

ARTICLE 4

OVERLAY DISTRICTS

4-100 INTRODUCTION: OVERLAY DISTRICTS

Overlay Districts are created for imposing special regulations in designated areas of the Town to accomplish the purposes set forth for each overlay district. For all Overlay Districts, except the Waterfront Renaissance Overlay District, the requirements shall be in addition to the Zoning District within which the lands placed in the overlay district lie.

In the Waterfront Renaissance Overlay District, the landowner may propose a development plan that deviates from the requirements for the underlying Waterfront District. The Development Plan for the Waterfront Renaissance Overlay District shall be submitted, reviewed and approved as provided for in Section 4-300.

Overlay districts shall be established in the same manner and by the same procedures as set forth in Article 2, Part 1.

4-200 DESIGN STANDARDS OVERLAY DISTRICT

4-201 Purpose

The Design Standards Overlay District is established to regulate exterior building treatments in order to:

- A. Protect and enhance property values by establishing exterior appearance standards to be met by all property owners,
- B. Cultivate a clear and consistent image for business operations,
- C. Bring about a general physical improvement of the area through coordinated private and public improvements, and
- D. Promote the public welfare.

4-202 District Boundaries

The district boundaries are indicated on the "Official Zoning Map, North Beach, Maryland" identified in Article 2 of this Ordinance.

4-203 Application

Within the District, the Design Standards set forth in the adopted "Town of North Beach Design Standards" shall apply to all new construction and exterior alterations of existing buildings regardless of use.

4-204 Administration

This article will be administered and enforced through the procedures for Site Plan Review described in Article 6 and the application and approval of a Building Permit and a Use and Occupancy Permit described in Article 7.

4-205 Permitted Uses

All uses permitted in the underlying zoning district shall be permitted in this Overlay District.

4-206 Special Exception Uses

All uses allowed as a special exception in the underlying zoning district are allowed in this Overlay District.

4-300 WATERFRONT RENAISSANCE OVERLAY DISTRICT

4-301 Purpose

The Waterfront Renaissance Overlay District is established to:

- A. Promote greater flexibility in the uses permitted and development standards required in the underlying district, allowing for the development of a mix of land uses that are compatible with each other and a waterfront location.
- B. Assure effective control over the location, type, and arrangement of uses appropriate to the waterfront district.
- C. Cultivate a clear and consistent image for new development within the Waterfront District and help ensure compatibility between new development and neighboring properties.
- D. Bring about a general physical improvement of lands in the district through coordinated and comprehensive development and redevelopment.
- E. Promote the integration of new streets and general pedestrian circulation patterns into the existing development pattern of North Beach
- F. Help achieve the purpose of the underlying Waterfront District as set forth in Section 3-106.
- G. Promote the public welfare and otherwise achieve the intent of this Ordinance.

4-302 District Boundaries

The boundaries of the Waterfront Renaissance Overlay District are indicated on the Official Zoning Map of the Town of North Beach identified in Article 2 of this Ordinance.

4-303 Application

- A. In the overlay district, the owner or owners may file an application, on a form provided by the Zoning Administrator, for designation as a Waterfront Renaissance Project, which is necessary to permit the development of uses not permitted by right or special exception in the underlying district or otherwise vary the regulations of the underlying district as provided for in this Section.
- B. The application shall include a Development Plan as described in Section 4-304.
- C. The application and Development Plan, must be approved by the Zoning Administrator prior to approval by the Planning Commission.

4-304 Development Plan

The application for waterfront renaissance project shall include a development plan, drawn to an acceptable scale, which shall show:

- A. A boundary survey and legal description of the property.
- B. A vicinity map at a scale not less than one inch equals 400 feet.
- C. Adjacent property owners, zoning districts, land uses, streets, and public lands.
- D. Existing topography and existing significant natural features.
- E. Proposed street, sidewalk and overall circulation system and parking facilities.
- F. Proposed lot layout.
- G. Proposed reservations for parks, recreational facilities, and/or open space and any proposed on-site easements for public use.
- H. Proposed location of land uses and all buildings by type, heights of all buildings and structures, front, side and rear setbacks.
- I. Proposed elevations of buildings by type prepared by a registered architect.
- J. Residential densities and use types, overall tract density, and floor-to-area ratio for the site.
- K. A tabulation of the total number of acres in the proposed project and the percentage thereof designated for each of the proposed dwelling types and land uses and open space.
- L. A statement describing the proposed stormwater management, water supply, sewerage disposal facilities and systems, streets and roads. A report showing the adequacy of these public facilities and services to serve the proposed development.
- M. A statement of the method intended to be used to assure that a consistent and compatible image for new development will be developed within the district, including architectural design, signage, and typical sections for streets and sidewalks.
- N. A statement of the method intended to be used to assure perpetual maintenance of those areas to be used for recreational or other common or quasi-public purposes.

- O. A statement of the method to be used to meet critical area requirements including mitigation and to promote overall environmentally sensitive design including alternatives to impervious surfaces. A statement of the amount of impervious surface area for the proposed project.
- P. A statement describing the market demand for the project and projected time frame for build-out, absorption rates, and projected sale prices.

4-305 Administration

- A. Except as noted in this section, this section will be administered and enforced through the procedures for Site Plan Review described in Article 6 and the application and approval of a Building Permit and Occupancy Permit described in Article 7.
- B. The Planning Commission may require that the developer provide, at developer costs, studies to support a Development Plan.
- C. The Planning Commission may require the developer to establish an escrow account in the amount of at least \$7,500 from which the Planning Commission shall retain, at its discretion, experts to review the Development Plan and/or supporting materials and advise it on such matters. Any monies remaining from the escrow account shall be returned to the Developer when the Use and Occupancy permits are obtained.

