

Division 3-I-12 Chesapeake Bay Preservation Area

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3-148 Title

This article shall be known and referenced as the "Chesapeake Bay Preservation Area Ordinance" of the Town of Bowling Green.

3-149 Purpose And Intent; Statutory Authority

1. This article is enacted to implement the requirements of § 10.1-2100 et seq., Code of Virginia (the Chesapeake Bay Preservation Act). The intent of the Town Council and the purpose of this article is to protect existing high-quality state waters; restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them; safeguard the clean waters of the commonwealth from pollution; prevent any increase in pollution; reduce existing pollution; and promote water resource conservation in order to provide for the health, safety and welfare of the present and future citizens of Bowling Green.
2. It is the purpose and intent of this article to regulate development, redevelopment and uses consistent with the Bowling Green Chesapeake Bay Preservation Overlay District regulations.
3. This article is enacted under the authority of § 10.1-2100 et seq. (the Chesapeake Bay Preservation Act) and § 15.2-2283, Code of Virginia. Section 15.2-2283, states that zoning ordinances may "also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and groundwater as defined in § 62.1-255."

3-150 Definitions

The following words and terms used in this article have the following meanings, unless the context clearly indicates otherwise. Words and terms not defined in this article but defined in the Bowling Green Zoning Ordinance shall be given the meanings set forth therein.

"Agricultural Lands" means those lands used for the planting and harvesting of crops or plant growth of any kind in the open; pasture; horticulture; dairying; floriculture; or raising of poultry and/or livestock.

"Best Management Practices" or "BMP's" means a practice, or a combination of practices, that is determined by a state or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

"Buffer Area" means an area of natural or established vegetation managed to protect other components of a Resource Protection Area and state waters from significant degradation due to land disturbances.

"Chesapeake Bay Preservation Area" or "CBPA" means any land designated by the Bowling Green Town Council pursuant to Part III of 9 VA C 10-20 et seq. (Chesapeake Bay Preservation Area Designation and Management Regulations), and § 10.1-2107 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area.

"Construction Footprint" means the area of all impervious surfaces, including but not limited to buildings, roads and drives, parking areas and sidewalks and the area necessary for construction of such improvements.

"Development" means the construction or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures.

"Diameter at Breast Height" or "DBH" means the diameter of a tree measured outside the bark at a point 4.5 feet above ground.

"Dripline" means a vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

"Floodplain" means all lands that would be inundated by flood as a result of a storm event of a one-hundred-year interval.

"Highly Erodible Soils" means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The "erodibility index" for any soil is defined as the product of the formula $RKLS/T$, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

"Highly Permeable Soils" means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches

(permeability groups "rapid" and "very rapid") as found in the National Soils Handbook of November 1996 in the Field Office Technical Guide of the United States Department of Agriculture Soil Conservation Service (now the USDA Natural Resource Conservation Service).

"Impervious Cover" means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include but are not limited to: roofs, buildings, streets, parking areas and any concrete, asphalt or compacted gravel surface.

"Infill" means utilization of vacant land in previously developed areas.

"Nonpoint Source Pollution" means pollution consisting of constituents such as sediment, nutrients and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

"Nontidal Wetlands" means those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the United States Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act, in 33 CFR 328.3b.

"Noxious Weeds" means weeds that are difficult to control effectively, such as Johnson Grass, Kudzu and multiflora rose.

"Plan of Development" means the process for site plan or subdivision plat review to ensure compliance with § 10.1-2109 of the Code of Virginia and this article, prior to any clearing or grading of a site or the issuance of a building permit.

"Public Road" means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and the Virginia Stormwater Management Act (§ 10.1-603 et seq. of the Code of Virginia). This definition includes those roads where VDOT exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by a local government in accordance with the standards of the local government.

"Redevelopment" means the process of developing land that is or has been previously developed.

"Resource Management Area" or "RMA" means that component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area. RMA's include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area.

"Resource Protection Area" or "RPA" means that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

"Silvicultural Activities" means forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation, that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to § 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under § 58.1-3230 of the Code of Virginia.

