

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2002 Legislative Session

Bill No. CB-31-2002

Chapter No. _____

Proposed and Presented by The Chairman (by request – County Executive)

Introduced by Council Members Shapiro, Bailey and Hendershot

Co-Sponsors _____

Date of Introduction April 30, 2002

SUBDIVISION BILL

1 AN ACT concerning

2 Chesapeake Bay Critical Area

3 For the purpose of amending the Chesapeake Bay Critical Area Program; deleting certain
 4 language relating to the Chesapeake Bay Critical Area; permitting an intrafamily transfer without
 5 filing a subdivision plan; and generally relating to the Chesapeake Bay Critical Area Program.

6 BY repealing:

7 SUBTITLE 24. SUBDIVISIONS.

8 Section 24-150,

9 The Prince George's County Code

10 (1999 Edition, 2001 Supplement).

11 BY repealing and reenacting with amendments:

12 SUBTITLE 24. SUBDIVISIONS.

13 Sections 24-107, 24-115, 24-117,

14 24-132, and 24-151,

15 The Prince George's County Code

16 (1999 Edition, 2001 Supplement).

17 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 18 Maryland, that Section 24-150 of the Prince George's County Code be and the same is hereby
 19 repealed:

20 SUBTITLE 24. SUBDIVISIONS.

21 DIVISION 10. CHESAPEAKE BAY CRITICAL AREA PROTECTION.

Sec. 24-150. Reserved. [Legislative findings.]

[(a) The following findings are hereby made:

(1) The General Assembly of Maryland has enacted legislation creating a Chesapeake Bay Critical Area Protection Program codified in the Maryland Annotated Code, Natural Resources Article, Sections 8-1801, et seq., 1983 Edition, as amended.

(2) The General Assembly of Maryland has adopted certain criteria for development and growth to protect habitat and water quality in the Chesapeake Bay Critical Area.

(3) The criteria adopted by the State allow maximum future additional intense and limited development in the Chesapeake Bay Critical Area of only five percent (5%) of the total area designated as Resource Conservation Overlay Zone, and the criteria allow only fifty percent (50%) of the permissible growth increment in the designated resource conservation area.

(4) Prince George's County is required by the State law to develop a local program to implement the State mandated criteria.

(5) The quality of life of the citizens of Prince George's County will be enhanced by the effective implementation of the criteria to restore the quality and productivity of the waters of the County, the Chesapeake Bay, and its tributaries.

(6) The effective implementation of the criteria through the local program is necessary to provide proper planning and development in the best interests of the health, safety, and welfare of the citizens of Prince George's County.

(7) Development and implementation of the local program may be compromised unless limited restrictions are imposed on the subdivision of land within the Chesapeake Bay Critical Area.]

SECTION 2. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 24-107, 24-115, 24-117, 24-132, and 24-151 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 24. SUBDIVISIONS.

Sec. 24-107. Jurisdiction.

* * * * *

(c) The following shall be exempt from the requirement of filing a subdivision plat, except for any portion of land within a Chesapeake Bay Critical Area Overlay Zone unless otherwise noted below:

* * * * *

(11) In the Chesapeake Bay Critical Area Overlay Zone, the filing of a subdivision plat shall not be required if the land was subdivided:

(A) By any method in paragraphs 1 through 10, above, prior to October 30, 1989;

(B) By the method in paragraph (3), provided that the land to be conveyed lies outside the Critical Area Overlay Zone;

(C) By the method in paragraph (5), provided that the conveyance restricts use of the land to public uses in perpetuity.

(D) Subdivided by an intrafamily transfer pursuant to an approved Conservation Plan.

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DIVISION 2. APPLICATION PROCEDURES AND DOCUMENTS

Sec. 24-115. General description; procedures, documents, fees.

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[(f) Where the property proposed to be subdivided is located within a Chesapeake Bay Critical Area Overlay Zone, a Conservation Plan and a Conservation Agreement, prepared in accordance with the Conservation Manual, shall be submitted for review by the Subdivision Review Committee and approval by the Planning Board prior to, or concurrent with, preliminary plat of subdivision. Prior to its approval, the Planning Board shall find that the Conservation Plan and the Conservation Agreement are consistent with the Conservation Manual and contain provisions sufficient to minimize adverse impacts on the environment.

