Spreadsheet Guide to Ordinance O-27-19 by Updated Section

Existing Code	Notes on Changes	Proposed Code
21.54.010 - Purpose. The purpose of the critical area overlay district is to foster more sensitive development activity for certain shoreline areas so as to minimize damage to water quality and natural habitats. This district is consistent with and supports the State critical area law and critical area criteria as well as the City of Annapolis Critical Area Program.	No change between existing and proposed	**21.54.010 - Purpose.** The purpose of the critical area overlay district is to foster more sensitive development activity for certain shoreline areas so as to minimize damage to water quality and natural habitats. This district is consistent with and supports the State critical area law and critical area criteria as well as the City of Annapolis Critical Area Program.
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.	In proposed, new language comes from model ordinance. No material difference between old and new.	**21.54.020 - Map.** 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

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		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	Proposed language now refers to general enforcement, Chapter 21.36, for procedures	**21.54.30 - 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 Chapter 21.36.
21.54.040 - Applicability. The critical area overlay district is an overlay district. As such, the provisions in this section shall serve as a supplement to the underlying zoning district regulations. The uses, minimum lot requirements, minimum yard requirements, maximum height, accessory uses, signs and parking requirements shall be determined by the regulations applicable to the district or districts over which the critical area district is superimposed. Where a conflict exists between	No change	**21.54.040 - Applicability.** The critical area overlay district is an overlay district. As such, the provisions in this section shall serve as a supplement to the underlying zoning district regulations. The uses, minimum lot requirements, minimum yard requirements, maximum height, accessory uses, signs and parking requirements shall be determined by the regulations applicable to the district or districts over which the critical area district is superimposed. Where a conflict exists between

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the provisions of this chapter and those of any underlying zoning district, the more restrictive provisions shall apply.		the provisions of this chapter and those of any underlying zoning district, the more restrictive provisions shall apply.
21.54.050 – Definitions 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.	All definitions from existing 21.54.050 have been moved to 21.72 and a new section from COMAR and the model ordinance has been added to 21.54.050 concerning how the City notifies the Critical Area Commission when it receives and approves a project. This is existing State regulation and is currently practiced by the City. It will now be codified in the City Code.	**21.54.050 - Notification of project approval.** 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 which is necessary to a single family dwelling unit which may include, but is not limited to, a pool, garage, porch, shed, or tennis courts; 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

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

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"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.		

Existing Code	Notes on Changes	Proposed Code
21.54.060 - Development requirements generally.		**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.	Existing language specific to certain designations has been moved out of existing Section 21.54.060(A-C) and into specific IDA, LDA, RCA sections (21.54.080, 21.54.090, 21.54.100).	A. Vegetation. Cutting and clearing of vegetation 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.
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.	Modified language has been added to clarify existing 21.54.060(G) and has been moved to proposed 21.54.060(A).	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 shall be limited in the resource conservation areas, which shall be chiefly designated for habitat protection.	The types of uses that are not allowed in the Critical Area have moved from existing 21.54.060(D) to proposed 21.54.060(B).	C. Development and redevelopment shall be subject to the Habitat Protection Area requirements prescribed in this chapter.
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.	Language on utility transmission facilities moved from existing 21.54.060(D) to proposed 21.54.060(E) and have been clarified In proposed, language has been added to 21.54.060(C-D) from the model ordinance concerning Habitat Protection Areas and water-dependent facilities	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

Existing Code	Notes on Changes	Proposed Code
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	Language about the buffer in existing Section 21.54.060(E) has moved to its own section (21.54.105). Proposed language in 21.54.060(G), per the model ordinance, has moved from Section 21.54.090(G), where it previously only applied in Limited development areas. It now applies to all areas.	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

Existing Code	Notes on Changes	Proposed Code
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.	Existing Section 21.54.060(F) has moved to 21.54.060 (I) Language about ADA accessibility has been added to proposed, as required by State law.	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: i. The alterations shall benefit persons with a disability within the meaning of the Americans with Disabilities Act; ii. 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; iii. A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this chapter or restore the disabled resident's or user's reasonable use or enjoyment of the property; iv. The accommodation requested shall not substantially impair the purpose, intent, or effect, of the provisions of this chapter as applied to the property; and v. The accommodation would be environmentally neutral with no greater negative impact on the environment than
G. Trees shall be protected, preserved and replaced pursuant to the requirements of Section 17.09.070.	Modified language has been added to clarify existing 21.54.060(G) and has been moved to proposed 21.54.060(A).	

