

ORDINANCE NO. 2558

AN ORDINANCE OF THE CITY OF SALISBURY TO AMEND CHAPTER 12.20 CHESAPEAKE BAY CRITICAL AREA NATURAL RESOURCES PROGRAM, SECTIONS .010.A., .010.B., .010.C., .020.A., .110.A., .110.B., .120.B., .102.B.50., .120.B.92., .140.A.2.d., .190.B., .260.C., .270.B., .280.A.1., .290.D., .300.A., .310.A., .320, .350.C.5., .410.B., .530 AND .530.E. OF THE SALISBURY MUNICIPAL CODE BY DELETING THE REFERENCES TO THE DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT AND REPLACING WITH THE DEPARTMENT OF INFRASTRUCTURE AND DEVELOPMENT, CORRECTING REFERENCES TO COMAR AND BY ADDING ARTICLE XIX, SECTION .540 TO ADD A SECTION FOR FEES AND COSTS.

WHEREAS, the Mayor and Council of the City of Salisbury re-organized the departmental structure of the City of Salisbury in 2017; and

WHEREAS, the section of the Municipal Code dealing with the Chesapeake Bay Critical Area Natural Resources Program cannot be altered without the prior approval of the State; and

WHEREAS, the Department of Planning, Zoning and Community Development was eliminated as part of the reorganization structure for the City of Salisbury; and

WHEREAS, the responsibilities of this department for the planning and zoning are handled by the newly created Department of Infrastructure and Development; and

WHEREAS, the State of Maryland has reorganized the Code of Maryland Regulations (COMAR) thereby making references to COMAR incorrect; and

WHEREAS, the Mayor and Council of the City of Salisbury desire to correct the COMAR references within the City Code; and

WHEREAS, Wicomico County currently administers the Critical Areas Natural Resources Program for Wicomico County and the City of Salisbury; and

WHEREAS, the City of Salisbury desires that the Department of Infrastructure and Development administer the Critical Areas Natural Resources Program for areas located within the City corporate boundary.

NOW, THEREFORE, be it enacted and ordained by the City of Salisbury, that Chapter 12.20 of the City of Salisbury Municipal Code be amended as follows:

Chapter 12.20 - Chesapeake Bay Critical Area Natural Resources Program

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Chapter 12.20 Chesapeake Bay Critical Area Overlay District

Article I - Introduction

Section 12.20.010 - Critical Area Program background.

A. The State's adopted Chesapeake Bay Critical Area Criteria require that the City of Salisbury Critical Area Program adhere to the general program criteria contained in COMAR ~~[[14.15.10]]~~27.01.10, Directives for Local Program Development. These criteria set forth the provisions for program preparation by the Critical Area Commission in determining that a local critical area program is complete. COMAR ~~[[14.14.10.01.F.]]~~27.01.10.01.G. states that **["local jurisdictions shall review and revise local plans, programs and regulations that are inconsistent with the intent of the policies and criteria."]** *“(Jurisdictions shall review and revise local plans, programs, and regulations that are inconsistent with the intent of the policies and criteria in this subtitle.”* At a minimum, and if applicable, the local review and revisions shall include zoning Ordinances, comprehensive zoning maps, subdivision regulations and growth management Ordinances. In addition, the criteria require the local jurisdiction to demonstrate that its local programs are adopted to meet the criteria and law and are enforceable.

B. Chapter 12.20 includes the special implementation provisions necessary to meet the requirements of COMAR ~~[[14.15.10]]~~27.01.10. These regulations are required to ensure that the City of Salisbury Critical Area Program is implemented.

C. Land use development standards and requirements established in this Chesapeake Bay Critical Area Overlay District Chapter implement the City of Salisbury's Critical Area Program consistent with the requirements of the Maryland Critical Area Law and the criteria, as adopted. These special provisions are adopted pursuant to Natural Resources Article, Title 8, Subtitle 18 of the Maryland Annotated Code and COMAR ~~[[14.15]]~~27.01 the Critical Area Criteria. This Chapter contains regulations which establish the critical area district, the land management classifications required to be established for all lands within the critical area and special regulatory provisions that apply to development of land for residential, commercial, industrial or institutional uses and agricultural, fishery or forestry activities in the City of Salisbury's Critical Area.

Article II - Purpose and Authority

Section 12.20.020 - Scope of regulations.

A. The purpose of this Chapter is to establish the critical area overlay district and to provide special regulatory protection for the land and water resources located within the Chesapeake Bay critical area in the City of Salisbury. Land use development standards and requirements established herein are intended to foster more sensitive development activity for shoreline areas and to minimize the adverse impacts of development activities on water quality and natural habitats. This Chapter implements the City of Salisbury's Critical Area Program and the requirements of the Maryland Critical Area Law and the Critical Area Criteria and is adopted

pursuant to Natural Resources Article, Title 8, Subtitle 18 and COMAR ~~[[14.15]]~~27.01, the Critical Area Criteria.

Section 12.20.110 - Chesapeake Bay Critical Area Certificate of Compliance.

12.20.110 – Chesapeake Bay Critical Area Certificate of Compliance.

