

TOWN OF BOWLING GREEN, VIRGINIA

AN ORDINANCE TO REPEAL AND REPLACE ARTICLE 10.24 “CHESAPEAKE BAY PRESERVATION AREA” OF CHAPTER 10 OF THE BOWLING GREEN TOWN CODE

WHEREAS, the Chesapeake Bay and its tributaries are important natural, economic, and recreational resources of the Commonwealth and the Town, and the protection of state waters from nonpoint source pollution is necessary to protect the public health, safety, and welfare; and

WHEREAS, the Town of Bowling Green is a locality subject to the Chesapeake Bay Preservation Act, Article 2.5 (§ 62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia, and the Chesapeake Bay Preservation Area Designation and Management Regulations, 9VAC25-830-10 et seq.; and

WHEREAS, Virginia Code § 62.1-44.15:74 requires Tidewater localities to designate Chesapeake Bay Preservation Areas and to incorporate measures protecting the quality of state waters into their comprehensive plans, zoning ordinances, subdivision ordinances, and land development procedures; and

WHEREAS, the Virginia Department of Environmental Quality (“DEQ”) has reviewed the Town’s Chesapeake Bay Preservation Act Program and identified provisions of Article 10.24 requiring revision to ensure consistency with current state law and regulations, including provisions concerning Resource Management Areas, agricultural requirements, plan of development review, water quality impact assessments, exceptions, and Resource Protection Area buffer reestablishment; and

WHEREAS, the Town Council has reviewed Article 10.24 and finds that repeal and replacement of the Article will provide clearer standards, improve administration and enforcement, and bring the Town’s Chesapeake Bay Preservation Area program into closer conformity with current state requirements and DEQ guidance; and

WHEREAS, the Town Council finds that adoption of this ordinance is in the best interests of the health, safety, and welfare of the Town and its citizens.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Bowling Green that Article 10.24 of Chapter 10 of the Bowling Green Town Code is hereby repealed in its entirety and replaced as follows:

§ 1. ARTICLE 10.24. CHESAPEAKE BAY PRESERVATION AREA

§ 10.24.010. Title.

This Article shall be known and may be cited as the “Town of Bowling Green Chesapeake Bay Preservation Area Ordinance.”

§ 10.24.020. Authority; purpose and intent.

ORDINANCE TO REPEAL AND REPLACE ARTICLE 10.24 “CHESAPEAKE BAY PRESERVATION AREA” OF CHAPTER 10 OF THE BOWLING GREEN TOWN CODE

- A. This Article is adopted pursuant to the Chesapeake Bay Preservation Act, Article 2.5 (§ 62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia; the Chesapeake Bay Preservation Area Designation and Management Regulations, 9VAC25-830-10 et seq.; and the Town's zoning, subdivision, and land-use authority under Title 15.2 of the Code of Virginia.
- B. The purpose of this Article is to protect and improve the water quality of the Chesapeake Bay, its tributaries, and other state waters by minimizing the adverse effects of land use and development and by requiring that the use and development of land in Chesapeake Bay Preservation Areas be accomplished in a manner that protects water quality.
- C. This Article is intended to: (1) protect existing high-quality state waters; (2) prevent increases in nonpoint source pollution; (3) reduce existing pollution where practicable; (4) conserve water resources and environmentally sensitive lands; (5) protect and restore Resource Protection Area buffers; (6) preserve indigenous vegetation and mature trees to the maximum extent practicable; and (7) incorporate resilience considerations into the Town's review of development within Chesapeake Bay Preservation Areas.

State law/regulation reference: Va. Code §§ 62.1-44.15:67 et seq., 62.1-44.15:72, and 62.1-44.15:74; 9VAC25-830-10, -20, -30, and -180.

§ 10.24.030. Administration; relationship to other ordinances.

- A. The Town Manager, or the Town Manager's designee, shall administer and enforce this Article and may establish application forms, checklists, technical procedures, and written administrative policies consistent with this Article, the Act, the Regulations, and DEQ guidance.
- B. This Article is supplemental to the Town's zoning, subdivision, erosion and sediment control, stormwater, floodplain, wetlands, building, and other applicable requirements. Where this Article and another applicable provision impose different requirements, the requirement providing the greater protection of water quality shall apply to the extent permitted by law.
- C. No zoning, subdivision, site plan, building, grading, land-disturbance, or other Town approval shall authorize an activity that violates this Article.
- D. The Town shall maintain and publish on its website the elements and criteria used to implement its Chesapeake Bay Preservation Act program, including the current Chesapeake Bay Preservation Area map, this Article, applicable comprehensive plan elements, and applicable applications, checklists, policies, and procedures.

