

Amendment 3 Amendment No. 79 to Council Bill No. 28 -2023

**BY: The Chairperson at the Request
of the County Executive**

**Legislative Day 12
Date: October 11, 2023**

Amendment No. 3 to Amendment No. 79

(This Amendment to Amendment No. 79 makes the following changes:

- 1. In Chapter 3, Ecological Health, removes an action to develop open space percentage requirements for activity centers; provides that Green Building requirements will be updated; restores incentivizing natural resource protection and restoration while removing reference to the Green Neighborhood program; and removes an implementing action requiring that redevelopment shall meet new development stormwater requirements;*

- 2. In Chapter 11, makes corresponding changes to the changes made in chapter 3 to remove an action item requiring the development of open space; provides that the County will update Green Building requirements; restores implementing actions around incentivizing natural resource protection and restoration, without reference to the Green Neighborhood program; and removes an implementing action requiring that redevelopment shall meet new development stormwater requirements.)*

- 1 Substitute pages 1 and 2 of Amendment 79 with the attachment to this Amendment to
- 2 Amendment.
- 3
- 4 In Chapter 3, Ecological Health, substitute pages EH 7, 15 and 24 attached to Amendment No.
- 5 79 with the pages EH 7, 15 and 24 attached to this Amendment to Amendment. Add new pages
- 6 20A and 20B to Amendment No. 79.
- 7
- 8 In Chapter 11, Implementation, substitute pages IMP 15, 16, 17 and 18 attached to Amendment
- 9 No. 79 with the pages IMP 15, 16, 17 and 18 attached to this Amendment to Amendment.

Amendment 79 to Council Bill No. 28 -2023

BY: Deb Jung and Liz Walsh

Legislative Day 11

Date: 10/02/2023

Amendment No. 79

(This Amendment makes the following changes to HoCo by Design Chapter 3 and Chapter 11:

- Chapter 3: Ecological Health*
- *Removes all quotes;*
 - *Includes health hazards caused by airplanes in equity considerations;*
 - *Amends the EH-1 Policy Statement Implementing Actions to track outcomes of ecological health investments and provide maintenance and enforcement, ~~and adds an action to develop open space percentage requirements for activity centers;~~*
 - *Adds language regarding 2020 bird-friendly amendments to design standards;*
 - *Amends the EH-2 Policy Statement Implementing Actions to include resiliency in the title of the Climate Action Plan, ensure County departments align policies with ecological health goals, and adopt the International Green Construction Code and review and update Green Building requirements;*
 - *~~Deletes Within~~ the section Incentivizing Natural Resource Protection and Restoration including EH-4 Policy Statement and remove all the implementing actions removes reference to the Green Neighborhood program;*
 - *Amends the EH-5 Policy Statement Implementing Actions to incentivize existing commercial centers to provide stormwater management systems, reduce stormwater runoff and incorporate water quality management practices, increase the use of green stormwater infrastructure, ~~and add the requirement that redevelopment meets new development stormwater requirements;~~*
 - *Amends the EH-7 Policy Statement Implementing Actions to include invasive species removal in forest management;*
- Chapter 11: Implementation*
- *Amends the EH-1 Policy Statement Implementing Actions to track outcomes of ecological health investments and provide maintenance and enforcement, ~~and adds an action to develop open space percentage requirements for activity centers;~~*
 - *Amends the EH-2 Policy Statement Implementing Actions to include resiliency in the title of the Climate Action Plan, ensure County departments align policies with ecological health goals, and adopt the International Green Construction Code and review and update Green Building requirements;*
 - *~~Removed Amends~~ EH-4 Policy Statement and all the implementing actions to remove the Green Neighborhood program;*

- *Amends the EH-5 Policy Statement Implementing Actions to incentivize existing commercial centers to provide stormwater management systems, reduce stormwater runoff and incorporate water quality management practices, increase the use of green stormwater infrastructure, ~~and add the requirement that redevelopment meets new development stormwater requirements;~~*
- *Amends the EH-7 Policy Statement Implementing Actions to include invasive species removal in forest management.)*

1 In the *HoCo By Design* General Plan, attached to this Act as Exhibit A, amend the following
2 pages as indicated in this Amendment:

- 3 • Chapter 3: Ecological Health: 5, 7, 8, 11, 14, 15, 18, 19, 20, 21, 24, 26, 33, 42, 44, and
4 56 ~~and insert new 20A and 20B;~~ and
- 5 • Chapter 11: Implementation: 15, 16, 17, 18, and 20.