4-306 Permitted Uses, Special Exception Uses

- A. All uses permitted by right or by special exception in the underlying district shall be permitted by right in the overlay district.
- B. No building or use shall occupy a location other than indicated on an approved Development Plan.

4-307 Development Standards

- A. The Planning Commission may authorize and/or require deviation from the requirements as set forth in Article 5 in association with the review and approval of the Development Plan.
- B. The Planning Commission may authorize and/or require deviation from the development standards for townhouse and multi-family dwellings set forth in Section 5-200 upon finding that such deviations will help achieve the purposes of this section.
- C. The Planning Commission may authorize and/or require deviation from the parking requirements of this Ordinance upon finding that such deviation is needed to achieve the purposes of this section and will not have a deleterious effect on parking availability and traffic congestion on the project site or within the neighborhood.
- D. Any material change as described in **Section 4-208D** to an approve Development Plan shall require amendments to the Development Plan and the approval by the Planning Commission of such amendments as noted in Section **4-308**.

4-308 Procedures for Approval of Development Plan

- A. In reviewing the application, the Planning Commission shall consider the purposes of the overlay district with a view toward achieving a maximum of safety, convenience, beauty, amenity and economic vitality for users of the planned development and town residents and visitors in general.

To these ends the Commission shall consider the location of buildings, parking areas, and other features with respect to the topography of the lot and its existing natural features; the efficiency, adequacy, and safety of the proposed layout of internal streets, sidewalks, and driveways; the adequacy and location of the green areas provided; the location and screening of parking lots; the consistency in building patterns, architectural styles, and signage; the compatibility of the project with the Town as a whole, the relationships between and compatibility among the different uses proposed and the means shown for buffering any incompatible uses from each other; the adequacy of documents concerning the ownership and maintenance of the common land; the adequacy of reports documenting the market demand for the project and the adequacy of facilities and services impacted by the project; and such other matters as the Planning Commission may find have a material bearing upon the stated purposes of the overlay district.

- B. If the Planning Commission finds that a proposed Development Plan meets the purposes and standards of these regulations, it shall recommend that the Development Plan with modifications and/or conditions be approved by the Town Council.
- C. After the Town Council has approved a Development Plan, application may be made for the approval of a subdivision plan for all or part of the area included in the Development Plan, subject to the requirements of the North Beach Subdivision Regulations, and/or application may be made for the approval of a Site Plan, subject to the requirements of Article 6 of the Ordinance.
- D. Any departure from the proposed Development Plan without approval by the Planning Commission shall be cause for revocation of the approved overlay district application and any permits approved. Any material change in an approved Development Plan shall be submitted for approval in accordance with the requirements for new developments in this section. At minimum, material change shall include change in the following:
1. The proposed use of any portion of the land, including open space.
 2. Residential density and use types (reductions in density of up to 10% shall not be considered material).
 3. Overall tract density types (reductions in density of up to 10% shall not be considered material).
 4. Street or sidewalk layout and entrance locations (minor alignment changes shall not be considered material).
 5. The use of buffering, screening, landscaping, and other means of separating different and incompatible land uses from each other (minor changes necessitated by detailed engineering considerations in site design shall not be considered material).
 6. Overall architectural style and building patterns, and the layout of buildings on lots (minor changes necessitated by detailed engineering considerations in site design shall not be considered material).

4-309 Expiration and Extension

- A. Approval of a Development Plan submitted under the provisions of this Article shall expire two (2) year after the date of such approval unless final Category I site plan approval, per Article 6, has been obtained.
- B. The Planning Commission may grant one-year extensions, at its sole discretion, based on a presentation by the applicant at a Planning Commission meeting and on the information provided by the applicant concerning reasons why the project was unable to proceed in a timely manner.

4-400 FLOODPLAIN OVERLAY DISTRICT

4-401 Purpose

The Floodplain Overlay District is established to provide for safety from flood and other dangers, and to protect against loss of life, health, or property from flood or other dangers.

4-402 District Boundaries

The boundaries of the Floodplain Overlay District shall be the area within the Town boundaries designated Zones A5 and A7 (Tidal Flood Plain) and Zone V8 (Coastal High Hazard Area) on the official Flood Insurance Rate Map (FIRM), which is maintained by the Federal Emergency Management Agency (FEMA).

4-403 Application

Within the District, the provisions of the adopted Floodplain Ordinance shall apply.

4-404 Administration

This article will be administered and enforced through the procedures for Site Plan Review described in Article 6 and the application and approval of a Building Permit and a Use and Occupancy Permit described in Article 7.

4-405 Permitted Use

All uses permitted in the underlying zoning district shall be permitted in this Overlay District.

4-406 Special Exception Uses

All uses allowed as a special exception in the underlying zoning district are allowed in this Overlay District.

4-407 Variances

Any variances allowed shall meet the requirements specified in Article 11, Section 11 of the adopted Floodplain Ordinance.

4-500 CRITICAL AREA OVERLAY DISTRICT

4-501 Purpose

The purpose of the Critical Area Overlay District is to implement zoning regulations and measures designed to protect and enhance water quality and other natural resources located within the Town's Critical Area. The geographic area for which the following district regulations apply, shall be those lands and waters located within one thousand feet of the landward boundaries of all tidal waters and tidal wetlands in the Critical Area as designated on the Town of North Beach Critical Area Overlay Maps. The intent of this district is to provide special regulatory protection for the natural resources located within the Town Critical Area by requiring more sensitive development activity.