State law/regulation reference: 9VAC25-830-60 and 9VAC25-830-190.

§ 10.24.040. Definitions.

For purposes of this Article, the following words and terms shall have the meanings stated below. Terms not defined in this Article shall have the meanings assigned by the Chesapeake Bay Preservation Act and 9VAC25-830-40, as amended.

“Act.” the Chesapeake Bay Preservation Act, Article 2.5 (§ 62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia, as amended.

“Best management practice or BMP.” a practice, or combination of practices, determined to be an effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water-quality goals.

“Buffer area.” 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.” any land designated by the Town pursuant to the Act and Part III of 9VAC25-830; a CBPA consists of a Resource Protection Area and a Resource Management Area.

“Development.” the construction or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures.

“Impervious cover.” a surface composed of material that significantly impedes or prevents natural infiltration of water into soil, including buildings, roofs, streets, parking areas, and similar surfaces.

“Land disturbance or land-disturbing activity.” a manmade change to land that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including clearing, grading, excavating, transporting, and filling of land, except as otherwise excluded by applicable state law.

“Plan of development or POD.” the process by which the Town reviews proposed use and development of land in a Chesapeake Bay Preservation Area before issuance of a building permit or other final land-development approval to ensure compliance with the Act, the Regulations, and this Article.

“Redevelopment.” the process of developing land that is or has been previously developed.

“Regulations.” the Chesapeake Bay Preservation Area Designation and Management Regulations, 9VAC25-830-10 et seq., as amended.

“Resource Management Area or RMA.” the component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area. For purposes of the Town’s local Bay Act program, all lands within the Town that are not designated as Resource Protection Area are designated Resource Management Area, subject to the Town’s official CBPA map and site-specific refinement under this Article.

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

“Resiliency assessment.” an assessment, in a form acceptable to the Town and consistent with current DEQ guidance, of site conditions and reasonably foreseeable coastal, flooding, inundation, erosion, or climate-related risks relevant to a proposed development and of practicable measures to avoid or reduce those risks while protecting water quality.

“Silvicultural activities.” forest management activities meeting the definition and requirements of 9VAC25-830-40 and 9VAC25-830-130.

“Water-dependent facility.” 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, consistent with the Regulations.

“Water quality impact assessment or WQIA.” an assessment required by this Article to identify the impacts of proposed development on water quality and lands in Resource Protection Areas and to identify measures necessary to avoid, minimize, and mitigate those impacts.

State law/regulation reference: Va. Code § 62.1-44.15:68; 9VAC25-830-40.

§ 10.24.050. Chesapeake Bay Preservation Area designation and official map.

- A.** The Town’s Chesapeake Bay Preservation Areas consist of Resource Protection Areas and Resource Management Areas. The Town hereby designates the Resource Management Area jurisdiction-wide, consisting of all lands within the Town that are not included within the Resource Protection Area.
- B.** Resource Protection Areas shall include: (1) tidal wetlands; (2) nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; (3) tidal shores; (4) other lands determined by the Town to be necessary to protect the quality of state waters and meeting the criteria of 9VAC25-830-80; and (5) a buffer area not less than 100 feet in width located adjacent to and landward of the foregoing components and along both sides of any water body with perennial flow.
- C.** The Town Council shall adopt and maintain an official Chesapeake Bay Preservation Area map depicting the general location and extent of RPAs and the jurisdiction-wide RMA. The map is a screening and program-administration tool and does not eliminate the requirement for site-specific evaluation.
- D.** As part of the plan of development process or review of a WQIA, the Town shall ensure or confirm that a reliable, site-specific evaluation is conducted to determine whether water bodies on or adjacent to a development site have perennial flow and shall adjust RPA boundaries on the site as necessary based on reliable site-specific information.

- E. RPA and RMA boundaries shall be depicted on plats and site plans. Plats shall include applicable notations concerning the 100-foot vegetated buffer, onsite sewage treatment-system requirements, and limitations on development in the RPA.

State law/regulation reference: 9VAC25-830-60(A)(1), -80, -90, -110, and -190(A)(4).

§ 10.24.060. Applicability.