6 Correct all page numbers, numbering, and formatting within this Act to accommodate this
7 amendment.

8

Supporting the County's Ecological Health

Howard County contains a wealth of natural resources, including forests, meadows, wetlands, streams, and lakes, which are linked together through ecosystems (see Map 3-1). Ecosystems are comprised of all living organisms, the physical environment, and the relationships between the living and inanimate elements within a particular area. Ecosystems provide a wide variety of services that benefit humans and other species, including food production, clean water, flood control, temperature regulation, recreational opportunities, and aesthetic value. However, their monetary values are often overlooked, until human intervention is needed to repair or replace them. It is generally far more cost-effective to protect a healthy ecosystem than to try and restore one that has been degraded.

The health of these ecosystems—ecological health—is the foundation that supports economic and community health and personal well-being. Human activities can negatively affect ecological health by removing or degrading natural resources, but people can also help restore and protect these resources. The challenge is to meet current human needs while ensuring actions protect and restore ecological health so that it may continue to support future life.

Through the January 27, 2021 Executive Order 14008 on Tackling the Climate Crises at Home and Abroad, the United States joined an international movement by countries to pledge conservation of at least 30% of their land and water by 2030. This pledge is intended to help protect biodiversity and mitigate climate change through locally led conservation efforts. Howard County already has 39% of its land and water conserved in parkland, open space, and easements. The County should continue to support this movement by establishing a goal for natural resource conservation. This goal could be for the County as a whole and each major watershed.

EH-1 Policy Statement

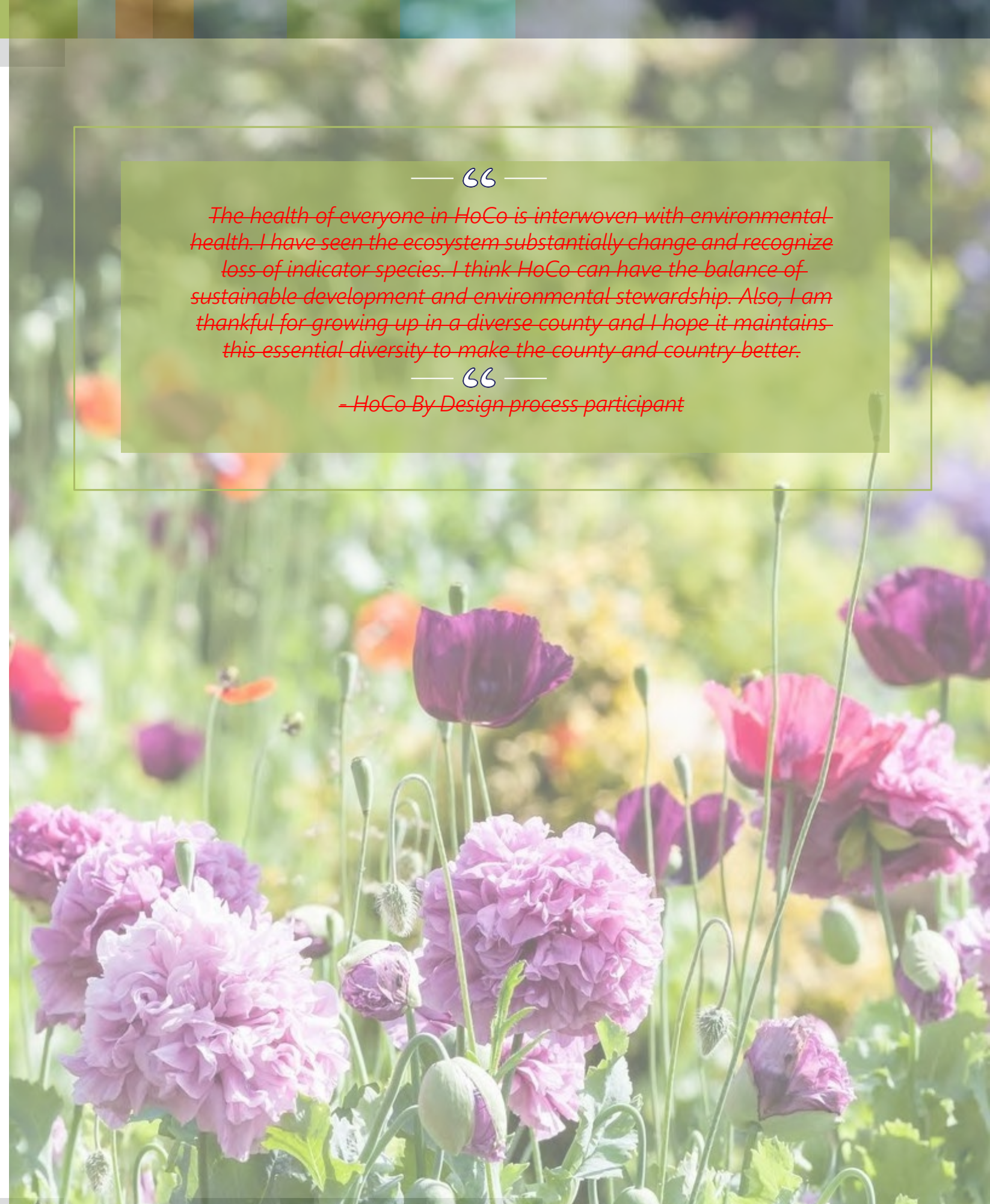
Continue to support the County's ecological health.

