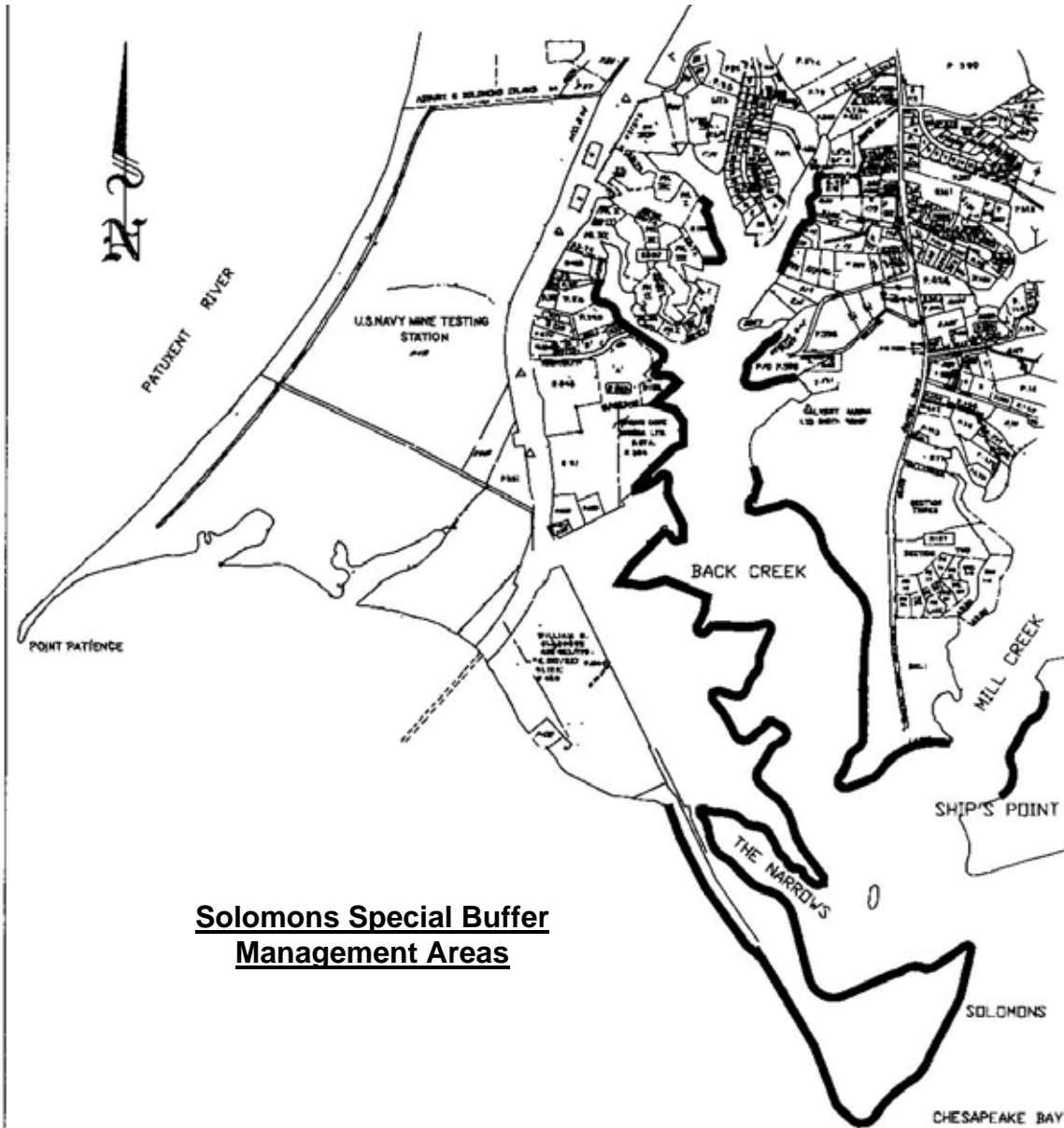
| <b><u>Stock Size of Trees Only</u></b>         | <b><u>Required number of Stems Per Acre</u></b> | <b><u>Survivability Requirement</u></b> | <b><u>Minimum Financial Assurance Period After Planting</u></b> |
|--|---|---|---|
| <b><u>Bare-root seedling or whip</u></b>       | <b><u>700</u></b>                               | <b><u>50 percent</u></b>                | <b><u>5 years</u></b>   |
| <b><u>½” to 1” container grown trees</u></b>   | <b><u>450</u></b>                               | <b><u>75 percent</u></b>                | <b><u>2 years</u></b>   |
| <b><u>1” or more container grown trees</u></b> | <b><u>350</u></b>                               | <b><u>90 percent</u></b>                | <b><u>2 years</u></b>   |

