

**ARTICLE 9  
MARINE FACILITIES REGULATIONS**

		Article 9, Page No.
9-1	Marine Facilities Regulations	2
	9-1.01 Purpose of Marine Facilities Regulations	2
	9-1.02 Applicability of Marine Facilities Regulations	2
9-2	Location of Harbor Lines and Shorelines	2
	9-2.01 Location of Established Harbor Lines and Shorelines	2
	9-2.02 Amendments to Harbor Line in the Solomons Town Center	2
9-3	Location of Unmapped Harbor Lines	2
9-4	Waterfront Uses	3
	9-4.01 Permitted Uses	3
	9-4.02 Conditional Uses	3
	9-4.03 Prohibited Uses	3
	9-4.04 Pre-existing Uses	3
	9-4.05 Permits Required for Waterfront Uses	3
9-5	Usable Waterway Area	4
	9-5.01 Lateral Lines	4
	9-5.02 Determination of Usable Waterway Area	4
	9-5.03 Amendments to Lateral Lines	7
	9-5.04 Setbacks	7
9-6	Piers	7
	9-6.01 Private Piers	8
	9-6.02 Community Piers and Other Related Non-Commercial Boat Docking and Storage Facilities	8
	9-6.03 Commercial Piers, Marinas and Other Water-Dependent Commercial Maritime Facilities	10
9-7	Water-Dependent Facilities	10
	9-7.01 Regulation of Water-Dependent Facilities	10
	9-7.02 Industrial and Port Related Water-Dependent Facilities	10
	9-7.03 Public Beaches and Other Public Water-Oriented Recreation or Education Areas	11
	9-7.04 Research Areas	11
	9-7.05 Fisheries Activities	11
9-8	Shore Erosion Protection Works	11
	9-8.01 Regulation of Shore Erosion Protection Works	11
	<del>9-8.02 Method of Control Section Deleted May 4, 2010.</del>	12

## **9-1 MARINE FACILITIES REGULATIONS**

### **9-1.01 Purpose of Marine Facilities Regulations**

- A. The purpose of this Section is to provide regulations for the orderly development of the waterfront areas of the County.
- B. Except as specifically provided in this Article, an owner of waterfront property may not be deprived of any right, privilege, or enjoyment of such ownership (as access to or use of a waterway) legally exercised prior to April 21, 1981. The provisions of this Article do not transfer the title or ownership of any waterway or interest in a waterway.

### **9-1.02 Applicability of Marine Facilities Regulations**

- A. The provisions of this Article shall be applicable to, and shall govern, the construction of all marine facilities within Calvert County.
- B. This Article shall be in addition to existing Federal and State regulations governing the same matters and is not intended to preempt other valid laws. The more restrictive regulations shall take precedence.

## **9-2 LOCATION OF ESTABLISHED HARBOR LINES AND SHORELINES**

### **9-2.01 Location of Established Harbor Lines and Shorelines**

- A. The location of harbor lines and shorelines established herein are as shown on Maps C-19, 20, 21-A, 25, 26; D-26; E-30; F-30, 31, 32; G-32, 33, 34; H-32, 33, 34; I-35; J-35, 36, 37, 38; K-38, 39; L-39, 40, 41, 42; M-39, 40, 41, 42, entitled "County Harbor Lines", which is Appendix A of the Official County Zoning Maps.
- B. Amendments to the established harbor lines, as shown on the above-referenced maps, may only be made through the Rezoning by Application process, as required by Section 2-5.01. Harbor lines may not be amended through the variance process.

### **9-2.02 Amendments to Harbor Line in the Solomons Town Center**

- A. In the undeveloped portions of Back Creek, the Harbor Line may be extended from the adopted Harbor Line Map up to the Corps of Engineers Harbor Line only to the extent necessary to recapture the number of slips actually lost due to the protection of identified submerged aquatic vegetation.
- B. If the Harbor Line is extended up to the United States Army Corps of Engineers Harbor Line, under no circumstances may the area which was protected be utilized for dockage or other marine related purposes. Compensation will already have been provided by extending the usable waterway area.

## **9-3 LOCATION OF UNMAPPED HARBOR LINES**

The Department of Planning & Zoning and the Engineering Bureau shall determine the harbor line for any tributary, or portion thereof, which is not mapped, at the time of subdivision or application for a pier permit. A recommendation from the Maryland Department of the Environment (MDE) shall be sought for the determination of the harbor lines for Hall Creek, Lyons Creek, and the unmapped portions of Hunting Creek.