Implementing Actions

1. Integrate the goals of protecting and restoring the County's ecological health when updating county programs and policies.
2. Ensure adequate funding for programs and measures to protect and restore the County's ecological health, track outcomes of these investments, and provide necessary maintenance and enforcement.
3. Create a dedicated funding source, as was done for the Agricultural Land Preservation Program, for environmental programs.
4. Establish a natural resource protection goal for the County and each major watershed to help protect biodiversity and mitigate climate change.
5. ~~Develop open space percentage requirements for activity centers.~~

— “ —
The health of everyone in HoCo is interwoven with environmental health. I have seen the ecosystem substantially change and recognize loss of indicator species. I think HoCo can have the balance of sustainable development and environmental stewardship. Also, I am thankful for growing up in a diverse county and I hope it maintains this essential diversity to make the county and country better.

— “ —
—HoCo By Design process participant





Protecting Sensitive Environmental Resources

The County Subdivision and Land Development Regulations and Zoning Regulations contain significant provisions for the protection of sensitive environmental resources when properties are developed. This section discusses regulatory protections for water resources, steep slopes, and rare, threatened and endangered species, as well as three zoning districts specifically designed to protect sensitive resources. Additional protective measures for forests and stormwater management requirements are addressed in later, separate sections.

Water Resources and Steep Slopes

Water resources include rivers, wetlands, floodplains, ponds, lakes, and groundwater. These are vital natural resources that provide drinking water, stormwater management, pollution abatement, floodwater storage, and recreation, as well as important habitat for a wide variety of plant and animal species.

To protect water quality and habitat within streams, the County Subdivision and Land Development Regulations require the following undisturbed streamside buffer areas:

- 75 to 100 feet along perennial streams in residential zoning districts;
- 50 feet along perennial streams in non-residential zoning districts; and
- 50 feet along intermittent streams in all zoning districts.

The regulations also require a 25-foot undisturbed buffer around nontidal wetlands. Additionally, most wetlands in the County are found within the 100-year floodplain, which is protected from disturbance.

County regulations also protect steep slopes of 25% or greater when there is a contiguous area of 20,000 square feet or larger. Disturbing steep slopes can generate excessive erosion and sedimentation that can be difficult to contain even with enhanced sediment and erosion control practices, and once disturbed steep slopes can be difficult to stabilize. This can be especially problematic when these slopes are adjacent to water bodies. When slopes of 15% or greater occur in conjunction with highly erodible soils, these erosion problems are intensified.

To provide the greatest benefit, stream and wetland buffers should be wide enough to allow adequate filtering of overland stormwater runoff, include adjacent steep slopes and highly erodible soils, and be forested. The use of a floodplain buffer can improve resilience to flooding by accounting for future changes in the floodplain due to changing weather patterns (increased rainfall), increased development, or outdated mapping.