"Substantial Alteration" means expansion or modification of a building or development which would result in a disturbance of land area of 2,500 square feet or more within the Resource Management Area.

"Tidal Shore" or "Shore" means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

"Tidal Wetlands" means vegetated and nonvegetated wetlands as defined in § 28.2-1300, Code of Virginia.

"Water-Dependent Facility" means a development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include but are not limited to ports; the intake and outfall structures of power plants, water treatment plants, sewage treatment plants and storm sewers; marinas and other boat docking structures; beaches and other public water-oriented recreation areas; and fisheries or other marine resources facilities.

"Wetlands" means tidal and nontidal wetlands.

3-151 Chesapeake Bay Preservation Area Boundaries

1. The Chesapeake Bay Preservation Area Map shows the general location of CBPA's and should be consulted by persons contemplating activities within Bowling Green prior to engaging in a regulated activity.
2. During the plan of development process the developer/owner must ensure that:
 1. A reliable, site-specific evaluation is conducted to determine whether water bodies on or adjacent to the development site have perennial flow; and
 2. Resource Protection Area boundaries are adjusted, as necessary, on the site, based on this evaluation of the site, subject to approval by the Zoning Administrator.

3-152 Administrative Responsibility

The administration of this article shall be in accordance with Article I, Division 14 of the Bowling Green Zoning Ordinance, the Bowling Green Subdivision Ordinance, the Ordinance regulating Sewage and Sewage Disposal in Bowling Green or the Caroline County Ordinance for Sewage and Sewage Disposal, as appropriate, and Chapter 3, Article III, Erosion and Sediment Control, of the Code of the Town of Bowling Green. Unless otherwise stated in this article, the review and approval of development, redevelopment and uses governed by this article shall be conducted by the Zoning Administrator of Bowling Green.

3-153 Applicability

1. The Chesapeake Bay Preservation Area Ordinance shall apply to all lands identified as CBPA's as designated by the Bowling Green Town Council and as shown generally on the Chesapeake Bay Preservation Area Map. The Chesapeake Bay Preservation Area Map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this article. All of the performance standards in Section 3-159 will apply Town-wide.
 1. The Resource Protection Area includes nontidal wetlands connected by surface flow and contiguous to water bodies with perennial flow and a one-hundred-foot buffer area located adjacent to and landward of the components listed above and along both sides of any water body with perennial flow.
 2. The Resource Management Area is composed of an area 100 feet in width surrounding Resource Protection Areas, which is deemed necessary to protect the quality of state waters.

3-154 Use Regulations

Permitted uses, special permit uses, accessory uses and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.

3-155 Lot Size

Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any lot shall have sufficient area to accommodate an intended development, in accordance with the performance standards in Section 3-159(b)(3) and (6).

3-156 Required Conditions

1. All development and redevelopment within a Chesapeake Bay Preservation Area resulting in 2,500 square feet or more of land disturbance shall be subject to a Plan of Development Process, including the approval of a site plan in accordance with the provisions of the Zoning Ordinance or a subdivision plat in accordance with the Subdivision Ordinance.
2. Development in RPA's may be allowed only if it is water-dependent; constitutes redevelopment; is a new use established pursuant to Section 3-159(c)(2); is a road or driveway crossing satisfying the condition set forth in Section 3-156(b)(3); or is a flood control or stormwater management facility satisfying the conditions set forth in Section 3-156(b)(4).
 1. A new or expanded water-dependent facility may be allowed, provided that the following criteria are met:
 1. It does not conflict with the Comprehensive Plan;
 2. It complies with the performance criteria set forth in Section 3-159 of this article;