**9-4 WATERFRONT USES****9-4.01 Permitted Uses**

The following marine facilities are permitted in the usable waterway area provided that the use is consistent with the zoning of the adjacent land:

- A. Piers
- B. Bulkheads
- C. Private Boat launch ramps for the use of the lot owner only
- D. Mooring piles
- E. Mooring and anchorages
- F. Floats
- G. Vessel service areas & equipment
- H. Accessory uses approved by the Zoning Officer after referral to the Planning Commission

**9-4.02 Conditional Use**

A boathouse may be approved in the usable waterway, subject to the following conditions:

- A. No Submerged Aquatic Vegetation (SAVs) is located at the site of the proposed boathouse as field verified in May through June; and
- B. No sides (walls extending below the rafters) are permitted; and
- C. The property is an approved commercial marina; and
- D. A permit from the Maryland Department of the Environment is obtained.

**9-4.03 Prohibited Uses**

- A. Residential structures and commercial structures other than vessel service areas on piers, floating piers, or pilings over a waterway.
- B. Abandoned or sunken craft.
- C. Private boat ramps used as community or commercial boat launching ramps.
- D. Covered piers or roofed structures over piers.

**9-4.04 Pre-existing Uses**

- A. Any marine facility lawfully existing at the time of the adoption of this Ordinance may continue to be used even though such marine facility or use does not conform to use or dimensional regulations of this Ordinance.
- B. Any alteration of an existing non-conforming marine facility or use is subject to the provisions of Section 2-6 of this Ordinance, except that the setbacks described in Section 9-5.04 shall apply.

**9-4.05 Permits Required for Waterfront Uses**

- A. Building Permit: A County building permit is required to construct, modify, enlarge, rebuild, or repair any marine facility.

## 9-5.01 Lateral Lines

- B. Grading Permit: A grading permit is required for any placement of dredge spoils, filling or other activity which would result in any waterway bottom or shoreline modification.
- (05/12/09) C. State and Federal permits, approvals or authorization applicable to construction, modification, enlargement, reconstruction, repair, etc. of marine facilities shall be obtained and submitted to the Division of Inspections and Permits as a prerequisite to issuance of a County building permit.

## (08/08/06) 9-5 **USABLE WATERWAY AREA**

The usable waterway area is the area enclosed by the harbor line, shoreline and lateral lines. It is defined and regulated to prevent one property owner from infringing upon the rights of another.

### 9-5.01 Lateral Lines

The lateral lines separate adjacent usable waterway areas, and are determined by bisecting the angles formed by the shoreline at property corners. The following procedures shall be followed to determine the location of lateral lines:

- A. Prepare a scale drawing plot plan showing the applicant's property and all adjacent waterfront properties within a 200-foot radius of the shoreline owned by the applicant (See Figure A).
- B. On the scale drawing, add the shorelines and harbor lines as shown on the appropriate Zoning Map for Harbor Lines.
- C. Intersect all property lines with the shoreline (Points A, B, C, D, E, F, on Figure A).
- D. From the applicant's property line-shoreline intersections (Point D, E, on Figure A) intersect a 200-foot radius with the shoreline (Points 1 and 2 on Figure A).
- E. From the applicant's property, connect all property line-shoreline points, ending at points 1 and 2 with straight lines (D to C, C to B, B to 1, E to 2 on Figure A).
- F. Bisect the angle formed by these straight lines and extend the lines bisecting the angle from the shoreline to the harbor line. These are the lateral lines (B-G, C-H, D-I, E-J on Figure A).
- G. If a marine facility is proposed within 50 feet of a lateral line, the plot plan shall be prepared by a Registered Engineer, Landscape Architect or Registered Land Surveyor.

### 9-5.02 Determination of Usable Waterway Area

The usable waterway must be determined for all properties having a pair of lateral lines as shown on the applicant's drawing. For an acceptable usable waterway area, the following conditions (See Figure A) must be met:

- A. If any pair of lateral lines extended to the harbor line results in a distance of 25 feet or more on the harbor line (Lines G-H, H-I, I-J) these lines and the harbor and shore lines define the usable waterway area for the applicant.
- B. If any pair of lateral lines extended to the harbor line results in a harbor line segment (G-H, H-I, I-J, Figure A) of less than 25 feet, the lateral lines are unacceptable and shall be modified in accordance with Section 9-5.03.
- C. If any pair of extended lateral lines intersect before reaching the harbor line, the lateral lines are unacceptable and shall be modified in accordance with Section 9-5.03.