4-502 District Boundary

The boundary of the Critical Area Overlay District is established upon approval and adoption of the Town of North Beach, Chesapeake Bay Critical Area Protection Program. The boundary is identified on the official Critical Area Overlay District Maps identified in Section 2-103 of this ordinance. This district is further divided into three land use designations:

Intensely Developed Areas (IDAs);

Limited Development Areas (LDAs); and

Resource Conservation Areas (RCAs).

These land use designation areas correspond to the definitions established in the Chesapeake Bay Critical Area Criteria COMAR 14.15, as amended, for each area and specifically as identified on the Town of North Beach Critical Area Maps, adopted as part of the Town's Chesapeake Bay Critical Area Protection Program. Mapped land use designations are based on land uses established on or before December 1, 1985, except for areas where land classification may be changed by granting the Growth Allocation (GA) floating district classification.

4-503 Application

A. Density Provisions

1. Density in the Intensely Developed Areas (IDAs) shall be as established by the underlying base zone.

2. The density of a development and minimum lot sizes permitted within a Limited Development Area (LDA) shall be governed by prescriptive densities within the applicable underlying base zoning districts. However, in underlying base zoning districts that permit residential use, density may not exceed 3.99 units per acre. Determination of density shall be based on the gross site area of the parcel prior to development or subdivision.
3. Industrial, commercial and residential development are not permitted in wetlands designated as Resource Conservation Areas (RCA).
4. Minimum lot sizes shall be governed by standards applicable to the underlying base zoning districts.

B. General Provisions

1. Except as provided in Section D. of this article, (Buffer Exemption Area Provisions), permitted uses, accessory uses and special exception uses shall be limited to those permitted within the existing applicable underlying base zoning district, as shown on the Official North Beach Zoning Maps.
2. Existing residential, industrial and commercial facilities, including aquaculture facilities, shall be allowed in the RCA. However, additional land may not be zoned for residential, industrial or commercial development in the RCA.
3. The following uses are prohibited in the Critical Area due to their high potential for adverse impact on plant and wildlife habitats and water quality, unless it has been demonstrated that the activity will create a net improvement in water quality to the adjacent body of water:
 - a. Non-maritime heavy industry; and
 - b. Transportation facilities and utility transmission lines except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters.
4. The following uses are prohibited in the Critical Area:
 - a. New solid or hazardous waste collection or disposal facilities, excluding dumpsters and trash receptacles;
 - b. New sanitary landfills;
 - c. New sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities; or
 - d. New commercial and industrial maritime or related facilities in the Buffer within Resource Conservation Areas (RCAs).
5. If additional Habitat Protection Areas as described in Program 9, Plan 3, Rare Species and Plan 4, Plant and Wildlife Habitat of the Town's Critical Area Protection Program are found to occur within the Town limits, a public hearing shall be held on the identification of and the protection measures set forth for the newly designated species and essential habitat.

C. Buffer Requirements: The following requirements shall apply within the Critical Area Overlay District:

1. A Buffer (hereafter referenced as Buffer with a capital B) of undisturbed natural vegetation must be established for a minimum of 100 feet from the Mean High Water of tidal waters, or the landward edge of tributary streams and tidal wetlands.

Except as provided for water-dependent facilities in Section G, below, new development activities including structures, roads, parking areas and impervious surfaces are not permitted in the Buffer.

2. The Buffer shall be expanded to include contiguous sensitive areas on the parcel whose development or disturbance may impact streams, wetlands, or other aquatic environments. The expanded Buffer must be shown on plans required for such development.

Sensitive areas to be included in the expanded Buffer include the following: 1) Hydric soils and soils with hydric properties as designated by the Soil Conservation Service; 2) Highly erodible soils with a K value greater than 0.35 and slopes greater than five percent (5%); and 3) Steep slopes greater than fifteen percent (15%). The Buffer shall be expanded according to the following rules:

- a. When the site of the proposed land disturbance drains to a slope greater than fifteen (15) percent contiguous to the Buffer, the Buffer shall be expanded four (4) feet for every percent of slope over fifteen (15) percent or to the top of slope, whichever is greater, but in no case more than ten (10) feet beyond the top of the slope greater than fifteen (15) percent.
 - b. Buffer shall be expanded to the upland limit of adjacent hydric soils, soils with hydric properties, and erodible soils, within the Critical Area, whichever is less.
3. No cutting or clearing of trees or natural vegetation is permitted in the Buffer except that limited cutting or clearing of trees is permitted for the following purposes under an approved Forest Management Plan:
 - a. For personal use, providing that Buffer functions are not impaired and trees cut are replaced;
 - b. To prevent trees from falling and blocking streams, causing damage to dwellings or other structures, or resulting in accelerated erosion of the shore or stream bank;
 - c. In conjunction with horticultural practices used to maintain the health of individual trees;
 - d. To provide access to private piers;
 - e. To install or construct an approved shore erosion protection device or measure; or
 - f. To protect forests from extensive pest or disease infestation or threat from fires if approved by the Department of Agriculture or the Bay Watershed Forester.
 4. Commercial cutting of trees in the Buffer is limited to the selective cutting of trees or clear cutting of Loblolly Pines and Tulip Poplar to within 50 feet of the landward edge of the Mean High Water Line of tidal waters, perennial tributary streams and tidal wetlands. Commercial harvesting (any method) is permitted to the edge of intermittent streams.
 5. Commercial harvesting of trees must be conducted in conformance with requirements of the Town's Critical Area Protection Plan and in conformance with a Buffer Management Plan approved by the Maryland Forest, Park and Wildlife Service.