3. Any nonwater-dependent component is located outside of the RPA; and
 4. Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.
2. Redevelopment on isolated redevelopment sites outside of locally designated Intensely Developed Area sites shall be permitted only if there is no increase in the amount of impervious cover and no further encroachment within the RPA and it shall conform to the stormwater management requirements outlined under Section 3-159(b)(9) and (10) of this article.
3. Roads and driveways not exempt under Section 3-163 and which, therefore, must comply with the provisions of this article may be constructed in or across RPAs if each of the following conditions are met:
 1. The Zoning Administrator makes a finding that there are no reasonable alternatives to aligning the road or drive in or across the RPA;
 2. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and minimize adverse effects on water quality;
 3. The design and construction of the road or driveway satisfy all applicable criteria of this article;
 4. The Zoning Administrator reviews the plan for the road or driveway proposed in or across the RPA in coordination with the plan of development requirements as required under Section 3-161 or subdivision plan.
4. Flood control and storm water management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed may be allowed in Resource Protection Areas, provided that:
 1. The Town of Bowling Green has conclusively established that location of the facility within the RPA is the optimum location;
 2. The size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both;
 3. The facility must be consistent with a storm water management program that has been approved by the Chesapeake Bay Local Assistance Board as a Phase I modification to the local government's program;
 4. All applicable permits for construction in state or federal waters must be obtained from the appropriate state and federal agencies, such as the U.S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission;

5. Approval must be received from the Town of Bowling Green prior to construction;
 6. Routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed; and
 7. It is not the intent of this subsection to allow a best management practice that collects and treats runoff from only an individual lot or some portion of the lot to be located within a RPA.
3. A Water Quality Impact Assessment shall be required for all proposed land disturbance, development, or redevelopment within RPA's and any proposed land disturbance, development, or redevelopment within RMA's when required by the Zoning Administrator because of the unique characteristics of the site or intensity of development, in accordance with the provisions of the handout, Water Quality Impact Assessment for Chesapeake Bay Preservation Areas.

3-157 Conflict With Other Regulations

In any case where the requirements of this article conflict with any other provision of this chapter, other Town ordinances or existing state or federal regulations, whichever imposes the more stringent restrictions, shall apply.

3-158 Interpretation Of Resource Protection Area Boundaries

1. Delineation by the applicant. The site-specific boundaries of the Resource Protection Area shall be determined by the applicant through the performance of an environmental site assessment, subject to approval by the Zoning Administrator and in accordance with the Plan of Development or Water Quality Impact Assessment Process for Chesapeake Bay Preservation Areas. The Chesapeake Bay Preservation Area Map shall be used as a guide to the general location of Resource Protection Areas.
2. Delineation by the Zoning Administrator. The Zoning Administrator, when requested by an applicant wishing to construct a single-family residence, may waive the requirement for an environmental site assessment and perform the delineation. The Zoning Administrator may use hydrology, soils, plant species and other data and consult other appropriate resources as needed to perform the delineation.
3. Where conflict arises over delineation. Where the applicant has provided a site-specific delineation of the RPA, the Zoning Administrator may verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the Zoning Administrator may render adjustments to the applicant's boundary delineation, in accordance with the Plan of Development Process for Chesapeake Bay Preservation Areas. In the event that the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of the Plan of Development Process for Chesapeake Bay Preservation Areas.

3-159 Performance Standards

1. Purpose and intent. The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential. The purpose and intent of these requirements are also to implement the following objectives: prevent a net increase in nonpoint source pollution from new development; achieve a ten-percent reduction in nonpoint source pollution from redevelopment; and achieve a forty-percent reduction in nonpoint source pollution from agricultural uses.
2. General performance standards for development and redevelopment throughout the Town of Bowling Green, including Chesapeake Bay Preservation Areas.
 1. Land disturbance shall be limited to the area necessary to provide for the proposed use or development.
 1. In accordance with Section 3-168 of the Town of Bowling Green Zoning Ordinance, the limits of land disturbance, including clearing or grading, shall be strictly defined by the construction footprint. The Zoning Administrator shall review and approve the construction footprint through the Plan of Development process. These limits shall be clearly shown on submitted plans and physically marked on the development site.
 2. The construction footprint shall not exceed the limits for such as designated by the zoning district of the lot or parcel.
 2. Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed and in accordance with Chapter 3, Article III, Erosion and Sediment Control, of the Code of the Town of Bowling Green.
 1. Existing trees over two inches diameter at breast height (DBH) shall be preserved outside the approved construction footprint. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed, when approved by the Zoning Administrator. Other woody vegetation on site shall also be preserved outside the approved construction footprint.
 2. Site clearing for construction activities shall be allowed as approved by the Zoning Administrator through the Plan of Development Review process.
 3. Prior to clearing and grading, suitable protective barriers, like safety fencing, shall be erected 5 feet outside the dripline of any tree or stand of trees to be preserved. Protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

