FINAL PRODUCT FY '94 Task 52
A-NPDC Town Water Quality Protection Ordinance: Phase II

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Town Zoning Ordinance

of

The Town of Belle Haven, Virginia

Prepared by:

The Town of Belle Haven Planning Commission

Adopted by:

The Town of Belle Haven Town Council

With Technical Assistance by:

Accomack-Northampton Planning District Commission
P.O. Box 417
Accomac, Virginia 23301

TOWN OF BELLE HAVEN ZONING ORDINANCE - Adopted November 3, 1992

Belle Haven Town Zoning Ordinance as duly adopted by the Belle Haven Town Council in regular session on November 3 1992.

Certification: Ronald L. Kellam

Ronald L. Kellam, Mayor

Teste: _____

Clerk

The effective date of this ordinance shall be from and after its adoption by the Belle Haven Town Council, and its provisions shall be enforced thereafter until repealed or amended.

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Article I - General Provisions

I-1 Purpose and Authority to Zone. Whereas, by act of the General Assembly of Virginia as provided in Title 15.1, Chapter 11, Article 8, Section 15.1-486 through 15.1-498, Code of Virginia, as amended, the governing body of any county or municipality may, by ordinance, divide the territory under its jurisdiction into districts of such number, shape, and area as it may deem best suited to carry out the purposes of this article, and in each district it may regulate, restrict, permit, prohibit, and determine the following:

A. The use of land, buildings, structures, and other premises for agricultural, commercial, industrial, residential, and other specific uses; and

B. The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing or removal of structures; and

C. The areas and dimensions of land, water, and air space to be occupied by buildings, structures and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used; and

D. The excavation or mining of soil or other natural resources.

Therefore, be it ordained by the governing body of the Town of Belle Haven, Virginia, for the purpose of promoting the health, safety, and/or general welfare of the public and of further accomplishing the objectives of Section 15.1-427 of the Code of Virginia that the following be adopted as the zoning ordinance of the Town of Belle Haven, Virginia, together with the accompanying map. This ordinance has been designed: (1) to provide for adequate light, air, convenience of access, and safety from fire, flood, and other dangers; (2) to reduce or prevent congestion in the public streets; (3) to facilitate the creation of a convenient, attractive, and harmonious community; (4) to expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements; (5) to protect against destruction of or encroachment upon historic areas; (6) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation or loss of life, health, or property from fire, flood, panic, or other dangers; (7) to encourage economic development activities that provide desirable employment and enlarge the tax base; (8) to be in accord with and to implement the

goals, objectives and policies set forth in the Belle Haven Town Plan, as adopted by the Belle Haven Town Council.

I-2 Ordinance Sets Minimum Standards. Whenever the standards set forth in this ordinance are at variance with the requirements of any other lawfully adopted statutes, rules, regulations, deed restrictions, covenants, or ordinances, the most restrictive, or that imposing the highest standards shall govern.

I-3 Town Liability. The zoning of any land and the granting of any permit or certificate for the use of land and/or structure shall not be interpreted as a guarantee by the Town of Belle Haven of the suitability of such land or structure for developing or use.

I-4 Severability Clause. Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole or any other part thereof other than the part so declared to be unconstitutional or invalid.

I-5 Non-exclusionary Intent. It is not the intent of this ordinance to exclude any economic, racial, religious or ethnic group from enjoyment or residence, land ownership or tenancy within the Town; nor is it the intent of this ordinance to use public powers in any way to promote the separation of economic racial, religious, or ethnic groups except as may be the incidental result of meeting the purpose outlined in Section I-1, herein.

I-6 Provisions for Official Zoning Map. The boundaries of the zoning districts are shown on the official zoning map of the Town of Belle Haven, Virginia, which together with all notations, amendments, and explanatory matter thereon are hereby made a part of this ordinance. The official zoning map shall be attested by the signature of the Mayor of the Town, whose signature shall be witnessed, and shall remain on file in the office of the Zoning Administrator and/or Town Hall where it shall be accessible to the general public.