- D. Buffer Exemption Area Provisions: The following special provisions apply in the Buffer Exemption Areas in the IDA:

1. Permitted Uses:
 - a. New development or redevelopment consistent with the provisions of this section provided that the Development and Redevelopment Rules and Offsetting Requirements set forth below are observed.
 - b. Shore Erosion Protection Measures provided that such measures are consistent with the Town's shore erosion protection policies contained in the North Beach Critical Area Protection Program and provided that the measure has obtained all applicable State and Federal permits.
 - c. No cutting or clearing of trees or natural vegetation is permitted in the Buffer except that limited cutting or clearing of trees under an approved Forest Management Plan is permitted for except as outlined in Section C.3. above.
2. Prohibited Uses:
 - a. Water polluting activities including, but not limited to, storage of vehicles, fuel or chemicals.
3. Development and Redevelopment Rules:
 - a. Existing Structures - The expansion or redevelopment of existing structures in the Buffer Exemption Areas may not increase impervious surfaces and shall not result in greater than a 25 percent increase in the total site area in impervious surface within the Buffer Exemption Area as existed at the time of adoption of the Town's Critical Area Protection Program. Offsetting of such increased impervious surfaces, as described below, shall be required.
 - b. Removal of Existing Structures - When a structure within the Buffer Exemption Area is removed or , destroyed, it may be replaced, insofar as possible, no closer than 100 feet from the edge of tidal waters, tidal wetlands or tributary streams. In such cases where a setback line exists as defined by structures on adjacent lots or parcels, the structure may not be replaced shoreward of that line. Any impervious surfaces created greater in extent to pre-existing impervious surfaces within the Buffer Exemption Area shall be offset as described below.
 - c. New Development - New development in the Buffer Exemption Area shall minimize the shoreward extent of impervious surfaces insofar as possible taking into consideration existing Town yard setback requirements and other such factors. In no case may such impervious surfaces be extended shoreward of any setback lines as defined by existing structures on adjacent lots or parcels.
 - d. Offsetting Requirements - New development or redevelopment in the Buffer Exemption Area which causes impervious surfaces as described above shall be required to offset for such development as follows:
 - (1) 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

- (2) Natural vegetation of an area twice the extent of the impervious surface created in the Buffer Exemption Area shall be planted in a Buffer Exemption Offset Area or other location as may be determined by the Town. The Town may collect fees in lieu of such planting.

E. Development Standards in Intensely Developed Areas (IDAs): All development and redevelopment in IDA's shall be subject to the following standards and/or conditions, in addition to those established in other sections of this ordinance, except that development on lots qualifying under Article 7, 7-206 must only comply with these provisions insofar as possible as determined by the Planning Commission:

1. All sites for which development activities are proposed, and which require subdivision approval or site plan review and approval, shall identify environmental or natural features on that portion of site within the Critical Area;
2. No structure or uses associated with development in an Intensely Developed Area shall be permitted within the Buffer, except for water-dependent facilities, unless the site is within a Buffer Exemption Area;
3. Development and redevelopment shall be subject to the Habitat Protection guidelines in the North Beach Critical Area Protection Program;
4. Development and redevelopment shall be required to install stormwater management practices appropriate to site development which achieve a ten (10%) percent reduction of pre-development pollutant loadings.
 - a. In the case of redevelopment, if these technologies do not reduce pollutant loadings by at least 10 (10%) percent below the level of pollution on the site prior to redevelopment, then offsets shall be provided.
 - b. In the case of new development, offsets as determined by the local jurisdiction shall be used if they reduce pollutant loadings by at least 10 percent of the predevelopment levels.
 - c. Offsets may be provided either on or off site in an area approved by the Mayor and Council, provided that water quality benefits are equivalent, that their benefits are obtained within the same watershed, and that the benefits can be determined through the use of modeling, monitoring, or other computation of mitigation measures such as outlined by the Critical Area Commission and Maryland Office of Environmental Programs in "A Framework for Evaluating Compliance with the 10% Rule in the Chesapeake Bay Critical Area", October 1987 or a comparable methodology approved by the Town.
5. Development and redevelopment projects shall delineate those site areas not covered by impervious surfaces that are to be maintained or established in vegetation. Where vegetation is not proposed, the developer shall demonstrate why plantings for such portions of the site are impracticable. The types of planting and vegetation proposed shall be in accordance with guidelines established in Section G., below.
6. A minimum twenty-five (25) foot Buffer shall be maintained around all non-tidal wetlands as identified in the North Beach Critical Area Protection Program where development activities or other activities which may disturb the

wetlands or wildlife contained therein shall be prohibited unless it can be shown that these activities will not adversely affect the wetland; and