County regulations require sediment and erosion control practices comply with the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control when development or forestry activities will result in clearing and grading. These practices prevent sediment and other pollutants from leaving a disturbed site and entering nearby water bodies during storm events. The requirements for sediment and erosion control should be reviewed to ensure they are adequate for changing precipitation patterns, especially short-duration, high-intensity storms.

EH-2 Policy Statement

Seek to integrate climate change mitigation and adaptation goals into all county programs and policies.

Implementing Actions

1. Ensure the Howard County Climate Action [and Resiliency](#) Plan update continues to maximize opportunities to mitigate and adapt to climate change with clear goals and strategies [and that County Departments' policies are aligned with the plan's goals and strategies](#).
2. Evaluate and enhance opportunities where needed for climate change mitigation and adaptation measures in the Subdivision and Land Development Regulations and Zoning Regulations, such as natural resource protection and the provision of renewable energy.
3. Enhance county design requirements for county infrastructure and public and private buildings, to ensure these structures will be resilient under projected future weather patterns and minimize resource consumption.
4. [Review and update county Adopt the most current standards of the International Green Construction Code Green Building requirements and review and update county Green Building requirements](#) for opportunities to enhance the sustainability of public and private buildings.
5. Identify and ensure economically-vulnerable communities, businesses, and households have the resources necessary for mitigation and adaptation measures.



Incentivizing Natural Resource Protection and Restoration

The County currently has few incentives to encourage resource protection and restoration measures that go beyond the minimum requirements of the Subdivision and Land Development and Zoning Regulations.



Zoning Regulations

The Zoning Regulations include a Density Exchange Overlay (DEO) District for the RC and RR Districts, which provides an opportunity and incentive to preserve significant blocks of farmland and rural land in the West. An overlay district is a district established to respond to special features or conditions of an area, such as historic value, physical characteristics, or location. An overlay district may also supplement or provide an alternative to the regulations of the underlying zoning district. The DEO District allows residential density in the RC and RR Districts to be exchanged between parcels. Density exchanges are intended to preserve large parcels in perpetuity, while residential development is directed toward parcels that can more readily accommodate the additional dwellings. Use of this district has been successful in permanently preserving large tracts of open space and environmental and agricultural land, and should be continued under any new zoning regime. Additionally, an overlay district may be an appropriate approach to further protect watersheds with unique conditions or resources, as well as the Green Infrastructure Network.

Additional Incentives

Additional incentives could be employed to supplement changes to the Subdivision and Land Development Regulations and Zoning Regulations for enhanced resource protection and restoration. These could include density bonuses, tax credits, housing allocations, and private-public partnerships.

EH-4 Policy Statement

Incentivize additional resource protection and restoration measures within new development and redevelopment.

Implementing Actions:

1. Consider increased use of a density exchange overlay district, in both the West and the East, to protect sensitive resources in areas with unique conditions or resources.
2. Consider incentives to encourage environmental protection and restoration when properties are developed or redeveloped, such as tax credits, density bonuses, housing allocations, and public-private partnerships

In 2022 the County initiated a Vulnerable Watershed Restoration and Resiliency Program to evaluate whether other watersheds are or will become susceptible to flooding and develop potential capital projects to address the problem areas. For more information about state and county efforts to address flooding, please see Technical Appendix A: Environment.

Redevelopment

The County's stormwater management regulations also have requirements for redeveloping sites. Redevelopment sites must reduce impervious cover by 50% or provide an equivalent water quality treatment for the first one inch of rainfall using ESD techniques. However, there are no quantity management requirements. The recent update to stormwater management requirements in the Plumtree Branch and Tiber Branch watersheds also added quantity management requirements for redevelopment in those watersheds.

Requiring stormwater management for redevelopment sites offers a significant opportunity to improve water quality and quantity controls for stormwater runoff in areas that were developed prior to current stormwater management regulations. The County should ensure redevelopment is designed and implemented to reduce stormwater runoff and pollutant loadings to the maximum extent practicable. The County should also consider creating incentives for new development and redevelopment to provide on-site or off-site stormwater management that exceeds minimum regulatory requirements.

Stormwater Management Facilities

Stormwater management systems must be regularly inspected and maintained and, as they age, deteriorated systems must be upgraded or replaced. The County is required by both state and local legislation to conduct inspections of stormwater management facilities every three years. There are approximately 11,000 stormwater management facilities in the County, and approximately 1,634 of these are public facilities maintained by the County.

