

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2015, Legislative Day No. 12

Bill No. 51-15

Mrs. Cathy Bevins, Chair
By Request of County Executive

By the County Council, July 6, 2015

A BILL
ENTITLED

AN ACT concerning

Chesapeake Bay Critical Area Maps

FOR the purpose of repealing the Official Chesapeake Bay Critical Area Map and Chesapeake Bay Critical Area Modified Buffer Area Maps; adopting the new Chesapeake Bay Critical Area Geodatabase to replace these maps; making conforming changes to the Baltimore County Code and Baltimore County Zoning Regulations; and generally relating to the Official County Chesapeake Bay Critical Area Map Geodatabase.

BY repealing

1988 Official Chesapeake Bay Critical Area Map, as amended
1996 Chesapeake Bay Critical Area Modified Buffer Area Maps, as amended

BY adopting the

Official County Chesapeake Bay Critical Area Map Geodatabase

BY repealing and re-enacting, with amendments

Sections 32-3-224(a), 32-3-501(d)(1), and 32-9-112(c), (g), (h) and (i)
Article 32. Planning, Zoning, and Subdivision Control
Baltimore County Code 2003

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

BY repealing and re-enacting, with amendments

Sections 33-1-101(e), 33-2-101(u), (v), and (ll), 33-2-105, and § 33-2-403
Article 33. Environmental Protection and Sustainability
Baltimore County Code 2003

BY repealing and re-enacting with amendments

Sections 101A.1, Definitions of “Chesapeake Bay Critical Area”,
“Intensely Developed Area”, “Limited Development Area”,
and “Resource Conservation Area” and 215.1.F.
Baltimore County Zoning Regulations, as amended

WHEREAS, Baltimore County participated in a Critical Area mapping update project with the State Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, the Maryland Department of Natural Resources, the Maryland Department of the Environment, the Maryland Department of Information Technology, and Salisbury University; and

WHEREAS, the primary purpose of the mapping update project was to incorporate the requirements of HB 1253, being also Chapter 119 of the 2008 Laws of Maryland, namely that local jurisdictions amend their Chesapeake Bay Critical Area boundaries for consistency with the current State-established boundaries; and

WHEREAS, public informational meetings regarding the mapping update process were held in Baltimore County on May 21, 2012 and June 7, 2012; and

WHEREAS, a State-determined digital shoreline, landward boundary of tidal wetlands, and Critical Area boundary were transmitted to Baltimore County from the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays on January 8, 2013; and

WHEREAS, the Official County Chesapeake Bay Critical Area Map Geodatabase that was established during the mapping update project is intended to replace the County's existing Official Chesapeake Bay Critical Area Map and Modified Buffer Area maps; and

WHEREAS, a public hearing on these proposed changes was held on July 28, 2015; now, therefore

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF
2 BALTIMORE COUNTY, MARYLAND, that the Official Chesapeake Bay Critical Area
3 Map referred to in § 33-2-105 of the Baltimore County Code that was adopted by the
4 Baltimore County Council in 1998, and any amendments and revisions made thereto, is
5 hereby repealed.

6 SECTION 2. AND BE IT FURTHER ENACTED that the Chesapeake Bay
7 Critical Area Modified Buffer Area Maps authorized by § 33-2-403 of the Baltimore
8 County Code that was adopted by the Department of Environmental Protection and
9 Sustainability in 1996, and any amendments and revisions made thereto, are hereby
10 repealed.

11 SECTION 3. AND BE IT FURTHER ENACTED that the Laws of Baltimore
12 County read as follows:

13 Article 32. Planning, Zoning and Subdivision Control
14 § 32-3-224.

15 (a) Notwithstanding any other provision of the Code relating to reclassification or
16 rezoning of land, the County Council may amend, as provided under subsection (b) of
17 this section, the official zoning map in conjunction with:

1 (1) The approval of a growth allocation application; and

2 (2) The related amendment of the official COUNTY Chesapeake Bay Critical Area
3 map enacted under Title 9 of this article.

4 § 32-3-501.