- A. Except as expressly exempted by the Act, the Regulations, or this Article, this Article applies to all use, development, redevelopment, and land disturbance within Chesapeake Bay Preservation Areas.
- B. The requirements of this Article shall be considered in review of rezoning, special-use, subdivision, site-plan, building-permit, grading, land-disturbance, and other land-development applications affecting Chesapeake Bay Preservation Areas.
- C. All development exceeding 2,500 square feet of land disturbance shall be accomplished through the plan of development review process established by § 10.24.090.

State law/regulation reference: Va. Code § 62.1-44.15:74; 9VAC25-830-60(A)(6), -130(3), and -190.

§ 10.24.070. General performance standards.

- A. No more land shall be disturbed than is necessary to provide for the proposed use or development.
- B. Indigenous vegetation shall be preserved to the maximum extent practicable, consistent with the proposed use or development. Mature trees shall be protected during development and removed only where necessary.
- C. Land development shall minimize impervious cover consistent with the proposed use or development.
- D. Any land-disturbing activity exceeding 2,500 square feet, including construction of single-family houses, septic tanks, and drainfields as provided by state law, shall comply with applicable erosion and sediment control or erosion and stormwater management requirements.
- E. Land-disturbing activities in a Chesapeake Bay Preservation Area equal to or greater than 2,500 square feet but less than one acre shall comply with 9VAC25-875-740 and 9VAC25-875-750, as applicable.
- F. Evidence of all wetlands permits required by law shall be provided before the Town authorizes grading or other onsite activities to begin.
- G. Onsite sewage treatment systems not requiring a VPDES permit shall comply with the pump-out, inspection, reserve drainfield, and related requirements of 9VAC25-830-130(7), as applicable. At least once every five years, the owner shall provide documentation of required pump-out or an authorized inspection alternative. The Town shall maintain or participate in an administrative

notification and tracking process sufficient to document compliance, except to the extent state law assigns management and enforcement to another agency.

- H. Agricultural lands shall be subject to the soil and water quality conservation assessment and planning requirements of 9VAC25-830-130(8), as applicable, with findings and recommendations submitted to the local Soil and Water Conservation District Board as plan-approving authority.
- I. Silvicultural activities are exempt from the requirements of this Article to the extent provided by 9VAC25-830-130(9), provided the operation adheres to the water-quality protection procedures prescribed by the Virginia Department of Forestry.

State law/regulation reference: 9VAC25-830-130; 9VAC25-875-740 and -750.

§ 10.24.080. Resource Protection Area development and buffer standards.

- A. In addition to § 10.24.070, development in an RPA may be allowed only as authorized by 9VAC25-830-140, including qualifying water-dependent facilities, redevelopment, development or redevelopment within a lawfully designated Intensely Developed Area, qualifying new uses or buffer encroachments, qualifying road or driveway crossings, and qualifying flood-control or stormwater-management facilities.
- B. Except where the Regulations provide otherwise, a WQIA shall be required for proposed land disturbance in the RPA.
- C. A 100-foot-wide vegetated buffer shall be retained if present and established where it does not exist. The buffer shall be managed to retard runoff, prevent erosion, filter nonpoint-source pollution, and protect state waters and aquatic life. Where establishment or reestablishment is required, trees shall be incorporated as appropriate to site conditions and to maximize buffer function; native species are preferred.
- D. Where agricultural or silvicultural use within the buffer ceases and the land is proposed to be converted to another use, the full 100-foot buffer shall be reestablished with management measures that provide woody vegetation sufficient to assure the functions of the buffer. Tree planting shall be incorporated as appropriate to site conditions and to maximize buffer function, with native species preferred.
- E. Permitted buffer encroachments for qualifying lots recorded before October 1, 1989, and for qualifying lots recorded between October 1, 1989, and March 1, 2002, may be approved administratively only when all applicable criteria of 9VAC25-830-140(4) are satisfied, including minimization of encroachment and required mitigation.
- F. Existing buffer vegetation may be modified only as allowed by 9VAC25-830-140(5), including for reasonable sight lines, access paths, general woodlot management, approved BMPs, shoreline erosion control, and removal of dead, diseased, dying, or noxious vegetation. Mature trees shall be preserved to the maximum extent practicable and replacement vegetation shall be required where necessary to maintain buffer function.

State law/regulation reference: 9VAC25-830-140(1)-(5).

§ 10.24.085. Agricultural activities within the RPA buffer.