3. Land development shall minimize amount of impervious surface to promote infiltration of stormwater into the ground consistent with the use or development proposed.
 1. Grid and modular pavements may be used for any required parking area, alley or other low-traffic driveway, unless otherwise approved by the Zoning Administrator.
 2. Parking space size may be 162 square feet. Parking space width may be nine feet; parking space length may be 18 feet. Two-way drives may be a minimum of 22 feet in width.
 3. Impervious coverage on any lot shall be limited to the lot coverage permitted under the zoning district requirements of said lot or parcel as noted on the approval plan of development site plan.
 4. Where the best management practices utilized require regular or periodic maintenance in order to continue their functions, such maintenance shall be ensured by the local government through a maintenance agreement with the owner or developer or some other mechanism that achieves an equivalent objective.
4. Notwithstanding any other provisions of this article or exceptions or exemptions thereto, any land-disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, septic tanks and drainfields, shall comply with the requirements of Chapter 3, Article III, Erosion and Sediment Control, of the Code of the Town of Bowling Green.
5. All on-site sewage disposal systems not requiring a VPDES permit shall be pumped out at least once every five years, in accordance with the provisions of the Caroline County Ordinance for Sewage and Sewage Disposal. Alternatives for pumpout are also permitted, including the installation of a plastic filter in the outflow pipe from the septic tank as long as the filter satisfies the standards established in the Sewage Handling and Disposal Regulations under 12 VA C 5-6-10 et seq. as administered by the Virginia Department of Health, or owners of on-site treatment systems may submit, every five years, documentation certified by a sewage handler permitted by the Virginia Department of Health that the septic system has been inspected and is functioning properly and does not need to be pumped out.
6. A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided, in accordance with the Caroline County Ordinance for Sewage and Sewage Disposal. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local Health Department. Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the State Water Control

Board, until the structure is served by public sewer. As an alternate, alternating drainfields may be installed in lieu of the one-hundred-percent reserve drainfield, provided that the following conditions are met:

1. Each of the two alternating drainfields shall have, at a minimum, an area of not less than 50% of the area that would otherwise be required if a single primary drain field were constructed.
 2. An area equaling 50% of the area that would otherwise be required for the primary drain field site must be reserved for subsurface absorption systems that use a flow diversion device, in order to provide for future replacement or repair to meet the requirements for a disposal system and that expansion of the primary system will require an expansion of this reserve area.
 3. The two alternating drain fields shall be connected by a diversion valve that has been approved by the Caroline County Health Department, is located in the pipe between the septic tank and the distribution boxes and is used to alternate the direction of the effluent flow to one drain field or the other at a time.
 4. Such diversion valves shall not be used for sand mounds, low-pressure distribution systems, repair situations when the installation of a valve is not feasible or any other approved systems for which the use of the valve would adversely affect the design of the system as determined by the Caroline Health Department.
 5. The diversion valve shall be a three-port, two-way valve of approved materials.
 6. There shall be a conduit from the top of the valve to the ground surface with an appropriate cover to be level with or above the ground surface.
 7. The valve shall not be located in driveways, recreational courts, parking lots, or beneath sheds and other structures.
 8. The valve shall be used to alternate the drain fields every 12 months.
 9. The Town of Bowling Green shall notify owners annually of the requirement to switch the valve to the opposite drain field.
7. Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state and local laws and regulations shall be obtained and evidence of such submitted to the Zoning Administrator, in accordance with the Plan of Development Process.
 8. Land upon which agricultural activities are being conducted shall have a soil and water quality conservation plan undergo a soil and water quality conservation assessment. Such plan shall be based upon the Field Office Technical Guide of the United States Department of Agriculture Soil Conservation Service and accomplish

water quality protection consistent with this article. Such a plan shall be approved by the local Soil and Water Conservation District. Such assessments shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management and management of pesticides, and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with this article.