7. Development and redevelopment projects that propose shore erosion protection must demonstrate that significant shore erosion is occurring on the site. Development and redevelopment projects shall install vegetative shore erosion control measures (where feasible and where appropriate) on portions of the site proposed for development and near such portions if the shore erosion threatens the proposed development portion. Where control of shore erosion cannot be accomplished by vegetative measures and structural measures are required, proposed development must either:
 - a. Construct appropriate structural measures to control shoreline erosion on sites proposed for development consistent with the policies established in Program 4, Shore Erosion Protection of the North Beach Critical Area Protection Program; or
 - b. Set back the development behind the Buffer based on the annual shore erosion-rate. To determine the setback, published data on annual erosion rates for the site must be used. (If two or more published rates are available, the highest rate must be used.) If published data is not available, either the annual rate is assumed to be two (2) feet per year or the developer shall do a technical study to determine the annual erosion rate. The setback shall be the annual erosion rate times twenty-five (25) years.
- F. Development Standards in Limited Development Areas (LDAs) and Resource Conservation Areas (RCAS): Development and redevelopment in an area designated Limited Development (LDA) or Resource Conservation (RCA) shall be subject to the following standards, except that development on lots of record qualifying under Article 7, Section 7-206 must comply with these regulations insofar as possible as determined by the Planning Commission:
1. All sites for which development activities are proposed, and which require subdivision approval or site plan review and approval, shall identify environmental or natural features on that portion of site within the Critical Area;
 2. Site development shall be designed to assure that those features or resources identified as Habitat Protection Areas are afforded protection as prescribed in the Program 9, Habitat Protection Area of Town of North Beach Critical Area Protection Program;
 3. Roads, bridges and utilities serving development shall be so located as to avoid disturbances to Habitat Protection Areas. When no alternative exists and such infrastructure must cross or be located in Habitat Protection Areas, the developer shall demonstrate how impacts to habitats have been minimized and that no feasible alternative location of such infrastructure exists;
 4. All development activities which cross, or are located adjacent to, streams in the Critical Area shall:
 - a. be designed in a manner to reduce increases in flood frequency and severity;
 - b. provided for the retention of natural stream bed substrate;
 - c. minimized adverse impacts to water quality and stormwater runoff; and
 - d. retain the existing tree canopy;

5. Development activities shall be located and designed to provide for the maintenance of the wildlife and plant habitats on the existing site and to maintain continuity with those on adjacent site. 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.
6. Forest and development woodlands, as defined by the Town Critical Area Protection Program, shall be created or protected in accordance with the following:
 - a. When forests or developed woodland exists on the site and proposed development requires the cutting or clearing of trees areas proposed for clearing shall be identified on the proposed development plan. The developer shall submit plans for development and areas to be cleared to the Maryland Forest, Park and Wildlife Service for comments and recommendations and shall transmit the comments to the Planning Commission. A grading permit must be obtained prior to any clearing or cutting associated with proposed development and in addition, cutting or clearing which is associated with development shall be subject to the following limits and replacement conditions.
 - (1) All forests cleared or developed shall be replaced on not less than an equal area basis on the site or on an alternative site approved by the Planning Commission as per Section (2) through (7) below, or a fee-in-lieu may be assessed and collected by the Mayor and Council per the Town's Critical Area Protection Program.
 - (2) No more than twenty (20%) percent of the forested or developed woodland within the site proposed for development may be removed (except as provided for in (3) and (4) below) and the remaining eighty (80%) percent shall be maintained as forest cover through the use of appropriate instruments (e.g., recorded restrictive covenants). Removal of forest or developed woodland cover in the Buffer is prohibited;
 - (3) The clearing of forest or developed woodlands up to twenty (20%) percent shall be replaced on an area basis of one to one. A developer may propose clearing up to thirty (30%) percent of the forest or developed woodland on a site, but the trees removed in excess of twenty (20%) percent must be replaced at the rate of 1.5 times the area removed;
 - (4) If more than thirty (30%) percent of the forest on a site is cleared, the forest is required to be replanted at three (3) times the total area extent of the cleared forest;
 - (5) If the cutting of forests occurs before a grading permit is obtained, the forest is required to be replanted according to the above requirement (4);
 - (6) Surety in the form of a performance bond or other means acceptable to the Town Attorney shall be provided in an amount suitable to assure forest replacement as required;
 - (7) The forests and developed woodlands required to be retained or created through afforestation shall be maintained through restrictive covenants, easements, or similar instruments in a form approved by the Town Attorney.

7. Development on slopes greater than fifteen (15%) percent shall be prohibited unless such development is demonstrated to be the only effective way to maintain or improve slope stability;
8. Impervious surfaces shall be limited to fifteen (15%) percent of the gross site area. However, impervious surfaces on any lot not exceeding one (1) acre in size in a subdivision approved after June 1, 1986 may be up to twenty five (25 %) percent of the lot; and
9. A minimum twenty-five (25) foot Buffer shall be maintained around all non-tidal wetlands as described in Program 9 of the North Beach Critical Area Protection Program where development activities or other activities which may disturb the wetlands or wildlife contained therein shall be prohibited unless it can be shown that these activities will not adversely affect the wetland; and
10. If a proposed development activity is shown to be water-dependent, of substantial economic benefit or cause unavoidable and necessary impacts to the wetlands, then a plan for mitigation of wetlands shall be prepared by the applicant. Comments on mitigation plans must be obtained from the appropriate agencies from Maryland Department of Natural Resources and Department of the Environment.

Once an approved mitigation plan is submitted, the Town will require a surety or bond from the applicant to ensure that the plan is implemented and a viable wetland system is established. Copies of all applicable permits and correspondence from the U.S. Army Corps of Engineers and the State of Maryland must be submitted to the Town.