- A. Agricultural buffer areas shall be managed to prevent concentrated flows of surface water from breaching the buffer and may be managed to prevent noxious weeds from invading the buffer.
- B. Agricultural activities may encroach into the landward 50 feet of the 100-foot buffer only when at least one agricultural BMP that, in the opinion of the local Soil and Water Conservation District Board, addresses the predominant water-quality issue on the adjacent land is being implemented and the combination of the undisturbed buffer and BMP provides water-quality protection at least equivalent to the 100-foot buffer.
- C. Agricultural activities may encroach within the landward 75 feet only when agricultural BMPs addressing erosion control, nutrient management, and pest-chemical control are implemented on adjacent land in accordance with 9VAC25-830-140(5)(b).
- D. If specific agricultural activities are causing pollution of a nearby water body with perennial flow or violate buffer performance standards, the Town, in cooperation with the local Soil and Water Conservation District, shall recommend a compliance schedule and require correction consistent with that schedule.
- E. If a landowner, agent, or operator refuses assistance from the local Soil and Water Conservation District in complying with or documenting compliance with applicable agricultural requirements and the District reports noncompliance to the Town, the Town shall require correction within a specified period not to exceed 18 months from initial notification of the deficiencies and shall establish, in cooperation with the District, a compliance schedule that expedites environmental protection while accounting for seasonal and other temporal considerations.

State law/regulation reference: 9VAC25-830-140(5)(b).

§ 10.24.090. Plan of development review.

- A. Before issuance of a building permit or other final land-development approval for development exceeding 2,500 square feet of land disturbance in a Chesapeake Bay Preservation Area, the Town shall complete a plan of development review sufficient to determine compliance with the Act, the Regulations, this Article, and other applicable Town ordinances.
- B. The plan of development submission shall include, as applicable to the proposed activity and site: (1) a site plan or subdivision plat; (2) a site-specific RPA determination, including perennial-flow evaluation and delineation of RPA components and the 100-foot buffer; (3) an environmental site assessment identifying environmental features relevant to the Bay Act review; (4) a WQIA when required; (5) a resiliency assessment when required by the Town under subsection D; (6) an erosion and sediment control or erosion and stormwater management plan when required; (7) a landscape or buffer-management plan; (8) evidence of required wetlands or other state/federal permits; and (9) other information reasonably necessary to determine compliance.
- C. The Town may require revisions, mitigation measures, conservation easements, notes, conditions, or other measures authorized by law that are reasonably necessary to ensure compliance. No

approval shall be granted until the Town determines that the proposal complies with applicable requirements.

- D. For development or redevelopment for which site conditions, the location of the project, the nature of the proposed use, or current DEQ resiliency guidance indicate a material risk from flooding, inundation, shoreline or streambank erosion, sea-level rise, or other climate-related conditions, the Town may require a resiliency assessment using the current DEQ template or an equivalent format approved by the Town. The assessment shall identify reasonably practicable measures to increase resilience while maintaining or improving water-quality protection.
- E. Any exemption from plan of development review shall be established and administered so as to ensure compliance with the Act and Regulations.

State law/regulation reference: Va. Code § 15.2-2286(A)(8); 9VAC25-830-60(A)(6), -110, -130(3), -190, and -240(1)(e); DEQ Bay Act Resiliency Guidance.

§ 10.24.100. Water Quality Impact Assessments.

- A. A WQIA is required for any proposed development within an RPA and for other development in a Chesapeake Bay Preservation Area when the Town determines that an assessment is warranted because of the unique characteristics of the site or the intensity of the proposed use or development.
- B. The purpose of the WQIA is to identify the impacts of proposed development on water quality and RPA lands and to determine specific measures necessary to avoid, minimize, and mitigate those impacts. A WQIA shall be sufficiently specific to demonstrate compliance with this Article and the Regulations.
- C. Minor WQIA. The Town may allow a minor WQIA for a proposal involving limited RPA or buffer disturbance where the nature and extent of the impact can be adequately evaluated without the information required for a major WQIA. A minor WQIA shall include, at minimum: (1) a site drawing showing existing and proposed improvements, RPA components, buffer limits, limits of disturbance, vegetation to be removed, and drainage features; (2) a description and quantification of the proposed disturbance; (3) photographs or other documentation of existing site conditions; (4) proposed erosion, stormwater, vegetation-protection, and buffer-restoration measures; and (5) proposed mitigation sufficient to offset adverse water-quality impacts.
- D. Major WQIA. A major WQIA shall be required where the Town determines that the scale, location, intensity, or potential water-quality effect of a proposal cannot be adequately evaluated through a minor WQIA. A major WQIA shall include the information required for a minor WQIA and, as applicable: (1) detailed site and environmental inventories; (2) hydrologic and drainage information; (3) soils, slopes, wetlands, streams, shorelines, and vegetation information; (4) calculations and analysis of existing and proposed impervious cover and pollutant impacts; (5) alternatives analysis demonstrating minimization of RPA disturbance; (6) proposed BMPs; (7) detailed buffer mitigation, restoration, and planting plans; (8) construction sequencing and long-term maintenance provisions; and (9) such other technical information as is reasonably necessary to demonstrate compliance.
- E. Mitigation shall be commensurate with the nature and extent of the approved impact and shall be designed to maintain or improve water-quality protection and RPA buffer function. The Town may