9. For any use or development, stormwater runoff shall be controlled by the use of best management practices consistent with water quality protection provisions of the Virginia Stormwater Management Regulations (4 VAC 3-20-10 et seq.). For development, the post-development nonpoint source pollution runoff load shall not exceed the predevelopment load, based on the calculated average land cover condition of Caroline County based on Virginia's Chesapeake Bay watershed default value as calculated by the Chesapeake Bay Local Assistance Department.
 10. For redevelopment sites, the nonpoint source pollution load shall be reduced by at least 10%. The Zoning Administrator may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided that the following provisions are satisfied:
 1. In no case may the post-development nonpoint source pollution runoff load exceed the predevelopment load.
 2. Runoff pollution loads must have been calculated and the BMP's selected for the expressed purpose of controlling nonpoint source pollution.
 3. If best management practices are structural, evidence shall be provided that facilities are currently in good working order and performing at the design levels of service. The Zoning Administrator may require a review of both the original structural design and maintenance plans to verify this provision. Maintenance agreements are required to ensure compliance with this article.
 11. For redevelopment, both the pre- and post-development loadings shall be calculated by the same procedures. However, where the design data is available, the original post-development nonpoint source pollution loadings can be substituted for the existing development loadings.
3. Buffer area requirements. To minimize the adverse effects of human activities on the other components of Resource Protection Areas, state waters and aquatic life, a one-hundred-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion and filtering nonpoint pollution from runoff shall be retained if present and established where it does not exist. The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the RPA, in accordance with Section 3-153 (Applicability) and Section 3-161 (Plan of development process for Chesapeake Bay

Preservation Areas) of this article. The one-hundred-foot buffer area shall be deemed to achieve a seventy-five-percent reduction of sediments and a forty-percent reduction of nutrients. The buffer area shall be maintained to meet the following additional performance standards:

1. In order to maintain the functional value of the buffer area, indigenous vegetation may be removed, subject to approval by the Zoning Administrator, only to provide for reasonable sight lines, access paths, general woodlot management and best management practices, including those that prevent the upland erosion and concentrated flows of stormwater, as follows:
 1. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that, where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and filtering nonpoint source pollution from runoff.
 2. Any path shall be constructed and surfaced so as to effectively control erosion.
 3. Dead, diseased or dying trees or shrubbery may be removed and thinning of trees may be allowed, subject to the approval of the Zoning Administrator pursuant to sound horticultural practice.
 4. For shoreline control projects, trees and woody vegetation may be removed, necessary control techniques employed and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.
2. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Zoning Administrator may authorize encroachment into the buffer area in accordance with Section 3-161 (Plan of development process for Chesapeake Bay Preservation Areas) and the following criteria:
 1. Encroachment into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
 2. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel; and
 3. The encroachment may not extend into the seaward 50 feet of the buffer area.

3. On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds from invading the buffer area.
 1. Agricultural activities may encroach into the buffer area as follows:
 1. Agricultural activities may encroach into the landward 50 feet of the one-hundred-foot wide buffer area when at least one agricultural best management practice, which, in the opinion of the local Soil and Water Conservation District Board, addresses the more predominant water quality issue on the adjacent land, erosion control or nutrient management, is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the one-hundred-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil test, must be developed consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation and Recreation.
 2. Agricultural activities may encroach within the landward 75 feet of the one-hundred-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T", as defined in the National Soil Survey Handbook of November 1996 in the Field Office Technical Guide of the U.S. Department of Agriculture National Resource Conservation Service. A nutrient management plan, including soil test, must be developed consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the one-hundred-foot wide buffer area.
 3. The buffer area is not required to be designated adjacent to agricultural drainage ditches if the adjacent agricultural land has in place at least one best management practices as considered by the local Soil and Water Conservation District to address the more predominant water quality issue on the adjacent land, either erosion control or nutrient management.

2. The buffer area is not required for agricultural drainage ditches if the adjacent agricultural land has in place best management practices in accordance with a conservation plan approved by the local Soil and Water Conservation District.
3. When agricultural or silvicultural uses within the buffer area cease, and the lands are proposed to be conveyed to other uses, the full one-hundred-foot wide buffer area shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions are maintained or established.

