..Title

Critical Area Overlay – For the purpose of updating and amending the City of Annapolis critical area overlay district code provisions in accordance with State law; streamlining enforcement provisions and appeal procedures; relocating and updating definitions; adding reasonable accommodations provisions for the needs of disabled citizens pursuant to State law; adding Buffer Management Plan and Buffer Exemption Area policies; adding references to the Critical Area 10 percent Rule Guidance Manual, adding lot coverage percentages for certain zoning districts; adding lot consolidation provisions; consolidating grandfathering provisions; adding applicability and identification of water-dependent facilities; and making certain stylistic changes.

..Body

CITY COUNCIL OF THE

City of Annapolis

Ordinance 27-19

Introduced by: Mayor Buckley

Referred to
Planning Commission
Rules and City Government Committee

AN ORDINANCE concerning

Critical Area Overlay

FOR the purpose of updating and amending the City of Annapolis critical area overlay district code provisions in accordance with State law; streamlining enforcement provisions and appeal procedures; relocating and updating definitions; adding reasonable accommodations provisions for the needs of disabled citizens pursuant to State law; adding Buffer Management Plan and Buffer Exemption Area policies; adding references to the Critical Area 10 percent Rule Guidance Manual, adding lot coverage percentages for certain zoning districts; adding lot consolidation provisions; consolidating grandfathering provisions; adding applicability and identification of water-dependent facilities; and making certain stylistic changes.

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis, 2019 Edition
21.40.010
21.54.020
21.54.030
21.54.050
21.54.060
21.54.080
21.54.090
21.54.100
21.54.110

21.54.120
21.54.140
21.54.150
21.54.160
21.54.170
21.54.180
21.72.010

BY repealing the following portions of the Code of the City of Annapolis, 2019 Edition
21.54.070
21.54.130

BY adding the following portions to the Code of the City of Annapolis, 2019 Edition
21.54.105
21.54.106

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

Title 21 – PLANNING AND ZONING
Chapter 21.40 - RESIDENTIAL DISTRICTS

Section: 21.40.010 - Regulations applicable to all residential districts.
A. In any residential district on a lot of record, a single-family dwelling may be established or enlarged regardless of the size of the lot, provided that all other requirements of this Zoning Code are met.
B. Accessory uses may be established on the same lot as a principal use, provided the lot meets the lot size requirements of the district, except as indicated on the bulk regulations table for the district.
C. The yard requirements of the principal uses apply to their accessory uses and buildings unless otherwise specified on the bulk regulations tables.
D. All accessory buildings which are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building.
E. Interior side yards are not required along the lot lines where a dwelling unit is attached to another dwelling unit, as in the case of a townhouse involving separate ownerships of attached units.
F. For the purpose of determining yard requirements, any floor or portion of a floor that may be occupied for dwelling purposes shall be considered a story.
G. Floor Area Ratio and Lot Coverage.

1. Floor area ratio limits, where required, determine the maximum floor area allowable for the building or buildings (total floor area of both principal and accessory buildings) in direct ratio to the gross area of the zoning lot.
2. The floor area of the accessory buildings shall be included in the total allowable floor area permitted on the zoning lot, as specified for the principal uses. However, any floor area devoted to off-street parking or loading facilities is exempt from floor area ratio

requirements. The lot coverage of accessory buildings shall be included in the total allowable lot coverage requirements.

H. Waterway Yards. See illustration.

1. Notwithstanding any other yard requirements set forth in this division, where any side or rear lot line is contiguous to a waterway, a waterway yard shall be provided which is the largest of:

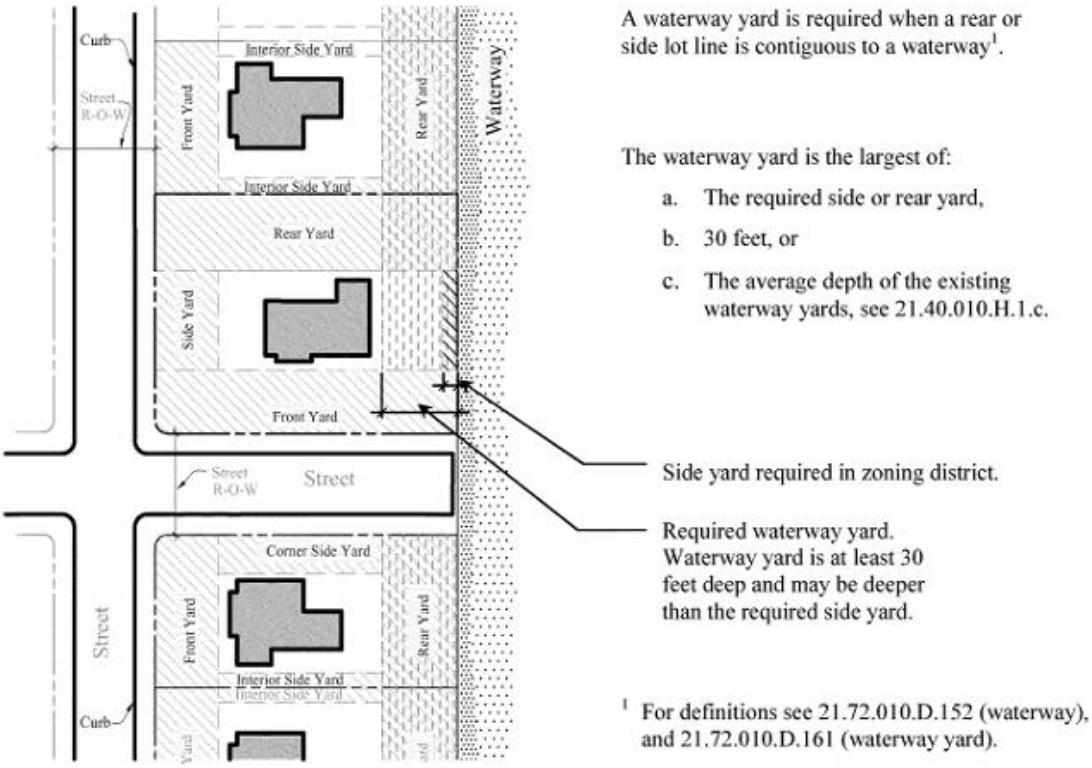
a. The side or rear yard required in the zoning district in which the zoning lot is located, or

b. Thirty feet, or

c. The depth determined by averaging the depth of existing waterway yards of all residences extending three hundred feet on either side of the subject property; except that if more than four residences are located within three hundred feet, the largest and smallest of the waterway yards shall not be used in determining the average depth. If the waterway yard as determined by this subsection would render a property unbuildable, a waterway yard shall be provided which is the larger of the yard required by Subsections (H)(1)(a) and (b) of this section.

2. Where the requirements of this section and of ~~Section~~Chapter 21.54.~~060(E)~~ are in conflict, the more restrictive requirements shall apply.

Illustration for Section 21.40.010(H)
Waterway Yards



Chapter 21.54 - CRITICAL AREA OVERLAY

21.54.020 - Map.

~~The location and boundaries of the critical area overlay district and the included boundaries of the intensely developed areas, limited development areas, resource conservation areas, and Buffer~~

~~Exempt Area (BEA) buffer areas and non-BEA buffer areas are set forth on the zoning map entitled "City of Annapolis Critical Area Map" which is incorporated in this section and made a part of this Zoning Code. The map, together with everything shown on the map and all amendments to the map, is as much a part of this code as though fully set forth and described in this code.~~

A. The Critical Area Overlay District Map is maintained as part of the Zoning Map for the City of Annapolis. The Critical Area Map delineates the extent of the Critical Area Overlay District that shall include:
   1. All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland, or its successors; and
   2. All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland, or its successors.

B. Within the designated Critical Area Overlay District, all land shall be assigned one of the following land management and development area classifications:
   1. Intensely developed area (IDA).
   2. Limited development area (LDA).
   3. Resource conservation area (RCA).

C. The Critical Area Overlay District Map may be amended by the Annapolis City Council in compliance with amendment provisions in this chapter, the Maryland Critical Area Law, and the Code of Maryland Regulations (COMAR) Title 27, or its successors.

21.54.030 - Enforcement.

A. No permit shall be issued for any use of land unless the Director of Planning and Zoning finds that the use conforms to the requirements of this chapter.

B. The Planning and Zoning Director shall have the authority to enforce this chapter as provided in ~~the various sections herein~~ Chapter 21.36.

21.54.050 - ~~Definitions.~~ Notification of project approval.

~~A. The following definitions shall be used in the interpretation and administration of the City of Annapolis Critical Area Program:~~

~~"Afforestation" means the establishment of a tree crop on an area from which it has always or very long been absent, or the planting of open areas which are not presently in forest cover.~~

~~"Buffer" means a naturally vegetated area or vegetated area established or managed to protect aquatic, wetland, shoreline, and terrestrial environments from manmade disturbances. This is the area which is a minimum one hundred feet landward from the mean high water line of tidal waters, tributary streams and tidal wetlands.~~

~~"Cluster development" means a residential development in which dwelling units are concentrated in a selected area or selected areas of the development tract so as to provide natural habitat or other open space uses on the remainder.~~

~~"Community piers" means boat docking facilities associated with subdivisions and similar residential areas, and with condominium apartment, and other multiple-family dwelling units.~~

~~"Conservation easement" means a non-possessing interest in land which restricts the manner in which the land may be developed in an effort to reserve natural resources for future use.~~

~~"Critical area" means all lands and waters defined in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:~~

~~a. All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland (or its successors);~~

~~b. All land and water areas within one thousand feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland (or its successors); and~~

~~c. Modifications to these areas through inclusions or exclusions proposed by the City of Annapolis and approved by the Critical Area Commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland (or its successors).~~

~~"Density" means the number of dwelling units per acre within a defined and measurable area.~~

~~"Developed woodlands" means those areas of one acre or more in size which predominantly contain trees and natural vegetation and which also include residential, commercial or industrial structures and uses. Within the City of Annapolis, developed woodlands are further defined as those areas where greater than half of the area extent consists of a recognizable canopy of mature species typical of a climax stage of forest succession.~~

~~"Development activities" means the construction or alteration of residential, commercial, industrial, institutional or transportation facilities or structures.~~

~~"Forests" means biological communities dominated by trees and other woody plants covering a land area of one acre or more. Within the City of Annapolis, forests exist as isolated, undeveloped tracts dominated by mixed deciduous and coniferous species generally at climax stage. Undeveloped drainage areas and steep slopes dominated by a variety of trees and other woody plants at various successional stages are also considered forests.~~

~~"Impervious surface" means those areas which do not have a vegetative cover with a natural soil substrate or a stormwater management reservoir.~~

~~"Intensely developed areas" means those areas where residential, commercial, institutional and/or industrial developed land uses predominate, and where relatively little natural habitat occurs.~~

~~"Land-disturbing activity" means those activities that involve land surface and/or subgrade that are altered from existing conditions and that are regulated under Titles 14, 15, 17, 19, 20 and 21 of the .~~

~~"Limited development areas" means those areas which are currently developed in low-intensity or moderate-intensity uses. They also contain areas of natural plant and animal habitats.~~

~~"Marina" means any facility for the mooring, berthing, storing or securing of watercraft, but not including community piers and other noncommercial boat docking and storage facilities.~~

~~"Mean high water line" means the average level of high tides at a given location.~~

~~"Natural features" means components and processes present in or produced by nature, including but not limited to soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, floodplains, aquatic life and wildlife.~~

~~"Natural parks" means areas of natural habitat that provide opportunities for those recreational activities that are compatible with the maintenance of natural conditions.~~

~~"Natural vegetation" means those plant communities that develop in the absence of human activities.~~

~~"Nature-dominated" means a condition where landforms or biological communities, or both, have developed by natural processes in the absence of human intervention.~~

~~"Nontidal wetlands" means those lands in the critical area excluding tidal wetlands regulated under Title 16 of the Environment Article, Annotated Code of Maryland (or its successors), where the water table is usually at or near the surface, or lands where the soil or substrate is covered by shallow water at some time during the growing season, and which are usually characterized by one or both of the following:~~

~~a. At least periodically, the lands support predominantly hydrophytic vegetation; and~~

~~b. The substrate is predominantly undrained hydric soils. Excluded from this definition are manmade bodies of water whose purpose is to impound water for agriculture, water supply or recreation, or bodies of water which are inadvertently created during the construction process.~~

~~"Offsets" means structures or actions that compensate for undesirable impacts.~~

~~"Physiographic features" means the soils, topography, land slope and aspect, and local climate that influence the form and species composition of plant communities.~~

~~"Plant habitat" means a community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics.~~

~~"Project approval" means the approval of development, other than by a Federal, State or local government agency, in the critical area by the City of Annapolis. The term includes approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and special exception permits; and issuance of grading, building and zoning permits.~~

~~"Redevelopment" means the expansion, significant rehabilitation or reconstruction or substantial improvement of any structure on a site which has previously been built upon. The construction or structures on previously undeveloped land or land on which structures have been demolished for the purposes of replacement development is not considered redevelopment.~~

~~"Resource conservation areas" means those areas which are characterized by nature-dominated environments (i.e., wetlands, natural drainage areas for wetlands, forests, developed woodlands).~~

~~"Riparian habitat" means a habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines and wetlands.~~

~~"Tributary streams" means those perennial and intermittent streams in the Critical Area which are so noted on the most recent U.S. Geological Survey seven and one-half minute topographic quadrangle maps (scale 1:24,000) or on more detailed maps or studies at the discretion of the local jurisdictions.~~

~~"Water-dependent facilities" means:~~

~~a. Those structures or accessory buildings associated with maritime, recreational, educational or fisheries activities that require location at or near the shoreline;~~

~~b. An activity that cannot exist outside the buffer and is dependent on the water by reason of the intrinsic nature of its operation.~~

~~"Water-dependent structures (maritime)" means those structures or accessory buildings associated with maritime activities involving seafood industrial, in-water boat storage or marine fabrication use that, in the determination of the Director of Planning and Zoning, require location within one hundred feet of the bulkhead or mean high water line for efficiency of operation.~~

~~"Wildlife corridor" means a strip of land having vegetation that provides a safe passageway for wildlife.~~

~~"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.~~

The Director of Planning and Zoning shall send copies of applications for all projects including but not limited to development activity, subdivisions, site plans, variances, and administrative variances wholly or partially within the Critical Area as specified in COMAR 27.03.01.04, or its successors, to the State of Maryland Critical Area Commission for the Chesapeake and Atlantic Coastal Bays ("the Critical Area Commission") for review and comment.

A. The following types of applications are exempted from this requirement if what is proposed does not result in a physical disturbance to the buffer:
   1. Applications that would occur wholly or partially within the IDAs:
      a. A single family dwelling unit;
      b. A structure that is necessary to a single family dwelling unit which may include, but is not limited to, a pool, garage, porch, shed, or tennis court;
      c. Development in which the land disturbance does not exceed 15,000 square feet;
      d. Subdivisions resulting in 10 lots or less, or 10 dwelling units or less;
   2. Applications that would occur wholly or partially within LDAs:
      a. Those listed in Subsection (A)(1) of this section;
      b. A subdivision resulting in three lots or less which does not affect growth allocation;
   3. Applications occurring wholly or partially within RCAs for which the land disturbance does not exceed 5,000 square feet.

B. The application shall be accompanied by a completed "Project Notification Application" form downloaded from the Critical Area Commission's website.

C. After receipt of a copy of an application from the Director of Planning and Zoning, the Commission shall send written notice of receipt to the City before the close of the next business day. A failure of the Commission to send a timely notice shall render Subsection D of this regulation inapplicable as to that application.

D. The Director of Planning and Zoning may not process an application, which has been sent to the Critical Area Commission for notification until it has received notice of receipt by the Critical Area Commission.

E. Any action by the City of Annapolis in violation of these procedures shall be void.

21.54.060 - Development requirements generally.

~~A. Intense development should be directed outside the critical area. If intense development is proposed in the critical area, it shall be directed toward the intensely developed areas.~~

~~B. Proposed low-intensity and moderate-intensity development may be permitted in the limited development areas, but shall be subject to strict regulation to prevent adverse impacts on habitat or water quality.~~

~~C. Development shall be limited in the resource conservation areas, which shall be chiefly designated for habitat protection.~~

~~D. The following new development or redevelopment uses shall not be permitted in the district:~~
   ~~1. Non-maritime heavy industry;~~
   ~~2. Transportation facilities and utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters;~~

~~3. Permanent sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities;~~

~~4. Solid or hazardous waste collection or disposal facilities; or~~

~~5. Sanitary landfills.~~

~~E. Buffer.~~

~~1. New development activities, including structures; roads, parking areas and other impervious surfaces; septic systems; accessory uses, including but not limited to swimming pools; and the substantial alteration of existing facilities or structures shall not be permitted in the buffer, except for those necessarily associated with water-dependent facilities.~~

~~2. New construction on recorded lots, under the grandfathering provisions of Section 21.54.150, shall be designed and sited in such a fashion that if the buffer is impacted, the applicant shall obtain a variance in accordance with Section 21.54.160.~~

~~3. The buffer shall be expanded beyond one hundred feet to include contiguous sensitive areas such as steep slopes, 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 fifteen 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 in extent.~~

~~F. Subdivision Access.~~

~~1. New public streets developed as part of a subdivision and necessary to provide legal access to subdivision lots will be considered as contributing to the impervious surface requirements of this chapter. The Planning and Zoning Director and the Director of Public Works may, however, allow subdivision redesign in order to minimize the amount of subdivision land dedicated to streets.~~

~~2. Modifications in road standards may be allowed to reduce potential impacts to the site and critical area resources, where the reduced standards do not significantly affect safety, as determined by the Director of Public Works.~~

~~G. Trees shall be protected, preserved and replaced pursuant to the requirements of Section 17.09.070.~~

A. Vegetation. Cutting and clearing of vegetation shall occur in accordance with Section 17.09.070 of the Annapolis City Code and with planting guidelines determined by the Department of Planning and Zoning.