Existing Code	Notes on Changes	Proposed Code
		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. 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.
	Existing Section 21.54.060(F) has moved to proposed 21.54.060 (I). All existing use of "will" has been changed to "shall" in the proposed.	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.

Existing Code	Notes on Changes	Proposed Code
		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. 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.	Buffer Exemption Areas have been re-named and the section covering these regulations is now 21.54.106 Modified Buffer Area (MBA). The proposed section has been expanded to add existing Buffer Exemption Area policies to the code.	**21.54.070 - Reserved**

Existing Code	Notes on Changes	Proposed Code
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. 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.	Proposed 21.54.080(A) moved from existing 21.54.060 - Development requirements generally. Revised language from model ordinance added, however stricter local requirements have been maintained. Proposed 21.54.080(B) now references the Critical Area 10% Rule Manual.	**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. 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.

<table>
<tr><th>Existing Code</th><th>Notes on Changes</th><th>Proposed Code</th></tr>
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<td>B. Impervious Surfaces. Manmade impervious surfaces shall be limited to the following maximum percentages of the development site:
<table>
<tr><th>Underlying Zoning District</th><th>Percent of Manmade Impervious Surface (maximum)</th></tr>
<tr><td>Residential</td><td>50</td></tr>
<tr><td>P, PM, B1, B2, B3,</td><td>60</td></tr>
<tr><td>C1, C1A,</td><td>75</td></tr>
<tr><td>Maritime</td><td>80</td></tr>
<tr><td>C2, C2A, C2P,</td><td>90</td></tr>
</table>
C. Erosion and Sediment Control. Erosion and sediment control measures shall be required in accordance with City Code Chapter 17.08.

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

E. 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</td>
<td>Per the model ordinance, all existing references to “impervious surface” have been changed to “Lot coverage.”

Proposed 21.54.080(C) now has additional zones that are in the Critical Area but were never given a lot coverage percentage due to oversight. This includes the Light Industrial (I1) District, the Mixed Use (MX) District, and the Business Corridor Enhancement (BCE) District.

Removed duplicate “City” before “Code” in proposed language.</td>
<td>C. Lot coverage. Lot coverage in the IDA of the Critical Area shall be limited to the following maximum percentages of the development site:
<table>
<tr><th>Underlying Zoning District</th><th>Percent of Manmade Lot Coverage (maximum)</th></tr>
<tr><td>Residential</td><td>50</td></tr>
<tr><td>P, PM, B1, B2, B3, BCE</td><td>60</td></tr>
<tr><td>C1, C1A,</td><td>75</td></tr>
<tr><td>Maritime</td><td>80</td></tr>
<tr><td>C2, C2A, C2P, MX</td><td>90</td></tr>
<tr><td>I1</td><td>95</td></tr>
</table>
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E. Cluster Development. Cluster development is encouraged, to the extent practicable, to reduce impervious surfaces and maximize areas of natural vegetation.

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</tr>
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determined by the Department of Planning and Zoning. F. Habitat Protection Areas. B. 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. C. 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. D. The developer shall protect any wildlife corridors or habitat protection areas located in forests and developed woodlands.	Habitat Protection Areas regulations, including existing 21.54.080(F) have been consolidated and moved to proposed 21.54.120 - Habitat protection.	
21.54.090 - Development requirements—Limited development areas. A. 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	Proposed 21.54.090(A) moved from 21.54.060 - Development requirements generally because they are specific to LDAs. Habitat Protection Areas regulations, including existing 21.54.090(A), have been consolidated and moved to	**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.

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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.	proposed 21.54.120 - Habitat protection.	
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 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.	Removed redundant language in the proposed.	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 shall incorporate the wildlife corridor into the site design. 2. 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.

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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.	New proposed language from model ordinance	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 30 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 3 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		C. 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

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and habitat protection policies for limited development areas. E. Soils with Development Constraints. Development is discouraged on soils having 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	Per the model ordinance, existing Section 21.54.090(G) Streams moved to 21.54.060 - Development requirements generally.	protection policies for limited development areas. D. Soils with Development Constraints. Development is discouraged on soils 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. E. 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.

Existing Code	Notes on Changes	Proposed Code
adverse impacts to water quality and stormwater run-off. H. Impervious Surfaces. 1. Except as otherwise provided in this section for stormwater runoff, man-made impervious surfaces are 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 manmade impervious surfaces 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 surface limits in Subsection (H)(2) of this section by more than twenty-five percent	Grandfathering provisions have been consolidated in proposed Section 21.54.150 - Grandfathering provisions.	F. Except as otherwise provided in Section 21.54.150, for stormwater runoff, lot coverage is limited to fifteen percent of a parcel or lot.