3-160 Water Quality Impact Assessment

1. Purpose and intent. The purpose of the water quality impact assessment is to identify the impacts of proposed development on water quality and lands within RPA's; ensure that, where development does take place within RPA's, it will be located on those portions of a site and in a manner that will be least disruptive to the natural functions of RPA's; protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high groundwater, erosion or vulnerability to flood and storm damage; provide for administrative relief from the terms of this article when warranted and in accordance with the requirements contained herein; and specify mitigation which will address water quality protection.
2. Water quality impact assessment required. A water quality impact assessment is required for any proposed land disturbance, development or redevelopment within a RPA and for any other development or redevelopment in CBPA's that may warrant such assessment because of the unique characteristics of the site or intensity of the proposed use, development or redevelopment. There shall be two levels of water quality impact assessments: a minor assessment and a major assessment. A minor water quality impact assessment pertains only to development within CBPA's which causes no more than 5,000 square feet of land disturbance. A major water quality impact assessment shall be required for any development which exceeds 5,000 square feet of land disturbance within CBPA's and is located in an RMA. The elements to be included in a minor water quality impact assessment and a major water quality impact assessment are described in the handout, Water Quality Impact Assessment for Chesapeake Bay Preservation Areas, which can be obtained from the office of the Zoning Administrator.

3-161 Plan Of Development Process For Chesapeake Bay Preservation Areas

Any development or redevelopment within CBPA's exceeding 2,500 square feet of land disturbance shall be accomplished through a Plan of Development Process prior to any clearing or grading of the site or the issuance of any building permit, to assure compliance with all applicable requirements of this article. The requirements for a Plan of Development Process are described in the handout, Plan of Development Process for Chesapeake Bay Preservation Areas, which can be obtained from the office of the Zoning Administrator.

3-162 Nonconforming Use And Noncomplying Structures.

1. The lawful use of a building or structure which existed on August 4, 1994, and which is not in conformity with the provisions of the Chesapeake Bay Preservation Area Ordinance may be continued in accordance with Section 3-165 of this article.
2. No change or expansion of use shall be allowed, with the exception that:
 1. The Zoning Administrator may grant a nonconforming use and noncomplying structures waiver for principal structures on legal nonconforming lots or parcels to provide for remodeling and alterations or additions to such nonconforming structures, provided that:
 1. There will be no increase in nonpoint source pollution load.
 2. Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of this article.
 2. An application for a nonconforming use and noncomplying structures waiver shall be made to and upon forms furnished by the Zoning Administrator and shall include, for the purpose of proper enforcement of this article, the following information:
 1. The name and address of the applicant and property owner.
 2. A legal description of the property and type of proposed use and development.
 3. A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the Resource Protection Area.
 4. Location and description of any existing private water supply or sewage system.
 3. A nonconforming use and noncomplying structure waiver shall become null and void 12 months from the date issued if no substantial work has commenced.
 4. An application for the expansion of a nonconforming structure may be approved by the Zoning Administrator through an administrative review process, provided that the following findings are made:
 1. The request for the waiver is the minimum necessary to afford relief;
 2. Granting the waiver will not confer upon the applicant any specific privileges that are denied by this article to other property owners in similar situations;
 3. The waiver is in harmony with the purpose and intent of this article and does not result in water quality degradation;
 4. The waiver is not based on conditions or circumstances that are self-created or self-imposed;

5. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing a degradation of water quality;
6. Other findings, as appropriate and required by the Town of Bowling Green, are met; and
7. In no case shall this provision apply to accessory structures.