B. New solid or hazardous waste collection or disposal facilities, or sanitary landfills or rubble fills, including transfer stations, may not be permitted in the Critical Area unless no environmentally preferable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality wastewater management problem. Existing permitted facilities shall be subject to the standards and requirements of the Maryland Department of the Environment.

C. Development and redevelopment shall be subject to the Habitat Protection Area requirements prescribed in this chapter.

D. Development and redevelopment shall be subject to the water-dependent facilities requirements of this chapter;

E. Utility transmission facilities

1. Utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities shall cross tidal waters, may be permitted in the Critical Area

provided:

a. The facilities are located in Intensely Developed Areas; and

b. Only after the activity or facility has demonstrated to all appropriate local and State permitting agencies that there shall be a net improvement in water quality to the adjacent body of water.

2. These provisions do not include power plants.

F. Roads, bridges, and utilities are prohibited in a Habitat Protection Area unless no feasible alternative exists. If a road, bridge or utility is authorized the design, construction and maintenance shall:

1. Provide maximum erosion protection;
2. Minimize negative impacts on wildlife, aquatic life and their habitats; and
3. Maintain hydrologic processes and water quality.

G. All development activities that shall cross or affect streams shall be designed to:

1. Reduce increases in flood frequency and severity that are attributable to development;
2. Retain tree canopy so as to maintain stream water temperature within normal variation;
3. Provide a natural substrate for stream beds; and
4. Minimize adverse water quality and quantity impacts of stormwater.

H. Reasonable accommodations for the needs of disabled citizens.

1. An applicant seeking relief from the Critical Area standards contained in this chapter in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating by a preponderance of evidence the following:

a. The alterations shall benefit persons with a disability within the meaning of the Americans with Disabilities Act;

b. Literal enforcement of the provisions of this chapter would result in discrimination by virtue of such disability or deprive a disabled resident or user of the reasonable use and enjoyment of the property;

c. A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this chapter or restore reasonable use or enjoyment of the property by the disabled resident or user;

d. The accommodation requested shall not substantially impair the purpose, intent, or effect, of the provisions of this chapter as applied to the property; and

e. The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation, or other requirement; or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.

2. The Director of Planning and Zoning shall determine the nature and scope of any accommodation under this chapter and may award different or other relief than requested after giving due regard to the purpose, intent, or effect of the applicable provisions of this chapter. The Director may also consider the size, location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.

3. The Director may require, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this chapter. Appropriate bonds may be collected or liens placed in order to ensure the City's ability to restore the property should the applicant fail to do so.

I. Subdivision Access.

1. New public streets developed as part of a subdivision and necessary to provide legal access to subdivision lots shall be considered as contributing to the lot coverage requirements of this chapter. The Planning and Zoning Director and the Director of Public Works may, however, allow subdivision redesign in order to minimize the amount of subdivision land dedicated to streets.

2. Modifications in road standards may be allowed to reduce potential impacts to the site and critical area resources, where the reduced standards do not significantly affect safety, as determined by the Director of Public Works.

21.54.070 - ~~Buffer exemption areas~~. Reserved

~~The State Critical Area Commission policy applies only to lots of record that existed as of December 1, 1985.~~

~~A. The review of the submission shall be based on the State of Maryland Buffer Exempt Area Policy dated April 5, 2000.~~

~~B. All new construction, or enlargement of any structure in the Buffer Exempt Area shall be subject to:~~

~~1. Posting of Property. At the time of submissions of plans, notice must be posted for at least fourteen days on the property that is the subject of the application in a manner prescribed by the Planning and Zoning Director.~~

~~2. Public Comment Period. During the posting period, and for seven days thereafter, the Planning and Zoning Director shall accept comments from the public that are relevant to the proper consideration of the submitted plans.~~

~~C. Subdivision of grandfathered parcels may be permitted if the subdivision, consolidation, or reconfiguration of the parcels will result in an overall environmental benefit. Applications for subdivision in buffer exempt areas shall be approved by the Critical Area Commission. In no case shall the subdivision and the subsequent redevelopment result in a greater area of impervious surface in the buffer.~~

21.54.080 - Development requirements—Intensely developed areas.

A. All efforts shall be made to direct intense development outside the critical area. If intense development is proposed in the critical area, it shall be directed toward the intensely developed areas.

B. Stormwater Management. ~~Stormwater management technologies shall be required to reduce pollutant loadings by at least ten percent below that of predevelopment levels in accordance with Chapter 17.10.~~ All development and redevelopment activities shall include stormwater management technologies that reduce pollutant loadings by at least 10 percent below the level of pollution on the site prior to development or redevelopment as provided in *Critical Area 10% Rule Guidance Manual – Fall 2003* and as may be subsequently amended, or in accordance with Chapter 17.10, as applicable.

~~B.~~C ~~Impervious Surfaces~~Lot coverage. ~~Manmade impervious surfaces~~ Lot coverage in the IDA of the Critical Area shall be limited to the following maximum percentages of the development site:

Underlying Zoning District	Percent of Manmade Lot Coverage ~~Impervious Surface~~ (maximum)
Residential	50
P, PM, B1, B2, B3, BCE	60
C1, C1A,	75
Maritime	80
C2, C2A, C2P, MX	90
I1	95

~~C.~~ D. Erosion and Sediment Control. Erosion and sediment control measures shall be required in accordance with City Code, Chapter 17.08.

~~D.~~ E. Cluster Development. Cluster development is encouraged, to the extent practicable, to reduce impervious surfaces and maximize areas of natural vegetation.

~~E.~~ F. Trees. Cutting and clearing of trees shall occur in accordance with Section 17.09.070 of the ~~City of the~~ Annapolis City Code and with planting guidelines determined by the Department of Planning and Zoning.

~~F. Habitat Protection Areas.~~

~~1. Developers shall determine whether there are any habitat protection areas on the project site, or whether development on the site could adversely affect such areas off-site.~~

~~2. In developing the site, roads, bridges and utilities shall not be located in a habitat protection area, even if the habitat area is outside the buffer, unless it is determined by the City that no feasible alternative exists. Where roads, bridges or utilities must cross such areas, they must be designed, constructed and maintained to protect the habitats, to provide maximum erosion protection, and to maintain hydrologic processes and water quality.~~

~~3. The developer shall protect any wildlife corridors or habitat protection areas located in forests and developed woodlands.~~

21.54.090 - Development requirements—Limited development areas.

A. Proposed low-intensity and moderate-intensity development may be permitted in the limited development areas, but shall be subject to strict regulation to prevent adverse impacts on habitat or water quality.

~~Habitat Protection Areas.~~

~~1. Developers shall determine whether there are any habitat protection areas on the project site, or whether development on the site could adversely affect such areas off-site.~~

~~2. In developing the site, roads, bridges and utilities shall not be located in a habitat protection area, even if the habitat area is outside the buffer, unless it is determined by the City that no feasible alternative exists. Where roads, bridges or utilities must cross such areas, they must be designed, constructed and maintained to protect the habitats, to provide maximum erosion protection, and to maintain hydrologic processes and water quality.~~

~~3. The developer shall protect any wildlife corridors or habitat protection areas located in forests and developed woodlands.~~

B. Wildlife Corridors.

1. If a development site contains a natural area, which might be used as a wildlife corridor, and there are such areas adjacent, then a development proposal ~~must~~ shall incorporate the wildlife corridor into the site design.
2. ~~The developer shall incorporate a wildlife corridor system into the site.~~ The wildlife corridor incorporated into the site should connect 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 off-site habitats.
3. The developer shall grant a conservation easement to the City to ensure that the wildlife corridor is maintained.

C. Forests and Developed Woodlands.

1. Forests and developed woodlands are to be maintained in accordance with Section 17.09.080 and within planting guidelines as determined by the Department of Planning and Zoning.
2. Tree replacement and fees in lieu of tree replacement shall be allowed in accordance with the provisions of Section 17.09.070.
3. All forests designated on development plans shall be maintained to the extent practicable, through conservation easements, restrictive covenants, or other protective instruments.
4. The afforested area shall be maintained as forest cover through easements, restrictive covenants, or other protective instruments.
5. An applicant may not clear more than thirty percent of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance and the applicant replaces forest or developed woodlands at a rate of three times the areal extent of the forest or developed woodlands cleared.

D. Steep Slopes. Development is not permitted on slopes greater than fifteen percent unless it can be shown that such development is the only effective way to maintain or improve the stability of the slope, and is consistent with the density, water quality, and habitat protection policies for limited development areas.

E. Soils with Development Constraints. Development is discouraged on soils ~~having~~ with development constraints. Development may be allowed by the Department of Public Works if adequate mitigation measures are implemented to address the identified constraints and if the development will not adversely affect water quality or plant, fish and wildlife habitat.

F. Stormwater Management. Stormwater management technologies shall be required to minimize adverse water quality impacts caused by stormwater run-off in accordance with Chapter 17.10.

G. ~~Streams.~~

~~1. If the project involves development activities which would cross or affect streams, the developer shall identify any such stream in the project area, including those off-site, which might be affected by the project.~~

~~2. The developer shall show, as part of the site plan review requirements, that the development will:~~

~~a. Not cause increases in the frequency and severity of floods;~~

~~b. Retain existing tree canopy;~~

~~c. Provide for the retention of the natural substrate for streambeds; and~~

~~d. Minimize adverse impacts to water quality and stormwater run-off.~~

~~H. Impervious Surfaces.~~

~~1.~~ Except as otherwise provided in ~~this s~~Section 21.54.150, for stormwater runoff, ~~man-made impervious surfaces are~~ lot coverage is limited to fifteen percent of a parcel or lot.

~~2. If a parcel or lot one-half acre or less in size existed on or before December 1, 1985, then man-made impervious surfaces are limited to twenty-five percent of the parcel or lot.~~

~~3. If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then man-made impervious surfaces are limited to fifteen percent of the parcel or lot.~~

~~4. If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then man-made impervious surfaces are of the lot may not exceed twenty-five percent of the lot. However, the total of the impervious surfaces over the entire subdivision may not exceed fifteen percent.~~

~~5. The City of Annapolis may allow a property owner to exceed the impervious surface limits provided in Subsections (H)(2) and (H)(3) of this section if the following conditions exist:~~

~~a. New impervious surfaces on the site have been minimized;~~

~~b. For a lot or parcel one-half acre or less in size, total impervious surfaces do not exceed impervious surfaces limits in Subsection (H)(2) of this section by more than twenty-five percent or five hundred square feet, whichever is greater;~~

~~c. For a lot or parcel greater than one-half acre and less than one acre in size, total impervious surfaces do not exceed impervious surfaces limits in Subsection (H)(3) of this section or five thousand four hundred forty-five square feet, whichever is greater;~~

~~d. Water quality impacts associated with runoff from the new impervious surfaces can be and have been minimized through site design considerations or use of best management practices approved by the City to improve water quality;~~

~~e. The property owner performs on-site mitigation as required by the City to offset potential adverse water quality impacts from the new impervious surfaces, or the property owner pays a fee to the local jurisdiction in lieu of performing the on-site mitigation;~~

~~f. All fees in lieu collected by the City under Subsection (C)(2) of this section must be used to fund projects that improve water quality within the critical area; and~~

~~g. Cluster development is encouraged, to the extent practicable, to reduce impervious surfaces and maximize areas of natural vegetation.~~

~~6. For the purposes of this section, any calculation of area covered by man-made impervious surfaces may exclude an area covered by a gapped wooden deck with pervious surface underneath.~~

~~I.~~ H. Erosion and Sediment Control. Erosion and sediment control measures shall be required in accordance with Chapter 17.08.

~~J.~~ I. Cluster Development. Cluster development is encouraged, to the extent practicable, to reduce impervious surfaces and maximize areas of natural vegetation.

21.54.100 - Development requirements—Resource conservation areas.

A. Development shall be limited in the resource conservation areas, which shall be chiefly designated for habitat protection.

B. ~~A.~~ New residential development is permitted if the density of such development does not exceed one dwelling unit per twenty acres, or as permitted under the requirements of Section 20.24.130(G) and (H).

C. ~~B.~~ New commercial, industrial and institutional development is not permitted except as provided for in the City's growth allocation provisions or as listed below. Additional land may not be zoned or used for industrial, commercial, or institutional development, except as provided for in the City's growth allocation provisions:

1. A home occupation as an accessory use on a residential property and as provided for in the City's zoning ordinance;
2. A cemetery; provided lot coverage is limited to 15 percent of the site or 20,000 square feet, whichever is less;
3. A bed and breakfast facility located in an existing residential structure;
4. A day care facility in a dwelling where the operators live on the premises and there are no more than eight children;
5. A group home or assisted living facility with no more than eight residents.
6. Other similar uses determined by the Director of Planning and Zoning to be similar to those listed above and approved by the Critical Area Commission.

D. ~~C.~~ New development within the Resource Conservation Area shall conform to the same requirements as those set forth in Section 21.54.150 ~~090~~ for Limited Development Areas. If a grandfathered lot less than an acre in size is split between LDA and RCA designations, the development may follow LDA standards based on the entire site if all of the development occurs within the LDA portion of the lot per Section 21.54.150.

21.54.105 The Buffer

A. Applicability and Delineation.

An applicant for a development activity or a change in land use shall apply all of the required standards as described below. The buffer shall be delineated in the field and shall be shown on all applications as follows:

1. A buffer of at least 100 feet is delineated, and expanded as described in Subsection A(3), based on existing field conditions landward from:
   a. The mean high water line of a tidal water;
   b. The edge of each bank of a tributary stream; and
   c. The upland boundary of a tidal wetland.
2. Applications for a subdivision or development activity on land located within the RCA requiring site plan approval after July 1, 2008, shall include a minimum buffer of at least 200 feet from a tidal waterway or tidal wetlands. In the following instances, the 200-foot buffer does not apply and the buffer shall be delineated in accordance with Subsections A(1) and A(3):
   a. The application for subdivision or site plan approval was submitted before July 1, 2008, and legally recorded (subdivisions) or received approval (site plans), by July 1, 2010; or
   b. The application involves the use of growth allocation.
3. The buffer shall be expanded beyond 100 feet as described in Subsection A(1) above, and beyond 200 feet as described in Subsection A(2) above, to include the following contiguous land features:
   a. A steep slope at a rate of four feet for every one percent of slope or the entire

steep slope to the top of the slope, whichever is greater;

b. A nontidal wetland to the upland boundary of the nontidal wetland;

c. The 100-foot buffer that is associated with a Nontidal Wetland of Special State Concern as stated in COMAR §26.23.06.01, or its successors;

d. For an area of hydric soils or highly erodible soils, the lesser of:

i. The landward edge of the hydric or highly erodible soils; or

ii. Three hundred feet where the expansion area includes the minimum 100-foot buffer.

B. Development activities in the buffer.

The Director of Planning and Zoning may authorize disturbance to the buffer for the following activities, provided mitigation is performed in accordance with Subsection D of this Section and an approved Buffer Management Plan is submitted as required per Subsection F of this section:

1. A new development or redevelopment activity associated with a water-dependent facility as described in Section 21.54.110.

2. A shore erosion control activity constructed in accordance with COMAR 26.24.02 ,or its successors, or a shore erosion control measure under COMAR 26.24.04, or its successors, and this chapter.

3. A slope stabilization activity, if the applicant demonstrates erosive conditions and the proposed stabilization method minimizes land disturbance and clearing of existing vegetation.

4. Direct riparian access that is 6 feet wide or less with a landing no greater than 6 foot by 6 foot in size.

5. A new development or redevelopment activity on a lot or parcel that was created before January 1, 2010, where:

a. The buffer is expanded for highly erodible soil on a slope less than 15 percent or is expanded for a hydric soil and the expanded buffer occupies at least 75% of the lot or parcel;

b. The development or redevelopment is located in the expanded portion of the buffer and not within the 100-foot buffer; 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.

6. A development or redevelopment activity approved in accordance with the variance provisions of this chapter.

C. Buffer Establishment.

1. The requirements of this regulation are applicable to:

a. A development or redevelopment activity that occurs on a lot or parcel that includes a buffer to tidal waters, a tidal wetland, or a tributary stream, if that development or redevelopment activity is located outside the buffer; and

b. The approval of a subdivision that includes a buffer to tidal waters, a tidal wetland, or a tributary stream.

2. If an applicant for a subdivision of a lot uses or leases the lot for an agricultural purpose, the applicant:

a. In accordance with City land recordation requirements, shall record an approved Buffer Management Plan under Subsection F of this section; and

b. If authorized by the City, may delay implementation of the Buffer Management Plan until the use of the lot is converted to a nonagricultural purpose.

3. The requirements of this regulation are not applicable to an in-kind replacement of a structure.

4. The Director of Planning and Zoning shall require an applicant to establish the buffer in vegetation in accordance with the table below and Subsection E of this section and to provide a Buffer Management Plan under Subsection F of this section when an applicant applies for:

a. Approval of a subdivision;

b. Conversion from one land use to another land use on a lot or a parcel; or

c. Development and redevelopment on a lot or a parcel created before January 1, 2010.

5. When the buffer is not fully forested or is not fully established in existing, naturally occurring woody or wetland vegetation, an applicant shall establish the buffer to the extent required in the following table

Table 3(C)(5). Buffer establishment requirements.

Development Category	Lot Created Before December 1, 1985.	Lot Created After December 1, 1985.
Development on a vacant lot	Establish the buffer based on total square footage of lot coverage outside the buffer	Fully establish the buffer
Subdivision	Fully establish the buffer	
New lot with an existing dwelling unit	Establish the buffer based on total square footage of lot coverage outside the buffer	
Conversion of a land use on a parcel or lot to another land use	Fully establish the buffer	
Addition, accessory structure, or redevelopment	Establish the buffer based on net square footage increase in lot coverage outside the buffer	
Substantial alteration	Establish the buffer based on total square footage of lot coverage outside the buffer	

6. The Department of Planning and Zoning may authorize an applicant to deduct from the total establishment requirement an area of lot coverage removed from the buffer if:

a. The lot coverage existed before February 13, 1989 or was allowed by local procedures; and

b. The total area is stabilized.