require onsite mitigation, buffer restoration or enhancement, tree and woody-vegetation planting, BMP installation or maintenance, conservation measures, or other measures consistent with the Act, Regulations, and current DEQ guidance.

- F. The Town may use DEQ's current WQIA template and guidance in administering this section and may require professional certification or supporting technical analysis when reasonably necessary based on the complexity of the proposal.

State law/regulation reference: 9VAC25-830-140(6); 9VAC25-830-190.

§ 10.24.110. Nonconformities and exemptions.

- A. Legal nonconforming uses and noncomplying structures may continue to the extent permitted by law. The Town may administratively waive or modify applicable criteria for structures on legal nonconforming lots or parcels only when there will be no net increase in nonpoint-source pollutant load and land disturbance exceeding 2,500 square feet complies with applicable erosion and sediment control requirements.
- B. Nothing in this Article shall prevent reconstruction of a pre-existing structure within a Chesapeake Bay Preservation Area following casualty loss except as otherwise restricted by applicable Town ordinance or law.
- C. Public utilities, railroads, public roads, facilities, and other activities shall be exempt only to the extent and under the conditions stated in 9VAC25-830-150(B).
- D. Within RPAs, water wells, passive recreation facilities such as boardwalks, trails, and pathways, and historic preservation and archaeological activities may qualify for administrative exemption under 9VAC25-830-140(2), provided all applicable conditions are satisfied.

State law/regulation reference: 9VAC25-830-140(2) and -150(A)-(B).

§ 10.24.120. Administrative buffer encroachments and administrative exceptions.

- A. The Town Manager or designee may approve buffer encroachments expressly authorized for administrative review by 9VAC25-830-140(4), upon written findings that all applicable criteria are satisfied.
- B. Additions and modifications to existing legal principal structures may be processed through administrative review, without a public hearing, only as authorized by 9VAC25-830-150(C)(4). This administrative process does not apply to accessory structures.
- C. An administrative approval under this section shall be the minimum necessary to afford relief, shall not confer a special privilege, shall be in harmony with the purpose and intent of this Article, shall not cause substantial detriment to water quality, shall not be based on self-created or self-imposed conditions, and shall include reasonable and appropriate conditions necessary to prevent degradation of water quality.

- D. The Town shall provide written notice of its decision and maintain the application, supporting materials, findings, conditions, and decision as part of the Town's Bay Act program records.

State law/regulation reference: 9VAC25-830-140(4); 9VAC25-830-150(A) and (C)(1), (4).

§ 10.24.130. Formal exceptions; notice and public hearing.

- A. Except for matters expressly authorized for administrative review under § 10.24.120, an exception from the requirements implementing 9VAC25-830-130 or 9VAC25-830-140 may be granted only by the Town Council after notice and public hearing as provided in this section.
- B. No formal exception shall be granted unless the Town Council makes written findings that: (1) the requested exception is the minimum necessary to afford relief; (2) granting the exception will not confer a special privilege denied to similarly situated property owners; (3) the exception is in harmony with the purpose and intent of this Article and is not of substantial detriment to water quality; (4) the request is not based on self-created or self-imposed conditions; and (5) reasonable and appropriate conditions are imposed as warranted to prevent degradation of water quality.
- C. Before acting on a formal exception, the Town shall provide notice and conduct a public hearing in accordance with Virginia Code § 15.2-2204 and 9VAC25-830-150(C). Only one public hearing is required. Notice to owners, agents, or occupants of abutting property and property immediately across the street or road may be given by first-class mail to the extent authorized by state law.
- D. The Town Council may impose conditions reasonably necessary to protect water quality, including mitigation, buffer restoration or enhancement, limits on disturbance, BMPs, monitoring, maintenance, and recordation of applicable restrictions.

State law/regulation reference: Va. Code § 15.2-2204; 9VAC25-830-150(C).