Existing Code	Notes on Changes	Proposed Code
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 surface 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.		

Existing Code	Notes on Changes	Proposed Code
I. Erosion and Sediment Control. Erosion and sediment control measures shall be required in accordance with Chapter 17.08. J. Cluster Development. Cluster development is encouraged, to the extent practicable, to reduce impervious surfaces and maximize areas of natural vegetation.		G. Erosion and Sediment Control. Erosion and sediment control measures shall be required in accordance with Chapter 17.08. H. 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. 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). B. New commercial, industrial and institutional development is not permitted.	Proposed 21.54.100 (A) moved from existing 21.54.060 - Development requirements generally. Existing grandfathering language moved to proposed 21.54.150 Grandfathering Provisions Proposed 21.54.100(C) expanded from existing 21.54.100(C) to give more specific examples of what uses are and are not allowed in RCA.	**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. 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. 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 by 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;

Existing Code	Notes on Changes	Proposed Code
		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 and approved by the Critical Area Commission to be similar to those listed above.
C. New development within the resource conservation areas shall conform to the same requirements as those set forth in Section 21.54.090 for limited development areas.	Proposed 21.54.100(D) encourages development to be places in the LDA portion of a lot that is split between LDA and RCA if the lot is less than an acre in size.	D. New development within the Resource Conservation Area shall conform to the same requirements as those set forth in Section 21.54.150 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.
	Revised language from model ordinance on the 100-foot buffer. This is existing State regulation and is currently practiced by the City. It will now be codified in the City Code. Currently, language regarding the buffer is in existing 21.54.060(E).	**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:

Existing Code	Notes on Changes	Proposed Code
		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;

Existing Code	Notes on Changes	Proposed Code
		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:
	Added language to specify that slope stabilization activity can be allowed without a variance Added language to specify the width of allowed riparian access and the size of a landing platform that would not require a variance.	1. A slope stabilization activity if the applicant demonstrates erosive conditions and the proposed stabilization method minimizes land disturbance and clearing of existing vegetation. 2. Direct riparian access that is 6 feet wide or less with a landing no greater than 6 foot by 6 foot in size. 3. A shore erosion control activity constructed in accordance with COMAR 26.24.02 (or its successors) or a shore erosion control measure under COMAR

Existing Code	Notes on Changes	Proposed Code
		4. 26.24.04 (or its successors), and this chapter. 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.

Existing Code	Notes on Changes	Proposed Code
	This proposed subsection is currently a part of the Buffer Management Plan application and State code, but is not in City Code.	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.

Existing Code	Notes on Changes	Proposed Code
		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

Existing Code	Notes on Changes	Proposed Code

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

Existing Code	Notes on Changes	Proposed Code
		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 Subsection(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 includes 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 City Council for required Buffer mitigation; 3. A portion of fee-in-lieu money can be used for management and administrative

Existing Code	Notes on Changes	Proposed Code
		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 project with environmental benefits as approved by the Critical Area Commission or by agreement between the City of Annapolis and the Critical Area Commission.
	"Buffer Exemption Areas" now called "Modified Buffer Area" to be in accordance with state regulation. Existing language from 21.54.070 - Buffer exemption areas has been added to in proposed 21.54.106. This is existing State regulation and is currently practiced by the City. It will now be codified in the City Code. Language also currently exists as part of the City policy on development in Buffer Exemption Areas.	**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.

Existing Code	Notes on Changes	Proposed Code
		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 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 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's Critical Area Program. The funds cannot be used to accomplish a project or measure that would have been required under existing

Existing Code	Notes on Changes	Proposed Code
		local, State, or federal laws, regulations, statutes, or permits. The status of these funds shall be reported in the jurisdiction'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.	New proposed applicability and identification language from model ordinance added to proposed 21.54.110(A-B)	**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

Existing Code	Notes on Changes	Proposed Code
A. Water-Dependent Activities. 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:		subdivision that provides community piers. 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; 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:

Existing Code	Notes on Changes	Proposed Code
a. That the activities will 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 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 not be disturbed or be made subject to discharge that will 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 not be placed within the buffer or		a. That the activities 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 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 shall not be disturbed or be made subject to discharge that 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 shall not be placed within the buffer or

Existing Code	Notes on Changes	Proposed Code
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; v. That interference with the natural transport of sand will be minimized.		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; v. That interference with the natural transport of sand shall be minimized.
	New proposed language from model ordinance for industrial facilities and expansion of existing marinas.	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.

