

**COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

**2009 Legislative Session**

Legislative Day # \_\_\_\_

**BILL NO.** 2009

**Introduced by:** Planning Staff

**Date introduced:**  / / 200

**Public Hearing:**  / / 200

**Commissioners Action:**  / / 200 \_\_\_\_\_

**Commissioner Votes:** WC: \_\_, EP: \_\_, RC: \_\_, SG: \_\_, GH: \_\_

**Pass/Fail:** \_\_\_\_\_

**Effective Date:**  / / 200 12:01 a.m.

**Remarks:** \_\_\_\_\_

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2009 Legislative Session

Bill No. 2009-

Chapter. No. 278

Introduced by Planning Staff

Date of Introduction \_\_\_\_\_

**BILL**

1 AN ACT concerning:

2 **Chesapeake Bay Critical Area Program**

3

4 FOR the purpose of:

5 Comprehensive update incorporating legislative changes

6

7 BY repealing and reenacting, with amendments:

8

9 Chapter 278- Subdivision Regulations

10 Article V, §44, General Site Design Standards.

11 *Code of Charles County, Maryland*

12 *(March, 2006)*

13

14 Chapter 278- Subdivision Regulations

15 Article V, §53, Chesapeake Bay Critical Area Overlay Zones.

16 *Code of Charles County, Maryland*

17 *(March, 2006)*

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BY adding:

Chapter 278- Subdivision Regulations  
Article III, §19, Chesapeake Bay Critical Area Overlay Zone Lot Consolidations  
and Lot Reconfigurations.  
*Code of Charles County, Maryland*  
*(March, 2006)*

**SECTION 1.** BE IT ENACTED BY THE COUNTY COMMISSIONERS OF  
CHARLES COUNTY, MARYLAND, that the Laws of Charles County,  
Maryland read as follows:

**SECTION 19: CHESAPEAKE BAY CRITICAL AREA OVERLAY  
ZONE  
LOT CONSOLIDATIONS AND LOT RECONFIGURATIONS**

- I. THE FOLLOWING PROVISIONS SHALL APPLY TO:**
  - A. ANY LEGAL PARCEL OF LAND, NOT BEING PART OF  
A RECORDED OR APPROVED SUBDIVISION, THAT WAS  
RECORDED AS OF DECEMBER 1, 1985;**
  - B. LAND THAT WAS SUBDIVIDED INTO RECORDED  
LEGALLY BUILDABLE LOTS, WHERE THE SUBDIVISION  
RECEIVED FINAL APPROVAL BEFORE JUNE 1, 1984; OR,**
  - C. LAND THAT WAS SUBDIVIDED INTO RECORDED,  
LEGALLY BUILDABLE LOTS, WHERE THE SUBDIVISION  
RECEIVED FINAL APPROVAL AFTER DECEMBER 1, 1985,**

1                   **BUT NOT LATER THAN JUNE 7, 1989.**

2  
3                   **II. LOT CONSOLIDATIONS AND LOT RECONFIGURATIONS IN**  
4                   **THE CHESAPEAKE BAY CRITICAL AREA OVERLAY ZONES**  
5                   **SHALL BE REQUIRED TO BRING NON-CONFORMING PARCELS**  
6                   **OR LOTS INTO COMPLIANCE WITH THE CHARLES COUNTY**  
7                   **CRITICAL AREA PROGRAM TO THE EXTENT POSSIBLE.**

8  
9                   **III. THESE DEVELOPMENT ACTIVITIES SHALL BE SUBJECT TO**  
10                   **THE STANDARDS AND REQUIREMENTS OUTLINED IN SECTION**  
11                   **53 OF THESE REGULATIONS AND THE CHARLES COUNTY**  
12                   **ZONING ORDINANCE. ADDITIONALLY, THE FOLLOWING**  
13                   **REGULATIONS APPLY:**

14  
15                   **A. AN APPLICATION FOR LOT CONSOLIDATION OR LOT**  
16                   **RECONFIGURATION SHALL ALSO INCLUDE:**