- o. Planting Location Priorities**
  - i First priority. On site in the Critical Area Buffer. Other priorities can only be considered when all area in the buffer has been planted;**
  - ii Second priority. On site and adjacent to the Buffer;**
  - iii. Third priority. On site elsewhere in the Critical Area;**
  - iv. Offsite in the Critical Area; or**
  - v. Payment of fees-in-lieu of planting at a rate set by the Board of County Commissioners.**

- 5. 4.** ~~The following special provisions apply in the~~ **Special Buffer Management Exemption Areas.**
  - a. Permitted Uses: The location of Special Buffer Management Areas are designated by the Board of County Commissioners and approved by the Critical Area Commission and are depicted on Maps 8-1.1 and 8-1.2.**
  - b. New development or redevelopment is permitted provided that the development and redevelopment rules and offsetting requirements set forth below in paragraph ‘h’ and ‘i’ of this Section are observed.**

- c.** Shore erosion protection measures **are permitted** provided that such measures are consistent with the ~~County's~~ shore erosion protection policies described in Section ~~8-2.07~~ **9-8.01** and provided that the measures ~~has~~ **have** all applicable State and Federal permits.
- d.** Cutting or clearing of trees **and removal of vegetation is permitted as described in Section 8-1.08.D.3.b.** ~~under an approved Forest Management Plan for the following purposes only.~~

  - i. ~~For personal use providing that Buffer functions are not impaired and trees cut are replaced.~~