5 (d) (1) “Zoning reclassification” means:

6 (i) A change to a district or zone of a particular piece of
7 property; or

8 (ii) A correction to the official COUNTY Chesapeake Bay
9 Critical Area Map adopted under § 33-2-105 of the Code.

10 § 32-9-112.

11 (c) The Department of Environmental Protection and Sustainability shall prepare
12 copies of the official county Chesapeake Bay Critical Area map [and, if applicable, the
13 official county zoning map] showing the location of the requested growth allocations.

14

15 (g) (1) Within 30 days after the final public meeting, the Planning Board shall forward
16 its recommendations that require an amendment of the Chesapeake Bay Critical Area
17 Overlay Areas established under Article 33, Title 2, Subtitle 6 of the Code on the official
18 COUNTY Chesapeake Bay Critical Area Map to:

19 (i) The Board of Appeals for a final determination, under § 32-3-511 of this
20 article; or

21 (ii) The County Council for a final determination if a zoning change to the official
22 zoning map is required, subject to the provisions of § 32-3-224 of this article.

1 (2) (i) Notwithstanding any provision in this Code to the contrary, the Board of
2 Appeals may amend the Official COUNTY Chesapeake Bay Critical Area Map only
3 when changes involving growth allocation are requested.

4 (ii) If changes are required to the official zoning map only or to both the official
5 zoning map and to the OFFICIAL COUNTY Chesapeake Bay Critical Area Map, the
6 application shall be referred to the County Council.

7 (h) The Department of Environmental Protection and Sustainability shall forward
8 the proposed amendments to the official COUNTY Chesapeake Bay Critical Area map
9 [or zoning map or both] and all relevant information to the [Chesapeake Bay] Critical
10 Area Commission for approval under § 8-1809(i) of the Natural Resources Article of the
11 Annotated Code of Maryland.

12 (i) (1) In accordance with [§ 8-1809(o)(2)] § 8-1809(o)(5) of the Natural Resources
13 Article of Annotated Code of Maryland, the county shall incorporate the approved
14 amendment to the official COUNTY Chesapeake Bay Critical Area map into its local
15 protection program within 120 days after receiving notice that this amendment has been
16 approved by the [Chesapeake Bay] Critical Area Commission.

17 [(2) The Department of Environmental Protection and Sustainability shall
18 forward the amended official Chesapeake Bay Critical Area map reflecting changes
19 approved by the Chesapeake Bay Critical Area Commission to:

- 20 (i) The chairman of the County Council for signature; or
21 (ii) The chairman of the Board of Appeals for signature if an amendment of
22 the Chesapeake Bay Critical Area Overlay Areas on the map was made
23 by the Board of Appeals under § 32-3-511 of this article.

1 (3) The Department of Environmental Protection and Sustainability shall forward
2 a copy of the amended official Chesapeake Bay Critical Area map signed in accordance
3 with paragraph (2) of this subsection to the Chesapeake Bay Critical Area Commission
4 within the time frame specified in this subsection.]

5 (2) IN ACCORDANCE WITH § 33-2-105(D) OF THE CODE, THE
6 DEPARTMENT OF ENVIRONMENTAL PROTECTION AND SUSTAINABILITY
7 SHALL AMEND THE OFFICIAL COUNTY CHESAPEAKE BAY CRITICAL AREA
8 MAP REFLECTING ANY CHANGES APPROVED BY THE CRITICAL AREA
9 COMMISSION.

10

11 Article 33. Environmental Protection and Sustainability

12

13 § 33-1-101.

14 (e) “Chesapeake Bay Critical Area” means all land and water that is designated on the
15 [official critical area map of the county under § 8-1807(c)] OFFICIAL COUNTY
16 CHESAPEAKE BAY CRITICAL AREA MAP IN ACCORDANCE WITH § 8-1807 of
17 the Natural Resources Article of the Annotated Code of Maryland.

18 § 33-2-101.

19 (u) “Intensely developed area” means an overlay area delineated on the official
20 COUNTY Chesapeake Bay Critical Area Map [of the county] in accordance with
21 COMAR 27.01.02.03.

1 (v) "Limited development area" means an means an overlay area delineated on the
2 official COUNTY Chesapeake Bay Critical Area map [of the county] in accordance with
3 COMAR 27.01.02.04.