17  
18                   **1. THE DATE OF RECORDATION OF EACH LEGAL**  
19                   **PARCEL OF LAND OR LEGALLY BUILDABLE LOT TO**  
20                   **BE CONSOLIDATED OR RECONFIGURED;**

21  
22                   **2. THE LOCATION OF ALL EXISTING AND**  
23                   **PROPOSED PROPERTY BOUNDARIES;**

24  
25                   **3. A TABLE THAT LISTS THE NUMBER OF ALL**  
26                   **LEGAL PARCELS OF LAND OR RECORDED LEGALLY**  
27                   **BUILDABLE LOTS AND THE NUMBER OF PROPOSED**  
28                   **LOTS TO BE DERIVED; AND,**

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**4. INFORMATION SUFFICIENT FOR THE CHARLES COUNTY PLANNING DIVISION TO MAKE THE FINDINGS SET FORTH IN(B) BELOW.**

**B. PRIOR TO APPROVAL, THE PLANNING DIVISION SHALL MAKE WRITTEN FINDINGS THAT THE PROPOSED CONSOLIDATION OR RECONFIGURATION:**

**1. WILL RESULT IN NO GREATER NUMBER OF LOTS, PARCELS OR DWELLING UNITS IN THE CRITICAL AREA THAN THE EXISTING CONFIGURATION WOULD ALLOW;**

**2. WILL RESULT IN NOT GREATER LOT COVERAGE THAN THE EXISTING CONFIGURATION WOULD ALLOW;**

**3. DOES NOT:**

**I. CREATE AN ADDITIONAL RIPARIAN LOT OR PARCEL, WATERFRONT LOT, OR ANY OTHER LOT OR PARCEL DEEDED WITH WATER ACCESS; OR,**

**II. INTENSIFY OR INCREASE IMPACTS ASSOCIATED WITH RIPARIAN ACCESS.**

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- 4. DOES NOT CREATE:**
  - I. A LOT OR PARCEL OR PORTION OF A LOT OR PARCEL THAT WILL SERVE DEVELOPMENT ACTIVITIES OUTSIDE THE CRITICAL AREA; OR,**
  - II. A RESOURCE CONSERVATION ZONE LOT OR PARCEL THAT SERVES DEVELOPMENT ACTIVITIES IN THE INTENSE DEVELOPMENT ZONE OR LIMITED DEVELOPMENT ZONE.**
  
- 5. ADDRESSES HABITAT PROTECTION AREA REQUIREMENTS BY:**
  - I. IDENTIFYING EACH HABITAT PROTECTION AREA ON SITE;**
  - II. PROVIDING PROTECTIVE AND RESTORATIVE MEASURES WHICH PROVIDE FOR THE LEAST POSSIBLE ADVERSE IMPACT TO THE HABITAT; AND,**
  - III. ENSURING NO GREATER IMPACT TO THE HABITAT PROTECTION AREA THAN THE EXISTING CONFIGURATION WOULD**



1           **CRITICAL AREA PROGRAM** is to be provided with the preliminary  
2 subdivision plan application.

3  
4           **(b) Subdivision Design.**

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6           **i.**       Design of the development shall take into consideration all  
7 existing local and regional plans for the surrounding community  
8 including, but not limited to, the Charles County *Comprehensive Plan*  
9 and the *Comprehensive Water and Sewer Plan*.

10  
11          **ii.**       Development of the site shall be based on the site analysis. To  
12 the maximum extent practicable, development shall be located to  
13 preserve the natural features of the site, to avoid areas of environmental  
14 sensitivity, and to minimize negative impacts and alteration of natural  
15 features.

16  
17          **iii.**       The following specific areas include, but are not limited to, areas  
18 that shall be preserved as undeveloped open space, to the extent  
19 consistent with the reasonable use of land, and in accordance with  
20 applicable state or local regulations:

21  
22           **A.**       Unique and/or fragile areas, including tidal and non-tidal  
23 wetlands as defined in the Charles County Zoning Ordinance.  
24 This information is to be field verified by on-site inspection on  
25 the property and within 100 feet of the property boundary;

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27           **B.**       Priority forest stands and/or specimen trees consistent  
28 with the Charles County *Forest Conservation Ordinance*.