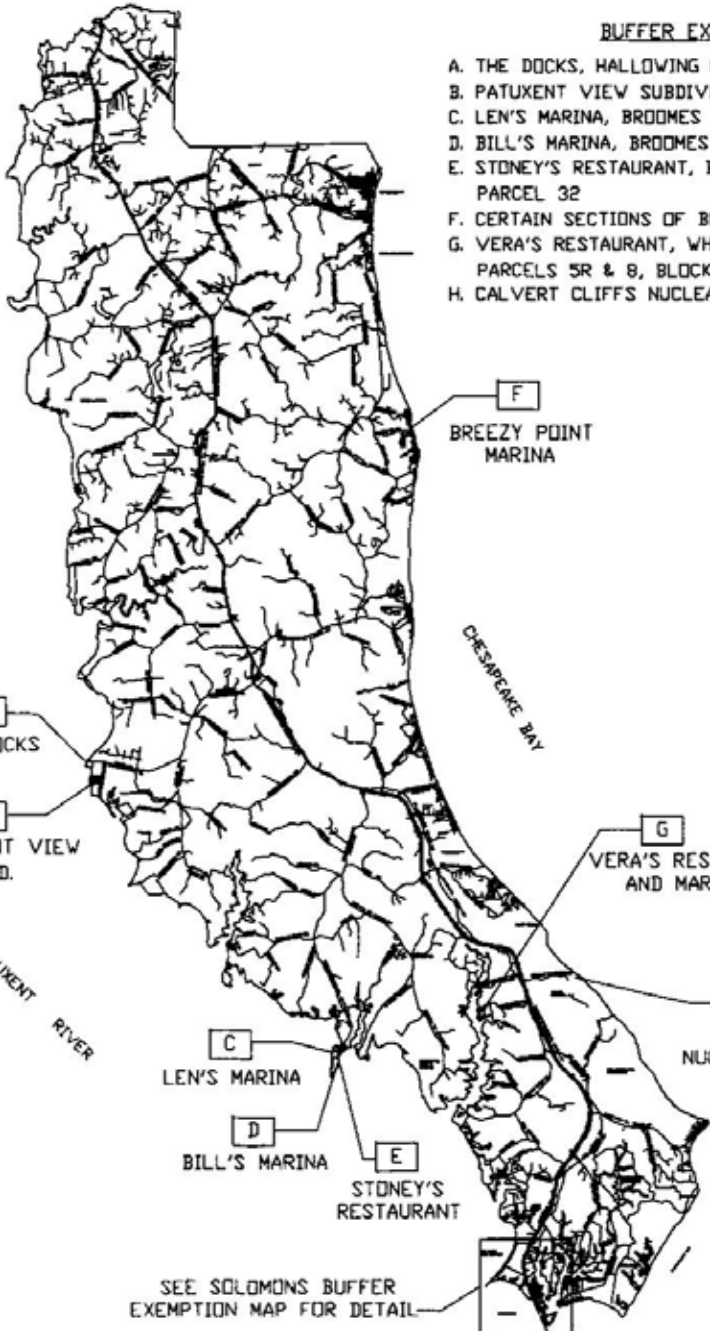


**Solomons Special Buffer Management Areas**

**Map 8-1.1 Solomons Special Buffer Management Areas**

**Special Buffer Management Areas**

Prepared by Calvert County  
Dept. of Planning and Zoning, 6/26/2003



**BUFFER EXEMPT AREAS**

- A. THE DOCKS, HALLOWING POINT, TAX MAP 26, PARCEL 66
- B. PATUXENT VIEW SUBDIVISION
- C. LEN'S MARINA, BRODMES ISLAND, TAX MAP 38C, PARCEL 1
- D. BILL'S MARINA, BRODMES ISLAND, TAX MAP 38, PARCEL 17
- E. STONEY'S RESTAURANT, BRODMES ISLAND, TAX MAP 38C, PARCEL 32
- F. CERTAIN SECTIONS OF BREEZY POINT MARINA
- G. VERA'S RESTAURANT, WHITE SANDS, TAX MAP 35A, PARCELS 5R & 8, BLOCK A
- H. CALVERT CLIFFS NUCLEAR POWER PLANT

A  
THE DOCKS

B  
PATUXENT VIEW  
SUBD.

F  
BREEZY POINT  
MARINA

G  
VERA'S RESTAURANT  
AND MARINA

H  
CALVERT CLIFFS  
NUCLEAR POWER PLANT

C  
LEN'S MARINA

D  
BILL'S MARINA

E  
STONEY'S  
RESTAURANT

SEE SOLOMONS BUFFER  
EXEMPTION MAP FOR DETAIL

|   |
|---|
| CALVERT COUNTY<br>BUFFER EXEMPTION AREAS                              |
| Prepared by Calvert County<br>Dept. of Planning and Zoning, 6/26/2003 |

- ii. ~~To prevent trees from falling and blocking streams, causing damage to dwellings or other structures, or resulting in accelerated erosion of the shore or streambank.~~
- iii. ~~In conjunction with horticultural practices used to maintain the health of individual trees.~~
- iv. ~~To provide access to private piers.~~
- v. ~~To install or construct an approved shore erosion protection device or measure.~~
- vi. ~~To protect trees from extensive pest or disease infestation.~~
- vii. ~~To permit the development or redevelopment allowed above to be constructed or installed.~~

b. ~~Prohibited Uses:~~

~~Water Polluting Activities including but not limited to, storage of vehicles, fuel or chemicals.~~

**e.e. Development and Redevelopment Rules. In the Solomons Town Center, the minimum Buffer is 30 feet. Outside the Solomons Town Center, the minimum Buffer is the average of the setbacks of structures on adjacent properties or 50 feet, whichever is greater.**

