



**Council of the Town of Leonardtown
Emergency Ordinance No. 215
Subject: Critical Area Program**

Date Introduced on First Reading: February 13, 2023
Council Public Hearing: February 13, 2023
Date Passed (Second Reading Suspended): February ____, 2023
Date Effective: February ____, 2023

AN EMERGENCY ORDINANCE concerning

**CHAPTER 60 – CRITICAL AREAS OF THE CODE OF THE TOWN OF
LEONARDTOWN**

FOR the purpose of amending Chapter 60 – Critical Areas of the Code of the Town of Leonardtown, § 60-7 – Growth Allocation to correct certain minor errors inadvertently enacted by Ordinance No. 204; providing that the title of this Ordinance shall be deemed a fair summary; and generally relating to the Town of Leonardtown Critical Area Program.

RECITALS

WHEREAS, pursuant to Md. Code Ann., Local Gov’t § 5-202 and § 501(1) of the Charter of the Town of Leonardtown (the “Charter”), the Council of the Town of Leonardtown (the “Council”) is authorized and empowered to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or the Charter as they may deem necessary for the good government of the Town of Leonardtown (the “Town”); for the protection and preservation of the Town’s property, rights and privileges; for the preservation of peace and good order; to secure persons and property from danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the City and visitors thereto and sojourners therein; and

WHEREAS, pursuant to Md. Code Ann., Natural Resources § 8-1808(a)(1), the Council, as the legislative body for the Town, has primary responsibility for developing and implementing a Critical Area Program for the Town, subject to review and approval by the Maryland Critical Area Commission; and

WHEREAS, the Town's Critical Area Program was adopted on November 14, 1988 pursuant to Resolution No. 8-88, is currently codified as Chapter 60 of the Code of the Town of Leonardtown (the "Town Code"), and was last amended on January 11, 2021 pursuant to Ordinance No. 204; and

WHEREAS, Ordinance No. 204 contained certain minor errors relating to growth allocation that were not discovered upon the Maryland Critical Area Commission's (the "CAC") review thereof prior to its passage; and

WHEREAS, delay in resolving the minor errors in Chapter 60 inadvertently enacted pursuant to Ordinance No. 204 would delay consideration of certain pending projects for which growth allocation has been requested from the Town; and

WHEREAS, the Council is desirous of amending § 60-7 of the Town Code to correct those minor errors inadvertently enacted pursuant to Ordinance No. 204 as an emergency ordinance to minimize or eliminate any prejudice to those pending projects for which growth allocation has been requested from the Town; and

WHEREAS, this Emergency Ordinance has been submitted to the CAC for review and comment, and the CAC's comments are incorporated herein; and

WHEREAS, the Council finds that the amendments set forth herein would be in the best interest of the health, safety, and welfare of the citizens of the Town.

SECTION I. BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF LEONARDTOWN that Chapter 60 – Critical Areas of the Town Code be and it is hereby amended as follows:

§ 60-7. Growth allocation.

A. Growth allocation acreage and deduction.

(1) Growth allocation available to the Town includes:

(a) An area equal to 5% of the RCA acreage located within the Town; and

(b) Growth allocation available to the Town as provided for by St. Mary's County and in accordance with Resolution No. 2018-33.

(2) ~~The Town's original growth allocation acreage is 200 acres.~~ The Town's current growth allocation acreage remaining is 200 acres, provided to the Town from the county per Resolution No. 2018-33, as of January 11, 2021.

(3) A local jurisdiction shall deduct acreage from its growth allocation reserves in accordance with COMAR 27.01.02.06-4.