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C. Lands in the flood plain;

D. Steep slopes in excess of twenty-five (25) percent, or as required by Resource Protection Zone or Critical Area regulations, as measured over an area of 10,000 square feet, except where appropriate engineering measures concerning slope stability, erosion, and resident safety are taken;

E. Habitats of rare, threatened and endangered species, as identified by the Secretary of the Maryland Department of Natural Resources or by the Federal Endangered Species Act;

F. Other significant ecological areas, including but not limited to: Forest Interior Dwelling Bird Habitat, fish spawning areas, colonial waterbird nesting sites, and submerged aquatic vegetation;

G. Historically significant structures and sites, as listed on federal, state, or County lists of historic places, or eligible for inclusion on the National Register of Historic Places;

H. Information for off-site delineation of the above items, beyond the 100 feet specified, may be based upon the most recent topographic and historical information available at the time of submittal, provided that the sources used are clearly specified on the plan or plat document.

**I. THE CRITICAL AREA BUFFER AS DEFINED BY THE ZONING ORDINANCE.**

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iv. The development shall be laid out to avoid adversely affecting ground water and aquifer recharge; to reduce cut and fill; to avoid unnecessary impervious cover; to prevent flooding; to provide adequate access to lots and sites; and to mitigate adverse effects of shadow, noise, odor, traffic, drainage, and utilities on neighboring properties.

v. Area of special geotechnical consideration - A geotechnical report will be required including a preliminary soils condition report at the time of preliminary plan application for new construction in the portion of the county designated as the “Area of Special Geotechnical Consideration” per Appendix F. The geotechnical report shall be prepared by a professional engineer licensed in the State of Maryland who is hired by the County and paid for by the applicant. The geotechnical report shall identify all unstable soil conditions and make recommendations for construction requirements where the unstable soil conditions exist. Unstable soil conditions shall include but not be limited to, high shrink/swell or other unstable soil conditions as determined by the geotechnical engineer. These recommendations shall become a part of the construction permit requirements. *[Amended December 15, 2000 by Ordinance No. 00-89.]*

The geotechnical construction recommendations shall include all the necessary requirements for roads, grading, drainage, stormwater management, water and sewer, building, foundations, landscaping, utilities, and any other construction as determined by the county.

(c) *Circulation System Design.*

1                   i.       The road system shall be designed to permit the safe,  
2                   efficient, and orderly movement of traffic; to meet, but not  
3                   exceed the needs of the present and future population in the area  
4                   to be served, as established by the Comprehensive Plan; to have a  
5                   simple and logical pattern; to provide interparcel connectors to  
6                   alleviate traffic congestion and to facilitate access for emergency  
7                   vehicles, without promoting through traffic on local residential  
8                   streets; to respect natural features and topography; and to present  
9                   an attractive streetscape.

10  
11                   ii.       Nonresidential developments are to provide shared or  
12                   coordinated entrances to streets classified as collector streets or  
13                   greater.

14  
15                   iii.       The pedestrian system shall be located as required for  
16                   safety. In conventional developments, walks shall be placed  
17                   parallel to the road, with exceptions permitted to preserve natural  
18                   features or to provide visual interest. In other developments,  
19                   walks may be placed away from the road system, but they may  
20                   also be required parallel to the road for safety reasons. (See  
21                   Article VII for road and sidewalk standards.)

22  
23                   **Section 53: Chesapeake Bay Critical Area Overlay Zones**

24  
25                   The standards and requirements outlined [herein] **IN THE CHARLES**  
26                   **COUNTY ZONING ORDINANCE, ARTICLE IX**, shall be considered  
27                   minimum standards and requirements for this section. [Other information  
28                   required by other regulations may be included, in order to assure consistency  
29                   and to minimize the possibility of contradictions in information presented in a

1 development proposal.]