In general, the County shares maintenance responsibilities with homeowners associations for residential facilities located on open space lots, while non-residential facilities are privately maintained. With increased use of ESD, small treatment facilities have and will continue to become more prevalent. These types of facilities can include downspout infiltration areas or drywells, and bioretention facilities or rain gardens that can be located on private residential lots. The ability to inspect and maintain these facilities over time is an area of concern. Developments with ESD have multiple facilities, which require increasing county resources for inspections. Routine maintenance of ESD facilities located on individual residential lots becomes the responsibility of the individual homeowner, resulting in property owner education and maintenance enforcement issues. Funding for County inspection and maintenance of stormwater management facilities is through the Watershed Protection and Restoration Fund, which is discussed later in this chapter under Managing Natural Resources by Watershed. The County should evaluate alternatives for improving, enforcing, and funding long-term inspection and maintenance of stormwater management facilities, particularly those facilities located on private residential lots.



EH-5 Policy Statement

Evaluate and improve stormwater management requirements to enhance climate change resilience.

Implementing Actions

1. Conduct a flooding vulnerability assessment to determine which watersheds are susceptible to chronic flooding under current and expected future precipitation patterns.
2. Update stormwater management design standards to address current and expected future precipitation patterns. Consider adding quantity management requirements, including management for short-duration, high-intensity storms in vulnerable watersheds. [Incentivize existing commercial centers to provide stormwater management systems consistent with present standards.](#)
3. ~~Evaluate opportunities to further reduce~~ [Reduce](#) stormwater runoff and pollutant loadings when redevelopment occurs: [and incorporate water quantity management practices throughout the County.](#)
4. ~~Continue to use~~ [Increase use of](#) a nature-based or green stormwater infrastructure approach (bioretention, swales) in combination with a built or gray infrastructure approach (pipes, ponds) to address flood mitigation and adaptation, to maximize ecological benefits.
5. Evaluate alternatives for improving, enforcing, and funding long-term inspection and maintenance of stormwater management facilities, particularly those facilities located on private residential lots.
6. ~~Ensure that redevelopment, at a minimum, meets new development stormwater requirements and address watershed health, flood risks, and other environmental concerns.~~

Table 10-1: Implementation Matrix		
Policy and Implementing Actions	Lead Agency	Timeframe (Mid-Term five-year, Long-Term six+ years, Ongoing)
GCF-1 - Provide limited and predictable Planned Service Area expansions.		
1. Planned Service Area expansions should include a development proposal that is consistent with the General Plan.	DPZ	Ongoing
2. Any Planned Service Area expansion shall establish a transition that is compatible with and enhances surrounding communities, and provides an environmental benefit.	DPZ	Ongoing
3. Any Planned Service Area expansion shall meet the criteria above.	DPZ	Ongoing
EH-1 - Continue to support the County's ecological health.		
1. Integrate the goals of protecting and restoring the County's ecological health when updating county programs and policies.	OCS DPZ DPW DRP HCHD	Mid-Term
2. Ensure adequate funding for programs and measures to protect and restore the County's ecological health, <u>track outcomes of these investments, and provide necessary maintenance and enforcement.</u>	OCS DRP DPW HSCD Elected Officials OOB	Ongoing
3. Create a dedicated funding source, as was done for the Agricultural Land Preservation Program, for environmental programs.	DPZ OCS Elected Officials OOB	Mid-Term
4. Establish a natural resource protection goal for the County and each major watershed to help protect biodiversity and mitigate climate change.	OCS DPZ	Mid-Term
5. Develop open space percentage requirements for activity centers.	DPZ OCS Elected Officials	Mid-Term