4 (ll) "Resource Conservation Area" means [an area that:

5 (1) Is characterized by:

6 (i) A nature-dominated environment, including wetlands, forests, or abandoned
7 fields; or

8 (ii) Resource-utilization activity, including agriculture, forestry, fishery activity,
9 or aquaculture; and

10 (2) Meets the requirements specified under COMAR 27.01.02.05.] AN OVERLAY
11 AREA DELINEATED ON THE OFFICIAL COUNTY CHESAPEAKE BAY
12 CRITICAL AREA MAP IN ACCORDANCE WITH COMAR 27.01.02.05.
13 § 33-2-105.

14 [(a)(1) The Director of Environmental Protection and Sustainability shall maintain
15 the official map of the county Chesapeake Bay Critical Area.

16 (2) The official map of the county Chesapeake Bay Critical Area:

17 (i) Is at a scale of one inch equals 600 feet;

18 (ii) Shows the boundary of the county Chesapeake Bay Critical Area;

19 (iii) Shows the boundary of the intensely developed areas and the limited
20 development areas; and

21 (iv) Shows, for information purposes only, the resource conservation area, as
22 enacted by the official county zoning map under § 100.2 of the Baltimore County Zoning

1 Regulations and shown by the RC-20 and RC-50 zones on the official county zoning
2 map.

3 (b) The official map of the county Chesapeake Bay Critical Area is incorporated by
4 reference.

5 (c) (1) Except as provided in paragraph (2) of this subsection, in a conflict between
6 the Chesapeake Bay Critical Area boundary shown on the official map of the county
7 Chesapeake Bay Critical Area and the tidal wetland boundary map, the boundary on the
8 tidal wetland boundary map shall prevail.

9 (2) The Chesapeake Bay Critical Area boundary on the official map of the
10 County Chesapeake Bay Critical Area shall prevail if the boundary is expanded beyond
11 the initial planning area determined under § 8-1807(a)(2) of the Natural Resources
12 Article of the Annotated Code of Maryland.]

13 (A) THE COUNTY SHALL MAINTAIN THE OFFICIAL COUNTY
14 CHESAPEAKE BAY CRITICAL AREA MAP AS A GEODATABASE, THAT
15 CONTAINS INFORMATION PROVIDED TO THE COUNTY BY THE STATE.

16 (B) THE OFFICIAL COUNTY CHESAPEAKE BAY CRITICAL AREA MAP
17 GEODATABASE SHALL BE USED TO DEPICT IN ELECTRONIC AND PRINTED
18 FORMATS THE LOCATIONS AND BOUNDARIES OF:

19 (1) THE CHESAPEAKE BAY CRITICAL AREA;

20 (2) CRITICAL AREA LAND USE CLASSIFICATIONS FOR ALL
21 EXISTING AND NEWLY INCLUDED LAND AREAS IN THE CRITICAL AREA;

22 (3) THE DIGITALLY GENERATED AND GEOREFERENCED
23 SHORELINE AND LANDWARD BOUNDARY OF TIDAL WETLANDS PROVIDED

1 TO THE COUNTY BY THE STATE FROM WHICH THE CRITICAL AREA
2 BOUNDARY LINE WAS GENERATED; AND

3 (4) DIGITALLY GENERATED AND GEOREFERENCED MODIFIED
4 BUFFER AREAS SUBJECT TO § 33-2-403 OF THIS TITLE.

5 (C) THE CRITICAL AREA BOUNDARY LINE ON THE MAP EXTENDS TO
6 WHICHEVER OF THE FOLLOWING MEASUREMENTS IS GREATER IN
7 EXTENT:

8 (1) 1,000 FEET FROM THE DIGITALLY GENERATED AND
9 GEOREFERENCED SHORELINE OR LANDWARD BOUNDARY OF TIDAL
10 WETLANDS PROVIDED TO THE COUNTY BY THE STATE, OR

11 (2) THE LIMIT OF ANY DIGITALLY GENERATED AND
12 GEOREFERENCED CRITICAL AREA 1,000-FOOT BOUNDARY EXPANSIONS
13 DELINEATED FROM THE COUNTY'S APPROVED 1988 OFFICIAL
14 CHESAPEAKE BAY CRITICAL AREA MAP.