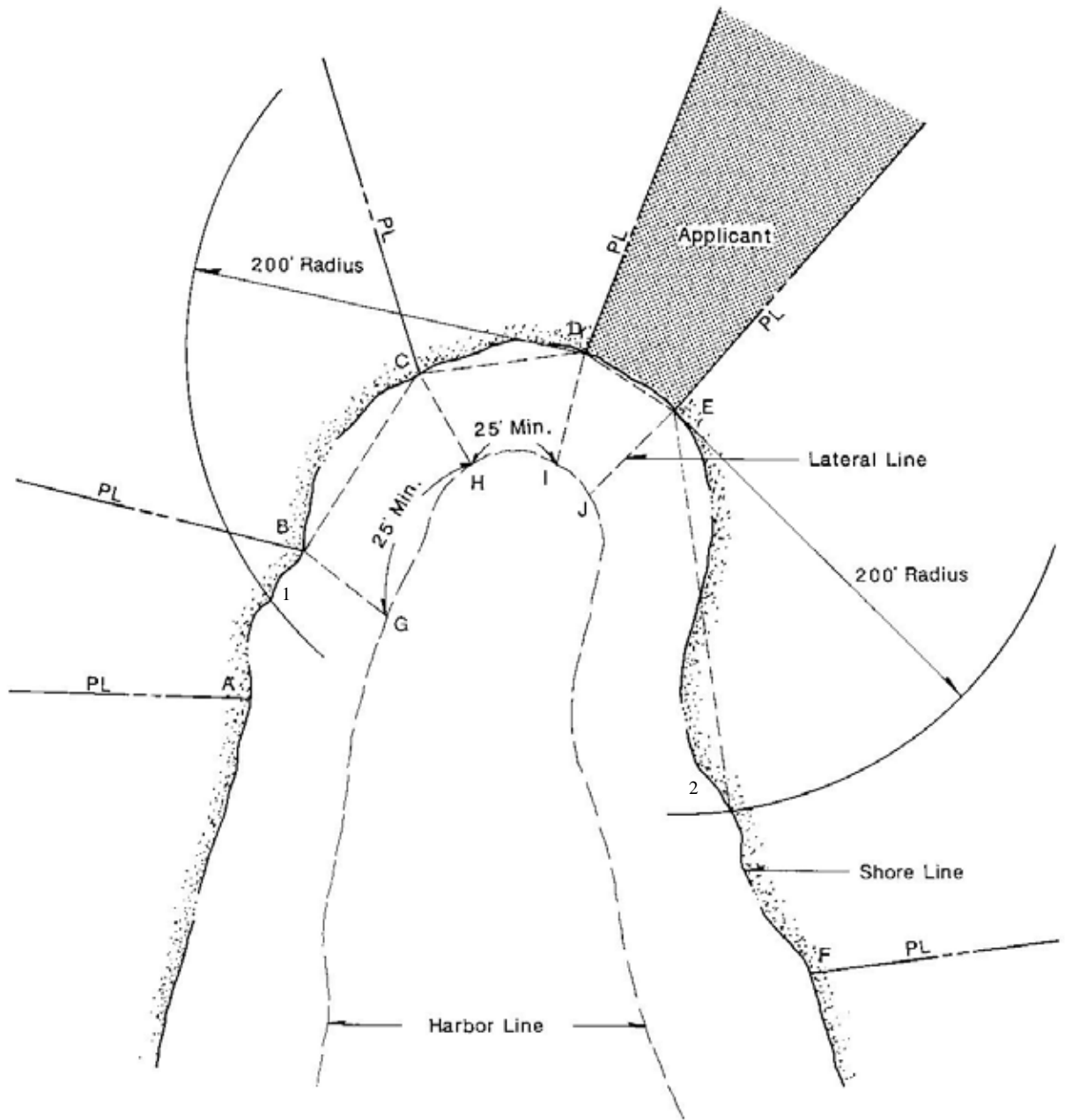


FIGURE A - DETERMINATION OF LATERAL LINES

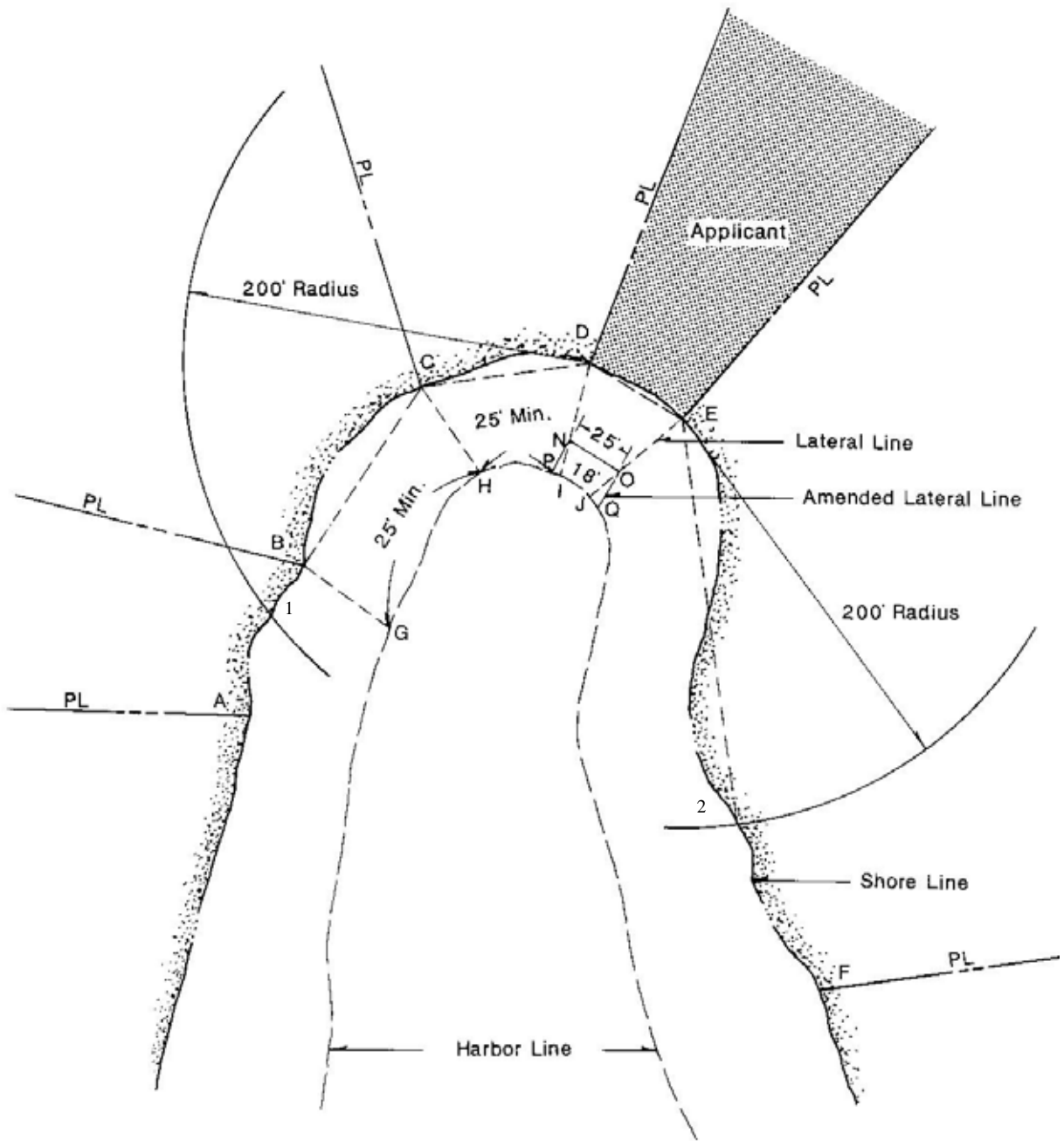


FIGURE B - DETERMINATION OF LATERAL LINES

**9-5.03 Amendments to Lateral Lines**

When lateral lines are amended in accordance with the following requirements, the amended lateral line(s), the harbor line and the shoreline shall define the usable waterway area for the property.

