

Ordinance 11-01

**PROPOSED COUNTY ORDINANCE TO AMEND CHAPTER 14 TEXT:**

The proposed amendment would modify Chapter 14 as follows, with underlined text for new wording and ~~strikethrough~~ for deletion with Chapter 14 text in italics:

**Chapter 14:1**

**CHESAPEAKE BAY CRITICAL AREA ACT**

**Part 6**

**Use and Development Regulations in  
Critical Area District**

ARTICLE XI

**Critical Areas Buffer Performance Standards**

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*§14:1-53. Specific provisions for Buffer ~~exempted~~ Exempt areas Areas. [Amended 10-17-1997 by Ord. No. 97-07]*

*~~A. Scope. The following special provisions apply to development and redevelopment in mapped Buffer exemption areas (BEAs) in IDA, LDA and RCA.~~*

*~~A. B. Intent. The following provisions are intended to accommodate limited use of shoreline areas that have been mapped as Buffer exemption Exempt areas Areas (BEAs) under the provisions of this Chapter 14:1, while protecting water quality and wildlife habitat to the extent possible.~~*

*~~B. C. Applicability. This section applies only to new development or redevelopment within 100 feet of tidal waters, tidal wetlands and tributary streams on lots of record as of December 1, 1985, and located in mapped Buffer exemption Exempt areas Areas as shown on the critical Critical area Area maps.~~*

~~D. Criteria~~

C. The following special provisions apply to development and redevelopment in mapped BEAs in the IDA, LDA and RCA:

- (1) *New development or redevelopment activities, including structures, roads, parking areas and other ~~impervious surfaces~~ lot coverage ~~or including~~ septic systems, will not be permitted in the Buffer ~~exemption~~ Exempt area ~~Area~~ unless the applicant can demonstrate and the Planning Director finds that there is no feasible alternative. Such findings shall document that the intrusion is the least necessary. A copy of the Planning Director's findings in this regard shall be available to the Critical Area Commission upon request. [provisions found in Chapter 18:1-62]*
- (2) *New development or redevelopment shall minimize the shoreward extent of intrusion into the Buffer ~~exemption~~ Exempt area ~~Area~~ and shall not exceed the shoreward extent of existing structures located on the property. In no case shall the intrusion into the Buffer ~~exemption~~ Exempt area ~~Area~~ encroach into a required yard under the terms of the underlying zone unless a variance thereto has been first granted.*
- (3) *Development may not impact any ~~habitat protection area~~ Habitat Protection Area (HPA) as defined in Section VI of the Queen Anne's County Critical Area Program, ~~except the Buffer.~~*
- (4) *No natural vegetation may be removed in the Buffer except that required by the proposed construction, and any other natural vegetation in the Buffer shall be maintained.*

~~D (5) Impervious surfaces shall be limited to 15% of the gross site area proposed for development except as follows: The following special provisions apply to development and redevelopment in mapped BEAs in the LDA and RCA:~~

- (1) ~~(a)~~ *If a parcel or lot ½ acre or less in size was a lot of record on or before December 1, 1985 then ~~man-made impervious surfaces~~ lot coverage associated with that use ~~are~~ is limited to 25% of the parcel or lot.*
- (2) ~~(b)~~ *If a parcel or lot ¼ acre or less in size was in nonresidential use on or before December 1, 1985, then ~~man-made impervious surfaces~~ lot coverage associated with that development ~~are~~ is limited to 25% of the parcel or lot. If a parcel or lot 8,000 square feet or less in size was a lot of record on or before December 1, 1985, then ~~man-made impervious surfaces~~ lot coverage on the lot area is limited to 25% of the parcel or lot, plus 500 square feet, provided:*

[a] ~~f~~ *New ~~impervious surfaces~~ lot coverage on the parcel or lot ~~have~~ has been minimized;*

[b] ~~f2~~ Stormwater quality impacts have been minimized through site design and/or use of best management practices agreed on by the County and the Critical Area Commission; and

[c] ~~f3~~ On-site mitigation is performed or payment of a fee-in-lieu is made to offset adverse water quality impacts.