2  
3 **THE FOLLOWING STANDARD NOTES SHALL BE INCLUDED ON**  
4 **ALL SUBDIVISIONS AND/OR PLATS CONTAINING PROPERTY**  
5 **WITHIN THE CRITICAL AREA:**

6  
7 **1. “THIS PROPERTY/A PORTION OF THIS PROPERTY IS**  
8 **LOCATED WITHIN THE \_\_\_\_\_ZONE OVERLAY OF**  
9 **THE CHESAPEAKE BAY CRITICAL AREA”**

10  
11 **2. “SITE TABULATIONS:**

12 **TOTAL AREA: \_\_\_\_\_**

13 **TOTAL AREA IN CBCA: \_\_\_\_\_**

14 **TOTAL AREA OUTSIDE CBCA: \_\_\_\_\_**

15 **TOTAL AREA OF CBCA: \_\_\_\_\_ EXCLUSIVE OF TIDAL**  
16 **WATERS OR WETLANDS (IF APPLICABLE)**

17 **EXISTING ALLOWABLE CBCA DENSITY: \_\_\_\_\_**

18 **PROPOSED CBCA DENSITY \_\_\_\_\_”**

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20 **3. “THERE SHALL BE NO CLEARING, GRADING,**  
21 **CONSTRUCTION, OR DISTURBANCE WITHIN THE CRITICAL**  
22 **AREA BUFFER EXCEPT AS MAY BE PERMITTED BY THE**  
23 **CHARLES COUNTY PLANNING DIVISION.”**

24  
25 **FOR PROPERTIES WITHIN THE RESOURCE CONSERVATION**  
26 **ZONE OVERLAY OR LIMITED DEVELOPMENT ZONE OVERLAY:**

27  
28 **1. “TOTAL EXISTING LOT COVERAGE: \_\_\_\_\_**

1                                   **TOTAL PROPOSED LOT COVERAGE:** \_\_\_\_\_  
2                                   **TOTAL EXISTING FOREST COVERAGE:** \_\_\_\_\_  
3                                   **TOTAL PROPOSED FOREST COVERAGE:** \_\_\_\_\_”  
4

5                   **FOR PROPERTIES SUBJECT TO INTRAFAMILY TRANSFER:**  
6

7                   **1.     LOT(S) \_\_\_\_\_ ARE CREATED UNDER THE**  
8                   **PROVISIONS OF A BONAFIDE INTRAFAMILY TRANSFER**  
9                   **AND MAY NOT BE TRANSFERRED OR SOLD TO A THIRD**  
10                  **PARTY, WHO IS NOT A MEMBER OF THE OWNER'S**  
11                  **IMMEDIATE FAMILY OR HOLDER OF A MORTGAGE OR**  
12                  **DEED OF TRUST ON THE PROPERTY, UNLESS APPROVED BY**  
13                  **THE PLANNING COMMISSION**  
14

15                  **VARIATIONS OF THE ABOVE NOTES MAY BE APPROVED BY THE**  
16                  **PLANNING DIRECTOR OR DESIGNEE AS APPROPRIATE.**  
17

18                  **ADDITIONAL NOTES MAY BE REQUIRED BASED UPON THE**  
19                  **NATURE OF THE PLAT.**  
20

21                  **[(a) The development of Habitat Protection Plans in the Chesapeake Bay**  
22                  **Critical Areas shall be in conformance with the Habitat Protection Program**  
23                  **section of the Charles County Chesapeake Bay Critical Area Program.]**  
24

25                  **[(b) General requirements:**

26  
27                               **i.     Land shall be suited for the purposes for which it is to be**  
28                               **subdivided. The subdivision shall be laid out as to proper design and**

1 improvement, form and dimensions and in relationship to street and lot  
2 design as well as proposed and existing land uses in the proposed  
3 subdivision and adjoining areas. The land use pattern of the adopted  
4 *Comprehensive Plan*, Critical Area Program and the requirements of the  
5 *Zoning Ordinance* shall form the basic theme for the design pattern.  
6

7 **ii.** Where trees, waterways, scenic points, historic sites and  
8 structures or other assets and landmarks are located within a proposed  
9 subdivision, the Planning Commission shall not approve the subdivision  
10 unless some practical means be taken to preserve these features. Any  
11 measures taken in this regard must comply with the Charles County  
12 Chesapeake Bay Critical Areas ordinance, and any other relevant  
13 regulation.  
14