- B. Purpose. Growth allocation is available for use in an RCA or in an LDA in the Town's Critical Area Overlay District. The purpose is to authorize a change in the critical area classification to develop at a higher density or use than the current classification allows.
- C. Process. An applicant shall submit to the Town a complete application for growth allocation that complies with the submittal and environmental report requirements of COMAR 27.01.02.06-1 — .06-2. A growth allocation request shall be approved by the Mayor and Town Council prior to submission to the Critical Area Commission.
- D. Requirements. When locating new IDAs or LDAs, the following requirements apply:
- (1) **Except as set forth in Subsection E(2) below, a** A new IDA shall be at least 20 acres.
 - (2) No more than 1/2 of the Town's growth allocation may be located in RCAs except as provided in Subsection D(3) below.
 - (3) If the Town is unable to utilize a portion of its growth allocation as set out in Subsection D(2) above, then that portion of the growth allocation which cannot be so located may be located in the RCAs if the growth allocation is consistent with the Comprehensive Plan, as per Natural Resource § 8-1808.1, Annotated Code of Maryland.
- E. Standards.
- (1) When locating new IDAs or LDAs, the following standards shall apply:
 - (a) **Except as set forth in Subsection E(2) below, a** A new IDA shall only be located in an LDA or adjacent to an existing IDA.
 - (b) **Except as set forth in Subsection E(2) below, a** A new LDA shall only be located adjacent to an existing LDA or an IDA.
 - (c) A new LDA or IDA shall be located in a manner that minimizes impacts to HPA as defined herein and in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality;
 - (d) New IDAs shall only be located where they minimize their impacts to the defined land uses of the RCA;
 - (e) A new IDA or an LDA in an RCA shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters; and
 - (f) New intensely developed or LDAs to be located in RCAs shall conform to all criteria of the Town for such areas, shall be so designated on the Town's Critical Area Maps and shall constitute an amendment to this chapter subject to review and approval by the Planning and Zoning Commission, the Mayor and Town Council, and the Critical Area Commission as provided herein.

(2) The Town may use a portion of its growth allocation in a manner that varies from ~~the subsections above (adjacency standards)~~ **Subsections D(1) and E(1)(a) and (b) above**, provided that the area to receive growth allocation meets the following standards:

- (a) Any development will be serviced by public water and sewer.
- (b) The area is located in a priority funding area.
- (c) The development is consistent with the Comprehensive Plan; and
- (d) The development will have an overall economic benefit to the community, or implements a specific goal, objective or policy of the Comprehensive Plan.

SECTION II. AND BE IT FURTHER ORDAINED that the recitals to this Emergency Ordinance are incorporated herein and deemed a substantive part of this Emergency Ordinance.

SECTION III. AND BE IT FURTHER ORDAINED that, in this Emergency Ordinance, unless a section of the Town Code is expressly repealed in its entirety and reenacted, new or added language is underlined and in boldface type, and deleted text is crossed out with a single strikethrough. With respect to the substantive provisions of this Emergency Ordinance set forth in Section 1, language added after the date of introduction is in bold, italicized font and language deleted after the date of introduction is crossed out with a double strikethrough.

SECTION IV. AND BE IT FURTHER ORDAINED that, if any section, subsection, sentence, clause, phrase or portion of this Emergency Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Emergency Ordinance, it being the intent of the Council that this Emergency Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

SECTION V. AND BE IT FURTHER ORDAINED that all ordinances or parts of ordinances inconsistent with the provisions of this Emergency Ordinance are hereby repealed to the extent of such inconsistency.

SECTION VI. AND BE IT FURTHER ORDAINED that the title of this Emergency Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Emergency Ordinance for publication and all other purposes.

SECTION VII. AND BE IT FURTHER ORDAINED that this Emergency Ordinance shall become effective immediately upon passage by the affirmative vote of four-fifths of the Councilpersons following approval by the Mayor or immediately passage by the affirmative vote of four-fifths of the Councilpersons after veto by the Mayor, as the case may be, in accordance with the provisions of §§ 209 and 210 of the Charter.

Attest:

Councilpersons of Leonardtown:

Laschelle E. McKay
Town Administrator

J. Maguire Mattingly, IV
Vice President

Seal:

Nick Colvin
Councilperson

Heather Earhart
Councilperson

Christy Hollander
Councilperson

Mary Slade
Councilperson

This Ordinance was presented to the Mayor for his approval or disapproval pursuant to Section 210 of the Charter of the Town of Leonardtown this ___ day of _____, 2023.

Laschelle E. McKay, Town Administrator

In accordance with Section 210 of the Charter of the Town of Leonardtown, I hereby (Approve) or (Disapprove) _____ this Ordinance this ___ day of _____, 2023.

Daniel W. Burris, Mayor