- A. Where a conflict occurs as outlined in Section 9-5.02, the lateral lines shall be modified as shown on Figure B. A line shall be moved toward the shoreline and parallel to line D-E, (Figure B) until a 25-foot clearance is obtained (Line N-O, Figure B).
- B. Two additional lateral lines N-P and O-Q will be drawn perpendicular to line N-O from points N and O to the harbor line. The lines D-N-P, E-O-Q are the new lateral lines for the applicant's parcel and the adjoining properties.
- C. For all amended lateral lines, construction will be limited to the area enclosed by the shoreline, the lateral lines (D-N, O-E) and the imaginary clearance line N-O (Figure B). This procedure will insure adequate clearances for adjacent piers.
- D. When a lateral line restricts the amount of useable waterway area, the lateral line may be amended if a plat is prepared by a Registered Engineer, Landscape Architect or Registered Land Surveyor, indicating the purpose of the plat and depicting the amended lateral line(s), along with the appropriate recording forms. The plat shall be recorded in the land records of Calvert County with signatures of all the owners of the lots or parcels affected by the change and the Secretary to the Planning Commission.

**9-5.04 Setbacks**

- A. Harbor Line Setbacks - Any piers, "T" heads, "L" heads, mooring piles, mooring and/or anchorages must be set back at least 10 feet from the harbor line to assure that no moored vessel or permanent or temporary obstruction extends beyond the harbor lines.
- B. Fuel Dock Setback - Docks used to provide a fueling station for vessels shall be set back a minimum distance of 20 feet from the harbor line. A clear space of 200 feet by 20 feet shall be provided for parallel berthing at "T" or "L" head fuel docks.
- C. Lateral Line Setback - No marine facility, permanent or temporary, shall be located within 25 feet of a lateral line. No vessel shall be moored so as to cause an obstruction within 10 feet of a lateral line.
- D. Adjacent Property Owners Agreement - The lateral line setback may be reduced if a plat is prepared by a Registered Engineer, Landscape Architect or Registered Land Surveyor, indicating the purpose of the plat and depicting the reduced lateral line setbacks, along with the appropriate recording forms. The plat shall be recorded in the land records of Calvert County with signatures of all the owners of the lots or parcels affected by the change and the Secretary to the Planning Commission.

**9-6 *PIERS***

All piers shall be of the open pile design. Filled piers are not permitted. The provisions of this Section shall apply to all applications for subdivision of land and applications for pier permits. The mutual use of piers and/or mooring piles by adjacent property owners is permitted and encouraged whenever possible.

9-6.01 Private Piers

- A. One private pier is permitted as an accessory structure to a single-family dwelling on a buildable lot on any waterfront parcel for the use of the lot owner or his tenant, only. Exception: A pier may be shared by an adjacent property owner if that owner does not have a pier on his or her property with the permission of the owner of the property on which the pier is located.
- B. Requirements for Private Piers:
  - 1. Not more than two slips shall be allowed in the useable waterway area of any waterfront parcel or lot of record. Two additional slips may be allowed if a special exception is granted by the Board of Appeals.
  - 2. If the lot or parcel lies within a subdivision created after April 21, 1981 (date of original legislation on community piers) which contains a community pier, no private piers shall be permitted.
- C. All construction shall comply fully with the requirements for determination of usable waterway as per Section 9-5.02. For new lots created after April 21, 1981, no private piers shall be permitted where the waterfront lot width is reduced to less than that required in Section 5-1.07, unless the reduction is approved by the Board of Appeals.

9-6.02 Community Piers and Other Related Non-Commercial Boat Docking and Storage Facilities

A community pier for a subdivision replaces the private piers ordinarily permitted for waterfront land owners, thereby protecting the sensitive aquatic environment, saving the waterfront from a proliferation of piers, and preserving the aesthetics of the waterfront.

- A. Review Procedure - The developer shall indicate a desire to provide a community pier for the proposed subdivision and shall include on the preliminary plan a proposed site for the community pier.
- B. Community piers are expressly for the use of the lot owners (or their tenants) within the subdivision having the community pier and may not be used or rented by any person other than a bonafide buildable lot owner (or tenant) of said subdivision. Allocation of these allowable slips shall be at the discretion of the developer or the subdivision lot owners' association responsible for the community pier. A covenant shall be placed on the plat prohibiting piers on individual lots.
- C. Community piers shall be at least 200 feet (in a straight line distance, not shoreline) away from an adjacent subdivision's community pier or another community pier within the same subdivision. A maximum of two slips may be provided for each waterfront lot. The maximum number of slips permitted shall not exceed the number of private slips which would otherwise be allowed if the community pier provision were not used, based on the minimum lot width provisions of Section 5-1.07, nor shall the number of slips exceed that allowed under paragraph 'H' of this Section.
- D. A waterfront site shall be provided for the subdivision's community pier. When there are more than six lots in the subdivision, the waterfront site may be utilized towards satisfying the recreation and open space requirements of Section 7-1.06.P, Subdivision Regulations, upon recommendation by the Parks & Recreation Board. However, in no case shall the area used for parking be used to satisfy the recreation and open space requirements.