D. Mitigation for impacts to the buffer.

An applicant for a development activity that includes disturbance to the buffer shall mitigate for impacts to the buffer and shall provide a Buffer Management Plan in accordance with the standards set forth in this section.

1. All authorized development activities shall be mitigated according to COMAR

27.01.09.01-2, or its successors.

2. Mitigation for slope stabilization per Section 21.54.050(B)(3) and for direct riparian access per Section 21.54.050(B)(4) is permitted at a ratio of 1:1 for the area of disturbance in the buffer.
3. All unauthorized development activities in the buffer shall be mitigated at a ratio of 4:1 for the area of disturbance in the buffer.
4. Planting for mitigation shall be planted onsite within the buffer. If mitigation planting cannot be located within the buffer, then the Director of Planning and Zoning may permit planting in the following order of priority:
   a. On-site and adjacent to the buffer; and
   b. On-site elsewhere in the Critical Area.
5. The installation or cultivation of new lawn or turf in the buffer is prohibited.

E. Buffer Planting Standards

1. An applicant that is required to plant the buffer to meet establishment or mitigation requirements shall apply the planting standards set forth in COMAR 27.01.09.01-2 and 01-4, or its successors.
2. A variance to the planting and mitigation standards of this chapter is not permitted.

F. Required Submittal of Buffer Management Plans.

An applicant that is required to plant the buffer to meet establishment or mitigation requirements shall submit a Simplified, Minor, or Major Buffer Management Plan in accordance with COMAR 27.01.09.01-3, or its successors, and as described in 21.54.105(F)(8) below. The provisions of this section do not apply to maintaining an existing grass lawn or an existing garden in the buffer.

1. Any permit for a development activity that requires buffer establishment or buffer mitigation shall not be issued until a Buffer Management Plan is approved by the Director of Planning and Zoning.
2. An applicant may not obtain final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved by the Director of Planning and Zoning.
3. The Director of Planning and Zoning may not approve a Buffer Management Plan unless:
   a. The plan clearly indicates that all planting standards under Subsection E of this section shall be met; and
   b. Appropriate measures are in place for the long-term protection and maintenance of all buffer areas as approved by the Director of Planning and Zoning.
4. For a Buffer Management Plan that is the result of an authorized disturbance to the buffer, a permit authorizing final use and occupancy shall not be issued until the applicant:
   a. Completes the implementation of a Buffer Management Plan; or
   b. Provides financial assurance to cover the costs for:
      i. Materials and installation; and
      ii. If the mitigation or establishment requirement is at least 5,000 square feet, long-term survivability requirements as set forth in COMAR 27.01.09.01-2, or its successors.

5. If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this chapter. A permit for development activity shall not be issued for a property that has the violation.
6. An applicant shall post a subdivision with permanent signs prior to final recordation in accordance with COMAR 27.01.09.01-2, or its successors.
7. Buffer Management Plans that include natural regeneration shall follow the provisions of COMAR 27.01.09.01-4, or its successors.

8. In accordance with the requirements of this section, the type of buffer management plan submitted shall be determined based on the type of activity in the buffer, as described below.

a. An applicant shall submit a Simplified Buffer Management Plan as part of the application associated with any of the following activities:

i. Providing access up to 3 feet wide to a private pier or shoreline that is up to 3 feet wide;

ii. Manually removing invasive or noxious vegetation;

iii. Filling to maintain an existing grass lawn;

iv. Managing storm damage;

v. Except for an emergency situation under (vi), cutting up to five dead, diseased, dying, invasive, or hazardous trees.

vi. If cutting a tree in the buffer is immediately necessary because of an emergency situation, the applicant shall submit a Simplified Buffer Management Plan at the earliest possible time after the tree has been cut.

b. An applicant shall submit a Minor Buffer Management Plan as part of the application associated with any of the following activities:

i. Establishment of less than 5,000 square feet of the buffer for an application listed under Section 21.54.105(C); or

ii. A requested disturbance that requires less than 5,000 square feet of mitigation for an application listed under Section 21.54.105(F);

c. An applicant shall submit a Major Buffer Management Plan as part of the application associated with any of the following activities:

i. Establishment of at least 5,000 square feet of the buffer; or

ii. A requested disturbance that requires at least 5,000 square feet of mitigation.

G. Fee-In-Lieu of Buffer Mitigation.

A fee in-lieu of mitigation shall be collected if the planting requirements of Subsection D above cannot be fully met onsite, in accordance with the following standards:

1. Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to the City of Annapolis General Fund;
2. Fee-in-lieu shall be assessed according to the fee schedule as adopted by the City Council for required buffer mitigation;
3. A portion of fee-in-lieu money can be used for management and administrative costs; however, this cannot exceed 20% of the fees collected; and
4. Fee-in-lieu monies shall be used for the following projects:

a. To establish the buffer on sites where planting is not a condition of development or redevelopment;

b. For water quality and habitat enhancement projects as approved by the Critical Area Commission or by agreement between the City of Annapolis and the Critical Area Commission.

c. Other projects with environmental benefits as approved by the Critical Area Commission or by agreement between the City of Annapolis and the Critical Area Commission.

21.54.106 Modified Buffer Area (MBA)

A. Applicability.

The following provisions apply to areas designated and mapped by the City of Annapolis as Modified Buffer Areas (MBA) and shown on maps available to the public held by the City of Annapolis. All MBA maps and provisions shall be approved by the Critical Area Commission.

B. Development and Redevelopment Standards.

New development or redevelopment activities, including structures, roads, parking areas, and other impervious surfaces shall not be permitted in the buffer in a designated MBA unless the applicant can demonstrate that there is no feasible alternative and the Director of Planning and Zoning finds that efforts have been made to minimize buffer impacts and the development shall comply with the following standards:

1. Development and redevelopment activities have been located as far as possible from mean high tide, the landward boundary of tidal wetlands, or the edge of each bank of tributary streams.

2. Commercial, industrial, institutional, recreational, and multi-family residential development and redevelopment shall meet the following standards:

a. New development, including accessory structures, shall minimize the extent of intrusion into the buffer. New development shall not be located closer to the water (or edge of tidal wetlands) than the minimum required setback for the zoning district or 50 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line.

b. Redevelopment, including accessory structures, shall minimize the extent of intrusion into the buffer. Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the local setback for the zoning district or 30 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. A new structure may be constructed on the footprint of an existing structure.

3. Single family and two family residential development and redevelopment shall meet the following standards:

a. New development or redevelopment, including principle and accessory structures, shall minimize the shoreward extent of intrusion into the buffer. New development and redevelopment shall not be located closer to the water, or the edge of tidal wetlands, than principal structures on adjacent properties or the local setback for the zoning district, whichever is greater. In no case shall new development or redevelopment be located less than 30 feet from the water, or the edge of tidal wetlands.

b. Existing principal or accessory structures may be replaced in the same footprint.

c. If the waterway yard setback is greater than 30 feet, new open terraces and decks not over four feet above the average level of the adjoining ground may be located closer to the water than the setback, up to 30 feet from the water, if the Director of Planning and Zoning has determined there are no other locations for the structures. The total area of all structures shall not exceed 500 square feet within 50 feet of the water and may not exceed 1,000 square feet in the buffer.

4. Variances to other local setback requirements shall be considered before additional intrusion into the buffer is permitted.

5. Development and redevelopment may not impact any Habitat Protection Area (HPA) other than the buffer, including nontidal wetlands, other state or federal permits notwithstanding.

6. The Modified Buffer Area (MBA) designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the buffer or to create additional buildable land for new development or redevelopment.

7. Mitigation for development or redevelopment in the MBA approved under the provisions of this subsection shall be implemented as follows:

a. Vegetation of an area twice the extent of the footprint of the development activity within the 100-foot buffer shall be planted on site in the buffer or at another location approved by the Director of Planning and Zoning.

b. Applicants who cannot fully comply with the planting requirement in (a) above, may offset the mitigation requirement by removing an equivalent area of existing lot coverage in the buffer.

c. Applicants who cannot comply with either the planting or offset requirements in (a) or (b) above shall pay into a fee-in-lieu program. Fee-in-lieu shall be assessed according to the fee schedule as adopted by the City Council for required buffer mitigation;

d. Any fees-in-lieu collected under these provisions shall be placed in an account that shall assure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of the City of Annapolis Critical Area Program. The funds cannot be used to accomplish a project or measure that would have been required under existing local, state, or federal laws, regulations, statutes, or permits. The status of these funds shall be reported in the City of Annapolis's quarterly reports.

e. Any required mitigation or offset areas shall be protected from future development through appropriate measures as approved by the Director of Planning and Zoning.

C. Per Section 21.54.105(F), no vegetation may be removed in the buffer except with an approved Buffer Management Plan.

21.54.110 - Water-dependent facilities.

A. Applicability.

The provisions of this section apply to those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the buffer. An activity is water-dependent if it cannot exist outside the buffer and

is dependent on the water by reason of the intrinsic nature of its operation.

B. Identification

Water dependent facilities include, but are not limited to, ports, the intake and outfall structures of power plants, water-use industries, marinas, and other boat docking structures, public beaches and other public water-oriented recreation areas, and fisheries activities. Excluded from this regulation are individual private piers installed or maintained by riparian landowners, and which are not part of a subdivision that provides community piers.

~~A.Water-Dependent Activities.~~ C. Standards.

The following standards shall apply to new or expanded development activities associated with water-dependent facilities:

1. New or expanded water-dependent development activities may be permitted in the buffer in intensely developed and limited development areas provided that the applicant shows:
   a. That the activity is water-dependent;
   b. That the project meets a recognized private right or public need;
   c. That adverse effects on water quality, and fish, plant, and wildlife habitat are minimized;
   d. That, insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the buffer;
   e. That the facilities are consistent with an approved local plan~~; and~~
   f. The above criteria shall not apply to individual private piers installed or maintained by riparian landowners which are not part of a subdivision which provides community piers.
2. In addition to the above criteria, developers of projects that are water-dependent shall prepare a statement showing that the proposed project meets the following requirements:
   a. That the activities ~~will~~ shall not significantly alter existing water circulation patterns or salinity regimes;
   b. That the water body upon which these activities are proposed has adequate flushing characteristics in the area;
   c. That disturbance to wetlands, submerged aquatic plant beds, or other areas of important aquatic habitats ~~will~~ shall be minimized;
   d. That adverse impacts to water quality that may occur as a result of these activities, such as non-point-source runoff sewage discharge from land activities or vessels, or from boat cleaning and maintenance operations, is minimized;
   e. That shellfish beds ~~will~~ shall not be disturbed or be made subject to discharge that ~~will~~ shall render them unsuitable for harvesting;
   f. That dredging shall be conducted in a manner, and using a method, which causes the least disturbance to water quality and aquatic and terrestrial habitats in the area immediately surrounding the dredging operation or within the critical area, generally;
   g. That dredged spoil ~~will~~ shall not be placed within the buffer or elsewhere in that portion of the critical area which has been designated as a habitat protection area except as necessary for:
      i. Backfill for permitted shore erosion protection measures,
      ii. Use in approved vegetated shore erosion projects,

iii. Placement on previously approved channel maintenance spoil disposal areas, and
iv. Beach nourishment;

h. That interference with the natural transport of sand ~~will~~ shall be minimized.

~~B. Community Piers. An applicant for a community pier shall prepare a statement to show the following requirements have been met:~~

~~1. The facilities shall be community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;~~

~~2. The facilities are associated with a residential development approved by the City for the critical area and is consistent with all regulations of the City of Annapolis Critical Area Program;~~

~~3. Disturbance to the buffer is the minimum necessary to provide a single point of access to the facilities;~~

~~4. The facilities shall not offer food, fuel or other goods and services for sale;~~

~~5. The number of slips permitted at the facility shall be the lesser of the following:~~

~~a. One slip for each fifty feet of shoreline in the subdivision in the intensely developed and limited development areas,~~

~~b. One slip for each three hundred feet of shoreline in the subdivision in the resource conservation area, or~~

~~c. A density of slips to platted lots or dwellings within the subdivision in the critical area according to the following schedule:~~

~~Platted Lots or Dwellings in the Critical Area~~	~~Slips~~
~~Up to 15~~	~~1 for each lot~~
~~16 to 40~~	~~The greater of 15 or 75 percent~~
~~41 to 100~~	~~The greater of 30 or 50 percent~~
~~101 to 300~~	~~The greater of 50 or 25 percent~~
~~Over 300~~	~~The greater of 75 or 15 percent~~

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~~6. When a community pier with slips is provided as part of a new development project, private piers are not permitted for each individual residential lot.~~

~~C. Public Water-Oriented Recreation or Education Areas. Public water-oriented recreation or education areas will be permitted in the buffer if the provisions above are satisfied, as well as the following requirements:~~

~~1. 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 buffer in intensely developed areas.~~

~~2. These facilities may be permitted within the buffer in limited development areas and resource conservation areas provided that:~~

~~a. Adequate sanitary facilities exist;~~

~~b. Service facilities are, to the extent possible, located outside the buffer;~~

~~c. Permeable surfaces are used to extent practicable, if no degradation of groundwater would result;~~

~~d. Disturbance to natural vegetation is minimized; and~~

~~e. Areas for passive recreation, such as nature study and for education, may be permitted in the buffer within resource conservation areas, if service facilities for these uses are located outside of the buffer.~~

D. Industrial facilities.

New, expanded, or redeveloped industrial facilities and the replacement of these facilities may be permitted only in those portions of Intensely Developed Areas that have been designated as Modified Buffer Areas as described in this chapter and are subject to the provisions set forth in that section.

E. Marinas and other commercial maritime facilities.

New, expanded, or redeveloped marinas may be permitted in the buffer within Intensely Developed Areas and Limited Development Areas subject to the requirements set forth in this chapter. New marinas or related maritime facilities may not be permitted in the buffer within Resource Conservation Areas except as provided in this chapter. Expansion of existing marinas may be permitted by the City within Resource Conservation Areas provided that it is sufficiently demonstrated that the expansion shall not adversely affect water quality, and that it shall result in an overall net improvement in water quality at or leaving the site of the marina. New and existing marinas shall meet the sanitary requirements of the Department of the Environment as required in COMAR 26.04.02, or its successors. New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.

F. Community piers.

New or expanded community marinas and other non-commercial boat-docking and storage facilities may be permitted in the buffer subject to the requirements in this chapter provided that:

1. The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;
2. The facilities are associated with a residential development approved by the City for the Critical Area and consistent with all State requirements and program requirements for the Critical Area;
3. Disturbance to the buffer is the minimum necessary to provide a single point of access to the facilities;
4. These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities; and
5. If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.

G. Number of slips or piers permitted.

The number of slips or piers 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; or
2. A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

Table G(2). Number of slips permitted.

Platted Lots or Dwellings in the Critical Area	Slips
up to 15	1 for each lot
16 – 40	15 or 75% whichever is greater

41 – 100	30 or 50% whichever is greater
101 – 300	50 or 25% whichever is greater
over 300	75 or 15% whichever is greater

H. Public beaches and other public water-oriented recreation or education areas.
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 buffer in Intensely Developed Areas. These facilities may be permitted within the 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 buffer;
3. Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result;
4. Disturbance to natural vegetation is minimized; and
5. Areas for passive recreation, such as nature study, hunting and trapping, and for education, may be permitted in the buffer within Resource Conservation Areas if service facilities for these uses are located outside of the buffer.

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

21.54.120 - Habitat protection.

~~Each applicant proposing a land-disturbing activity within the critical area of the City of Annapolis must submit a habitat protection area statement for plant and wildlife that addresses the following:~~

~~A. The applicant for any land-disturbing activity within the City's critical area is required to identify all plant and wildlife habitat areas subject to this program anywhere within the legally divided parcel proposed for development.~~

~~B. If there are plant and wildlife habitat areas within the parcel proposed for development, the applicant will prepare a plant and wildlife habitat statement which indicates the measures to be taken to meet the following requirements, as appropriate:~~

~~1. Establish buffer areas for colonial water bird nesting sites so that these sites are protected from the adverse impacts of development activities and from disturbance during the breeding season;~~

~~2. Provide that new water-dependent facilities are so located as to prevent disturbance to sites of significance to wildlife such as historic, aquatic staging and concentration areas for waterfowl;~~

~~3. Provide protection measures, including a buffer area, where appropriate, for other plant and wildlife habitat sites which may in the future be identified by State and Federal agencies as important plant or wildlife habitat areas;~~

~~4. Protect and conserve those riparian forests of approximately three hundred feet or more in width required to support forest interior dwelling birds, as determined by methods described in the Critical Area Commission Guidance Paper Number 1, "A Guide to the Conservation of Forest Interior Dwelling Birds in the Critical Area";~~

~~5. To the extent practical, when development activities, or the cutting or clearing of trees, occurs in forested areas, maintain corridors of existing forest or woodland vegetation to provide effective connections between wildlife habitat areas;~~

~~6. Protect those plant and wildlife habitats considered to be of significance by the City of Annapolis;~~

~~7. 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.~~

~~C. If a protected plant or wildlife habitat is not present within a parcel proposed for development, then a statement to that effect from a qualified expert must be submitted to the City.~~

~~D. In preparing the plant and wildlife habitat statement, the applicant is responsible for consulting with the DNR Department of Natural Resources; the Maryland Natural Heritage Program; the U.S. Fish and Wildlife Service; the City of Annapolis; and other relevant public agencies and private organizations for the purpose of assuring compliance with all applicable laws, rules and regulations.~~

A. Identification.

An applicant for a development activity, redevelopment activity, or change in land use shall identify all applicable Habitat Protection Areas using the process described in Section 21.54.120(B)(1) below and follow the standards contained in this section. Habitat Protection Areas includes:

1. Threatened or endangered species or species in need of conservation;
2. Colonial waterbird nesting sites;
3. Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands;
4. Existing riparian forests;
5. Forest areas utilized as breeding areas by forest interior dwelling birds and other wildlife species;
6. Other plant and wildlife habitats determined to be of local significance;
7. Natural Heritage Areas; and
8. Anadromous fish propagation waters.