- i. Existing Structures - In such cases where an existing structure does not meet the Buffer requirements of this Section, a set back line exists as defined by structures on adjacent lots or parcels, the expansion or redevelopment of the structure may not extend shoreward of that line. Any impervious surfaces lot coverage created greater in extent to the pre-existing impervious surfaces within the Special Buffer Management exemption areas shall be offset as described below in the paragraphs 'h' and 'i' of this Section.**

**OPTION 1: CAC  
Staff proposed  
wording**

- ii. ~~Removal of Existing Structures - When a structure within the **Special Buffer Management Exemption** Area is removed, or destroyed, it shall **may** be replaced insofar as possible no closer than 400 **50** feet from the edge of tidal waters, tidal wetlands, or tributary streams. In such cases where a set-back line exists as defined by structures on adjacent lots or parcels, the structure may not be replaced shoreward of that line. Any impervious surfaces **lot coverage** created greater in extent to the pre-existing impervious surfaces **or altered in conjunction with a development activity** within the **Special Buffer Management Exemption** Areas shall be offset as described below **in paragraphs 'h' and 'i' of this Section.**~~
- iii. ~~New Development - New development in the Buffer Exemption Area shall **be located at least 50 feet from the edge of tidal water, tidal wetlands, or tributary streams.** minimize the shoreward extent of impervious surfaces insofar as possible taking into consideration existing County street setback requirements and other such factors. In no case may such impervious surfaces be extended shoreward of any setback line as defined by existing structures on adjacent lots or parcels.~~

**OPTION 2:** P&Z Staff recommends the wording shown to the right, without paragraphs 'i' through 'iii' .

- e. Development and Redevelopment Rules. In the Solomons Town Center, the minimum **Critical Area** Buffer is 30 feet. Outside of the Solomons Town Center, the minimum **Critical Area** Buffer is the average of the setbacks of structures on adjacent properties or 50 feet, whichever is greater **and offsets described in paragraph 'h' and 'i' of this sub-section are required.**
- iv. ~~Subdivision within LDA **and LDA-3 Special Buffer Management Exemption** Areas – **Such** land in an LDA or LDA-3 ~~buffer exemption~~ area may be subdivided and retain its ~~buffer exemption~~ status if it meets all of the following criteria:~~
  - (1) The original parcel is less than five acres and it is designated LDA.
- f. 
  - i.

- (2) ~~Development meets the Criteria of Section c above. though the setback from tidal waters, the edge of wetlands or tributary streams for any development activity, including Structures, roads and parking areas must be a minimum of 50 feet~~ **from the mean high water line of tidal waters, the upland boundary of tidal wetlands, or the edge of the bank of tributary streams.** independent of structures on adjoining parcels. If structures on adjoining parcels or the parcel being subdivided are greater than 50 ft back from the shoreline, the primary structure closest to the shoreline will determine the setback from the shoreline for any development activity. Accessory structures may be permitted within the Buffer, but not within the minimum 50-foot setback. The total area of existing and new accessory structures per lot in the Buffer in the subdivision shall not exceed 1,000 square feet.
- (3) ~~The setback from the shoreline for any structures must be a minimum of 50-ft.~~
- (4) Community sewer must serve **the** property.
- iii.**
- (5) Offsetting requirements listed in Sections paragraphs 'd' 'h' and/or 'e' 'i' below must be met. Compliance with the requirements set forth in Section paragraph 'd e.i.' shall be met on-site through planting or protection of existing natural vegetation within the 50-foot setback. A landscape plan showing existing and proposed vegetation within the setback shall be submitted and approved as part of the subdivision review process. For projects that are required to be submitted to the Critical Area Commission for review and comment, the landscape plan shall be part of the submittal.
- iv.**
- (6) Housing density does not exceed two dwelling units per acre.
- v.**