A. No land may be disturbed nor may any building or structure be constructed, extended, altered, repaired, changed or converted to another use until the Department of ~~[[Planning, zoning and Community Development]]~~*Infrastructure and Development* has issued a final Chesapeake Bay critical area certificate of compliance.

B. No zoning authorization may be issued nor may any land be subdivided for the purpose of sale or exchange until the Department of ~~[[Planning Zoning and Community Development]]~~*Infrastructure and Development* has issued a final Chesapeake Bay critical area certificate of compliance.

Article V - Definitions and Word Usage

Section 12.20.120 - Definitions and word usage.

B. Definitions applicable to terms used in the critical area district not already contained herein shall be the same as those contained in the Chesapeake Bay Critical Area Criteria, COMAR ~~[[4.15.01]]~~27.01.01.

50. "Habitat Protection Plan" means a plan that provides for the protection and conservation of the species and habitats identified as Habitat Protection Areas in the Critical Area. The plan shall be specific to the site or area where the species ~~[[o]]~~ or its habitat is located and shall address all aspects of a proposed development activity that may affect the continued presence of the species. These include, but are not limited to, cutting, clearing, alterations of natural hydrology, and increases in lot coverage. In developing the Plan, an applicant shall coordinate with the Department of Natural Resources to ensure that the Plan is adequate to provide for long-term conservation and can be effectively implemented on the specific site.

92. "Program amendment" means any change or proposed change to an adopted Ordinance that is not determined by the Chairman of the Critical Area Commission to be ~~[[a]]~~ an Ordinance refinement.

Article VII - The 100-Foot Buffer

Section 12.20.140 - Applicability and delineation.

A. An applicant for a development activity or a change in land use shall apply all of the required standards for a minimum 100-foot Buffer as described in this Article, The minimum 100-foot Buffer shall be delineated in the field and shall be shown on all applications as follows:

2. The Buffer shall be expanded beyond the minimum 100-foot Buffer as described in §12.20.140 above and the minimum 200-foot Buffer as described in subsection A.3. below, to include the following contiguous land features:
 - d. For an area of hydric soils or highly erodible soils, the lesser of:
 - (1) The landward edge of the hydric or highly erodible soils; **[[o]]** *or*
 - (2) Three hundred feet where the expansion area includes the minimum 100-foot Buffer.

Section 12.20.190 - Required submittal of Buffer Management Plans.

B. Any permit for development activity that requires Buffer establishment or Buffer mitigation will not be issued until a Buffer Management Plan is approved by the City of Salisbury Department of **[[Planning, Zoning and Community Development]]***Infrastructure and Development*.

Section 12.20.260 - Approving authority.

A. Site plans accompanying individual building permit applications shall be approved by the City of Salisbury Planning and Zoning Commission or its designee. The Department of **[[Planning, Zoning and Community Development]]***Infrastructure and Development* may waive some or all of the site plan information requirements of Section 12.20.260 and may permit an applicant for an individual building permit to submit an abbreviated or minor site plan and environmental assessment, except where said projects are located in or adjoining an environmentally sensitive area.

Section 12.20.270 - Information required.

- B. A boundary survey plat of the entire site at a scale of not smaller than one inch equals fifty (50) feet unless otherwise specified or approved by the Department of **[[Planning, Zoning and Community Development]]***Infrastructure and Development*, showing the following:
1. Existing topography at two- or five-foot contour intervals. Datum shall be stated in all cases and a reference or bench mark described on the plat together with the elevation. The source of contours shall be stated on the plat, such as field run or aerial topography, etc. Interpolation of contours from United States Geological Survey (USGS) quadrangle maps will not be accepted;
 2. Slopes in excess of fifteen (15) percent and the specific identification of all soils with a slope of fifteen (15) percent or greater;
 3. Existing and proposed regraded surface of the land;
 4. The location of natural features such as streams, major ravines and drainage patterns on the parcel to be developed and the location of trees measuring greater than twelve (12) inches in diameter to be retained along with existing natural vegetation;
 5. Floodplain boundaries (one-hundred-year);
 6. An existing-conditions map, including natural and manmade features;
 7. The location and areal extent of all soils with septic limitations, wet soils, hydric soils and soils with hydric properties as shown on the Wicomico County soil survey.

Section 12.20.280 - Special provisions for water-dependent facilities.

A. All applications for development of commercial marinas, maritime commercial or industrial uses or other water-related uses, except private piers, in the critical area shall prepare a site plan as above and shall also include the following information:

1. Water depth contours shown at two-foot intervals at mean low water taken by sounding (unless otherwise specified by the Department of **[[Planning, Zoning and Community Development]]***Infrastructure and Development*);

Section 12.20.290 - Procedure for preparation.

A. Every site plan shall show the name and address of the owner and developer, the election district, north point, date, scale of the drawing and the number of sheets. Five clearly legible copies of all site plans shall be submitted to the Department of **[[Planning, Zoning and Community Development]]***Infrastructure and Development* (which may require that additional copies be provided when necessary).

Section 12.20.300 - Procedure for processing.