B. Standards.

1. An applicant for a development activity proposed for a site within the Critical Area that is in or near a Habitat Protection Area listed above; shall request review by the Department of Natural Resources Wildlife and Heritage Service (DNR WHS), and, as necessary the United States Fish and Wildlife Service (USFWS), for comment and technical advice. Based on the Department's recommendations, additional research and site analysis may be required to identify the location of threatened and endangered species and species in need of conservation on a site.
2. If the presence of any Habitat Protection Area is confirmed by the Department of Natural Resources, the applicant shall follow all recommendations from the DNR WHS, and, as necessary the USFWS.
   a. If potential FIDS habitat is identified, the proposed development shall conform to the Critical Area Commission's FIDS Guidance Manual, dated June, 2000 and as updated.
   b. If potential anadromous fish propagation waters are identified, the proposed development shall conform to the policies and criteria listed in COMAR

27.01.09.05, or its successors.

3. The specific protection and conservation measures recommended by the Department of Natural Resources' Wildlife and Heritage Service and the U.S. Fish and Wildlife Service shall be included on the site plan and shall be considered conditions of approval for the project.

21.54.130 Reserved - ~~Site design plan review.~~

~~Site design plan review in accordance with Chapter 21.22 shall be required for all projects located in the critical area overlay district to ensure compliance with this chapter and the City's critical area program.~~

21.54.140 - Change of area designation.

~~A. Limited development areas may be changed to intensely developed areas, but only under the procedures in this section.~~

~~B. No more than eleven acres of land in the critical area may be changed from limited development area to intensely developed area or from resource conservation area to another classification.~~

~~C. Areas proposed for change must be mapped and must include an analysis of the manner in which the areas designated conform to the locational guidelines specified in Subsection E of this section. The developer shall be responsible for preparing this submission for the Department of Planning and Zoning.~~

~~D. The map and the analysis shall be submitted by Department of Planning and Zoning to the Critical Area Commission for approval before development may occur on the site.~~

~~E. To identify new intensely developed areas, the following locational guidelines shall be used:~~

~~1. Locate in existing limited development areas or adjacent to existing intensely developed areas;~~

~~2. Minimize impacts to habitat protection areas and resource conservation areas,~~

~~3. Should be at least three hundred feet from tidal waters or tidal wetlands if located in existing resource conservation areas.~~

A. Growth allocation acreage and deduction.

1. Growth allocation available to the City of Annapolis includes:

a. An area equal to 5 percent of the RCA acreage located within the City of Annapolis and;

b. Growth allocation available to the City of Annapolis as provided for by Anne Arundel County.

2. The City of Annapolis' original growth allocation acreage is eleven acres. The City of Annapolis' current growth allocation acreage remaining is eleven acres, as of [date of adoption of this Ordinance].

3. The City of Annapolis shall deduct acreage from its growth allocation reserves in accordance with COMAR 27.01.02.06-4, or its successors.

B. Purpose. Growth Allocation is available for use in a Resource Conservation Area (RCA) or in a Limited Development Area (LDA) in the City of Annapolis Critical Area Overlay District. The purpose is to authorize a change in the Critical Area classification to develop at a higher density or use than the current classification allows.

C. Process. An applicant shall submit to the City of Annapolis a complete application for growth allocation that complies with the submittal and environmental report requirements of COMAR 27.01.02.06-1—.06-2, or its successors. A Growth Allocation request shall be approved by the City of Annapolis prior to submission to the Critical Area Commission as a zoning map amendment pursuant to Chapter 21.34.

D. Standards.

When locating new Intensely Developed or Limited Development Areas the following standards shall apply:

1. A new Intensely Developed Area shall only be located in a Limited Development Area or adjacent to an existing Intensely Developed Area.
2. A new Limited Development Area shall only be located adjacent to an existing Limited Development Area or an Intensely Developed Area.
3. A new Limited Development Area or Intensely Developed Area shall be located in a manner that minimizes impacts to a Habitat Protection Area as defined herein and in COMAR 27.01.09, or its successors, and in an area and manner that optimizes benefits to water quality;
4. A new Intensely Developed Area shall only be located where it minimizes impacts to the defined land uses of the Resource Conservation Area;
5. A new Intensely Developed Area or a Limited Development Area in a Resource Conservation Area shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters;
6. New Intensely Developed or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of the City of Annapolis for such areas, shall be so designated on the City of Annapolis Critical Area Maps and shall constitute an amendment to this chapter subject to review and approval by the Planning Commission, the City Council, and the Critical Area Commission as provided herein.

E. Additional Factors.

In reviewing map amendments or refinements involving the use of growth allocation, the City of Annapolis shall consider the following factors:

1. Consistency with the City of Annapolis adopted comprehensive plan and whether the growth allocation would implement the goals and objectives of the adopted plan.
2. For a map amendment or refinement involving a new Limited Development Area, whether the development is:
   a. A completion of an existing subdivision;
   b. An expansion of an existing business; or
   c. To be clustered.

3) For a map amendment or refinement involving a new Intensely Developed Area, whether the development is:
   a. To be served by a public wastewater system;
   b. To have a demonstrable economic benefit.

4. The use of existing public infrastructure, where practical;

5. Consistency with State and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on- or off-site;
6. Impacts on a priority preservation area;
7. Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and
8. Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.

21.54.150 - Grandfathering provisions.

The following types of land may be developed in accordance with the following density requirements ~~in effect prior to February 13, 1989~~, notwithstanding the density provisions of this chapter:

A. Existing Land Uses. Existing land uses as of February 13, 1989 may continue. Alterations or expansion of nonconforming land uses ~~will~~ shall not be permitted, unless a variance is granted under the procedures described in Section 21.54.160;

B. ~~Single-Family Dwelling.~~ A single lot or parcel that was legally of record on February 13, 1989 may be developed ~~with a single-family dwelling~~. In the case of any legal parcel of land in the limited development area or resource conservation area the following apply: ~~that was recorded as of June 1, 1984, manmade impervious surfaces lot coverage shall be limited to two thousand square feet or fifteen percent of the site, whichever is greater;~~

1. If a parcel or lot one-half acre or less in size existed on or before December 1, 1985, lot coverage is limited to twenty-five percent of the parcel or lot.
2. If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, lot coverage is limited to fifteen percent of the parcel or lot.
3. If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, lot coverage of the lot may not exceed 25 percent of the lot. However, the total lot coverage over the entire subdivision may not exceed fifteen percent.
4. The Director of Planning and Zoning may allow a property owner to exceed the lot coverage limits provided in Subsections (B)(1) and (B)(2) of this section if the following conditions exist:
   a. New lot coverage on the site have been minimized;
   b. For a lot or parcel one-half acre or less in size, total lot coverage does not exceed-lot coverage limits in Subsection (B)(1) of this section by more than 25 percent or 500 square feet, whichever is greater;
   c. For a lot or parcel greater than one-half acre and less than one acre in size, total lot coverage does not exceed lot coverage limits in Subsection (B)(2) of this section or 5,445 square feet, whichever is greater;
   d. Water quality impacts associated with runoff from the new lot coverage can be and have been minimized through site design considerations or use of best management practices approved by the City to improve water quality;
   e. The property owner performs on-site mitigation at a rate of one native tree or three native shrubs for every 100 square feet and part thereof for lot coverage that exceeds the limits provided in Subsections (B)(1) and (B)(2) to the maximum limit, to offset

potential adverse water quality impacts from the new lot coverage, or the property owner pays a fee to the City of Annapolis in lieu of performing the on-site mitigation;

f. All fees in lieu collected by the City of Annapolis shall be used to fund projects that improve water quality within the critical area; and

g. Cluster development is encouraged, to the extent practicable, to reduce lot coverage and maximize areas of natural vegetation.

C. Development Activity. Any land on which development activity has progressed to the point of the pouring of foundation footings or the installation of structural members as of February 13, 1989;

D. Individual Parcels of Land, Not Part of a Subdivision. Any legal parcel of land that was recorded as of December 1, 1985 and not part of a recorded or approved subdivision is grandfathered;

E. Subdivision Before June 1, 1984. Subdivision of land approved prior to June 1, 1984 is grandfathered, subject to the following conditions:
Recorded legally buildable lots in subdivisions which received the City'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 by the State Critical Area Commission.

F. Land that was subdivided into recorded, legally buildable lots, where the subdivision received the final approval between June 1, 1984 and December 1, 1985.

G. 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.

H. Nothing in this regulation may be interpreted as altering any requirements for development activities set out in the Water Dependent Facilities Section and the Habitat Protection Areas section of this Zoning Code.

I. For purposes of implementing this regulation, the City 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 Section 21.54.080, 21.54.090 and 21.54.100.

J. Where a revision of the Critical Area Overlay District Map for the City of Annapolis increases the critical area of a lot of record existing as of [date of adoption of this Ordinance], lot coverage limitations are to be determined by using the provisions described in this section.

21.54.160 - Variances.

A. ~~Except as otherwise specified in Sections 21.54.170 and 21.54.180 of this chapter, v~~Variances to the provisions of this City of Annapolis critical area program ~~will~~ shall be considered due to special features of a site or other circumstances or where a literal enforcement of provisions within the critical area program would result in unwarranted hardship to an applicant.

B. Applications for variances and administrative variances shall be made in writing to the Planning and Zoning Director with a copy to the Critical Area Commission in accordance with the procedures in Section 21.28.020 and 21.28.030 of this Zoning Code and for administrative variances, the procedures in Section 21.18.020 of this Zoning Code. Variances to the critical area program are subject to the following standards: ~~will be considered under~~

~~the provisions of Chapter 21.28 of this Zoning Code, except that the standards or conditions under which a variance shall be considered are:~~

~~1. That special conditions or circumstances exist that are peculiar to the land or structure within the City's critical area program, would result in unwarranted hardship;~~

~~2. That a literal interpretation of Title 27, Subtitle 01, of the Code of Maryland Regulations or the City critical area program and related ordinances will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the critical area of the City;~~

~~3. That the granting of a variance will not confer upon an applicant any special privilege that would be denied by Title 27, Subtitle 01, of the Code of Maryland Regulations or the City critical area program to other lands or structures within the City critical area;~~

~~4. That the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition conforming, on any neighboring property;~~

~~5. That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the City's critical area, and that granting of the variance will be in harmony with the general spirit and intent of the critical area law and the regulations adopted in Title 27, Subtitle 01, of the Code of Maryland Regulations.~~

1. Due to special features of the site or special conditions or circumstances peculiar to the land or structure involved, a literal enforcement of provisions and requirements of this Critical Area chapter would result in unwarranted hardship;
2. A literal interpretation of the provisions of this chapter shall deprive the applicant of the use of land or a structure permitted to others in accordance with the provisions of this Critical Area chapter;
3. The granting of a variance shall not confer upon an applicant any special privilege that would be denied by this Critical Area chapter to other lands or structures within the Critical Area;
4. The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed;
5. The request does not arise from any condition relating to land or building use, either permitted or non-conforming on any neighboring property; and
6. The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area; and
7. The granting of the variance shall be in harmony with the general spirit and intent of the State Critical Area Law and this Critical Area chapter.

~~C. Appeals.~~

~~1. Any person aggrieved by any decision of the Board of Appeals may appeal that decision to the circuit court of Anne Arundel County.~~

~~2. An appeal filed pursuant to this section does not stay the action from which the appeal is taking unless provided by State law or an order entered by a court of competent jurisdiction.~~

C. After-the-Fact Requests

1. The Director of Planning and Zoning may not accept an application of a variance to legalize a violation of this subtitle, including an unpermitted structure or other development activity until the Director of Planning and Zoning:
   a) Issues a notice of violation; and

b) Assesses an administrative or civil penalty for the violation.

2. The Director of Planning and Zoning may not approve an after-the-fact variance unless an applicant has:

a. Fully paid all administrative, civil and criminal penalties imposed under Natural Resources Article, §8-1808(c)(l)(iii)14-15 and (2)(i), Annotated Code of Maryland;

b. Prepared a restoration or mitigation plan, approved by the Director of Planning and Zoning, to abate impacts to water quality or natural resources as a result of the violation; and

c. Performed the abatement measures in the approved plan in accordance with the local Critical Area program.

3. If the Board of Appeals denies the requested after-the-fact variance, then the Director of Planning and Zoning shall:

a. Order removal or relocation of any structure; and

b. Order restoration of the affected resources.

D. Conditions and mitigation.

The Board of Appeals shall impose conditions on the use or development of a property which is granted a variance as it may find reasonable to ensure that the spirit and intent of this chapter is maintained including, but not limited to the following:

1. Adverse impacts resulting from the granting of the variance shall be mitigated as recommended by the Director of Planning and Zoning, but not less than by planting on the site per square foot of the variance granted at no less than a three to one basis.
2. New or expanded structures or lot coverage shall be located the greatest possible distance from mean high water, the landward edge of tidal wetlands, tributary streams, nontidal wetlands, or steep slopes.

E. Critical Area Commission notification.

Within 10 working days after a written decision regarding a variance application is issued, a copy of the decision shall be sent to the Critical Area Commission. The Director of Planning and Zoning may not issue a permit for the activity that was the subject of the application until the applicable 30-day appeal period has elapsed.

21.54.170 - Administrative variances.

A. The purpose of this section is to authorize delegation of Board of Appeals approval authority to the Planning and Zoning Director to apply the standards for variances as specified in Section 21.54.160 for proposed development activities as follows:

In the case of residential structures currently located within the designated one hundred-foot Critical Area buffer, an expansion of these structures; provided, that the expansion occurs parallel to the shoreline and does not further encroach into the waterway yard.

B. Administrative variances are subject to the following conditions:

1. This section applies to new development or redevelopment within the critical area buffer.
2. This section only applies to single-family lots of record at the time of program approval, December 1, 1985.
3. Development may not impact any habitat protection areas other than the Critical Area buffer.
4. The applicant ~~will~~ shall be required to maintain existing natural vegetation in the Critical Area buffer to the extent possible.

5. The disturbance to the Critical Area buffer ~~must~~ shall be the least intrusion necessary.
6. Any development in the Critical Area buffer ~~will~~ shall require mitigation/enhancement/or offsets, as follows:
   a. 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
   b. Natural vegetation of an area twice the extent of the ~~impervious surface~~ lot coverage ~~must~~ shall be created in a Critical Area buffer offset area or other location as may be determined by the City.
7. An applicant who cannot comply with the above planting or offset requirements is required to pay into the fee-in-lieu program established under Chapter 17.09 as established by the City Council.

Any fees-in-lieu collected under these provisions shall be placed in an account that ~~will~~ shall assure their use only for projects within the critical area for the benefit of wildlife habitat, water quality improvements or environmental education. The status of these funds ~~must~~ shall be reported at the time of comprehensive review. If it is not possible to carry out offsets or other mitigation within the critical area, any plantings or other habitat/water quality improvement should occur within the affected watershed.

8. Any required reforestation/mitigation/offset areas ~~must be designated under a development agreement or other instrument and recorded among the land records of Anne Arundel County~~. shall be protected from future development through appropriate measures as approved by the Director of Planning and Zoning.
9. The Critical Area Commission shall be notified of the requested variance per Section 21.54.050 prior to any administrative action by the staff and shall be notified of the action taken with regard to the requested variance within ten days of the action.
10. The request for an administrative variance and all supporting documentation shall be reviewed by the Director of Planning and Zoning per the standards set forth in Section 21.54.160. The Director of Planning and Zoning shall, within ~~ten~~10 days, issue a decision with regard to the proposed variance as to whether the variance shall be granted, denied or granted subject to specified terms and conditions.
11. ~~The chairman of the Critical Area Commission may appeal an administrative variance granted by the Planning and Zoning Director or local approving authority. At this time the project will go before the Board of Appeals de novo.~~

C. Administrative variances shall follow the procedures in Section 21.18.020 of this Zoning Code, except that the proposed variance is subject to the standards in Section 21.54.160.

21.54.180 - ~~Variances in conjunction with subdivisions.~~ Lot Consolidation and Reconfiguration.

~~A. In accordance with the regulations of Chapter 20, Subdivisions, if a subdivision requires approval by the Planning Commission, the authority to approve a variance to the critical area requirements shall be that of the Board of Appeals. The Board of Appeals in considering the variance shall apply the standards or conditions of review specified under Section 21.54.160.~~

~~B. Appeals from decisions of the Board of Appeals under Section 21.54.180 shall be made to the Circuit Court for Anne Arundel County.~~

A. Applicability.

The provisions of this part apply to a consolidation or a reconfiguration of any nonconforming

legal grandfathered parcel or lot. These provisions do not apply to the reconfiguration or consolidation of parcels or lots which are conforming or meet all Critical Area requirements. Nonconforming parcels or lots include:

1. Those for which a Critical Area variance is sought or has been issued; and
2. Those located in the Resource Conservation Area and are less than 20 acres in size.

B. Procedure.

An applicant seeking a parcel or lot consolidation or reconfiguration shall provide the required information required in COMAR 27.01.02.08.E, or its successors, to the Director of Planning and Zoning.

1 The Director of Planning and Zoning may not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with COMAR 27.01.02.08.F., or its successors.

2 The Director of Planning and Zoning shall issue a final written decision or order granting or denying an application for a consolidation or reconfiguration. After a final written decision or order is issued, the Director of Planning and Zoning shall send a copy of the decision or order and a copy of any approved development plan within 10 business days by U.S. mail to the Critical Area Commission's business address.

21.72.010 - Terms.

A. Construction. In the construction of this Zoning Code, the rules and definitions contained in this chapter shall be observed and applied, except when the context clearly indicates otherwise.

B. Definitions. Except as provided for elsewhere in this Zoning Code, terms used in this Zoning Code shall have the definition provided in any standard dictionary, unless specifically defined below or in any other provision of this Zoning Code.