- E. The waterfront site provided for the community pier shall be of sufficient size to provide for placement of the community pier, an access road or drive, a turn-around area, and at least one parking space for every three slips provided. The parking area, the access road or drive and the turn-around area shall be stabilized.
- F. At the time of subdivision approval, the Department of Planning and Zoning, with the recommendation of the Engineering Bureau, will determine the type of stabilization to be used on the parking area, turn-around and access drive or road. In the subdivision, the proximity of the pier to the homes may eliminate the need for the parking spaces if walkways allow adequate access. A parking area shall be required where a boat ramp is provided.
- G. New or expanded community marinas, piers, and other non-commercial boat docking and storage facilities may be permitted in the Critical Area Buffer subject to the requirements of Section 2-8.07, Section 9-7.01, and paragraph 'H' of this Section provided that:
  - 1. No food, fuel, or other goods and services shall be offered for sale and adequate sanitary facilities shall be provided;
  - 2. The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;
  - 3. The facilities shall be associated with residential development approved by the County for the Critical Area and consistent with all County regulations for the Critical Area;
  - 4. Disturbance to the Critical Area Buffer shall be the minimum necessary to provide a single point of access to the facilities.
  - 5. If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.
- H. The number of slips permitted at the facility shall be the lesser of 1 or 2 below:
  - 1. One slip for each 50 feet of shoreline in the subdivision in the Intensely Developed and Limited Development Areas and one slip for each 300 feet of shoreline in the subdivision in the Resource Conservation Area.
  - 2. A density of slips to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

(08/08/06)

TABLE 9-1 NUMBER OF PERMITTED SLIPS	
Platted Lots or Dwellings in the Critical Area	Slips and Moorings
Up to 15	One for each lot
16-40	15 slips or 75 percent, whichever is greater
41-100	30 slips or 50 percent, whichever is greater
101-300	50 slips or 25 percent, whichever is greater
Over 300	75 slips or 15 percent, whichever is greater

9-6.03 Commercial Piers, Marinas, and Other Water-Dependent Maritime Facilities

- A. All commercial marine facilities shall have plans and details of proposed construction certified by a licensed engineer for County Engineer approval.
- B. Fire protection - All marine facilities shall conform to the requirements of NFPA-303, Fire Protection Standard for Marinas and Boatyards of the Maryland Fire Prevention Code. Fire protection devices shall have the approval of the Fire Marshal having jurisdiction.
- C. Sanitary Requirements - All commercial marine facilities shall provide sanitary facilities in accordance with the applicable Federal, State and local requirements.
- (08/08/06) D. New or expanded marinas and related facilities may be permitted in the Critical Area Buffer within Intensely Developed Areas and Limited Development Areas subject to the requirements of Section 9-7.01 and Section 2-8.07.
- E. New marinas or related maritime facilities shall not be permitted in the Critical Area Buffer within Resource Conservation Areas, except as provided in Section 9-7.03.
- F. New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.
- (08/08/06) G. New or expanded marinas and related facilities shall meet the requirements of Section 2-8.07.

**9-7 WATER-DEPENDENT FACILITIES**

9-7.01 Regulation of Water-Dependent Facilities

- A. Except as otherwise provided in this Section, new or expanded development activities may be permitted in the Critical Area Buffer in Intensely Developed and Limited Development Areas provided that it can be shown:
  - 1. That they are water-dependent;
  - 2. That the project meets a recognized private right or public need;
  - 3. Adverse effects on water quality, and fish, plant, and wildlife habitat are minimized; and
  - 4. That, in so far as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the Critical Area Buffer.
- B. Except as otherwise provided in this regulation, new or expanded development activities may not be permitted in those portions of the Critical Area Buffer which occur in Resource Conservation Areas.