Table 10-1: Implementation Matrix		
Policy and Implementing Actions	Lead Agency	Timeframe (Mid-Term five-year, Long-Term six+ years, Ongoing)
EH-2 - Seek to integrate climate change mitigation and adaptation goals into all county programs and policies.		
1. Ensure the Howard County Climate Action <u>and Resiliency</u> Plan update continues to maximize opportunities to mitigate and adapt to climate change with clear goals and strategies <u>and that County Departments' policies are aligned with the plan's goals and strategies.</u>	OCS	Mid-Term
2. Evaluate and enhance opportunities where needed for climate change mitigation and adaptation measures in the Subdivision and Land Development Regulations and Zoning Regulations, such as natural resource protection and the provision of renewable energy.	DPZ OCS	Ongoing
3. Enhance county design requirements for county infrastructure and public and private buildings, to ensure these structures will be resilient under projected future weather patterns and minimize resource consumption.	DPW DILP OCS DPZ Private Partners	Ongoing
4. <u>Review and update county Adopt the most current standards of the International Green Construction Code Green Building requirements and review and update Green Building requirements</u> for opportunities to enhance the sustainability of public and private buildings.	DILP DPW DPZ OCS Private Partners	Mid-Term
5. Identify and ensure economically-vulnerable communities, businesses, and households have the resources necessary for mitigation and adaptation measures.	DCRS OEM OHRE OCS DPW HCHD HCEDA	Ongoing

Table 10-1: Implementation Matrix		
Policy and Implementing Actions	Lead Agency	Timeframe (Mid-Term five-year, Long-Term six+ years, Ongoing)
EH-3 - Ensure the Subdivision and Land Development Regulations and Zoning Regulations provide adequate protection for sensitive environmental resources within new development and redevelopment.		
1. Evaluate and enhance protections, including sediment and erosion control, where needed for sensitive environmental resources, such as water resources, steep slopes, and rare, threatened, and endangered species, in the Subdivision and Land Development Regulations.	DPZ HSCD	Mid-Term
2. Explore whether cluster development may also be appropriate in other residential zoning districts during the zoning regulation update process.	DPZ	Mid-Term
EH-4 - Incentivize additional resource protection and restoration measures within new development and redevelopment. EH-4 - Incentivize additional resource protection and restoration measures within new development and redevelopment.		
1. Consider increased use of a density exchange overlay district, in both the West and the East, to protect sensitive resources in areas with unique conditions or resources.	DPZ	Mid-Term
<u>1. Consider increased use of a density exchange overlay district, in both the West and the East, to protect sensitive resources in areas with unique conditions or resources.</u>	<u>DPZ</u>	<u>Mid-Term</u>
2. Consider incentives to encourage environmental protection and restoration when properties are developed or redeveloped, such as tax credits, density bonuses, housing allocations, and public-private partnerships.	DPZ HCEDA Private Partners	Mid-Term
<u>2. Consider incentives to encourage environmental protection and restoration when properties are developed or redeveloped, such as tax credits, density bonuses, housing allocations, and public-private partnerships.</u>	<u>DPZ HCEDA Private Partners</u>	<u>Mid-Term</u>
3. Evaluate and strengthen the Green Neighborhood Program to ensure adequate incentives will increase program use and incorporate new options, such as increased moderate income housing units.	DPZ DILP OCS	Mid-Term

Table 10-1: Implementation Matrix		
Policy and Implementing Actions	Lead Agency	Timeframe (Mid-Term five-year, Long-Term six+ years, Ongoing)
EH-5 - Evaluate and improve stormwater management requirements to enhance climate change resilience.		
1. Conduct a flooding vulnerability assessment to determine which watersheds are susceptible to chronic flooding under current and expected future precipitation patterns.	DPW	Ongoing
2. Update stormwater management design standards to address current and expected future precipitation patterns. Consider adding quantity management requirements, including management for short-duration, high-intensity storms in vulnerable watersheds. <u>Incentivize existing commercial centers to provide stormwater management systems consistent with present standards.</u>	DPZ DPW OCS	Mid-Term
3. Evaluate opportunities to further reduce <u>Reduce</u> stormwater runoff and pollutant loadings when redevelopment occurs <u>and incorporate water quantity management practices throughout the County.</u>	DPZ DPW OCS	Mid-Term
4. Continue to use <u>Increase use of</u> a nature-based or green stormwater infrastructure approach (bioretention, swales) in combination with a built or gray infrastructure approach (pipes, ponds) to address flood mitigation and adaptation, to maximize ecological benefits.	DPW DPZ OCS Private Partners	Ongoing
5. Evaluate alternatives for improving, enforcing, and funding long-term inspection and maintenance of stormwater management facilities, particularly those facilities located on private residential lots.	DPW Private Partners	Mid-Term
6. Ensure redevelopment, at a minimum, meets new development stormwater requirements and address watershed health, flood risks, and other environmental concerns.	DPW DPZ OCS Private Partners	Mid-Term