C. Generic Definitions.

1. Purpose of Generic Definitions. Certain terms in this chapter are defined to be inclusive of many uses in order to eliminate overly detailed listings of uses in the zoning districts established by this title. These terms are referred to in this title as "generic" definitions. Examples of generic definitions used in this title are "retail goods establishment," "amusement establishment" and "light manufacturing."
2. Components of Generic Definitions. A generic definition has three components: (1) a brief listing of examples of uses intended to be included within the scope of the definition; (2) an identification (where appropriate) of certain uses which are not meant to be included by the term; and (3) a statement that for the purposes of each zoning district, any other uses specifically listed within the particular zoning district shall not be construed as falling within the generic definition.
3. Uses Not Listed or Not Within Scope of Generic Definition. A use which is not specifically listed in a zoning district, or which does not fall within a generic definition as defined in this chapter, or as interpreted by the Director of Planning and Zoning pursuant to Chapter 21.16 is prohibited.

D. List of Definitions.

"Abatement" means the act of putting an end to a land alteration or development activity or

reducing the degree or intensity of the alteration or activity.

Accessory building or use. See Use, accessory.

“Accessory structure” means a structure that is detached from the principal structure, located on the same lot and customarily incidental and subordinate to a principal structure.

“Addition” means construction that increases the size of a structure.

"Adult bookstore" means any commercial establishment which includes in its stock books, periodicals, photographs, drawings, sculpture, motion pictures, films or other visual representations which depict sadomasochistic abuse, sexual conduct or sexual excitement, as defined by Article 27, Section 416a of the Annotated Code of Maryland, and which otherwise does not qualify as a theater or nonprofit, free-lending library.

"Adverse impact" means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses. Such deleterious effect is or potentially may be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity or stability; or unreasonably may interfere with the enjoyment of life or property, including outdoor recreation.

"Afforestation" means the establishment of a tree crop on an area from which it has always or very long been absent, or the planting of open areas that are not presently in forest cover.

"Agriculture" means all methods of production and management of livestock, crops, vegetation, and soil. This includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited to, the activities of feeding, housing, and maintaining animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products.

"Alley" means a public or private right-of-way primarily designated to serve as secondary access to the side or rear of those properties whose principal frontage is on some other public way.

"Alteration" means any change in size, shape, character or use of a building or structure.

Amusement establishment, indoor. "Indoor amusement establishment" means a commercial establishment where the principal use or purpose is providing diversions or activities for entertainment, recreation, or pleasure. The term "amusement establishment, indoor" includes, but is not limited to amusement arcades, bowling alleys, dance halls, pool halls swimming pools and skating rinks. The term "amusement establishment, indoor" does not include any use that is otherwise listed specifically in the Table of Permitted Uses for the zoning district where the term is used.

"Anadromous fish" means fish that travel upstream (from their primary habitat in the ocean) to freshwater in order to spawn.

“Anadromous fish propagation waters” means those streams that are tributary to the Chesapeake Bay and Atlantic Coastal bays in which the spawning of anadromous species of fish (e.g., rockfish, striped bass, yellow perch, white perch, shad, and river herring) occurs or has occurred. The streams are identified by the Department of Natural Resources.

"Anchor tenant" means the largest tenant or tenants in a shopping center. Shopping center anchor tenants are typically grocery stores or department stores.

"Animal hospital" means a building or portion of a building designed or used for the care, observation or treatment of domestic animals. Animal hospital includes veterinarian office.

"Antenna" means a device designed for telephone, radio, or television communications through sending and/or receiving of electromagnetic waves.

Antenna, flush mounted. "Flush mounted antenna" means an antenna mounted on the side of a building or structure.

"Antenna tower" means a structure used to support antennas for providing wireless voice, data and image transmission within a designated service area. Antenna tower includes monopole.

"Apartment hotel" means an apartment building in which not more than ten percent of the accommodations are available for occupancy by nonpermanent guests, and which provides such services as maid service, laundering or furnishing of linens, telephone and secretarial or desk service.

"Aquaculture" means: (a) Farming or culturing of finfish, shellfish, other aquatic plants or animals or both, in lakes, streams, inlets, estuaries, and other natural or artificial water bodies or impoundments; (b) Activities include hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings, and growing areas; and (c) Cultivation methods include, but are not limited to, seed or larvae development and grow out facilities, fish ponds, shellfish rafts, rack and longlines, seaweed floats and the culture of clams and oysters on tidelands and subtidal areas. For the purpose of this definition, related activities such as wholesale and retail sales, processing and product storage facilities are not considered aquacultural practices.

"Arts and crafts store" means an establishment where the principal use or purpose is the sale of goods, products and merchandise for the practice and enjoyment of arts and crafts. The term "arts and crafts store" includes but is not limited to antique stores, art and school supply stores, coin and stamp stores, gift shops, and hobby shops. The term "art and craft store" does not include any use that is otherwise listed specifically in the Table of Permitted Uses for the zoning district where the term is used.

"Arts and crafts studio" means an establishment where the principal use or purpose is practicing, producing, or selling arts and crafts. The term "art and craft studio" includes but is not limited to china and glassware stores, picture framing, jewelry sales and repair, musical instruments sales and repair, and interior decorating shops. The term "art and craft studio" does not include any use

that is otherwise listed specifically in the Table of Permitted Uses for the zoning district where the term is used.

"Bake shop" means an establishment where only bread, pastries and other baked goods are made and offered for sale.

"Bakeries" means an establishment where only bread, pastries and other baked goods are made and offered for sale, and the products are sold wholesale and not for immediate consumption.

"Bar and tavern" means establishments primarily engaged in the retail sale of drinks, such as beer, ale, wine, liquor and other alcoholic beverages, with food only incidental to the sale of alcohol.

"Basement" means a portion of a building located partly or wholly underground and having more than one-half of its floor-to-ceiling height below the average grade of the adjoining ground.

"Bed and breakfast home" means a single-family, owner-occupied, detached dwelling which provides only transient lodging in not more than five rooms with a maximum stay of fourteen consecutive nights.

"Best Management Practices" (BMPs) means conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics and sediment. Agricultural BMPs include, but are not limited to, strip cropping, terracing, contour stripping, grass waterways, animal waste structures, ponds, minimal tillage, grass and naturally vegetated filter strips, and proper nutrient application measures.

"Block" means a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways or boundary lines of the City.

Boatyard, working. "Working boatyard" means an arrangement of piers, slips, mooring piles, wharves, and buoys, not to exceed thirty slips, intended to be used for the repair, construction and temporary storage of watercraft, and which slips are not available for occupancy or rental by the general public.

Buffer, Critical Area. "Critical Area Buffer" means an area that based on conditions at the time of development, is immediately landward from mean high water of tidal waterways, the edge of a bank of a tributary stream, or the edge of a tidal wetland; and the area exists, or may be established in, natural vegetation to protect a stream, tidal wetland, tidal waters or terrestrial environments from human disturbance. The buffer includes an area of at least 100-feet, even if that area was previously disturbed by human activity, and also includes any expansion for contiguous areas, including a steep slope, hydric soil, highly erodible soil, nontidal wetland, or a Nontidal Wetland of Special State Concern as defined in COMAR 26.23.01.01.

Buffer Area, Modified. "Modified Buffer Area" means an area of land where an existing pattern of residential, industrial, commercial, or recreational development in the 100-foot buffer prevents the buffer from fulfilling the functions stated in COMAR 27.01.09.01B. This area includes only

those areas of land that are shown on maps approved by the Critical Area Commission and on file with the City of Annapolis.

"Buffer Management Plan" means a narrative, graphic description, or plan of the buffer that is necessary when an applicant proposes a development activity that shall affect a portion of the buffer, affect buffer vegetation, or require the establishment of a portion of the buffer in vegetation. Buffer Management Plan includes a Major Buffer Management Plan, a Minor Buffer Management Plan, or a Simplified Buffer Management Plan.

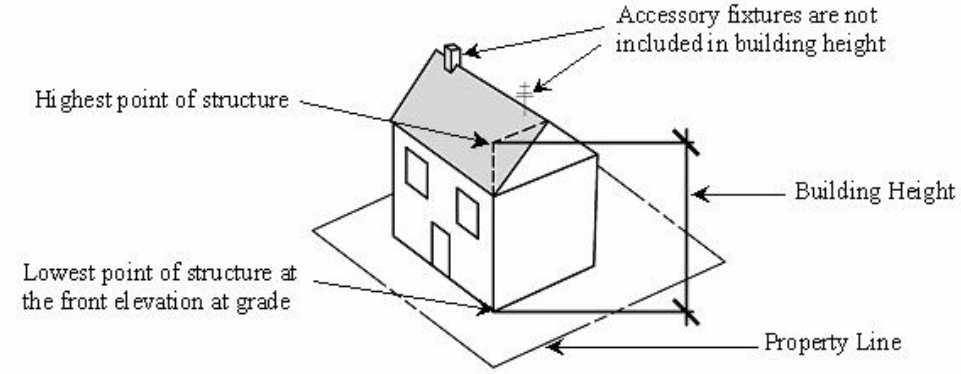
"Bufferyard" means a landscaped yard that creates separation, transition, or enhanced spacing between zoning districts, uses, or rights-of-way.

"Building" means any structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land.

Building, completely enclosed. "Completely enclosed building means" a building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

Building, detached. "Detached building" mean a building surrounded by an open space on the same lot.

"Building height" means the vertical distance from the lowest point of a structure at its front elevation at grade to the highest point of the structure, not including accessory fixtures attached to the structure. See illustration.



Refer to Chapter 21.56 for measurement of building height in the historic district.

Building, principal. "Principal building" means a non-accessory building in which the principal use of the lot on which it is located is conducted.

"Bulk" means the size and setbacks of buildings or structures and the location of the buildings or structures with respect to one another, and includes the following:

a. Size and height of buildings;
b. Location of exterior walls at all levels in relation to lot lines, streets or to other buildings;
c. Gross floor area of buildings in relation to lot area (floor area ratio);

d. All open spaces allocated to buildings;
e. Amount of lot area provided per use.

"Business establishment" means a place of business carrying on operations, the ownership and management of which are separate and distinct from those of any other place of business located on the same zoning lot.

"Canopy" means the highest layer of woody vegetation.

"Capacity in persons" means the maximum number of persons that can avail themselves of the services or goods of an establishment or use, at any one time, with reasonable comfort, as determined in the Annapolis Building Code.

"Car wash" means an area or structure equipped with facilities for washing automobiles.

"Charitable institution" means a building or group of buildings devoted to and supported by charity.

"Clearing" means any activity that removes the vegetative ground cover while leaving the root mat intact.

"Cluster development" means a residential development in which dwelling units are concentrated in a selected area or selected areas of the development tract so as to provide natural habitat or other open space uses on the remainder.

"Co-location" means use of an antenna tower or site by more than one antenna or telecommunications service provider.

"Coffee shop" means a type of food establishment of no more than two thousand square feet gross floor area whose principle business is the sale of coffee and other hot beverages. Pastries, sandwiches and other light fare may also be sold incidental to the service of coffee. A food service establishment that otherwise meets this definition shall not be a coffee shop if it serves alcoholic beverages or is otherwise required to have an alcoholic beverage license under this code.

"Colonial nesting water birds" means herons, egrets, terns, and glossy ibis. For the purposes of nesting, these birds congregate (that is "colonize") in relatively few areas, at which time, the regional populations of these species are highly susceptible to local disturbances.

“COMAR” means the Code of Maryland Regulations, as from time to time may be amended, including any successor provisions.

"Commission, Critical Area. “Critical Area Commission” means the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.

"Community piers" means boat docking facilities associated with subdivisions or similar residential areas, and with condominium, apartment and other multiple family dwelling units.

Private piers are excluded from this definition.

"Comprehensive Plan" means the policies, statements, goals, and interrelated plans for private and public land use, transportation, and community facilities documented in texts and maps and adopted by resolution of the City Council to constitute the guide for future development of the municipality. The "Comprehensive Plan" includes a general plan, master plan, functional plan, or community plan adopted in accordance with Title 3 of the Land Use Article of the Annotated Code of the State of Maryland and subsequent amendments to that plan.

"Consistency" means an action taken that ~~will~~ shall further, and not be contrary to, the following items in the Comprehensive Plan:

A. Policies;
B. Timing of the implementation of the plan;
C. Timing of development;
D. Timing of rezoning; and
E. Development of patterns.

"Conservation easement" means a non-possessing interest in land which restricts the manner in which the land may be developed in an effort to reserve natural resources for future use.

"Consolidation" means a combination of any legal parcel of land or recorded legally buildable lot into fewer lots or parcels than originally existed. It includes a lot line abandonment, a boundary line adjustment, a replatting request, and a lot line adjustment.

"Convenience store" means a retail establishment, selling a limited number of food items, household items and some items prepared on the premises, including reheating, which can be immediately consumed, of no more than four thousand square feet gross floor area.

"Critical Area" means all lands and waters defined in §8-1807 of the Natural Resources Article, Annotated Code of Maryland. Critical Area includes:

a. All waters of and lands under the Chesapeake Bay and Atlantic Coastal Bays and their tributaries to the head of tide;
b. All State and private wetlands designated under Title 16 of the Natural Resources Article, Annotated Code of Maryland;
c. All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 16 of the Natural Resources Article, Annotated Code of Maryland; and
d. Modification to these areas through inclusions or exclusions approved by the Commission as specified in §8-1807 of the Natural Resources Article, Annotated Code of Maryland.

"Curb level" means the level of the established curb in front of a building measured at the center of the front. Where no curb elevation has been established, the mean elevation of the finished lot grade immediately adjacent to a building shall be considered the curb level.

"Cutting" means felling or removal of a tree or any procedure the result of which is to cause the death or substantial destruction of a tree. Cutting does not include normal pruning or trimming.

Day care, family. "Family day care" means care provided for a fee to eight or fewer children under the age of thirteen, in a residence outside of the child's home, for a part of a twenty-four hour day, and regulated by the State Department of Human Resources.

Day care center, group. "Group day care center" means an agency, institution or establishment regulated by the State Department of Human Resources pursuant to the Family Law Article of the Annotated Code of Maryland that, for part or all of a day, on a regular schedule, and at least twice a week, offers or provides group day care to at least nine children who do not have the same parentage.

"Delicatessen" means a type of food service establishment which has as a substantial portion of its business the carry-out of foods for immediate consumption. Delicatessens ~~must~~ shall exhibit both of the following characteristics:

The establishment does not provide more than ten seats, and

Food items prepared for consumption generally are not prepackaged, but are made to specific order. A limited number of prepackaged items may be sold, but only as accessory to the principal use of service of food for immediate consumption.

"Density" means the number of dwelling units per gross acre.

"Department" means the Department of Planning and Zoning.

"Department store" means store selling a wide variety of goods and arranged in several departments.

"Developed woodlands" means those areas of one acre or more in size which predominantly contain trees and natural vegetation and which also include residential, commercial or industrial structures and uses. Within the City of Annapolis, developed woodlands are further defined as those areas where greater than half of the area extent consists of a recognizable canopy of mature species typical of a climax stage of forest succession.

“Developer” means a person who undertakes development activity as defined in this ordinance; or a person who undertakes development as defined in the criteria of Chapter 21.54.

"Development activities" means the construction or alteration of residential, commercial, industrial, institutional or transportation facilities or structures.

"District" means a portion of the territory of the City within which certain uniform regulations and requirements, or various combinations of regulations and requirements, apply under the provisions of this Zoning Code.

“Disturbance” means an alteration or change to the land. It includes any amount of clearing, grading, or construction activity. Disturbance does not include gardening or maintenance of an existing grass lawn.

"Director of Planning and Zoning" shall be read to include his or her designee.

"Dwelling" means a building, or portion of a building, designed or used exclusively for residential occupancy. Includes the following unit types:

a. Single-family detached dwellings,
b. Single-family attached dwellings,
c. Multifamily dwellings,
d. Two-family dwellings, and
e. Dwellings above the ground floor of nonresidential uses.

The term "dwelling" does not include house trailers and hotels.

Dwelling, Multi-Family. See illustration. "Multi-family dwelling" means a building, or portion of a building, containing three or more dwelling units.

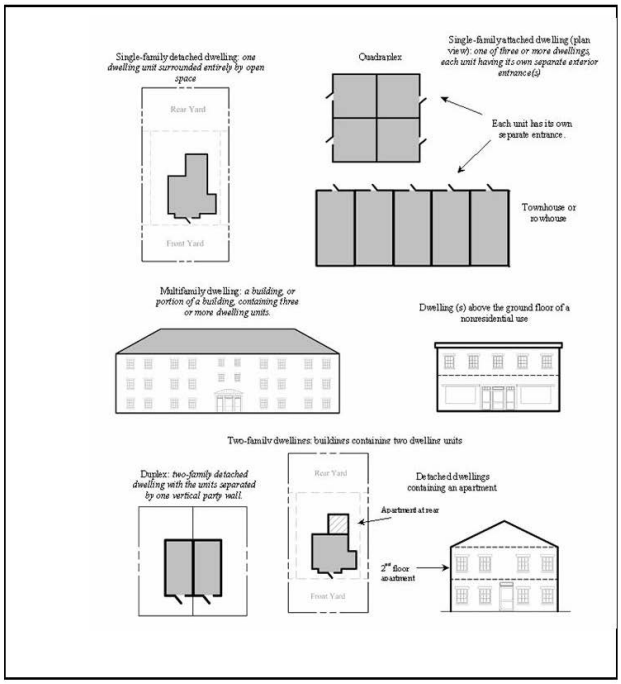
Dwelling, Single-Family Detached. See illustration. "Single-family detached dwelling" means a building containing one dwelling unit that is surrounded entirely by open space on the same lot.

Dwelling, Single-Family Attached. See illustration. "Single-family attached dwelling" means one of a series of two or more dwellings that can be joined to another dwelling at one or more sides by a party wall or walls, with each unit having its own separate exterior entrance(s). For example, townhouse, rowhouse, two-family dwelling, and quadraplex units are single-family attached dwellings.