1-6.1 Changes or Amendments. If, in accordance with the provisions of this ordinance, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the change has been approved by the Town Council, or no more than thirty (30) days after approval. Such changes shall be attested by the initials of the Zoning Administrator and the date of entry. A paper copy of such map or maps shall be maintained in the office of the Zoning Administrator and/or Town Hall.

Changes to this ordinance which involve matters portrayed on the official zoning map shall become effective immediately upon being entered onto the official zoning map or matter

shown thereon except in conformity with the procedure set forth in this ordinance. Any unauthorized change of whatever kind by any person shall be considered a violation of this ordinance and punishable as provided under Article VII.

I-6.2 Replacement. In the event that any or all of the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Town Council may by resolution adopt a new official zoning map. The new official zoning map may correct drafting or other errors, or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be attested by the signature of the Mayor and shall be witnessed. Unless the prior official zoning map or maps have been lost or totally destroyed, the prior map or maps or any significant parts thereof remaining shall be preserved, together with all available records pertaining to the adoption and amendment, if any, of the prior map or maps.

I-6.3 Application and Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules shall apply:

a. Unless otherwise indicated, district boundaries indicated as approximately following the center lines of existing or proposed roads, streets, highways, alleys, or railroads; mean low water or center lines, as indicated, of streams, ponds, drainage ditches, or other natural and manmade bodies of water; property lines; or civil boundaries shall be construed to follow such lines.

b. Boundaries indicated as parallel to or extensions of features indicated in subsection A above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

c. If no distance, angle, curvature description, or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the size of the scale shown on the official zoning map.

d. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Zoning Appeals shall hear and decide the exact location of the district line in keeping with the provisions of Article VIII.

e. Where the exact location of district boundaries is not clear after application of the rules presented, the Board of Zoning Appeals shall hear and decide such questions in accordance with the provisions of Article VIII.

I-7 Application of District Regulations. The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land except as hereinafter provided:

A. No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located or is to be located.

B. No building shall hereafter be erected, constructed, or altered so as to exceed height or bulk limits, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required.

C. No new yard or lot shall hereafter be created nor shall any yard or lot existing at the time of enactment of this ordinance be altered so that width, depth, or area requirements; front side, or rear requirements; or other requirements of this ordinance are not maintained, except when a portion of a lot is acquired for public use.

D. No part of a yard, other open space, off street parking space, or loading space required about or in connection with any building for the purpose of complying with the regulations of this ordinance shall be included as part of a yard, other than similarly required for another building, except as provided hereinafter.

E. Nothing contained herein shall require any changes in the plans or construction of any building for which a building permit was granted prior to the effective date of this ordinance. However, if such construction does not commence within six (6) months or less after this ordinance becomes effective, construction shall be in conformity with the provisions of this ordinance for the district in which the activity is located.

Article II - Definitions

For the purpose of this ordinance, certain words and terms are defined as follows. Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.

II-1 Accessory Use or Structure: A subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building.

II-2 Acreage: A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

II-3 Administrator, The: The official charged with the enforcement of the zoning ordinance. He may be any appointed or elected official who is by formal resolution designated to the position by the governing body. He may serve with or without compensation as determined by the governing body.

II-4 Agriculture: The tilling of the soil, the raising of crops, horticulture, forestry, and gardening, including the keeping of animals and fowl, and including any agricultural industry or business such as fruit packing plants, dairies, or similar uses.

II-5 Agricultural Lands: 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.

II-6 Alteration: Any change in the total floor area, use, adaptability, or external appearance of an existing structure.

II-7 Apartment House: A building used or intended to be used as the residence of three (3) or more families living independently of each other.

II-8 Automobile Graveyard: Any lot or place which is exposed to the weather upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located, or found.