§ 10.24.140. Plats, site plans, and recordation requirements.

- A. All plats and site plans for property within a Chesapeake Bay Preservation Area shall depict RPA and RMA boundaries and, where applicable, the 100-foot buffer and limits of approved encroachment or disturbance.
- B. Plats shall contain notes required by 9VAC25-830-190(A)(4), including, as applicable: (1) the requirement to retain an undisturbed and vegetated 100-foot buffer; (2) onsite sewage treatment-system pump-out and reserve drainfield requirements; and (3) limitations on development within RPAs.
- C. The Town may require recordation of conditions, easements, buffer areas, mitigation obligations, or other restrictions when reasonably necessary to ensure continuing compliance and when authorized by law.

State law/regulation reference: 9VAC25-830-190(A)(4).

§ 10.24.150. Inspections, records, and annual program administration.

- A. The Town Manager or designee may conduct inspections at reasonable times and in accordance with applicable law to determine compliance with this Article and approvals issued under it.
- B. The Town shall maintain records sufficient to document decisions regarding CBPA development, land-disturbing activities, RPA uses and encroachments, buffer modifications, administrative and formal exceptions, WQIAs, mitigation, and other program actions.
- C. The Town shall maintain procedures and tracking tools sufficient to support accurate annual implementation reporting to DEQ as required by 9VAC25-830-260.
State law/regulation reference: 9VAC25-830-260.

§ 10.24.160. Violations, enforcement, restoration, and civil remedies.

- A. Any use, development, land disturbance, or other activity conducted contrary to this Article, an approved plan, permit, exception, condition, or order issued under this Article constitutes a violation.
- B. The Town may issue notices of violation, stop-work directives, restoration requirements, and other lawful administrative orders and may seek injunctions or other remedies available under state law. A violator may be required to restore or stabilize disturbed areas, reestablish vegetation or buffer functions, implement BMPs, and take other corrective measures reasonably necessary to abate environmental damage and achieve compliance.
- C. Upon a finding by an appropriate circuit court, a person who violates this Article or violates or fails, neglects, or refuses to obey a final notice, order, rule, regulation, variance, exception, or permit condition authorized under this Article may be assessed a civil penalty not exceeding \$5,000 for each day of violation, as authorized by Virginia Code § 62.1-44.15:74(E)(1).
- D. With the consent of the person in violation, the Town may provide for a one-time civil charge for each violation in a specific sum not exceeding \$10,000 for each violation, in lieu of an appropriate civil penalty, as authorized by Virginia Code § 62.1-44.15:74(E)(2). A civil charge may be in addition to the cost of required restoration.
- E. Civil penalties and charges collected by the Town shall be used as required by Virginia Code § 62.1-44.15:74.
State law/regulation reference: Va. Code § 62.1-44.15:74(E).

§ 10.24.170. Appeals.

- A. A person aggrieved by an administrative decision under this Article may pursue any appeal authorized by the Town Code and Virginia law.
- B. Any appeal from a decision of a board established or designated by the Town to hear cases under this Article shall be filed within the period prescribed by applicable Town ordinance and state law, which shall not be less than 30 days where Virginia Code § 62.1-44.15:74(F) applies.
State law/regulation reference: Va. Code § 62.1-44.15:74(F).

§ 10.24.180. Severability.

If any provision of this Article or its application to any person, property, or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Article that can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable.

§ 2. IMPLEMENTATION AND CONFORMING ADMINISTRATION.

- A. The Town Manager is authorized and directed to prepare or update the administrative forms, application checklists, review procedures, septic-system notification and tracking procedures, Bay Act webpage materials, and annual-report tracking tools necessary to implement Article 10.24 consistently with the Act, the Regulations, current DEQ guidance, and the Town's corrective-action obligations.
- B. The Town shall review its official Chesapeake Bay Preservation Area map and shall present any amendment determined necessary to Town Council for adoption so that mapped RPA features and the jurisdiction-wide RMA designation are consistent with Article 10.24 and the Regulations.
- C. Nothing in this section shall be construed to amend the Town's comprehensive plan; any comprehensive-plan amendments required by law or by the Town's corrective-action obligations shall be considered separately in accordance with applicable law.

§ 3. REPEALER.

All ordinances or parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

§ 4. EFFECTIVE DATE.

This ordinance shall take effect upon adoption.

Adopted by the Bowling Green Town Council this _____ day of _____, 2026.

By: _____
Tina Gambill, Mayor

Attest: _____
Town Manager and Clerk to Council