11. Development and redevelopment projects that propose shore erosion protection must demonstrate that significant shore erosion is occurring on the site. Development and redevelopment projects shall install vegetative shore erosion control measures (where feasible and where appropriate) on portions of the site and proposed for development and near such portions if the shore erosion threatens the proposed development portion. Where control of shore erosion cannot be accomplished by vegetative measures and structural measures are required, proposed development must either:
 - a. Construct appropriate structural measures to control shoreline erosion on sites proposed for development consistent with the policies established in Program 4, Shore Erosion Protection of the North Beach Critical Area Protection Program; or
 - b. Set back the development behind the Buffer based on the annual shore erosion rate. To determine the setback, published data on annual erosion rates for the site must be used. (If two or more published rates are available, the highest rate must be used.) If published data is not available, either the annual rate is assumed to be two (2) feet per year or the developer shall do a technical study to determine the annual erosion rate. The setback shall be the annual erosion rate times twenty-five (25) years.

G. Woodland Reforestation and Afforestation Standards

1. Where reforestation or afforestation is required the following minimum standards shall be used within the Critical Area District:

- a. The replacement or establishment of forests or developed woodlands shall assure a diversified plant community, but may include other types tree plantings where necessary to correct an existing soil stabilization problem. Diverse forest planting shall include a canopy layer, an understory layer, and a shrub layer;
 - b. For each acre of land where woodlands must be replaced or established, plantings shall consist of trees and/or wildlife shrub species spaced approximately at twenty foot intervals between trunks in rows twenty feet apart between trunks, or other suitable spacing as determined by the Bay Watershed Forester on a site-by-site basis.
2. Planting Plans, Bonds, and Inspections - Required planting plans shall be prepared and submitted with the site plan or preliminary and final subdivision plat. A planting plan shall be included as a required public improvement with site plans of subdivision plats. The planting plan must demonstrate compliance with the minimum standards for reforestation and afforestation specified above. The planting plan shall show:
- a. The site plan, building outlines (remaining and proposed), walls, fences, parking spaces, loading spaces, driveways, walks, storage areas, public right-of-way, easements and the general location of structures and uses of abutting properties;
 - b. Existing and proposed grades;
 - c. Existing vegetative cover to be retained and the location, general size and type of such vegetation;
 - d. The methods for protecting plant materials after construction;
 - e. A plant schedule and plan listing plants to be used giving their botanical and common names, size at time of planting, and quality of each;
 - f. An indication of whether plants are balled and burlapped, container grown or bare root; and
 - g. An indication of the spacing and location of all proposed trees, shrubs and ground covers.
3. Plant Materials and Planting Schedule
- a. Although plant types should be chosen from the recommended plant list available from the Maryland State Bay Watershed Forester, plant types that vary from this list may be substituted with the approval of the local Bay Watershed Forester. Plants for afforestation or reforestation shall be approved by the Bay Watershed Forester for suitability in regard to the eventual size and spread, susceptibility to diseases and pests, and adaptability to existing soil and climate conditions.
 - b. All planting should be done in the month of March and April of each year. For the first two (2) years steps should be taken to control competing vegetation. Technical assistance from the State's Bay Watershed Forester is highly recommended.
4. The planting plan shall be accompanied by an estimate of the installation cost for all afforestation and reforestation. Upon approval of the plan and cost estimate, the developer or owner shall enter into an agreement with the Town of North Beach to provide plantings as required. The agreement shall be in form and substance as approved by the Town and shall be accompanied with a payment or posting of a bond or surety by the owner or developer in the amount of one hundred and twenty percent (120%) of proposed plant materials, labor and maintenance costs.

- a. If all afforestation or reforestation is not completed within two (2) years after the first spring planting date following recordation, or if the requirements set forth in the approved planting plan are not met, the surety shall be forfeited, or if a bond or surety has not been posted, payment in full to the Town shall be ordered. The funds, so received, shall be used by the Town to defray the cost of providing the approved Buffer afforestation or reforestation for the site.
 - b. If the foregoing costs exceed the amount of the deposit bond or other approved surety, the excess shall be a continuing obligation of the property owner.
 - c. All bonds or other forms of surety shall be in form acceptable to and approved by the Mayor and Council.
 - d. All security posted will be held for a period of two (2) years after installation of the planting, to assure the proper maintenance and growth. Failure to maintain or replace the dead portions of the planting shall result in a forfeiture of the surety posted to the extent necessary to replace the dead plant materials.
 - e. The Mayor and Council or their designee may from time to time release those portions of the surety which may be appropriate.
 - f. Where existing vegetation is to be used to meet the requirements contained herein, the surety requirement may be modified appropriately. However, to the extent that existing vegetation is or will be inadequate to meet the standards set herein, a planting plan meeting all of the requirements herein must be submitted.
5. All plantings shall be inspected by the Town or the Bay Watershed Forester upon notification by the developer or owner and shall be approved according to the following standards:
- a. The planting shall adhere to the approved plan. Substitutions or revisions may be made with the approval of the Bay Watershed Forester or the Planning Commission.
 - b. All plants shall be protected from vehicular encroachment by wheelstops, curbs or other barriers unless distance provides adequate protection.
 - c. No planting shall result in vegetative growth exceeding thirty-six (36) inches in height, within thirty (30) feet of any street intersection or otherwise obstruct sightlines.