(1) Minor revisions of an approved Conservation Plan are defined in the Conservation Manual and may be made in accordance with the procedures set forth therein.

(g) Where the property is located within a Chesapeake Bay Critical Area, the Planning Board shall require such additional information from the applicant as is necessary to support specific findings to be made by the Planning Board that:

(1) The proposed development will minimize adverse impacts on water quality resulting from pollutants that are discharged from structures or conveyances or that have run-off from surrounding lands; and

(2) The applicant has identified fish, wildlife, and plant habitats which may be adversely affected by the proposed development and has designed the development so as to protect those identified habitats whose loss would substantially diminish the continued ability of populations of affected species to sustain themselves.]

Sec. 24-117. Procedures for minor subdivisions.

(a) Definition. In instances in which four (4) or fewer lots in a one-family residential zone are being created, or where filing a subdivision plat is optional, as provided in Section 24-107(d) or as provided in Section 24-108, the applicant may follow the procedure for a minor subdivision. [No applications filed under Division 6 of this Subtitle or for land located within Chesapeake a Bay Critical Area Overlay Zone, however, shall be considered a minor subdivision.]

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Sec. 24-132. Woodland conservation, tree preservation, clearing, replacement.

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[(b) For land located in the Chesapeake Bay Critical Area Limited Development or Resource Conservation Overlay Zones, cutting or clearing of trees shall be prohibited except that:

(1) Commercial harvesting of trees is permitted in conformance with a Forest Management Plan and Timber Harvesting Plan prepared by a registered, professional forester and approved by the Maryland Forest, Park and Wildlife Service;

(2) Individual trees may be cut for personal use provided that the cutting does not impair water quality or existing habitats;

(3) Individual trees may be removed which are in danger of falling or causing damage to dwellings or other structures or which are in danger of falling and thereby causing the blockage of streams, or resulting in accelerated shore erosion;

(4) Horticultural practices may be used to maintain the health of individual trees;

(5) Other cutting techniques may be undertaken under the advice and guidance of the Maryland Departments of Agriculture and Natural Resources, if necessary, to preserve the forest from extensive disease, infestation, or threat of fire; and

(6) Trees may be cut or cleared in accordance with an approved Conservation Plan and Conservation Agreement.

(c) In the Chesapeake Bay Critical Area Overlay Zones, trees removed pursuant to an approved Conservation Plan and Conservation Agreement shall be replaced in accordance with the Conservation Manual by reforestation, afforestation, or a fee in lieu of reforestation or afforestation may be paid. All fees in lieu shall be maintained in a specially created fund under the administration of the Director, Department of Environmental Resources, and shall be used solely for reforestation or afforestation in the Chesapeake Bay Critical Area Overlay Zones.]

[(d)](b) In the case of development comprised of lands zoned Residential, R-M, and M-X-T, for which there is an approved single Conceptual Site Plan applicable to all of the properties, the Woodland Conservation/Afforestation Threshold shall be in accordance with the requirements for the M-X-T Zone.

SUBTITLE 24. SUBDIVISIONS.

DIVISION 10. CHESAPEAKE BAY CRITICAL AREA PROTECTION.

Sec. 24-151. Limitation on subdivision approval.

No application for preliminary [plat] plan of subdivision for land within a Chesapeake Bay Critical Area Overlay Zone shall be approved without an approved Conservation Plan prepared in conformance with the Conservation Manual [and Conservation Agreement, except in the case of a one-time only subdivision of land solely for the purpose of bona fide intrafamily transfers as defined in the Annotated Code of Maryland, Natural Resources Article, Section 8-1808.1. Bona fide intrafamily transfers are controlled by Section 24-107 and Section 27-548.17].

SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect thirty (30) calendar days after it becomes law or when approved by the Chesapeake Bay Critical Area Commission, whichever is later.

Adopted this ____ day of _____, 2002.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Peter A. Shapiro
Chair

ATTEST:

Redis C. Floyd
Acting Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.