15 **iii.** Where a tract of land bordering tidal water, tidal wetlands or  
16 tributary streams in the Critical Area is to be subdivided and a Buffer  
17 exemption has not been granted by the County Commissioners, a buffer  
18 of at least one hundred (100) feet shall be established and maintained in  
19 native vegetation in accordance with the *Zoning Ordinance*. No  
20 development, including septic systems, impervious surfaces, parking  
21 areas, roads or structures, is permitted in the Buffer, unless specifically  
22 permitted by the *Zoning Ordinance*.  
23

24 **iv.** If the lot ownership extends to the water, wetlands or stream bed,  
25 then the Buffer shall be included in the required setback distance for  
26 building on that lot, except in the case of water-dependent facilities.  
27 Where the buffer is to be owned and maintained by a Home Owners  
28 Association or similar appropriate organization, the required setback  
29 distance shall be measured from the property line separating that lot from

1 the designated Buffer. This buffer, when not included in the lots, may  
2 be included in calculating the open space required per the *Zoning*  
3 *Ordinance*.

4  
5 v. The buffer shall be expanded to include contiguous sensitive areas  
6 on the parcel which, if developed or disturbed, may impact streams,  
7 wetlands or other aquatic environments as determined by the Planning  
8 Commission. The expanded Buffer must be shown on plans required for  
9 such development or activities. Sensitive areas are defined as follows:  
10 hydric soils and soils with hydric properties as designated by the Soil  
11 Conservation Service as highly erodible soils with a "K" value greater  
12 than 0.35 on slopes greater than five (5) percent, and steep slopes greater  
13 than fifteen (15) percent. The buffer shall be expanded according to the  
14 *Zoning Ordinance*.

15  
16 vi. The subdivider shall be required to identify storm water  
17 management practices appropriate to site development which achieve the  
18 following standards:

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20 A. In areas designated Intense Development Overlay Zone on  
21 the Charles County Critical Area Overlay Zone Map, the  
22 subdivider shall demonstrate that the best management practices  
23 for storm water assure a ten (10) percent reduction of  
24 predevelopment pollutant loadings.

25  
26 B. The subdivider shall delineate those site areas not covered  
27 by impervious surfaces to be maintained or established in  
28 vegetation. Where vegetation is not proposed, the developer  
29 shall demonstrate why plantings for such portions of the site are

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impracticable. Types of planting and vegetation proposed shall be in accordance with guidelines established in Section 132 of Article VIII of the *Zoning Ordinance*.

**vii.** In Limited Development and Resource Conservation Overlay Zones, roads, bridges and utilities serving lots shall be located to avoid disturbances to Habitat Protection Areas. When no alternative exists and such infrastructure must cross or be located in a Habitat Protection Area, the developer shall demonstrate how impacts to habitats have been minimized and that no feasible alternative location of such infrastructure exists.

**viii.** In the Limited Development and Resource Conservation Overlay Zones, all development activities which cross or are located adjacent to tributary streams in the Critical Area shall be designed in accordance with the *Zoning Ordinance*.

**ix.** Lots and open space areas shall be located and designed to provide for the maintenance of existing site wildlife and plant habitats, and to provide continuity with those habitats on adjacent sites. Existing wildlife corridors shall be identified on proposed development plats. When wildlife corridors exist or are proposed, they shall include any existing Habitat Protection Areas and connect large forested areas on or adjacent to the site.

**x.** Impervious surfaces in subdivisions located in Limited Development and Resource Conservation Overlay Zones shall be limited to fifteen (15) percent of the gross site area proposed for development, except that impervious surfaces on any lot not exceeding one (1) acre in

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size in a subdivision approved after December 1, 1985, may be up to  
twenty-five (25) percent of the lot.]

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**SECTION 2.** BE IT FURTHER ENACTED, that this Act shall take effect TEN  
(10) calendar days after it becomes law.

COUNTY COMMISSIONERS OF  
CHARLES COUNTY, MARYLAND

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Wayne Cooper, President

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Edith J. Patterson, Vice President

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Reuben B. Collins, II

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Samuel N. Graves, Jr.

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Gary V. Hodge

ATTEST:

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Denise Ferguson, Clerk