H. Provisions for Water-Dependent Facilities

- 1. New buildings, structures, activities, and facilities permitted in the underlying zoning district (base zoning district) are prohibited within the Buffer, except the following, subject to the requirements below, and as a special exception after approval of the Board of Appeals:
 - a. Boat houses, community piers, individual private piers, docks, launching ramps, and mooring facilities.
 - (1) For community piers, only the following uses shall be permitted to locate in the Buffer: 1) mooring buoys and slips; 2) docks, piers, launching ramps, access roads, paths; and 3) loading/unloading areas.
 - (2) Where community or individual slips, piers, or mooring buoys are to be provided in a subdivision that is approved after the

date of the North Beach Critical Area Protection Program adoption, the number of slips, piers, mooring buoys shall be the lesser of (1) or (2) below:

- (a) Up to one slip for every fifty (50) feet of shoreline in subdivisions in the Limited Development Areas (LDA) and Intensely Developed Areas (IDA).
- (b) A density of slips, piers, or mooring buoys to platted lots or dwellings in the subdivision according to the following schedule:

<u>Platted Lots or Dwellings in the Critical Area</u>	<u>Slips and Moorings</u>
Up to 15	1 for each lot
16-40	15 or 75%, whichever is greater
41 – 100	30 or 50%, whichever is greater
101 –300	50 or 25%, whichever is greater
Over 300	75 or 15%, whichever is greater

- b. New commercial marinas and other related commercial maritime facilities where permitted in LDA and IDA, and uses accessory thereto, provided that non-water-dependent uses and activities shall not be located in the Buffer. Only the following, which are considered commercial marine "water-dependent" uses, shall be permitted in the Buffer: 1) moorings buoys and slips; 2) docks, piers, launching ramps, access roads and paths; 3) loading and unloading areas; 4) fueling areas; and 4) public areas.
 - c. Public beaches and other public water-oriented recreation and education facilities, uses and related structures, provided that non-water dependent uses and activities shall not be permitted in the Buffer. Only the following, which are considered public "water-dependent" uses may be permitted in the Buffer: 1) lifeguard stations; 2) nature study/passive recreation facilities with no structures or impervious surfaces; 3) moorings buoys and slips; 4) docks, piers, launching ramps, access roads and paths; and 5) loading and unloading areas.
 - d. Fisheries and related commercial water-dependent facilities, provided that non-water- dependent uses and activities shall not be permitted in the Buffer. Only the following, which are considered fisheries "water-dependent" uses, shall be permitted to locate in the Buffer: 1) docks, piers, launching ramps, access roads and paths; 2) seafood offloading docks; 3) fueling areas; and 4) shore facilities for aquaculture.
 - e. Research facilities operated by County, State or Federal Government agencies or educational institutions conducting marine related studies, provided non-water dependent structures associated with the project are, to the extent possible, located outside of the Buffer.
2. All applications for development of water-dependent uses in the Critical Area must include the following information:

- a. Water depth contours shown at two (2) foot intervals at mean low water taken by sounding (unless otherwise specified by the Town Planning Commission).
 - b. Existing and proposed regraded surface of the land.
 - c. Location of natural features and the drainage area of all nontidal wetlands.
 - d. Land within the 100 year floodplain.
 - e. Location of all existing and proposed structures.
 - f. Location of all existing or proposed site improvements including storm drains, culverts, retaining walls and fences.
 - g. Description, method and location of water supply and sewerage disposal facilities.
 - h. Mean high and mean low water line.
 - i. All existing and proposed piers, buoys, launching ramps, shore protection structures.
 - j. Location and dimensions of all areas to be dredged including present and proposed depths.
 - k. Volume of dredge spoil to be removed, type of material, location and dimensions of disposal area(s) including dikes.
 - l. Location of all existing and proposed land-based building and structures on the site and a description of uses and activities to be conducted in each.
 - m. Location and dimensions of all boat launching ramps.
 - n. Location and dimensions of all boat slips and mooring buoys.
 - o. Location of fuel dock and gasoline storage tanks.
 - p. Location of all required buffer/yards/building restriction lines.
3. Applications for water-dependent use shall be accompanied by the Water-dependent Facilities Checklist from the Town's Critical Area Protection Program and a written environmental assessment which indicates how the proposed project achieves the following criteria:
- 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 at the site;
 - 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 run-off, sewerage 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.
 - g. That dredged spoil, except for clean sand for beach nourishment, will not be placed within the Buffer or elsewhere in that portion of the Critical Area which has been designated as a Habitat Protection Area;
 - h. That interference with the natural transport of sand will be minimized; and
 - i. That no disturbance will occur to aquatic areas of historic waterfowl staging and concentration areas.

4-504 Administration

This article will be administered and enforced through the procedures for Site Plan Review described in Article 6 and the application and approval of a Building Permit and a Use and Occupancy Permit described in Article 7.

4-600 GROWTH ALLOCATION DISTRICT

4-601 Purpose and Intent

The GA Growth Allocation District is not mapped but is hereby designated for use within the Critical Area Overlay District on lands classified as Limited Development Areas (LDA). The purpose of the GA District is to designate areas of the Critical Area Overlay District where the Mayor and Council have approved change in the current land use designation on specific sites and for specific development projects so that they may be developed to the extent permitted by this ordinance and the new land use designation. Only specific development projects, the site plan or preliminary subdivision plat for which has been approved by the Mayor and Council, shall be approved for the GA Growth Allocation District classification and thereby receive Critical Area Growth Allocation.