A. Upon receipt of the site plan, the Department of **[[Planning, Zoning and Community Development]]***Infrastructure and Development* shall conduct a review soliciting technical comments from other departments, agencies and officials as the Department of **[[Planning, Zoning and Community Development]]***Infrastructure and Development* may deem appropriate.

Section 12.20.310 - Construction of required improvements.

A. Upon final approval of a site plan and issuance of a final Chesapeake Bay critical areas certificate of compliance, the applicant shall then secure the necessary construction permits from appropriate agencies before commencing work. The applicant may construct only such improvements as have been approved by the Department of **[[Planning, Zoning and Community Development]]***Infrastructure and Development*.

Section 12.20.320 – Expiration and extension.

Approval of site plans shall be for a one-year period and shall expire at the end of that period unless building construction has begun. Upon written request by the applicant, within ninety (90) days of the expiration of said approval, a one-year extension may be given by the Department of **[[Planning, Zoning and Community Development]]***Infrastructure and Development*. Such request shall be acknowledged, and a decision rendered thereupon, not more than thirty (30) days after the filing of said request.

Section 12.20.350 – Standards.

C. Decisions.

The City of Salisbury Board of Zoning Appeals shall examine all facts of the case and render a decision. Variance requests in the critical area shall not be granted unless the decision is based on the following criteria:

5. That the granting of a variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the critical area district and that the granting of the variance will be consistent with the spirit and intent of the City of Salisbury's critical area program and associated Chapters as well as State law and regulations adopted under Subtitle 18 of the Natural Resource Article and COMAR ~~[[14.15]]27.01~~;

Section 12.20.410 – Amendment procedures.

B. Map amendments involving specific properties requested by the property owner shall be submitted to the Department of ~~[[Planning, Zoning and Community Development]]~~*Infrastructure and Development*.

Article XVIII – Violations and Enforcement

Section 12.20.530 – Violations and Enforcement.

Whenever a violation of this Chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint, stating in full the causes and basis thereof, shall be filed with the Department of ~~[[Planning, Zoning and Community Development]]~~*Infrastructure and Development*. The planning director shall properly record the complaint, immediately investigate and take action thereon as provided by this section.

A. Right to enter property.

Except as otherwise authorized and in accordance with the procedures specified herein, the Mayor and Council or their designee may obtain access to and enter a property in order to identify or verify a suspected violation, restrain a development activity, or issue a citation if The City of Salisbury has probable cause to believe that a violation of this Ordinance has occurred, is occurring, or will occur. The City of Salisbury ~~[[Planning, Zoning, and Community Development]]~~*Infrastructure and Development* Department staff shall make a reasonable effort to contact a property owner before obtaining access to or entering the property. If entry is denied, the City of Salisbury municipal government may seek an injunction to enter the property to pursue an enforcement action.

Article XIX – Fees And Costs

Section 12.20.540 – Fees and Costs

A. *All fees and costs charged by the City of Salisbury Infrastructure and Development Department in administering the Critical Areas Programs as set forth herein shall be set forth in the annual budget resolution.*

B. *All fees and costs collected by the City of Salisbury Infrastructure and Development Department in administering the Critical Areas Programs as set forth herein shall be deposited into a designated fund for the Critical Areas Programs.*


EXPLANATION:

* *ITALICIZED PRINT INDICATED MATERIAL ADDED TO EXISTING LAW.*
Deleted material from the existing Charter is indicated by bold double bracketed [[]] language.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE CITY OF SALISBURY, MARYLAND, that the Ordinance shall take effect upon final passage.

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the 26th day of August 2019 and thereafter, a statement of the substance of the ordinance having been published as required by law, in the meantime, was finally passed by the Council on the 9th day of September 2019.

ATTEST:

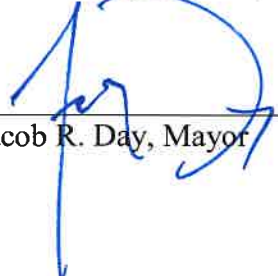


Kimberly R. Nichols, City Clerk



John R. Heath, City Council
President


Approved by me, this 10th day of SEP 2019.



Jacob R. Day, Mayor



City of
Salisbury
Jacob R. Day, Mayor

To: Julia Glanz, City Administrator
From: Amanda Pollack, P.E., Director of Infrastructure and Development 
Date: August 7, 2019
Re: Ordinance to modify Critical Area enabling ordinance

The State of Maryland adopted the Chesapeake Bay Critical Area legislation in 1984 with the intent of protecting the bay. These regulations require that local jurisdictions within the area develop their own program for implementation that adheres to the general criteria contained in Code of Maryland Regulations (COMAR). Salisbury's program has, until recently, been administered by Wicomico County. With the reorganization of the City's Public Works Department and the creation of the Department of Infrastructure and Development to include Planning functions, the administration of the Critical Area Program is now the responsibility of the Department of Infrastructure and Development.

To codify the changes, attached is an ordinance that: (1) modifies the department name, (2) updates COMAR references and (3) provides for fees and costs to be allocated to funds designated for the Critical Area Program.

Unless you or the Mayor have further questions, please forward a copy of this memo and the Ordinance to the City Council.