15 (D) (1) THE MAP SHALL BE MAINTAINED AND UPDATED IN
16 ACCORDANCE WITH THE OFFICIAL COUNTY CHESAPEAKE BAY CRITICAL
17 AREA MAP GEODATABASE MAINTENANCE MANUAL.

18 (2) IN ORDER TO MAINTAIN MAP QUALITY AND INTEGRITY, THE
19 COUNTY MAY:

20 (I) CORRECT ANY CARTOGRAPHIC ERRORS OF THE CRITICAL
21 AREA BOUNDARY OR A CRITICAL AREA LAND USE CLASSIFICATION OR
22 BOUNDARY THAT OCCURRED DURING CONVERSION OF INFORMATION ON

1 THE OFFICIAL COUNTY CHESEAPEAKE BAY CRITICAL AREA MAP TO AN
2 ELECTRONIC FORMAT;

3 (II) PERIODICALLY ADJUST THE CRITICAL AREA 1,000-FOOT
4 BOUNDARY EXPANSIONS LOCATED ALONG POTTERY FARM ROAD AND
5 BOWLEYS QUARTERS ROAD AS NEEDED TO MAINTAIN THE
6 RELATIONSHIPS BETWEEN THOSE BOUNDARIES AND THE COUNTY'S
7 GEOGRAPHIC INFORMATION SYSTEM CADASTRAL GEODATABASE;

8 (III) PERIODICALLY ADJUST THE BOUNDARIES OF CRITICAL
9 AREA LAND USE CLASSIFICATIONS AND MODIFIED BUFFER AREAS AS
10 NEEDED TO MAINTAIN THE RELATIONSHIPS BETWEEN THOSE
11 BOUNDARIES AND THE COUNTY'S GEOGRAPHIC INFORMATION SYSTEM
12 CADASTRAL GEODATABASE; AND

13 (IV) UPDATE THE CRITICAL AREA LAND USE CLASSIFICATION
14 BOUNDARIES ON THE MAP TO REFLECT ANY GROWTH ALLOCATION
15 CHANGES APPROVED BY THE COUNTY AND THE CRITICAL AREA
16 COMMISSION.

17 (3) BY JUNE 30 AND DECEMBER 31 EACH YEAR, THE COUNTY
18 SHALL ELECTRONICALLY TRANSMIT ALL MAP UPDATES TO THE
19 MARYLAND DEPARTMENT OF NATURAL RESOURCES FOR INCORPORATION
20 INTO THE STATEWIDE BASE MAP.

21 (4) THE COUNTY MAY ALSO TRANSMIT ELECTRONIC MAP UPDATES
22 TO THE CRITICAL AREA COMMISSION AT OTHER TIMES OF THE YEAR, AS
23 NEEDED TO MAINTAIN THE INTEGRITY OF THE MAP.

1 (5) ALL ELECTRONIC MAP UPDATES SUBMITTED IN ACCORDANCE
2 WITH PARAGRAPH (4) OF THIS SUBSECTION SHALL BE ACCOMPANIED BY A
3 LETTER OF EXPLANATION FROM THE COUNTY.

4 (E) (1) THE REPRESENTATION OF CRITICAL AREA EXPANSION
5 BOUNDARIES ALONG POTTERY FARM ROAD AND BOWLEYS QUARTERS
6 ROAD, CRITICAL AREA LAND USE CLASSIFICATION BOUNDARIES, AND
7 MODIFIED BUFFER AREA BOUNDARIES DEPICTED ON THE OFFICIAL
8 COUNTY CHESAPEAKE BAY CRITICAL AREA MAP RELATIVE TO PROPERTY
9 BOUNDARIES IS BASED UPON THE BEST AVAILABLE INFORMATION AT THE
10 TIME OF MAPPING AND MAPPING UPDATES.