4-602 Conditions of Approval

- A. A condition of approval of the GA Growth Allocation District is that the project shall be substantially completed within three (3) years of the date of approval. If, after three years, the project is not completed, the GA Growth Allocation Floating District classification may be withdrawn.
- B. The Planning Commission shall determine whether a project is substantially completed or not. Substantially completed projects are defined as projects in which all public improvements, such as roads, streets, community sewer and/or water facilities, etc., have been built, as required by the Town or State.
- C. The development of a proposed project must demonstrate that the following design standards will be met or exceeded in order to be approved:
 - 1. All applicable requirements of the Town of North Beach Critical Area Protection Program, the Zoning Ordinance and the Subdivision regulations.
 - 2. Limit the area of disturbance of non-residential development to no more than 60 percent of the total site area.
 - 3. The design of the development enhances the water quality and resource and habitat values of the area, e.g., results in additional planting of forest cover in the Buffer or implementation of the Best Management Practices for stormwater management.
 - 4. The development incorporates the comments and recommendations of Town and the Maryland Forest, Park and Wildlife Service in the project design.
 - 5. The developer executes restrictive covenants that guarantee maintenance of the required open space areas.

4-603 Process

The Town's Growth Allocation will be used on a project-by-project basis to permit densities that are consistent with the Comprehensive Plan, the Critical Area Protection Program, and the existing zoning when a specific development project is proposed. The following procedures will be following in determining if a site qualifies for Growth Allocation.

- A. Applicants for Growth Allocation will request that the Mayor and Council assign Growth Allocation to their project site.
- B. All applications for the Growth Allocation District Classification shall be accompanied by a project site plan, a subdivision plat prepared as per the requirements of the Town of North Beach Zoning Ordinance or Subdivision regulations.
- C. The Town staff, as appointed by Mayor and Council, will review concept, sketch, or comprehensive development plans submitted for consistency with the Town's Critical Area Protection Program and will provide technical comments and recommendations to the applicant prior to submission of preliminary site plans or plats. Permitted development density or intensity will be determined at this time, subject to the applicant obtaining approvals from local, state and federal authorities for such things as sewer, water, access, dredging permits, and Forest Management Plans.
- D. After the applicant has incorporated the staff's recommendations and obtained all necessary approvals, a preliminary site plan or subdivision plat may be submitted for Growth Allocation.
- E. Following the staff review, and after the applicant has addressed the recommendations to the staff, the Growth Allocation application will be revised by the Town of North Beach Planning Commission.
- F. A hearing to permit the public an opportunity to comment on the proposed use of the Town's growth allotment will be conducted by the Planning Commission prior to making a recommendation to the Mayor and Council. At least two (2) weeks must precede this hearing.
- G. Applications for Growth Allocation will be forwarded to the Critical Area Commission for approval after the Planning Commission has made their recommendations.
- H. The Mayor and Council shall only approve applications for Growth Allocation which have been approved by the Critical Area Commission.
- I. A final public hearing on the application for Growth Allocation and on amending the Critical Area Protection Program will be held by the Mayor and Council following at least fifteen days notice of the time and place of such hearing as published in a newspaper of general circulation in the Town.
- J. In approving an application for Growth Allocation, the Mayor and Council may establish conditions of approval that are consistent with the intent of the Town's Critical Area Protection Program.
- K. Following approval by the Mayor and Council, the applicant may proceed to the preparation of the final site plan or subdivision plat.

- L. Prior to approving final site plan or subdivision plat, the Planning Commission will ensure that all conditions of approval are incorporated into the final plan, public works agreement, deed covenants, etc.
- M. Final Subdivision Plats and Site Plans shall be processed as per the requirements of the Town of North Beach Zoning Ordinance and Subdivision Regulations.

4-604 Recording the Growth Allocation (GA) District

- A. The Official Critical Area Map(s) will be amended to reflect the new "GA" district classification along with a notation of the new land management classification.
- B. Successful projects granted the "GA" district classification will be submitted for final site plan or final subdivision approval as per the requirements of the zoning and/or subdivision regulations and shall delineate the Growth Allocation on the record plat or site plan.

4-700 HISTORIC OVERLAY DISTRICTS

4-701 Purpose

Historic Overlay Districts are established to:

- A. Safeguard the heritage of the Town by preserving areas and structures which reflect elements of its cultural, social, economic, political, or architectural history;
- B. Stabilize and improve property values in the area of historic districts and strengthen the local economy;
- C. Foster civic beauty;
- D. Promote the use and preservation of historic districts for the education, welfare and pleasure of the residents of the Town;
- E. Develop an awareness among property owners of the value of preserving, protecting and restoring areas of historical significance; and
- F. Enable the Town of North Beach government to identify and officially designate structures and sites of historical and cultural importance to the Town in order to make such structures and sites eligible for specific benefits conferred by this and other Town ordinances and policies which may be adopted.

4-702 District Boundaries

The boundaries of the Historic Overlay Districts are established under procedures of the "Town of North Beach Historic Preservation Ordinance". An Historic District as defined in that Ordinance shall be permitted as an Historic Overlay District in all zoning districts established under Article 3. Historic Overlay District boundaries are indicated on the "Official Zoning Map, North Beach, Maryland" identified in Section 2-102 of this Ordinance.

4-703 Permitted Uses

All uses permitted in the underlying zoning district shall be permitted in this Overlay District.

4-704 Special Exception Uses

All uses allowed as a special exception in the underlying zoning district are allowed in this Overlay District.

4-705 Limitations

- A. No Zoning Permit for a structure in a Historic Overlay District shall be issued for any proposed exterior structural and/or aesthetic changes without the filing of an Historic Work Area Permit and approval of the Historic District Commission.
- B. No building in an Historic Overlay District shall be razed or demolished without the approval of the Historic District Commission.