- (7) Any future shore erosion control on the property shall be non-structural if it is practical and effective at the proposed site. ~~Guidance from the Maryland Department of Natural Resources and the Maryland Department of the Environment will be sought.~~
- vi.**
- (8) A 10% reduction in pollutants from stormwater will be met on-site through the ~~construction~~ **implementation** of Best Management Practices (BMPs) unless findings are made by the ~~County~~ **Department of Planning and Zoning** and/or the Planning Commission that the ~~construction~~ **implementation** of BMPs on site is not feasible because of site conditions such as soil type or depth to water table. This requirement applies to all subdivisions in **Special Buffer Management Exemption Areas** in the Critical Area. **If the 10% reduction cannot be obtained the offsets as described in Section 'h' and 'i' below shall be required.**
- (9) Subdivision of property zoned Marine Commercial is ~~not permitted.~~
- viii.** If land ~~with buffer exemption status~~ is subdivided, but does not meet the criteria of this Section for subdivision ~~in a buffer exemption area~~, only the parcel or lot that retains the original primary structure will ~~remain~~ **retain its Special Buffer Management Area status** exempt. Any new lots ~~or parcels would not be buffer exempt~~, and must fully comply with the provisions of this Ordinance.
- v. **Subdivision within IDA Special Buffer Management Areas – Land in a Special Buffer Management Area may be subdivided and retain its status if it meets all of the following criteria:**
- g.**

- (1) Any development activity, including structures, roads, and parking areas must be set back a minimum of 50 feet from the mean high water line of tidal waters, the upland boundary of tidal wetlands, or the edge of the bank of tributary streams, except in the Solomons Town Center, where the minimum setback is 30 feet. Accessory structures may be permitted within the Buffer, but not within the minimum 50-foot setback.
  - i.
- (2) Community sewer must serve the property.
  - ii.
- (3) The stormwater management plan for a development shall meet the requirements in Section 8-1.03.F.2, except that 20% reduction in pollutants is required (rather than the 10% specified in the referenced Section).
  - iii.
  - iv. The development activity within the Special Buffer Management Area shall minimize impact to the Buffer.
  - v. Development or redevelopment within Special Buffer Management Areas requires that at least 15 percent of the total acreage of the lot or parcel be in forest or developed woodland.
  - vi. Existing vegetation may not be removed from the Special Buffer Management Area except in accordance with an approved Buffer Management Plan designed to enhance the buffer.
  - vii. The offset requirements of paragraph 'h' and 'i' of this Section are required.

d. Offsetting Requirements: New development or redevelopment in the Special Buffer Management Exemption Area which causes impervious surfaces as described in this Section shall be required to offset for such developments as follows:

- i. **Except for authorized proposed or existing access to the water**, the extent of the lot or parcel shoreward of the new development or redevelopment shall be required to remain, or shall be established and maintained, in natural vegetation; and
  - ii. Natural vegetation of an area twice the extent of the ~~impervious surface~~ **lot coverage** created **or altered** in the ~~Buffer Exemption Area~~ shall be planted **on-site or** in an ~~Buffer Exemption~~ offset area or other location as may be determined by the ~~Board of County Commissioners~~ **Department of Planning and Zoning**. The ~~County~~ **Department of Planning and Zoning** may collect fees-in-lieu of such planting for purposes described in the **Buffer** Offset Program described below **in paragraph 'i' of this Section**.
  - iii. **A landscape plan showing existing and proposed vegetation within the Buffer shall be submitted and approved as part of the subdivision review process. For projects that are required to be submitted to the Critical Area Commission for review and comment, the landscape plan shall be part of the submittal.**
- e. Buffer Offset Program: Fees-in-lieu of planting, as described in this Section, shall be used by the County for purposes directly related to its **the Calvert County** Critical Area Program. Such purposes may include:
- i. Projects that improve water quality or that create, improve or restore fish, wildlife or plant habitat.
  - ii. Education or public information activities that would create awareness and understanding of the County Critical Area Program.
  - iii. Those purposes listed in Section ~~8-1.03.G.1.e.iv.~~ **8-1.04.G.1.c.viii.**

**E. Wetlands**

**The provisions of Section 8-2.05, Wetlands, apply to tidal and non-tidal wetlands within the Critical Area.**

~~D.~~ Habitat Districts for **Rare**, Threatened and Endangered Species and

**F.** Species in Need of Conservation

4. Definition

New Section 8-1.08.F. has been moved from former Section 8-1.01.D. Definitions are in Article 12.