11 (2) WHEN PROPERTY BOUNDARY SURVEY INFORMATION IS
12 AVAILABLE, A MAP USER MAY CARTOGRAPHICALLY ADJUST ON A SITE
13 PLAN ANY MAP BOUNDARY NOTED IN PARAGRAPH (1) OF THIS
14 SUBSECTION TO MAINTAIN THE RELATIONSHIP BETWEEN THE MAP
15 BOUNDARY AND A SURVEYED PROPERTY BOUNDARY.

16 (3) THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND
17 SUSTAINABILITY SHALL MAKE THE FINAL DETERMINATION ABOUT THE
18 ACCURACY OF OFFICIAL COUNTY CHESAPEAKE BAY CRITICAL AREA
19 MAP INFORMATION ON A SITE PLAN.

20 (F) THE OFFICIAL COUNTY CHESAPEAKE BAY CRITICAL AREA MAP IS
21 INCORPORATED BY REFERENCE.

22 § 33-2-403.

1 (a) The Director of Environmental Protection and Sustainability may designate as a
2 MODIFIED buffer [management] area an area of the buffer where an existing pattern of
3 residential, commercial, industrial, or institutional development prevents the buffer from
4 fulfilling the water quality and habitat protection functions under COMAR 27.01.09.

5 (b) (1) In designating MODIFIED buffer [management] areas, the Director shall
6 adopt regulations governing development and redevelopment in these areas.

7 (2) The regulations may require onsite or offsite mitigation or alternative
8 measures to fulfill water quality and habitat protection functions.

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10 SECTION 4. AND BE IT FURTHER ENACTED, that the Baltimore County Zoning
11 Regulations shall read as follows:

12

SECTION 101A

13

Critical Area Definitions

14

§ 101A.1 Terms applicable in Chesapeake Bay Critical Area.

15

CHESAPEAKE BAY CRITICAL AREA

16

[Separately and in sum, all lands and water designated on the official Critical

17

Area Map of Baltimore County as intensely developed areas or limited

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development areas and on the official Zoning Map of Baltimore County as R.C.20

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Zones or R.C.50 Zones, pursuant to the Annotated Code of Maryland, Natural

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Resources Article, Section 8-1807(c).] ALL LAND AND WATER THAT IS

21

DESIGNATED ON THE OFFICIAL COUNTY CHESAPEAKE BAY

22

CRITICAL AREA MAP IN ACCORDANCE WITH § 8-1807 OF THE

23

NATURAL RESOURCES ARTICLE OF THE ANNOTATED CODE OF

24

MARYLAND.

1 INTENSELY DEVELOPED AREA (IDA)

2 An overlay area delineated on the official COUNTY Chesapeake Bay Critical
3 Area Map [of the county] in accordance with COMAR 27.01.02.03.

4 LIMITED DEVELOPMENT AREA (LDA)

5 An overlay area delineated on the official COUNTY Chesapeake Bay Critical
6 Area Map [of the county] in accordance with COMAR 27.01.02.04.

7 RESOURCE CONSERVATION AREA (RCA)

8 [An area zoned R.C.20 or R.C.50 on the official Zoning Map of the county] AN

9 OVERLAY AREA DELINEATED ON THE OFFICIAL COUNTY

10 CHESAPEAKE BAY CRITICAL AREA MAP in accordance with COMAR
11 27.01.02.05.

12 215.1

13 F. The Business Maritime Zones may be assigned to parcels which abut tidal waters or
14 which are contiguous to parcels abutting tidal waters and which are designated as
15 intensely developed area (IDA) or limited development area (LDA) on the official
16 COUNTY CHESAPEAKE BAY Critical Area Map [of Baltimore County], provided that
17 the location, configuration and physical conditions and access to an adequate public road
18 make the site suitable for commercial development, and further provided that the parcel
19 either was:

- 20 1. Designated IDA or LDA on or after June 13, 1988; or
- 21 2. Occupied by a water-dependent facility as defined by COMAR 27.01.03.01 on or
22 before June 13, 1988.

23

24 SECTION 5. AND BE IT FURTHER ENACTED, that this Act, having passed by

25 the affirmative vote of five members of the County Council, shall take effect on August

26 16, 2015.