Dwelling, Two-Family. See illustration. "Two-family dwelling" means a building containing two dwelling units. Examples:

a. A detached dwelling containing an apartment is a two-family detached dwelling.
b. A duplex is a two-family detached dwelling with the units separated by one vertical party wall without openings extending from the basement floor to the roof along the dividing lot line.

"Dwelling unit" means any habitable room or a group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking and eating of meals.



Single-family attached dwelling (plan view): one of two or more dwellings, each unit having its own separate exterior entrance(s)

"Efficiency unit" means a dwelling unit consisting of one principal room exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing the dining alcove does not exceed one hundred twenty-five square feet in area.

"Electric substation," for determining setbacks, means and includes any piece of electrical equipment or electrical apparatus required to transform voltage of electricity. It excludes fences, planting, and other aesthetic treatments.

<u>“Endangered species” means any species of fish, wildlife, or plants that have been designated as endangered by regulation of 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, 16 U.S.C. § 1431 et seq., as amended.</u>

"Established front yard" means the front yard for a block or portion of a block that has been created by any existing legally constructed building or buildings, whether or not this yard meets the minimum yard requirements for the zoning district where the building or buildings are located.

<u>“Establishment’ means the planting or regeneration of native vegetation throughout the buffer.</u>

"Family" means one or more persons, each related to the other by blood, marriage or adoption, who are living together in a single dwelling and maintaining a common household. A family includes any domestic servants and not more than one gratuitous guest residing with the family.

"Fences and walls" means an artificially constructed exterior barrier of wood, masonry, stone, wire, metal, plastic, or any other manufactured material or combination of materials, for which the primary purpose is to mark boundaries, control access, or to screen views. For the purpose of this title, the term "fences and walls" does not include retaining walls.

"Fences and walls height" means the vertical distance, measured to the nearest integral foot, from the elevation at grade directly below the structure to the top of the structure, not including supporting posts. If the fence or wall has been elevated through the use of a retaining wall, the creation of a berm or another method for the primary purpose of increasing the overall height of the fence or wall, then the fence or wall height shall be measured from the ground elevation prior to the grade modification.

<u>“Financial assurance” means a performance bond, letter of credit, cash deposit, insurance policy, or other instrument of security acceptable to the City. Financial assurance may be required to ensure that mitigation plantings that die within 24 months of installation shall be replaced.</u>

<u>"Fisheries activities" means commercial water dependent fisheries facilities including structures for the parking, processing, canning, or freezing of finfish, crustaceans, mollusks, amphibians, and reptiles and also including related activities such as wholesale and retail sales product storage facilities, crab shedding, off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquacultural operations.</u>

"Floor area" means the sum of the gross horizontal areas of the stories of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings.

a. Calculation of Floor Area for Determining Floor Area Ratio.
    i. The following areas shall be included in the calculation:
        (A) Elevator shafts and stairwells at each floor,
        (B) Floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof),
        (C) Penthouses,
        (D) Attic space having headroom of seven feet ten inches or more,
        (E) Interior balconies and mezzanines,
        (F) Enclosed porches,
        (G) Floor area devoted to accessory uses, and
        (H) In Waterfront Maritime districts only, space devoted to off-street parking structures at or above ground level.
    ii. The floor area of structures devoted to bulk storage of materials, including, but not limited to, grain elevators and petroleum storage tanks, is determined on the basis of height in feet; i.e., ten feet in height equals one floor.
b. Calculation of Floor Area For Determining Off-Street Parking Requirements.
    i. The following areas shall be included in the calculation:
        (A) Penthouses,
        (B) Attic space having headroom of seven feet ten inches or more,
        (C) Interior balconies and mezzanines,
        (D) Enclosed porches,

(E) Accessory storage areas located within selling or working space such as counters, racks or closets, and

(F) Basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

ii. The following areas shall not be included in the calculation:

(A) Areas devoted primarily to storage purposes except those included above in Subsection (b)(i)(E) of this definition;

(B) Areas devoted to off-street parking or loading facilities, including aisles, ramps and maneuvering space; or

(C) Basement floor area other than areas devoted to uses included above in Subsection (b)(i)(F) of this definition.

"Floor area ratio (F.A.R)" means the floor area of the building or buildings on a zoning lot divided by the area of the zoning lot, or, in the case of planned developments, by the net site area. The floor area ratio requirements as set forth in the zoning district bulk regulations tables determine the maximum floor area allowable for the building or buildings (total floor area of both principal and accessory buildings) in direct ratio to the gross area of the zoning lot.

"Food and beverage-related use" means a commercial or nonprofit enterprise engaged in the preparation and sale of food, beverages or frozen desserts. Food service may or may not be the principal business of the establishment. Food and beverage-related uses include the following uses:

a. Bake shops,
b. Candy stores,
c. Catering establishments,
d. Clubs, lodges and meeting halls, with on-premises food or beverage preparation facilities,
e. Coffee shops,
f. Convenience stores,
g. Delicatessens,
h. Fast food restaurants,
i. Food service marts,
j. Ice cream stores,
k. Standard restaurants,
l. Supermarkets,
m. Wine bars.

"Food service mart" means an establishment whose principal purpose is the sale of food items for home consumption, either prepared on premises or prepackaged. A food service mart ~~must~~ <u>shall</u> exhibit all of the following characteristics:

a. The principal operation of the establishment is the sale of food items for home consumption, either prepared on the premises or prepackaged,
b. No seating is provided on the premises, and
c. The gross square footage of the establishment does not exceed four thousand square feet.

"Food store" means a retail establishment selling dry groceries, produce and household items, but having no food prepared on the premises for immediate consumption.

"Forest" means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. Forest" includes:

a. Areas that have at least 100 live trees per acre with at least 50 percent of those trees having a two-inch or greater diameter at four and one-half feet above the ground and larger; and
b. Areas that have been cut but not cleared.

Forest" does not include orchards.

"Forest Interior Dwelling Birds" means species of birds which require relatively large forested tracts in order to breed successfully (for example, various species of flycatchers, warblers, vireos, and woodpeckers).

"Fully established buffer" means the buffer contains as much diverse, native vegetation as necessary to support a firm and stable riparian habitat capable of self-sustaining growth and regeneration.

Grade, lot. "Lot grade" means the average level of the finished surface of the ground adjacent to the exterior walls of a building or structure.

"Grandfathered parcel" or "Grandfathered lot" means a parcel of land that was created or a lot created through the subdivision process and recorded as a legally buildable lot prior to August 10, 1970 or, for Critical Area requirements, December 1, 1985. It also applies to properties where the adoption of the Critical Area Overlay District Map for the City of Annapolis, Maryland increased the critical area of a lot of record existing as of [date of adoption of this Ordinance].

"Group home" means any residential structure used to house a group of individuals in need of special residential facilities, but without extra medical or institutional services, guards or procedures, provided the facility is certified under guidelines and control of the State Departments of Health, Social Services or Juvenile Services.

"Growth allocation" means the number of acres of land in the Critical Area that the County may use, or allocate to municipal jurisdictions to use, to create new Intensely Developed Areas and new Limited Development Areas. The Growth Allocation is 5 percent of the total Resource Conservation Area acreage in the County at the time the Critical Area Commission approved the County's original Critical Area Program, not including tidal wetlands or land owned by the federal government.

"Habitat Protection Area" means an area that is designated for protection under Natural Resources Article, § 8-1806, Annotated Code of Maryland, and regulations adopted under that authority. It includes:

a. The buffer as described in COMAR 27.01.01.01B(8);
b. A nontidal wetland as defined in COMAR 26.24.01.02B
c. A habitat of a threatened species as defined in COMAR 27.01.09.03A;
d. A habitat of an endangered species as defined in COMAR 27.01.09.03A;
e. A habitat of a species in need of conservation as defined in COMAR 27.01.09.03A;
f. A plant habitat as defined in COMAR 27.01.09.04A;

g. A wildlife habitat as defined in COMAR 27.01.09.04A;
h. Anadromous fish propagation waters as defined in COMAR 27.01.09.05A.

Half-story. See Story, half.

"Hedge, boundary" means a linear row of closely planted shrubs or low-growing trees put in place to accomplish the same effect as a fence or wall.

"Height."
a. For buildings, see building height.
b. For fences and walls, see fences and walls height.
c. For signs, see Section 21.70.050(B).

"Highly erodible soils" means those soils with a slope greater than 15 percent; or those soils with a K value greater than .35 and with slopes greater than 5 percent.

"Historic waterfowl staging and concentration area" means an area of open water and adjacent marshes where waterfowl gather during migration and throughout the winter season. These areas are historic in the sense that their location is common knowledge and because these areas have been used regularly during recent times.

"Home occupation" means a business use conducted entirely within a dwelling unit or accessory building to a dwelling unit by a resident of the dwelling unit and which is clearly incidental and secondary to the use of the principal building on the zoning lot for dwelling purposes.

"Hotel" means an establishment which is open to transient guests and which provides customary hotel services including maid service, the furnishing and laundering of linen, telephone and secretarial or desk service, the use and upkeep of furniture, and bellboy service.

"Hydric soils" means soils that are wet frequently enough to periodically produce anaerobic conditions, thereby influencing the species composition of growth, or both, of plants on those soils.

"Impervious surface" means those areas which do not have a vegetative cover with a natural soil substrate or a stormwater management reservoir.

“In-kind replacement” means the removal of a structure and the construction of another structure that is smaller than or identical to the original structure in use, footprint area, width, and length.

"Incompatible use" means a use that is unsuitable for direct association with certain other uses because it is contradictory, incongruous or discordant.

"Inn" means a hotel which has no more than twenty sleeping rooms and/or suites for use by transient guests, and which has no food and beverage service other than that provided for guests of the inn, and which may provide meeting or conference facilities for guests of the inn.

"Institution for the care of the aged" means a building or buildings that provide housing for senior citizens aged sixty-two and older and which include seniors-specific amenities and services that meet the nutritional, social, recreational, medical, safety and transportation needs of the residents. This requirement may be met through the provision, for example, of meal service with common dining facilities, physical therapy facilities and activities, social and recreation facilities and activities, exercise facilities, meeting rooms and library service, health care service including a dedicated medical examination room, and personal services such as either an internal trash chute or trash pickup for each unit, an emergency response system for each unit and cleaning services for each unit. The term "institution for the care of the aged" includes acute care facilities such as nursing homes, assisted living facilities, and independent living facilities.

"Integrated sign program" means a coordinated program of signage for a zoning lot or lots where the materials, colors, shapes, and sizes of signage establish a unity of design compatible with the site, architecture, and the context.

"Intensely developed areas" means those areas where residential, commercial, institutional and/or industrial developed land uses predominate, and where relatively little natural habitat occurs.

"Intermittent stream" means a stream in which surface water is absent during a part of the year as shown on the most recent seven and one-half minute topographic quadrangle published by the United States Geologic Survey or as defined in COMAR 26.23.01.01 and confirmed by field verification.

"Kennel" means a premises on which dogs or cats are maintained, boarded, bred or cared for, in return for remuneration, or are kept for the purpose of sale.

"Land-disturbing activity" means those activities that involve land surface and/or subgrade that are altered from existing conditions and that are regulated under Titles 14, 15, 17, 19, 20 and 21 of the City Code.

"Landscape elements" means the components of a landscape including planting, lighting, paving, fencing, grading, and walls.

“Landward edge” means the limit of a site feature that is farthest away from a tidal water, tidal wetland, or tributary stream.

"Limited development areas" means those areas that are currently developed in low-intensity or moderate-intensity uses. They also contain areas of natural plant and animal habitats.

Living space, minimum. "Minimum living space" means the minimum amount of space that ~~must~~ shall be provided in a dwelling unit when required in the bulk regulations table for a zoning district. Minimum living space is determined by measuring from the inside walls of the dwelling unit. Gross square footage is expressed as gross square footage and may include closets and interior hallways, but may not include common hallways or storage areas located outside the dwelling unit.

"Lot" means a zoning lot, except when the context indicates a lot of record, in which case a "lot" is a lot of record. Lot includes "piece," "parcel" and "plot."

Lot, contiguous. "Contiguous lot" is a lot of record that shares a boundary line with another lot of record. In the case of two or more lots, each lot shares a boundary line with at least one of the other lots.

Lot, corner. See illustration. "Corner lot" means a lot situated at the intersection of two streets, the interior angle of the intersection not exceeding one hundred twenty-five degrees.

Lot, reversed corner. See illustration. "Reversed corner lot" means a corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

Lot, through. See illustration. "Through lot" means a lot having a pair of opposite lot lines along two more or less parallel public streets, and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

Lot, zoning. See illustration. "Zoning lot" means a single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. Therefore, a "zoning lot" may or may not coincide with a "lot of record."

"Lot coverage" means the amount of surface area of a lot that is covered by the sum of all structures, including accessory structures. Walks, driveways and fences shall not be considered structures for the purpose of this definition, but parking pads, parking lots and swimming pools are considered structures. Paved surfaces constructed of permeable materials allowing direct storm water absorption shall be exempted from the coverage calculation if approved by the Planning and Zoning Director.

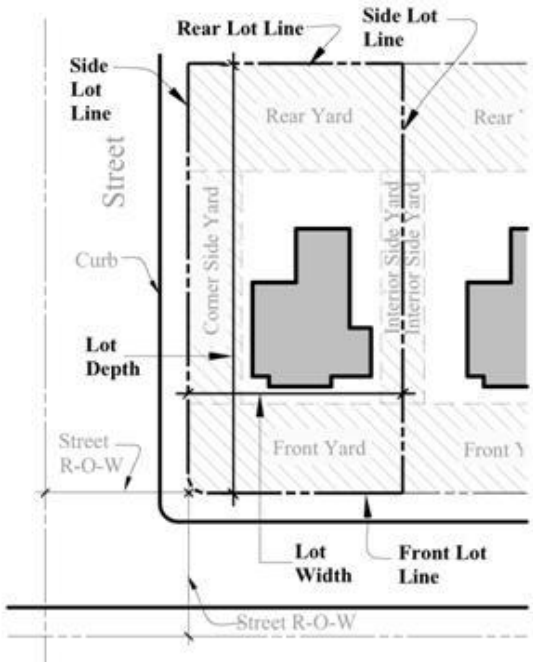
Lot Coverage, Critical Area. “Critical Area Lot Coverage” means the percentage of a total lot or parcel located in the Critical Area that is: occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with a paver, gravel, stone, shell, impermeable decking, permeable pavement, or any other manmade material. Lot coverage includes the ground area covered or occupied by a stairway or impermeable deck, but does not include: a fence or wall that is less than one foot in width that has not been constructed with a footer; a walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier; a wood mulch pathway; or a deck with gaps to allow water to pass freely. Gravel under such decks is not considered lot coverage in the Intensely Developed Area.

Lot depth. See illustration. "Lot depth" means the mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.

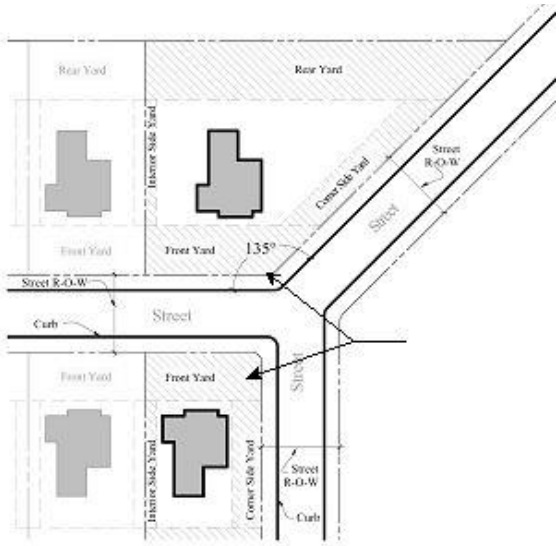
Lot line, front. See illustration. "Front lot line" means the boundary of a lot which is along an existing or dedicated public street. In the case of a corner lot, the Director of Planning and Zoning ~~will~~ shall determine which lot line is the front lot line at the time of first application for review and approval pursuant to Division II of Title 21.

Lot line, rear. See illustration. "Rear lot line" means the boundary of a lot that is most distant from and is, or is most nearly, parallel to the front lot line.

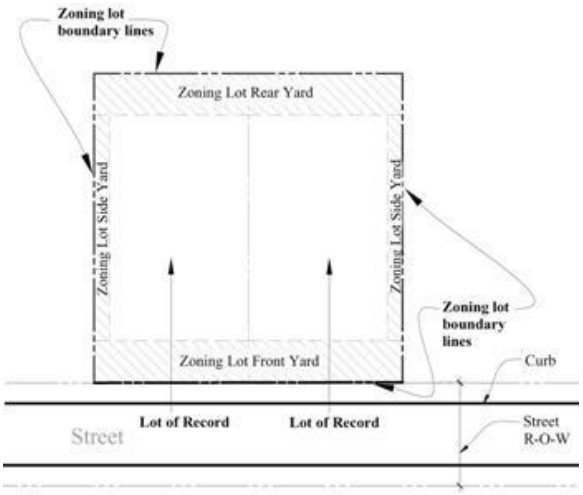
Lot Lines, Lot Width, Lot Depth



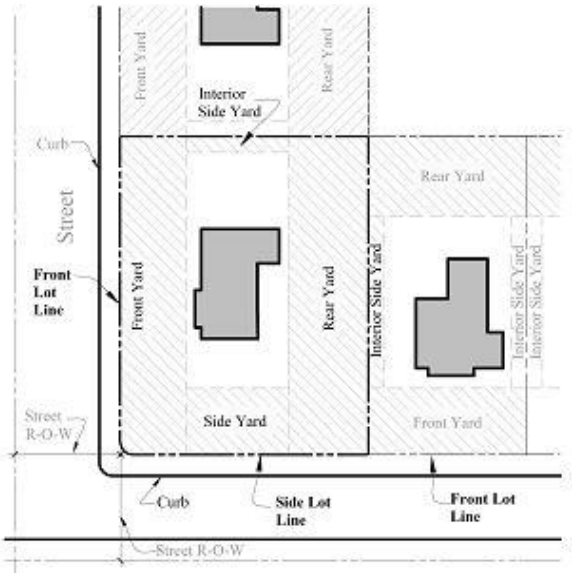
Corner Lot



Zoning Lot

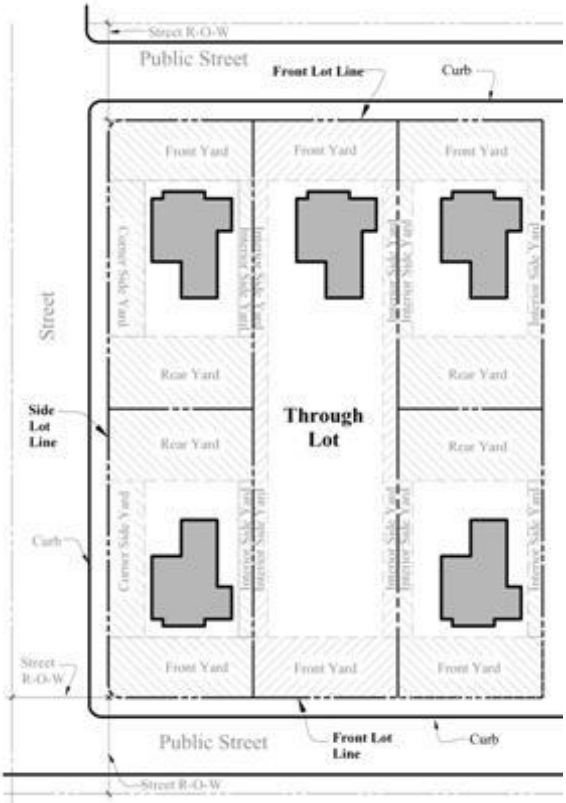


Reversed Corner Lot



Side lot line is a continuation of the front lot line of the lot to the rear.