- (3) ~~(e)~~ If a parcel or lot greater than 8,000 square feet but less than or equal to 21,780 square feet was a lot of record on or before December 1, 1985, then ~~man-made impervious surfaces~~ lot coverage on the lot ~~are~~ is limited to 31.25% of the parcel or lot, provided the requirements of §14:1-38D (8) (b) [1], [2] and [3] are met.
- (4) ~~(d)~~ If a parcel or lot greater than 21,780 square feet but less than or equal to 36,300 square feet was a lot of record on or before December 1, 1985, then ~~man-made impervious surfaces~~ lot coverage on the lot ~~are~~ is limited to 5,445 square feet, provided the requirements of §14:1-38D(8)(b)[1],[2]and [3] are met.
- (5) ~~(e)~~ If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then ~~man-made impervious surfaces~~ lot coverage of the lot may not exceed 25% of the lot. However, the total ~~of the impervious surfaces~~ lot coverage over the entire subdivision may not exceed 15%.
- (6) ~~(f)~~ These provisions do not apply to a legally existing manufactured home park that was in residential use on or before December 1, 1985.
- (7) ~~(g)~~ The Board of Appeals may grant a variance from the provisions of this subsection in accordance with Part 7 of this Chapter 14:1.

#### E. Buffer Mitigation.

- (1) Any development in the Buffer ~~exemption~~ Exempt area ~~Area~~ approved under the provisions of this subsection shall be mitigated as follows:
  - (a) The extent of the lot or parcel shoreward of the new development or redevelopment shall be required to remain, or shall be established and maintained, in natural vegetation; and
  - (b) natural vegetation of an area twice the extent of the ~~impervious surface~~ lot coverage must be created on the property or other similar location approved by the Planning Director.
- (2) Any required reforestation, mitigation or offset areas shall be designated under a development agreement or other instrument and recorded among the land records of Queen Anne's County.

(3) *If a person demonstrates to the satisfaction of the Planning and Zoning Office that mitigation requirements, on-site or off-site, cannot be reasonably accomplished, the person shall contribute money (a fee-in-lieu), at a rate to equal the total cost of creating forest land.*

(4) *The fees-in-lieu collected may only be used for projects within the ~~€~~ Critical Area for the benefit of wildlife habitat, water quality improvement or environmental education. These sites will be planted with more than one native species and will remain in a forest management plan held with the Maryland Forest*

## **Part 2 Definitions**

### **ARTICLE II Word Usage; Terms Defined**

§14:1-1. *Definitions.*

*When used in this Chapter 14:1, the following terms shall have the meanings herein ascribed to them.*

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~~**IMPERVIOUS SURFACE**—Any man-made surface that is resistant to the penetration of water.~~

**LOT COVERAGE** – the percentage of a total lot or parcel that is:

1. Occupied by a structure, accessory structure, parking area, driveway, walkway or roadway; or

2. Covered with gravel, stone, shale, impermeable decking, a paver, permeable pavement, or any manmade material.

3. Lot coverage does not include:

(a) A fence or wall that is less than one (1) foot in width that has not been constructed with a footer.

(b) A walkway in the Buffer or expanded Buffer, including a stairway, that provides direct access to a community or private pier;

(c) A wood mulch pathway; or

(d) A deck with gaps to allow water to pass freely.

1. Impermeable decks – Lot coverage includes the ground area covered or occupied by an impermeable deck, even when that deck does not directly touch the ground surface.

2. Stairways – Lot coverage does not include walkways or stairways in the Buffer that provide direct access to a community or private pier, all other stairs or walkways are considered lot coverage.

(e) Stormwater management and erosion control measures – Lot coverage does not include these practices when they are approved only for the specific purpose of performing stormwater management or erosion control.

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**INTRODUCED BY: Commissioner Dunmyer**

**DATE: February 22, 2011**

**PUBLIC HEARING HELD: June 29, 2011 @ 7:00 p.m.**

**VOTE: \_\_\_\_\_ Yea \_\_\_\_\_ Nay**

**DATE OF ADOPTION:**