Existing Code	Notes on Changes	Proposed Code
		E. 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. 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. 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.
B. Community Piers. An applicant for a community pier shall prepare a statement to show the following requirements have been met:	Existing 21.54.010(B) Community Piers moved to proposed 21.54.010(F) and model ordinance language added.	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:

Existing Code	Notes on Changes	Proposed Code
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:	Existing 21.54.110(B)(6) moved to proposed 21.54.110(B)(5) and existing 21.54.110(B)(5) moved to a new subsection G.	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; and 4. These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities; 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

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<tr><th>Platted Lots or Dwellings in the Critical Area</th><th>Slips</th></tr>
<tr><td>up to 15</td><td>1 for each lot</td></tr>
<tr><td>16 – 40</td><td>15 or 75% whichever is greater</td></tr>
<tr><td>41 – 100</td><td>30 or 50% whichever is greater</td></tr>
<tr><td>101 – 300</td><td>50 or 25% whichever is greater</td></tr>
<tr><td>over 300</td><td>75 or 15% whichever is greater</td></tr>
</table>
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;
</td>
<td>Existing 21.54.110(B)(6) moved to proposed 21.54.110(B)(5)</td>
<td>
Area according to the following schedule:
Table G(2). Number of slips permitted.
<table>
<tr><th>Platted Lots or Dwellings in the Critical Area</th><th>Slips</th></tr>
<tr><td>up to 15</td><td>1 for each lot</td></tr>
<tr><td>16 – 40</td><td>15 or 75% whichever is greater</td></tr>
<tr><td>41 – 100</td><td>30 or 50% whichever is greater</td></tr>
<tr><td>101 – 300</td><td>50 or 25% whichever is greater</td></tr>
<tr><td>over 300</td><td>75 or 15% whichever is greater</td></tr>
</table>
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
</td>
</tr>
</table>

Existing Code	Notes on Changes	Proposed Code
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.	New proposed language for research areas from model ordinance.	is minimized; and 5. Areas for passive recreation, such as nature study, and 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	Revised language for Habitat protection areas based on model ordinance and combines from existing Sections 21.54.080(F) and 21.54.090(A).	**21.54.120- Habitat protection.** 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

Existing Code	Notes on Changes	Proposed Code
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;		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 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 DNR WHS, and as necessary 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.

Existing Code	Notes on Changes	Proposed Code
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.		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 Department of Natural Resources' Wildlife and Heritage Service and 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 - 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.	Existing language included in Chapter 21.22	**21.54.130 Reserved**
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.	Proposed 21.54.140 includes existing language and additional language from the model ordinance. This is existing State	**21.54.140 - Change of area designation.** A. Growth allocation acreage and deduction. 1. Growth allocation available to the City

Existing Code	Notes on Changes	Proposed Code
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.	regulation and is currently practiced by the City. It will now be codified in the City Code.	of Annapolis includes: a. An area equal to five (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

Existing Code	Notes on Changes	Proposed Code
		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 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 Areas shall only be located where they minimize their 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;

Existing Code	Notes on Changes	Proposed Code
		6. New Intensely Developed or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of 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:

Existing Code	Notes on Changes	Proposed Code
		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 density requirements in effect prior to February 13, 1989, notwithstanding the density provisions of this chapter:	New proposed language from model ordinance.	**21.54.150 - Grandfathering provisions.** The following types of land may be developed in accordance with the following density requirements, 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 shall not be permitted, unless a variance is granted under the procedures described in Section 21.54.160;

Existing Code	Notes on Changes	Proposed Code
A. Existing Land Uses. Existing land uses as of February 13, 1989 may continue. Alterations or expansion of nonconforming land uses will 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 that was recorded as of June 1, 1984, manmade impervious surfaces shall be limited to two thousand square feet or fifteen percent of the site, whichever is greater;	Proposed language moved from existing Development Requirements for the Limited Development Area 21.54.090(H)	B. A single lot or parcel that was legally of record on February 13, 1989 may be developed. In the case of any legal parcel of land in the limited development area or resource conservation area the following apply: 1. If a parcel or lot one-half acre or less in size existed on or before December 1, 1985, then 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, then 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, then lot coverage of the lot may not exceed twenty-five percent of the lot. However, the total of 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

Existing Code	Notes on Changes	Proposed Code
	The specific mitigation that is required by the Department has been identified in the proposed language.	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 lot coverage does not exceed lot coverage limits in Subsection (B)(2) 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 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 local jurisdiction in lieu of performing the on-site mitigation; f. All fees in lieu collected by the City shall be used to fund projects that

Existing Code	Notes on Changes	Proposed Code
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		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.