- a. ~~"Species in need of conservation" means those fish and wildlife whose continued existence as a part of the State's resources are in question and which may be designated by regulation by the Secretary of the Department of Natural Resources as in need of conservation pursuant to the requirements of Natural Resources Articles, 10-2A-03 and 4-2A-03, Annotated Code of Maryland.~~
- b. ~~"Threatened species" means any species of fish, wildlife, or plants designated as such by regulation by the Secretary of the Department of Natural Resources which 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. 1531 et seq., as amended.~~
- c. ~~"Endangered species" means any species of fish, wildlife, or plants which have been designated as such by regulation by the Secretary of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the State's resources are determined to be in jeopardy. This includes any species determined to be an "endangered" species pursuant to the Federal Endangered Species Act, cited above.~~

~~2.~~ 1. Purpose

To provide protection for those species in need of conservation and rare, threatened and endangered species, and their habitats which occur in the Critical Area.

~~3.~~ 2. Boundaries

- a. Existing Habitat Protection Districts Areas, other than the Critical Area Buffers and extended Buffers and Forest Interior Dwelling Bird Habitat, are identified on the official Critical Area Habitat Protection Area Maps. Future districts are to be delineated by the Board of County Commissioners if the Secretary of the Department of Natural Resources designates additional species by regulation.

- b. No designation of habitat and protective measures for newly recognized rare, threatened or endangered species and their habitats shall be accomplished unless the affected public is given an adequate opportunity to be heard. The protection measures shall be adopted within 12 months of the Secretary's designation.

4 3. 1) Administration

- a. ~~The Board of County Commissioners has designated a protection area around each of the habitats occurring in the County within which d~~ **Development activities and other disturbances shall be prohibited in Habitat Protection Areas (HPAs)** unless it can be shown that these activities or disturbances will not have or cause adverse impacts on these habitats; ~~a red line has been drawn on a mile radius around each habitat and these red circles are shown on the Critical Area Maps.~~
- b. At such time as an activity is proposed which might adversely affect a ~~habitat~~ **HPA, the applicant shall provide** protection measures will be developed using the expertise of the Maryland **Department of Natural Resources** ~~Heritage Program, the Maryland Forest Service and other appropriate public agencies and private organizations., as outlined in Part III, the Conservation Manual.~~
- c. The following protection measures are required as a minimum for Bald Eagle nesting sites which have been verified by ~~the Maryland Forest Service~~ **the Department of Natural Resources and shall be addressed in a Habitat Protection Plan (HPP) submitted by the applicant :**
  - i. A protection zone of one-quarter mile (1,320 feet) in radius around each Bald Eagle nest is established.
  - ii. Clearcutting or harvesting of timber (except limited timber stand improvement) will not be allowed within one-quarter mile (1,320 feet) of the nest site during the nesting period, which is December 15th to June 15th.
  - iii. Land clearing and construction within the protection zone will not be allowed during the nesting season (December 15th to June 15th), unless specifically approved by the Maryland Department of Natural Resources ~~Forest Service.~~