9-7.02 Industrial and Port-Related Water-Dependent Facilities

- (08/08/06) New, expanded, or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of Intensely Developed Areas designated as Special Buffer Management Areas by the County and approved by the Critical Area Commission. Such facilities shall be subject to the requirements set forth in Sections 9-7.01 and 2-8.07.

9-7.03 Public Beaches and Other Public Water-Oriented Recreation or Education Areas

- A. Public beaches or other public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the Critical Area Buffer in Intensely Developed Areas.
- B. These facilities may be permitted within the Critical Area Buffer in Limited Development Areas and Resource Conservation Areas provided that:
  - 1. Adequate sanitary facilities exist;
  - 2. Service facilities are, to the extent possible, located outside the Critical Area Buffer;
  - 3. Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result;
  - 4. Areas for passive recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the Critical Area Buffer within Resource Conservation Areas, if service facilities for these uses are located outside of the Critical Area Buffer.
  - 5. Disturbance to natural vegetation is minimized.

9-7.04 Research Areas

Water-dependent research facilities or activities operated by State, federal, or local agencies, or educational institutions, may be permitted in the Critical Area Buffer, if non-water-dependent structures or facilities associated with these projects are, to the extent possible, located outside of the Critical Area Buffer.

9-7.05 Fisheries Activities

Commercial water-dependent fisheries facilities including, but not limited to, structures for crab shedding, fish off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquaculture operations, and fisheries activities, are permitted in the Critical Area Buffer, in Intensely Developed, Limited Development, and Resource Conservation Areas.

(05/04/10) **9-8 SHORE EROSION PROTECTION WORKS**

9-8.01 Regulation of Shore Erosion Protection Works

- A. Nonstructural Shoreline Stabilization measures, including beach nourishment, marsh creation, and other measures that encourage the preservation of the natural environment, shall be used to control erosion, except in the following areas:
  - 1. Areas permitted for structural control measures by MDE based on the areas identified by Maryland Department of the Environment (MDE) in coordination with the Maryland Geological Survey, and shown on maps approved by MDE as appropriate for structural Shoreline stabilization measures; and
  - 2. Areas permitted for structural control measures where the applicant has obtained a waiver from MDE by demonstrating that nonstructural shoreline stabilization measures are not feasible for the site.

B. Order of Preference for Structural Erosion Control Measures

If MDE approves a structural erosion control measure, the following is the order of preference. The County will consider the method approved by MDE in the State Permit.

1. Shoreline revetments,
2. Breakwaters,
3. Groins or jetties, and
4. Other methods approved by MDE.

C. Development Criteria

1. Prior to submittal of the shore erosion control plans to MDE, the applicant must submit the plans, MDE required studies, photographs and findings relative to shore erosion control applications, and associated Buffer Management Plan or Habitat Protection Plan to the County for review and preliminary approval of the Buffer Management or Habitat Protection Plan (Section 8-1.08).
2. No shore erosion control structures are allowed in Level 1 Cliff Areas and are only allowed in Level 2 Cliff Areas for existing structures (Section 8-2.02, and the Critical Area Habitat Protection Area Map).
3. Submit a joint Federal-State permit application to MDE with County approved Buffer Management or Habitat Protection Plan.
4. Apply to the County for grading and building permits and include the following information:
  - a. Approved State/Federal Permit with associated site drawings, and state required studies, photographs, and finding relative to the erosion control project.
  - b. Comments from the Critical Area Commission, DNR Natural Heritage Division, and U.S. Fish and Wildlife Service, and
  - c. The final Buffer Management or Habitat Protection Plan consistent with Section 8-1.08.D.3.k, and
  - d. A list of all changes made to the original plans submitted to the Department of Planning and Zoning for initial review of the Buffer Management and/or Habitat Protection Plan.
5. Minimize grading and other disturbance on the adjacent riparian area.
6. Minimize impacts to adjoining properties.
7. Minimize the impact on the littoral movement of sand.
8. Bonding and/or payment of fees in lieu based on required mitigation must be accomplished prior to issuing of any County permits.

D. Structural erosion measures shall not be permitted in areas where significant erosion has not occurred; and

E. If significant alteration in the characteristics of a shoreline occurs, the measure that best fits the change shall be used for sites in that area.

(05/04/10) ~~9-8.02 Method of Control~~

Section Deleted May 4, 2010.