Through Lot



Lot line, side. See illustration. "Side lot line" means any boundary of a lot which is not a front lot line or a rear lot line.

"Lot of record" means a lot which is part of a subdivision, the plat of which has been recorded in the office of the recorder of deeds of Anne Arundel County; or a parcel of land, the deed to which was recorded in the office of the recorder prior to the effective date of this Zoning Code.

Lot width. See illustration. "Lot width" means the horizontal distance between the side lot lines of a lot. Lot width is measured as follows:

a. Single-family detached dwellings in the R1-A district: at the narrowest width within the first fifty feet of lot depth immediately in back of the front yard setback line,
b. All uses in all other districts: at the narrowest width within the first thirty feet of lot depth immediately in back of the front yard setback line or established front yard if applicable.

<u>"Marina" means any facility for the mooring, berthing, storing or securing of watercraft, but not including community piers and other noncommercial boat docking and storage facilities.</u>

"Maritime use setback" means an open-air location for water-dependent maritime uses. The setback is one hundred-feet deep measured parallel to the shoreline. Non water-dependent uses are permitted in the maritime use setback if certain bulk requirements are met.

Marquee sign. See Sign, marquee.

"Marquee" means a permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

"Massage parlor" has the meaning given it in Chapter 7.32 of the Annapolis City Code.

"Mean High Water Line" (MHWL) means the average level of high tides at a given location.

"Mezzanine" means an intermediate or fractional story between the floor and ceiling of a full story, used for a purpose accessory to the principal use. Normally, a mezzanine is just above the ground or main floor, extending over only part of the main floor.

“Mitigation” means an action taken to compensate for adverse impacts to the environment resulting from development, development activity, or a change in land use or intensity.

“Modified Buffer Area (MBA)” means an area mapped by the City and approved by the Critical Area Commission as a Modified Buffer Area, where it has been sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional, or recreational development prevents the buffer from fulfilling its water quality and habitat functions, and where development in accordance with specific MBA provisions can be permitted in the buffer without a variance.

Mooring slip, private. "Private mooring slip" means any dock, arrangement of piles, lift or method used to store a boat over fifteen feet long, owned or used by the owner of the property, the owner's immediate family or tenants of the property.

Mooring slip, public. "Public mooring slip" means any dock, device or method for storing any boat owned or leased by a person other than the landowner, the owner's immediate family or tenants of the property.

"Motel" means an establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot and designed for use by transient automobile tourists. A motel furnishes customary hotel services such as maid service and laundering of linen, telephone and secretarial or desk service, and the use and upkeep of furniture. In a motel, less than fifty percent of the living and sleeping accommodations are occupied or designed for occupancy by persons other than transient automobile tourists.

"Motor vehicle" means any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.

"Multi-tenant facility" means two or more businesses under single ownership or under unified control. Multi-tenant office or commercial buildings, industrial parks, shopping centers are multi-tenant facilities.

"Nameplate" means a sign indicating the name and address of a building, or the name of an occupant of a building and the practice of a permitted occupation in a building.

"Natural features" means components and processes present in or produced by nature, including but not limited to soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, floodplains, aquatic life, and wildlife.

“Natural forest vegetation” means vegetation consisting of canopy trees, understory trees, shrubs, and herbaceous plants that are typically found in riparian areas in the State of Maryland. Areas of natural forest vegetation planted to meet the mitigation requirements in this ordinance shall resemble the structure and species composition of natural forests.

"Natural Heritage Area" means any communities of plants or animals that are considered to be among the best Statewide examples of their kind, and are designated by regulation of the Secretary of the Department of Natural Resources.

"Natural parks" means areas of natural habitat that provide opportunities for those recreational activities that are compatible with the maintenance of natural conditions.

“Natural regeneration” means the natural establishment of trees and other vegetation with at least 400 free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.

"Natural vegetation" means those plant communities that develop in the absence of human activities.

"Nature-dominated" means a condition where landforms or biological communities, or both, have developed by natural processes in the absence of human intervention.

"Nonconforming structure" means a building or structure lawfully constructed prior to the effective date of the Zoning Code, or an amendment to the Zoning Code, that does not comply with the applicable bulk regulations or other development or design standards of the Zoning Code in the zoning districts in which the building or structure is located.

Nonconforming Use. See Use, nonconforming.

"Non-point source pollution" means pollution generated by diffuse land use activities rather than from an identifiable or discrete facility. It is conveyed to waterways through natural processes, such as rainfall, storm runoff, or groundwater seepage rather than by deliberate discharge. Non-point source pollution is not generally corrected by "end-of-pipe" treatment, but rather by changes in land management practices.

"Nontidal wetlands" means those areas regulated under Subtitle 26 of the Environment Article of the Annotated Code of Maryland that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. The determination of whether an area is a nontidal wetland shall be made in accordance with the publication known as the “Federal Manual for

Identifying and Delineating Jurisdictional Wetlands" published in 1989, as may be amended. Nontidal wetlands do not include tidal wetlands regulated under Title 16 of the Environment Article of the Annotated Code of Maryland.

Nursing home. See Rest home.

"Off-site parking facility" means a parking facility located on land other than the zoning lot on which the use requiring the parking is located.

Office, medical. "Medical office" means an organization of specializing physicians, dentists, chiropractors, osteopaths or similar licensed or registered practitioners who have their offices in a common building. A medical office does not include in-patient care.

"Office and business services establishment" means an establishment providing business services for office and business uses. The term "office and business services" includes but is not limited to are blueprinting and photostating, business machine sales and service, camera and photographic supply, computer and communications products supply and service facilities, office supply stores, package mailing service establishments, fax and telegraph facilities, and photocopying and reproduction shops. The term "office and business services" does not include any used that is otherwise listed specifically in the Table of Permitted Uses for the zoning district where the term is used.

"Offsets" means structures or actions that compensate for undesirable impacts.

"Overlay district" means a district established to respond to special features or conditions of a land area, such as historic value, physical characteristics, location, or other circumstances. An overlay district supplements the regulations of the underlying zoning district.

"Perennial stream" is a stream that flows continuously throughout the year

"Person" means an individual, partnership, corporation, contractor, property owner, or any other person or entity.

"Personal care establishment" means an establishment providing services for the customary comfort, convenience or care of individuals. The term "personal care establishment" includes but is not limited to barbershops, beauty parlors, dressmaking/tailoring stores, drugstores, and photography studios. The term "personal care establishment" does not include any that is otherwise listed specifically in the Table of Permitted Uses for the zoning district where the term is used.

"Personal fitness studio" means an establishment, as distinguished from a health club, that specializes in small group and individual physical training, exercise, or health and wellness counseling led by an instructor. The total floor area of the establishment devoted to exercise space shall not exceed two thousand square feet. The term "personal fitness studio" includes, but is not limited to, aerobics, boxing or martial arts, step, yoga, pilates, strength training, self-defense, and nutrition and weight control classes. Hours of operation are between 6:00 a.m. and 10:00 p.m.

"Pet grooming facility" means a business establishment, other than a kennel or animal hospital, that provides basic grooming for domestic animals, but does not board animals for a fee. For the purposes of this title, a veterinary clinic that provides basic grooming is not a pet grooming facility.

"Physical health facilities" means health clubs, gymnasiums and other facilities in which membership is offered to individuals to use physical exercise equipment, including, but not limited to, saunas, whirlpools, weightlifting rooms, steam rooms, and exercise machines.

"Physiographic features" means the soils, topography, land slope and aspect, and local climate that influence the form and species composition of plant communities.

"Pier" means any pier, wharf, dock, walkway, bulkhead, breakwater, piles or other similar structure. Pier does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of State or private wetlands.

"Planned development" means a tract of land ~~which~~ that contains or will contain one or more principal buildings, the development of which is allowed greater flexibility and, consequently, achieves more creative and beneficial design than may be possible under conventional zoning district regulations. There are three types of planned development:

a. Residential planned development is a planned development that is substantially residential in character.
b. Business planned development is a planned development that is substantially commercial or industrial in character.
c. Special mixed planned development is a planned development that is substantially mixed in character and that may contain a wide range of planned development uses.

Planned development use. See Use, planned development.

"Plant habitat" means a community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics.

"Port" means a facility or area established or designated by the State or local jurisdiction for purposes of waterborne commerce.

"Principal structure" means the primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling.

"Professional person" means an individual, as distinguished from a corporation, partnership, group, or other entity, who is pursuing a vocation involving labor or skill which is predominately mental or intellectual, rather than physical or manual, in which a knowledge of a science or field of learning is used by its practical application to the affairs of others, either in advising, treating or teaching them, or in serving their interests or welfare in the practice of the art founded on that science or field.

Program amendment, Critical area. "Critical area program amendment" means any change or proposed change to an adopted program that is not determined by the Chairman of the Critical Area Commission to be a program refinement.

“Program refinement, Critical area” means any change or proposed change to an adopted program that the Chairman of the Critical Area Commission determines shall result in a use of land or water in the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in a manner consistent with the adopted program, or that shall not significantly affect the use of land or water in the Critical Area. Program refinement may include:

a. a change to an adopted program that results from state law;
b. a change to an adopted program that affects local processes and procedures;
c. a change to a local ordinance or code that clarifies an existing provision; and
d. a minor change to an element of an adopted program that is clearly consistent with the provisions of State Critical Area law and all the criteria of the Critical Area Commission.

"Project approvals" means the approval of development, other than development by the State or local government, in the Chesapeake Bay Critical Area by the appropriate local approval authority. The term includes approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits; and issuance of zoning permits. The term does not include building permits.

"Property lines" means the lines bounding a zoning lot, as defined in this chapter.

“Property owner” means a person holding title to a property or two or more persons holding title to a property under any form of joint ownership.

"Public water-oriented recreation" means shore-dependent recreation facilities or activities provided by public agencies that are available to the general public.

"Public way" means any sidewalk, street, alley, highway, waterway or other public thoroughfare.

“Reconfiguration” means a change of the configuration of an existing lot or parcel line of any legal parcel of land or recorded legally buildable lot. This includes a lot line adjustment, a boundary line adjustment, and a replatting request.

"Redevelopment" means the expansion, significant rehabilitation, or reconstruction, or substantial improvement of any structure on a site which has previously been built upon. The construction or structures on previously undeveloped land or land on which structures have been demolished for the purposes of replacement development is not considered redevelopment.

"Reforestation" means the establishment of a forest through artificial reproduction or natural regeneration.

"Resource conservation areas" means those areas that are characterized by nature-dominated environments (i.e., wetlands, natural drainage areas for wetlands, forests, developed woodlands).

"Rest home or nursing home" means a private home, not age restricted, for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders. This home does not contain equipment for surgical care or for the treatment of disease or injury.

Restaurant, fast food. "Fast food restaurant" means an establishment, other than a bake shop, candy or ice cream store, which provides as a principal use the sale of foods or beverages in a ready-to-consume state, for consumption off the premises. A fast-food establishment's design or principal method of operation includes two or more of the following characteristics:

a. Food or beverages are service in edible containers, or in paper, plastic or other disposable containers. Eating utensils, if provided, are disposable;
b. The line of food or beverages is limited, and is usually prepared in advance of the customer's order;
c. Food or beverages are served over a general service counter for the customer to carry to a seating facility within the restaurant, or carry-out off premises, or to an occupant of a motor vehicle while seated in the vehicle, such as through a drive-in window; and
d. Carry-out sales, including delivery service, constitute over ten percent of the food service business.

Restaurant, standard. "Standard restaurant" means an establishment whose principal business is the sale of foods or beverages to customers in a ready-to-consume state. Carry-out foods or beverages may constitute not more than ten percent of the business. A standard restaurant has a design or principal method of operation which includes one or both of the following characteristics:

a. Patrons usually and customarily are provided with individual menus, and are served their food or beverages by a restaurant employee at the same table or counter at which the items are consumed,
b. Service is provided by a cafeteria-type operation where foods or beverages are served on non-disposable plates or containers and nondisposable eating utensils are provided.

"Rest home" or "nursing home" means a private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders. This home does not contain equipment for surgical care or for the treatment of disease or injury.

<u>“Restoration” means the act of returning a site or area to an original state or any action that reestablishes all or a portion of the ecological structure and functions of a site or area.</u>

"Retail goods store" means an establishment where the principal use or purpose is the sale of physical goods, products, and merchandise directly to the consumer. The term "retail goods store" includes, but is not limited to clothing and apparel stores, dry goods stores, leather goods and luggage stores, furrier shops, medical appliance and supply stores, pawnshops, pet shops, shoe shops, sporting goods stores, and toy shops. The term "Retail goods store" does not include any use or other type of establishment that is otherwise listed specifically in the Table of Permitted Uses for the zoning district where the term is used.

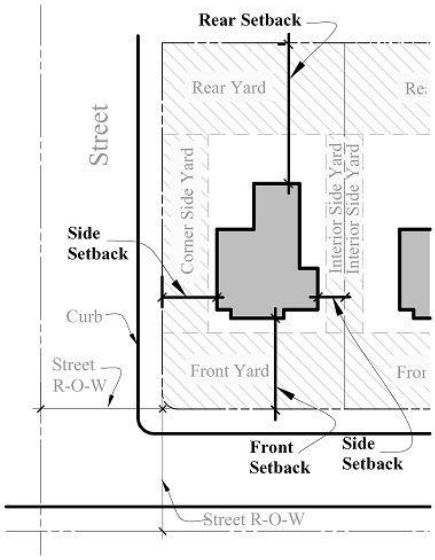
<u>"Riparian habitat" means a habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and wetlands.</u>

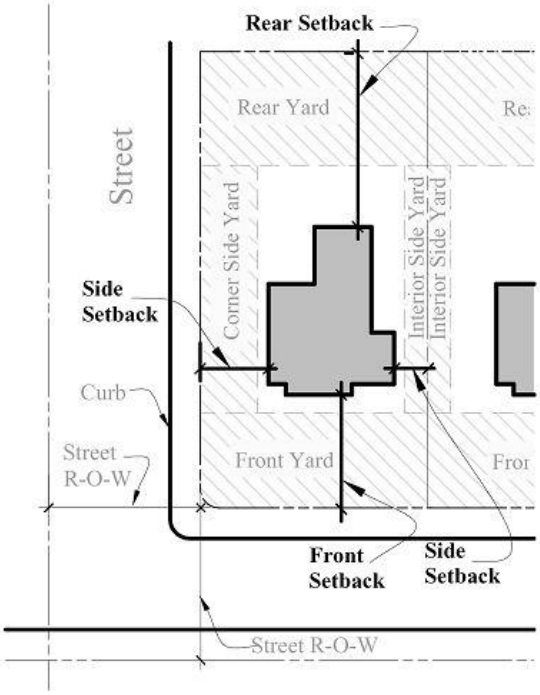
"Road" means a public thoroughfare under the jurisdiction of the State, a county, a municipal corporation, or any other public body. "Road" does not include a drive aisle or driveway.

Rowhouse. See Dwelling, attached.

"Seasonal outdoor sales" means a retail operation on public or private property without a permanent structure and only offering outdoor shopping. Such an operation is seasonal in nature and features on-farm produced as well as locally produced and related agricultural products and handmade crafts.

Setback. See illustration. "Setback" means the minimum horizontal distance between a lot line or public street right-of-way and the nearest point of a structure or projection thereof.

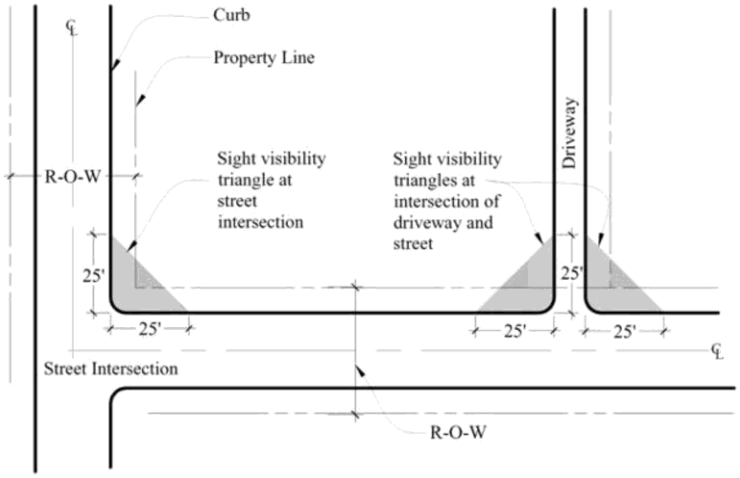




"Shopping center" means a complex of retail stores sharing common parking facilities. Non-retail uses such as offices and residential uses can be incorporated into a shopping center. A shopping center contains at least six retail stores and thirty thousand square feet of retail space.