- iv. Limited timber stand improvement and maintenance is allowed between 660 feet and the outer limit of the protection zone outside the nesting period (June 16th to December 14th).
- v. Limited timber stand improvement, maintenance and selective cutting may be allowed between 330 feet and the outer protection zone anytime after the nesting season.
- vi. No timber cutting, land clearing or building, road or trail construction may be allowed within ~~the 330-foot protection zone~~ **feet of a verified nest**.
- vii. If a Bald Eagle nest has not been used for three successive nesting seasons, then any protective regulations applied to the specific site may be removed after verification by the Maryland Department of Natural Resources Forest Service that the nest was unused.
- ~~viii. Variances from these regulations may be granted upon subject to recommendation by the Maryland Department of Natural Resources Forest Service, and in accordance with Section 11-1.01.B of this Ordinance.~~
- ~~ix. Existing agricultural activities which are in compliance with paragraphs 'a-h' of this Section may continue in the protection zone though any intensification of activity within the 330-foot zone during the nesting season shall require a protection plan HPP to be developed and approved~~ **by the Department of Natural Resources**.

~~E.~~ Plant and Wildlife Habitat

**G.**

4. Definition

- a. ~~"Plant habitat" means a community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics as described below.~~
- b. ~~"Wildlife habitat" means those plant communities and physiographic features that provide food, water and cover, nesting, and foraging or feeding conditions necessary to maintain populations of animals in the Critical Area as described below.~~

**New Section 8-1.08.G has been moved from former Section 8-1.01.E. Definitions are in Article 12.**

~~2-~~ **1.** Purpose

The purpose of the Plant and Wildlife ~~Habitat District~~ **HPA** is to:

- a. Conserve wildlife habitat in the Critical Area;
- b. Protect those wildlife habitats that tend to be least abundant or which may become so in the future if current land-use trends continue;
- c. Protect those wildlife habitat types which are required to support the continued presence of various species;
- d. Protect those wildlife habitat types and plant communities which are determined by the **Board of County Commissioners** to be of significance to Calvert County; and
- e. Protect Natural Heritage Areas.

~~3-~~ **2.** Boundaries of HPAs are as determined by the State of Maryland, except for Forest Interior Dwelling Birds (FID) habitat and the Critical Area Buffer. Delineation of FID habitat is based on the existence of forests greater than 50 acres and riparian corridors greater than 300 feet wide. Any impacts to these forest types in the Critical Area shall be mitigated as prescribed in a document entitled, "A Guide to the Conservation of Forest Interior Dwelling Birds in the Chesapeake Bay Critical Area" prepared by and available from the Critical Area Commission. The Critical Area Buffer boundary is as described in Section 8-1.08.D of this Ordinance.

~~As identified on the official Critical Area maps except for forest interior dwelling bird habitat which is defined in Section 8-1.01.E.4.c.iii & iv.~~

~~Designation of habitat and protective measures may not be accomplished without a public hearing.~~

~~3-~~ **3.** e-The following types of habitats shall require **HPPs** protection programs:

- i. **a.** Colonial water bird nesting sites;
- ii. **b.** Historic waterfowl staging and concentration areas in tidal waters, tributary streams, or tidal and non-tidal wetlands;
- iii. **c.** Existing riparian forests (for example, those relatively mature forests of at least 300 feet in width which occur adjacent to streams, wetlands, or the Bay shoreline and which are documented breeding areas);

- iv. ~~Forest areas utilized as breeding areas by forest interior dwelling (FID) birds and other wildlife species (for example, relatively mature forested areas within the Critical Area of 100 acres or more, or forest connected with such areas) **shown on the Calvert County FID Bird Habitat Map;**~~
- ~~v. e.~~ Other areas which may in the future be identified by State and Federal agencies as important plant or wildlife habitat areas;
- ~~vi. f.~~ Other plant and wildlife habitats determined to be of significance to Calvert County;
- ~~vii. g.~~ Natural Heritage Areas; and
- h. State-listed species sites.**
- ~~h. i. Critical Area Buffer.~~
- ~~d. The se protection programs must **HPPs shall** be developed~~
- 4.** prior to any development plans being approved.