Existing Code	Notes on Changes	Proposed Code
received final approval after December 1, 1985, provided that development of any such land conforms to the critical area criteria.		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.
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.		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.
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.		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.
	This proposed subsection J applies to properties affected by changes to the Critical Area map.	J. Where a revision of the Critical Area Overlay District Map for the City of Annapolis, Maryland 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.

Existing Code	Notes on Changes	Proposed Code
21.54.160 - Variances. A. Except as otherwise specified in Sections 21.54.170 and 21.54.180 of this chapter, variances to the provisions of this City of Annapolis critical area program will be considered due to special features of a site or other circumstances, City implementation of Title 27, Subtitle 01, of the Code of Maryland Regulations, or where a literal enforcement of provisions within the critical area program would result in unwarranted hardship to an applicant.	Code references in existing no longer needed due to additional text added to this section	**21.54.160 - Variances.** A. Variances to the provisions of this City of Annapolis critical area program 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. Variances 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	Revised language based on model ordinance and state code.	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: 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 the use of land or a structure permitted to others in accordance with

Existing Code	Notes on Changes	Proposed Code
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.		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.	The existing Subsection (C) Appeals is existing in Chapter 21.28 Appeals. Proposed Subsection (C) added to specify state law procedure for after-the-fact variance requests.	C. After-the-Fact Requests a. A local jurisdiction 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 local jurisdiction:

Existing Code	Notes on Changes	Proposed Code
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.		i. Issues a notice of violation; and ii. Assesses an administrative or civil penalty for the violation. b. The Director of Planning and Zoning may not approve an after-the-fact variance unless an applicant has: i. 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; ii. Prepared a restoration or mitigation plan, approved by the local jurisdiction, to abate impacts to water quality or natural resources as a result of the violation; and iii. Performed the abatement measures in the approved plan in accordance with the local Critical Area program. c. If the Board denies the requested after-the-fact variance, then the Director of Planning and Zoning shall: i. Order removal or relocation of any structure; and ii. Order restoration of the affected resources.

Existing Code	Notes on Changes	Proposed Code
		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: a. 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. b. 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 ten (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		**21.54.170 - Administrative variances.** A. The purpose of this section is to authorize delegation of Board of Appeals approval

Existing Code	Notes on Changes	Proposed Code
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 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. 3. Development may not impact any habitat protection areas other than the buffer. 4. The applicant will be required to maintain existing natural vegetation in the buffer to the extent possible. 5. The disturbance to the buffer must be the least intrusion necessary. 6. Any development in the buffer will require mitigation/enhancement/or offsets, as follows:		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 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 shall be the least intrusion necessary. 6. Any development in the Critical Area buffer shall require mitigation/enhancement/or offsets, as follows:

Existing Code	Notes on Changes	Proposed Code
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 must be created in a 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 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 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. 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 lot coverage 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 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 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 shall be protected from future development through

Existing Code	Notes on Changes	Proposed Code
a development agreement or other instrument and recorded among the land records of Anne Arundel County. 9. The State Critical Area Commission shall be notified of the requested variance 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 administrative variance and all supporting documentation shall be reviewed by the Director of Planning and Zoning. The Director of Planning and Zoning shall, within ten 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.	Language in proposed change to be consistent with language in Section 21.54.106. The existing language has been eliminated and all appeals will follow the procedures in Chapter 21.28 Appeals. Proposed Subsection (C) clarifies procedures for administrative variances.	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 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 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. 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.

Existing Code	Notes on Changes	Proposed Code
21.54.180 - Variances in conjunction with subdivisions. 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.	New proposed language added for lot consolidation. Existing 21.54.180 is in Title 20.	**21.54.180 - Lot Consolidation and Reconfiguration.** 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

Existing Code	Notes on Changes	Proposed Code
		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.
21.54.190 - Appeals. An appeal may be made to the Board of Appeals, in accordance with Chapter 21.30, by a person, firm or corporation aggrieved or affected by a decision of the Planning and Zoning Director in accordance with this chapter.	No change	**21.54.190 - Appeals.** An appeal may be made to the Board of Appeals, in accordance with Chapter 21.30, by a person, firm or corporation aggrieved or affected by a decision of the Planning and Zoning Director in accordance with this chapter.