3-163 Exemptions

1. Exemptions for utilities, railroads and public roads. Construction, installation, operation and maintenance of electric, natural gas, fiber optic, and telephone transmission lines, railroads and public roads and their appurtenant structures in accordance with regulations promulgated pursuant to the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the 16 Code of Virginia) and Stormwater Management Act (§ 10.1-603.1 et seq. of the Code of Virginia), an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation, or local water quality protection criteria at least as stringent as the above stated requirement are deemed to comply with this article. The exemption of public roads is further conditioned on the following:
 1. The road alignment and design has been optimized, consistent with all applicable requirements, to prevent or otherwise minimize the encroachment in the Resource Protection Area and to minimize the adverse effects on water quality.
2. Exemptions for local utilities and other service lines. Construction, installation, and maintenance of water, sewer, natural gas, underground telecommunications and cable television lines owned, permitted, or both, by the Town of Bowling Green or regional service authority shall be exempt from the overlay district, provided that:
 1. To the degree possible, the location of such utilities and facilities should be outside RPA's.
 2. No more land shall be disturbed than is necessary to provide for the proposed utility installation;
 3. All construction, installation and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and
 4. Any land disturbance exceeding an area of 2,500 square feet complies with all Caroline County erosion and sediment control requirements.
3. Exemptions for silvicultural activities. Silvicultural activities are exempt from the requirements of this article, provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in its Virginia's Forestry Best Management Practices for Water Quality.
4. Exemptions in Resource Protection Areas. The following land disturbances in Resource Protection Areas may be exempted from the overlay district: water wells; passive recreation

facilities such as boardwalks, trails and pathways; and historic preservation and archaeological activities, provided that it is demonstrated to the satisfaction of the Zoning Administrator that:

1. Any required permits, except those to which this exemption specifically applies, shall have been issued;
2. Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality;
3. The intended use does not conflict with nearby planned or approved uses; and
4. Any land disturbance exceeding an area of 2,500 square feet shall comply with all requirements of Chapter 3, Article III, Erosion and Sediment Control, of the Code of the Town of Bowling Green.

3-164 Exceptions

1. A request for an exception to the requirements of Sections 3-156 and 3-3-159(c) of this article shall be made in writing to the Planning Commission. It shall identify the impacts of the proposed exception on water quality and on lands within the Resource Protection Area through the performance of a water quality impact assessment which complies with the provisions of Section 3-156(c).
2. The Town of Bowling Green shall notify the affected public of any such exception requests and shall consider these requests in a public hearing in accordance with § 15.2-2204 of the Code of Virginia, except that only one hearing shall be required.
3. The Planning Commission shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this article if the Planning Commission finds that:
 1. Granting the exception will not confer upon the applicant any special privileges that are denied by this article to other property owners in the overlay district;
 2. The exception request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or nonconforming that are related to adjacent parcels;
 3. The exception request is the minimum necessary to afford relief;
 4. The exception request will be in harmony with the purpose and intent of the overlay district, not injurious to the neighborhood or otherwise detrimental to the public welfare, and is not of substantial detriment to water quality; and
 5. Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

4. If the Planning Commission cannot make the required findings or refuses to grant the exception, the Planning Commission shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.
5. A request for an exception to the requirements of provisions of this article other than Sections 3-156 and 3-159(c) shall be made in writing to the Zoning Administrator. The Zoning Administrator may grant these exceptions, provided that:
 1. Exceptions to the requirements are the minimum necessary to afford relief; and
 2. Reasonable and appropriate conditions are placed upon any exception that is granted, as necessary, so that the purpose and intent of this Article is preserved.
6. Exceptions to the provisions of Section 3-159(b) may be granted by the Zoning Administrator provided that the findings noted in Section 3-164(c)(1) through (5) are made.

3-164a Fees

The following fee schedule shall apply for all reviews in Chesapeake Bay areas.

Fee Type	Total fee to be paid by applicant (includes both VSMP authority and department portions where applicable)	Department portion of "total fee to be paid by applicant" (based on 28% of total fee paid*)
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than one acre)	\$290	\$0
General/Stormwater Management - Small Construction Activity/Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage)/Land Clearing (Single-family detached residential structures within or outside a common plan of development or sale with land-disturbance acreage less than five acres)	\$209	\$0
General/Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land-disturbance acreage less than one acre, except for single-family detached residential structures)	\$290	\$81
General/Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one acre and less than five acres)	\$2,700	\$756
General/Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres)	\$3,400	\$952
General/Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$4,500	\$1,260
General/Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100	\$1,708
General/Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688
Individual Permit for Discharges of Stormwater from Construction Activities (This will be administered by the department)	\$15,000	\$15,000
* If the project is completely administered by the department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the department.		