~~F.~~ Anadromous Fish Propagation Waters

**H.**

1. Definition

~~"Anadromous fish propagation waters" means those streams that are tributary to the Chesapeake Bay where spawning of anadromous species of fish (e.g. rockfish, yellow perch, white perch, shad, and river herring) occurs or has occurred. The streams are designated by the Tidewater Administration, Department of Natural Resources. For purposes of this Regulation "streams" refers to designated anadromous fish propagation waters within the Critical Area.~~

2. **1.** Purpose

- a. Protect the instream and stream bank habitat of anadromous fish propagation waters;
- b. Promote land use policies and practices in the watershed of spawning streams within the Critical Area which will minimize the adverse impacts of development on the water quality of the streams; and
- c. Provide for the unobstructed movement of spawning and larval forms of anadromous fish in streams.

3. **2.** **Boundaries of Anadromous Fish Propagation Waters are as determined by the State of Maryland**

~~As designated on the official Critical Area Maps based upon maps supplied by the Tidewater Administration.~~

2)

**New Section 8-1.08.H has been moved from former Section 8-1.01.F. Definitions are in Article 12.**

3)

**4.3.** 4) Administration

The following regulations shall apply:

- a. The installation or introduction of concrete riprap or other artificial surfaces onto the bottom of natural streams is prohibited unless it can be demonstrated that water quality and fisheries habitat can be improved.
- b. Channelization or other physical alterations which may change the course or circulation of a stream and thereby interfere with the movement of fish, is prohibited.
- c. The construction or placement of dams or other structures that would interfere with or prevent the movement of spawning fish or larval forms in streams is prohibited. If practical, the removal of existing barriers shall be effected.
- d. The construction, repair, or maintenance activities associated with bridges, or other stream crossings or with utilities and roads, which involve disturbance within the Buffer or which occur instream, is prohibited between March 1 and June 15.

**8-1.09 Fines and Penalties**

**A. In addition to the fines and penalties provided for in Section 1-7 of this Zoning Ordinance, the following shall apply to violations of Section 8-1:**

- 1. Any person in violation of Section 8-1.04.G.4 (Criteria for Development, Redevelopment, and Maintenance in the LDA, LDA-3, and RCA) shall pay a fine not to exceed \$10,000 for each violation and shall be required to replant native woody vegetation to replace vegetation that has been removed as prescribed in paragraph 'B' of this Section.**
- 2. A surety bond shall be posted for any replanting that is done in order to correct a violation. See Section 8-1.04, which describes the bonding process.**
- 3. A contractor, property owner or any other person who committed, assisted, authorized or participated in a violation may be held liable.**
- 4. Each calendar day that a violation continues is a separate offense and a fine may accrue at \$10,000 per day that the violation continues.**

- 5. Payment of all penalties and guarantee of restoration shall be required prior to issuance of any permit, approval, variance, or special exception.**
  - 6. The County shall consider the environmental impact, and costs of site restoration and local government inspections in determining a penalty.**
  - 7. There is a three-year statute of limitations to take enforcement action for any violation occurring after the adoption of this regulation.**
  - 8. The County has the right to enter a property if a violation is reasonably suspected, and if entry is refused, may seek a court injunction.**
  - 9. Prosecution of violators may include jail time up to 90days.**
  - 10. The Critical Area Commission Chair and the County may seek enforcement in the courts.**
- B. Replanting to correct a violation shall be calculated at the rate of four square feet to one square foot (4:1) of the area cleared, graded, or cut in violation of the provisions of this Article. A mitigation plan shall be approved by the Department of Planning and Zoning. The Planting Plan shall include, for each 400 square feet, one large canopy tree and two of understory trees and/or three shrubs or as approved by the Department of Planning and Zoning. Guidance on allowed tree and shrub species and coverage is given in the document entitled, "Calvert County Native Plant List", which has been adopted by the Board of County Commissioners and is available from the Department of Planning and Zoning. As much of the required mitigation as possible, as determined by the Department of Planning and Zoning, should be accomplished onsite. Any remaining square footage of mitigation can be satisfied by paying fees in lieu of planting into the Critical Area Reforestation Fund at a rate established by the Board of County Commissioners.**