<u>"Shore erosion control activities" means those structures or measures constructed or installed to prevent or minimize erosion of the shoreline in the Critical Area.</u>

Sight Visibility Triangle. See illustration. "Sight visibility triangle" means a triangular area intended to remain free of visual obstructions to prevent potential traffic hazards across all property corners formed by two intersecting streets or the intersection of an alley and a street or the intersection of a driveway and a street. The sight visibility triangle is determined by drawing a diagonal line across the corner of the lot between two points each measured twenty-five feet back from the vertex of the extended curblines of the intersecting streets, alleys or driveways.



"Sign" means any name, identification, description, display or illustration which is affixed to, or represented directly or indirectly upon, a building, structure or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization or business. The term "sign" includes signs erected or installed in the interior of a structure if the sign is situated in a manner to indicate that its prime purpose is for viewing from the exterior of the structure. The prime purpose of an interior sign is exterior viewing if it is visible from the exterior and if no public access is permitted between the sign and the exterior window of the structure.

The term "sign" does not include the following:

1. Display of official court or public office notices,
2. The flag, emblem or insignia of a nation, political unit, school or religious group, or
3. A sign located completely within an enclosed building and not visible to the outside of the building.

Sign, business community identification. "Business community identification sign" means a sign representing an area consisting of no less than six distinct businesses located on separate parcels of land.

Sign, freestanding. "Freestanding sign" means any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

Sign, ground. "Ground sign" means a sign where the entire bottom of the sign is in contact with or in close proximity to the ground. A "monument sign" is a ground sign.

Sign, pole. "Pole sign" means a sign supported by one or more poles and otherwise separated from the ground by air.

Sign, marquee. "Marquee sign" means a sign attached to or made part of a marquee. A marquee sign is a type of wall-mounted sign.

Sign, projecting. "Projecting sign" means a sign affixed to a building or wall in such manner that its leading edge extends more than six inches beyond the surface of the building or wall.

Sign, temporary. "Temporary sign" means a sign that advertises community or civic projects or special events on a temporary basis, or a political sign.

Sign, wall-mounted. "Wall-mounted sign" means any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the outside limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign face. A marquee sign is a type of wall-mounted sign. Signs placed on canopies or awnings are considered to be wall-mounted signs.

"Sky exposure plane" means a defined plane above a lot into which no part of a structure is permitted to intrude.

“Slope stabilization activities” means the prevention of soil movement by any of various vegetative and/or structural means. Stabilization could include minimal grading; retaining walls; erosion control mats, blankets and fiber logs; or other environmentally sensitive practices. It does not include the use of accessory structures including but not limited to patios or terraces.

Special exception. See Use, special exception.

"Specialty convenience retail store" means an establishment where the principal use or purpose is the sale of convenience products directly to the consumer. These stores usually specialize in one type or line of inter-related products. The term "specialty convenience retail goods store" includes but is not limited to book and stationery stores, camera and photographic supply stores, florists, and hardware, paint and wallpaper stores. The term "specialty convenience retail store" does not include any use that is otherwise listed specifically in the Table of Permitted Uses for the zoning district where the term is used. The term "specialty convenience retail store" does not include a "Convenience store" as defined in this chapter.

Special mixed planned development. See Planned development.

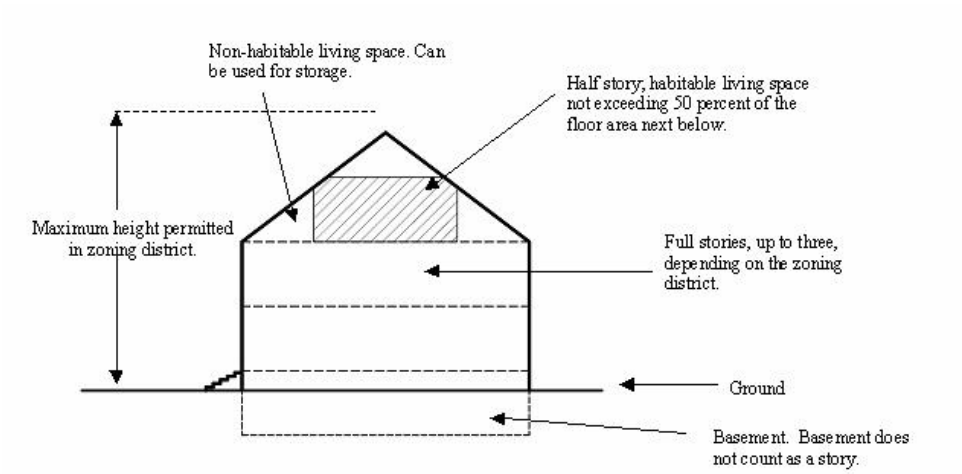
"Species in need of conservation" means those fish and wildlife whose continued existence as part of the State's resources are in question and which may be designated by regulation by the Secretary of Natural Resources as in need of conservation pursuant to the requirements of Natural Resources Article §§ 10-2A-06 and 4-2A-03, Annotated Code of Maryland.

(CAC)"Stealth structure" means a structure used to enclose and screen antennas from view. Flag poles, bell towers, clock towers, and masts are examples of stealth structures.

"Steep slopes" means slopes of 15 percent or greater incline.

"Story" means the space in a building between two adjacent floor levels or between a floor and the roof. A basement, as defined in this title, is not a story.

Story, half. See illustration. "Half story" means a story containing habitable living space not exceeding fifty percent of the floor area next below. Habitable living space is space that meets the ceiling requirements for habitable rooms, hallways, corridors, bathrooms, toilet rooms, and laundry rooms, as set forth in the City of Annapolis Building Code (see Chapter 17.12).



"Street" means a public or private right-of-way which affords a primary means of vehicular access to abutting property, whether designated as a street, avenue, highway, road, boulevard, lane, throughway or however otherwise designated, but does not include driveways to individual buildings. For the purposes of dedication to the City for City maintenance, "street" does not include parking lots, or parking lot access roads.

"Streetscape improvements" means architectural or functional facilities or structures which occur on site but are not part of the building and which encourage and facilitate human interaction with the environment. Examples include, but are not limited to the following: decorative light fixtures, fountains, sculpture, benches and tables, planters, retaining walls, pedestrian and bicycle paths, bicycle parking structures, trash receptacles and enclosures, vendor areas, bollards and fences.

"Structural alteration" means any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as the addition, removal or alteration of bearing walls, columns, beams, girders or foundations.

"Structure" means anything constructed or erected with a fixed location on the ground or which is attached to something having a fixed location on or in the ground.

<u>“Substantial alteration” means any repair, reconstruction, or improvement of a principal structure, where the proposed total footprint is at least 50 percent greater than that of the existing principal structure.</u>

"Supermarket" means a retail establishment selling dry groceries, produce, household items, and limited food prepared on the premises which is immediately consumable, such as bakery or delicatessen items.

Tavern. See Bar and Tavern.

"Telecommunications facility" means any facility established for the purpose of providing wireless voice, data and image transmission within a designated service area. A telecommunications facility consists of one or more antennas and equipment attached to a support structure and related equipment. Equipment may be within a building, an equipment cabinet or within an equipment

room within an existing building. The term "telecommunications facility" does not include "antenna tower."

"Telephone transmission equipment building" means a building containing equipment used for switching and interconnection of public message communication circuits.

"Tent" means any structure or enclosure, the roof of which and/or one-half or more of the sides, are constructed of silk, cotton, canvass, fabric or a similar light material.

<u>“Threatened species” means any species of fish, wildlife, or plants designated as such by regulation by the Secretary of the Department of Natural Resources that 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. § 1431, et seq., as may be amended.</u>

Townhouse. See Dwelling, attached.

"Trailer" means any vehicle, house-car, camp-car or any portable or mobile vehicle on wheels, skids, rollers or blocks, either self-propelled or propelled by any other means, which is used or designed to be used for residential, living, sleeping or commercial purposes.

<u>“Tree” means a large, woody plant having one or several self-supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.</u>

<u>"Tributary streams" means those perennial and intermittent streams in the Critical Area which are so noted on the most recent U.S. Geological Survey seven and one-half minute topographic quadrangle maps (scale 1:24,000) or on more detailed maps or studies at the discretion of the local jurisdictions.</u>

<u>“Unwarranted hardship” means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.</u>

<u>“Upland boundary” means the landward edge of a tidal wetland or nontidal wetland.</u>

Use, accessory. "Accessory use" means a building or use that:

a. Is subordinate in purpose to, and serves, a principal building or principal use;
b. Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served; and
c. Is located on the same zoning lot as the principal building or use served, with the single exception of accessory off-street parking facilities permitted to locate elsewhere than on the same zoning lot with the building or use served.

Uses accessory to a special exception are permitted only when a special exception has been granted.

Use, nonconforming. "Nonconforming use" means a principal or accessory use lawfully established prior to the effective date of the Zoning Code, or an amendment to the Zoning Code, that does not conform to the use regulations of the Zoning Code in the zoning districts in which such use is located.

Use, permitted. "Permitted use" means a use which may be established lawfully in a particular district or districts, provided it conforms with all requirements and regulations of the district.

Use, planned development. "Planned development use" means a use, including a special exception use, that is not normally permissible as a permitted use or use subject to standards in a zoning district, but that may be permitted as part of a planned development provided that the planned development as a whole meets the criteria for approval set forth in this Zoning Code. Use regulations for planned developments are listed in Section 21.24.020 of this Zoning Code.

Use, principal. "Principal use" means the main use of land or buildings as distinguished from a subordinate or accessory use. A principal use may be a permitted use, a special exception use, or a use subject to standards.

Use, special exception. "Special exception use" means a land use or activity that, due to its unique characteristics and potential impacts on surrounding properties, requires approval by the Board of Appeals for a specific location and site plan, based on standards established in this Zoning Code. A use that existed as a conditional use, as defined under this code prior to the adoption of Ordinance O-39-97 on January 12, 1998, shall be deemed a legal special exception if lawfully existing on the effective date of any amendment to this title making that use a special exception use.

Used for. The term "used for" includes the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

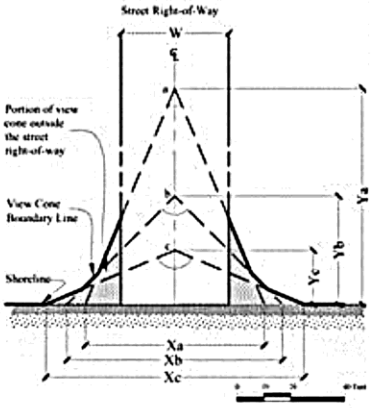
<u>"Utility transmission facilities" means fixed structures that convey or distribute resources, wastes, or both, including but not limited to electrical lines, water conduits, and sewer lines.</u>

"Valet parking" means an area where cars are parked and unparked by an attendant in the employ of or under contract to the owner of the parking area rather than by the owner or operator of the vehicle.

"View cone" means a space defined by a series of projected lines from the centerline of a street right-of-way that is to be kept free of obstructions so as to preserve a distant view.

See illustration for calculation of view cone:

Calculations for a given right-of-way (W)



Width of view cone at shoreline	Formula
Xa	1.66 times (W)
Xb	2 times (W)
Xc	2.4 times (W)
Distance from shoreline to apex of view cone	
Ya	2 times (W)
Yb	(W)
Yc	0.5 times (W)

Definitions

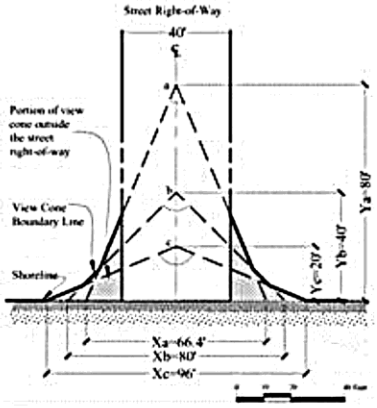
W = Width of street right-of-way
Xa,b,or c = Width of view cone
Ya,b,or c = Distance from shoreline to apex of view cone

Example Calculations for a 40-foot street right-of-way

The view cone boundary is defined by the outer edges of three triangular view cones, which are labeled 'a', 'b', and 'c' in the diagram. The boundaries are drawn in plan (top down) view. The cones widen progressively approaching the water's edge (as the observer's view widens). The depths and widths of view cones 'a', 'b', and 'c' are calculated relative to the width of the adjacent street right-of-way.

Steps:

1. Determine width of street right-of-way (W).
2. Using graph paper, draw to scale the street right-of-way, marking the shoreline and the street centerline (CL).
3. Calculate the width (Xa) of view cone 'a' at the shoreline using the formula in the table. Draw a line on the graph paper showing this width, with the line centered on the street right-of-way centerline at the shoreline.
4. Calculate the depth (Ya) of view cone 'a' from the shoreline using the formula in the table. Mark this depth on the graph paper on the street centerline (point 'a' in the diagram).
5. Draw view cone 'a' by connecting the outer points of Xa (step 3) with point 'a' (step 4) to form a triangle.
6. Calculate and draw view cones 'b' and 'c' using the formulae in the table for Xb, Yb, Xc and Yc.
7. The view cone boundary may now be drawn along the line that runs along the outermost extent from the street right-of-way of the three view cones (see heavy bold line in the diagram). The area within the view cone boundary, the shaded area in the diagram) is subject to Section 21.60.080.



Width of view cone at shoreline	Formula	If Right of Way = 40'	
Xa	1.66 times (W)	1.66 times 40'	Xa=66.4'
Xb	2 times (W)	2 times 40'	Xb=40'
Xc	2.4 times (W)	2.4 times 40'	Xc=96'
Distance from shoreline to apex of view cone			
Ya	2 times (W)	2 times 40'	Ya=40'
Yb	(W)	40'	Yb=40'
Yc	0.5 times (W)	0.5 times 40'	Yc=20'

Illustration for calculation of view cone

Wall-mounted sign. See Sign, wall-mounted.

<u>"Water-dependent facilities" means those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the buffer. An activity is water-dependent if it cannot exist outside the buffer and is dependent on the water by reason of the intrinsic nature of its operation. Such activities include, but are not limited to, ports, marinas, and other boat docking structures, public beaches, and other public water-oriented recreation areas, and fisheries activities.</u>

"Water-dependent structure" means a structure or accessory building associated with maritime activities involving seafood industrial, in-water boat storage or marine fabrication use that, in the determination of the Planning and Zoning Director, requires location within one hundred feet of the bulkhead or mean high water line for efficiency of operation.

"Waterway" means a body of water subject to tidal action.

<u>"Wildlife corridor" means a strip of land having vegetation that provides a safe passageway for wildlife.</u>

<u>"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.</u>

"Wine bar" means an establishment~~s~~ primarily engaged in the retail sale of wine and to a lesser extent the sale of beer, light fare such as pastries, sandwiches, and other food items are incidental to the sale of wine and beer.

Yard. See illustration. "Yard" means open space on the same zoning lot with a building or structure, unoccupied and unobstructed from the ground upward, except as permitted in Section 21.60.080. A yard extends along a lot line, and to a depth or width specified in the yard requirements for the zoning district in which the zoning lot is located.

Yard, buffer. See Bufferyard.

Yard, corner side. See illustration. "Corner side yard" means a side yard which adjoins a public street.

Yard, front. See illustration. "Front yard" means a yard extending along the full length of the front lot line between the side lot lines.

Yard, interior side. See illustration. "Interior side yard" means a side yard ~~which~~that is located immediately adjacent to another zoning lot or to an alley separating the side yard from another zoning lot.

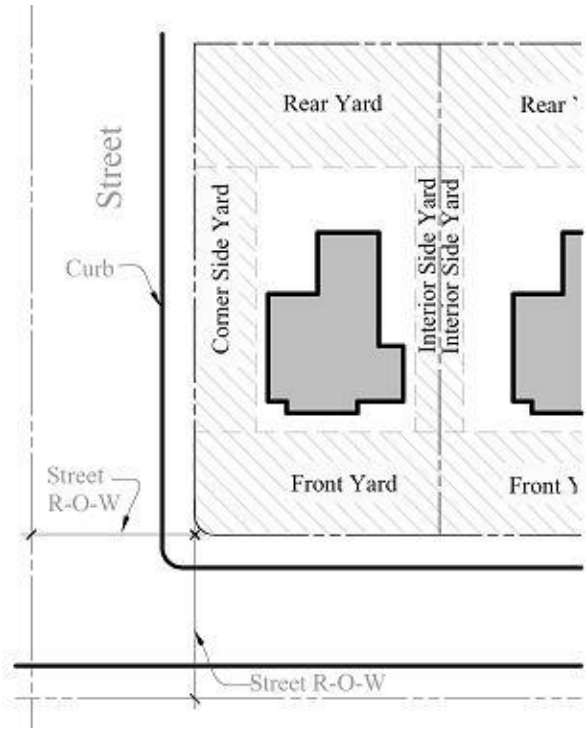
Yard, rear. See illustration. "Rear yard" means a yard extending along the full length of the rear lot line between the side lot lines.

Yard, side. See illustration. "Side yard" means a yard extending along a side lot line from the front yard to the rear yard.

Yard, transitional. "Transitional yard" means a yard, which serves as a buffer, that may be required on a zoning lot in a non-residential district, which adjoins a zoning lot in a residential or non-residential district.

Yard, waterway. "Waterway yard" means a yard contiguous to a waterway.

Illustration for Yards



"Zoning district" means an area or areas within the City for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect from the date of its passage.

Explanation:

Underlining indicates matter added to existing law.
~~Strikethrough~~ indicates matter stricken from existing law.
Double Underlining indicates amendments.