



Appendix G

Chesapeake Bay Critical Area

History of the Critical Area Act and Criteria

The Chesapeake Bay Critical Area Protection Program (Natural Resources Article 8-181-8-1816) was passed by the Maryland General Assembly in 1984 because of concern for the decline of the quality and productivity of the waters of the Chesapeake Bay and its tributaries. The decline was found to have resulted, in part, from the cumulative effects of human activity that caused increased levels of pollutants, nutrients, toxins, and also from the decline in more protective land uses such as forest land and agricultural land in the Bay region. The General Assembly enacted the Critical Area law for the following purposes:

1. To establish a Resource Protection Program for the Chesapeake Bay and its tributaries by fostering more sensitive development activity for certain shoreline areas so as to minimize damage to water quality and natural habitats; and
2. To implement the Resource Protection Program on a cooperative basis between the State and affected local governments, with local governments establishing and implementing their programs in a consistent and uniform manner subject to State criteria and review.

To achieve these two purposes the law specified the creation of a 27-member Commission (now 29 as a result of the addition of Coastal Bays), appointed by the Governor and representing the local jurisdictions, State agencies and diverse interests. The Commission was charged with developing a specific set of criteria to regulate land use in the Critical Area, and the General Assembly approved these criteria during the 1986 legislative session (COMAR 27.01.01 -27.01.11). Subsequently, "the Criteria" were used by each of the affected local jurisdictions to prepare their own local Critical Area programs, ordinances, and regulations to manage and regulate land use within the Critical Area. The Critical Area includes the Chesapeake Bay, its tributaries to the head of tide, tidal wetlands, plus all land and water within 1,000 feet beyond the landward boundary of these waters and wetlands.

The goals of the Critical Area program are to accomplish the following:

- To minimize adverse impacts on water quality that result from high nutrient loadings in runoff from surrounding lands or from pollutants that are discharged from structures;
- To conserve fish, wildlife and plant habitats; and
- To establish land use policies for development in the Critical Area which accommodate growth and address the fact that even if pollution is controlled, the number, movement and activities of persons in that area can create adverse environmental impacts.

History of the Chestertown Critical Area Program

In accordance with the Critical Area Act, all affected jurisdictions were required to develop and implement a Critical Area Protection Program to control the use and development of that part of the Critical Area within its territorial limits. The Town of Chestertown adopted a Critical Area Program along with a series of implementing provisions contained in the Chestertown Zoning Ordinance and Subdivision Regulations in November, 1987. The policies and goals included in the Critical Area Program and the specific requirements and standards included in the Chestertown Zoning Ordinance and Subdivision Regulations were developed in accordance with the Critical Area Act and Criteria to accommodate future growth of the Town while addressing the associated environmental impacts.

Critical Area Designations and Policies for Future Growth

In recognition that the Critical Area has great diversity in existing land use, the State's criteria for local programs and ordinances is based on three different land use classifications. At the time of original Critical Area Program adoption, each jurisdiction identified and mapped land within the Critical Area as one of three classifications. This designation allowed jurisdictions to either use existing zoning classifications or to use overlay zones to effectively implement different performance standards for development and redevelopment in those areas. The land within the Critical Area was mapped as one of these categories based on existing land use as of December 1, 1985 and based on mapping criteria described below for each category.

Intensely Developed Area (IDA)
Limited Development Area (LDA)
Resource Conservation Area (RCA)

Intensely Developed Area. IDAs are the most intense land use classification in the Critical Area. In accordance with the Criteria, IDAs are areas where residential, commercial, institutional and/or industrial development is predominant and relatively little natural habitat occurs. At the time of initial mapping these areas had to have one of the following characteristics.

1. Housing density greater than four dwelling units per acre;
2. Industrial, institutional or commercial uses concentrated in the area; or
3. Public sewer and water collection and distribution systems currently serving the areas and housing density greater than three dwelling units per acre.

In addition, these features had to be concentrated in an area of at least 20 acres or the entire upland portion of the Critical Area within a municipality.

At the time of Program approval, about 204 acres were classified as IDA.

Limited Development Area. LDAs are those areas developed in low or moderate intensity uses and contain areas of natural plant and animal habitats. The quality of runoff from these areas has not been substantially altered or impaired. At the time of original mapping, these areas had to have one of the following features:

1. Housing density between one dwelling unit per five acres or up to four dwelling units per acre;
2. Areas not dominated by agriculture, wetland, forest, barren land, surface water or open space;
3. Areas having the characteristics of the IDA, but less than 20 acres in extent; or
4. Areas having public water or sewer or both.

At the time of program approval there were approximately 26 acres classified as LDA.

Resource Conservation Area. RCAs are areas characterized by nature-dominated environments such as wetlands, forests and abandoned fields and areas where resource utilization activities (agriculture forestry, fisheries activities and aquaculture) take place. At the time of original mapping, these areas had to have one of the following features:

1. Existing density less than one dwelling unit per five acres; or
2. The Dominant land use in agriculture, wetland, forest, barren land, surface water or open space.

The original mapping of Chestertown's Critical Area did not designate any land within the RCA classification.

Habitat Protection Areas (HPAs)- Maps illustrating the general location, extent and configuration of Habitat Protection Areas in the Town are on file at the Town Hall. They will be used to assist the Town, property owners, developers and any person proposing development when reviewing development projects. While these maps give a general indication of the area, they do not excuse any property owner or operator from establishing, to the satisfaction of the Town Planning Commission, whether or not the property or activity will affect the element of habitat to be protected. During site plan review, the applicant will be responsible for providing a more detailed site analysis and inventory of the following Habitat Protection Areas:

1. The 100 foot Buffer;
2. Threatened and Endangered Species and Species in Need of Conservation;
3. Colonial water bird nesting sites;
4. Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands;
5. Existing riparian forests;
6. Forest areas utilized as breeding areas by forest interior dwelling birds and other wildlife species;
7. Submerged aquatic vegetation (SAVs);
8. Designated Natural Heritage Areas; and
9. Non-tidal wetlands.

The Town's Critical Area boundary is mapped as part of this document. Other elements of land use development that are addressed in the Critical Area Program are:

Buffer areas;
Land cover;
Impervious surfaces;
Water access;
Wildlife Habitat;
Setbacks;
Open Space; and
Recreation areas.

Many of the Critical Area requirements are performance standards that developers and other land users are required to achieve. These standards affect such things as impervious surface area, forest clearing, and density. These standards and implementation regulations are part of the Town's Zoning Ordinance and Subdivision Regulations.