II-9 Basement: A story having part but not more than one-half (1/2) of its height below grade. A basement shall be counted as a story for purposes of height regulations, if it is used for business purposes, or for dwelling purposes by other than a janitor employed on the premises.

II-10 Bed and Breakfast House: A dwelling where lodging and breakfast is provided for compensation for up to six (6) persons (in contradistinction to hotels, boarding houses and tourist houses) and open to transients. Up to one person may be hired to assist in the operation of the establishment.

II-11 Best Management Practices (BMPs): 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.

II-12 Boarding House: A building where, for compensation, lodging and meals are provided for at least five (5) and up to ten (10) persons.

II-13 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.

II-14 Building: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattels.

II-15 Building, Accessory: A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes.

II-16 Building, Height of: The height shall be measured from the average elevation of the ground surface along the front of the building.

II-17 Building, Main: The principal structure or one (1) of the principal buildings on a lot, or the building or one (1) of the principal buildings housing the principal use on the lot.

II-18 Cellar: A story having more than one-half (1/2) of its height below grade and which may not be occupied for dwelling purposes.

II-19 Chesapeake Bay Preservation Area (CBPA): Any land designated by the Belle Haven Town Council pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, VR 173-02-01, and Section 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.

II-20 Commission, The: The Planning Commission of the Town of Belle Haven, Virginia.

II-21 Construction Footprint: The area of all impervious surface including, but not limited to, buildings, roads and drives, parking areas, and sidewalks and the area necessary for construction of such improvements.

II-22 Dairy: A commercial establishment for the manufacture and sale of dairy products.

II-23 Development: The construction, or substantial alteration, of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.

II-24 Diameter at Breast Height (DBH): means the diameter of a tree measured outside the bark at a point 4.5 feet above ground.

II-25 District: Districts as referred to in the State Code, Section 15.1-486.

II-26 Dripline: A vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

II-27 Dump Heap (Trash Pile): Any area of one hundred (100) square feet or more lying within one thousand (1,000) feet of a state highway, a residence, dairy barn, or food handling establishment where trash, garbage, or other waste or scrap material is dumped or deposited without being covered by a sanitary fill.

II-28 Dwelling: Any structure which is designed for use for residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, apartments, travel trailers, and manufactured homes.

II-29 Dwelling, Multiple-Family: A structure arranged or designed to be occupied by more than one (1) family.

II-30 Dwelling, Single-Family: A structure arranged or designed to be occupied by one (1) family, the structure having only one (1) dwelling unit. Excludes mobile home as defined.

II-31 Dwelling, Two-Family: A structure arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units.

II-32 Dwelling Unit: One (1) or more rooms in a dwelling designed for living or sleeping purposes and having at least one (1) kitchen.

II-33 Family: One (1) or more persons occupying a premises and living in a single dwelling unit, as distinguished from an unrelated group occupying a boarding house, lodging house, tourist home, or hotel.

II-34 Frontage: The minimum width of a lot measured from one (1) side line to the other along a straight building setback line as defined as required herein.

II-35 Garage, Private: Accessory building designed or used for the storage of not more than three (3) automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of one and one-half (1 1/2) times as many automobiles as there are dwelling units.

II-36 Garage, Public: A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor-driven vehicles.

II-37 Golf Course: Any golf course, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as defined herein.

II-38 Golf Driving Range: A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.

II-39 Governing Body: The Town Council of Belle Haven, Virginia.

II-40 Group Home: A residence where eight (8) or less mentally or developmentally disabled persons reside, with one or more resident counselors or other staff persons. Such group home shall be treated as a single-family residence, in accordance with Section 15.1-486.3, Code of Virginia, as amended.

II-41 Guest Room: A room which is intended, arranged, or designed to be occupied, or which is occupied, by one (1) or more guests paying direct or indirect compensation therefor, but in which no provision is made for cooking. Dormitories are excluded.

II-42 Historical Area: An area indicated on the zoning map to which the provisions of the ordinance apply for protection of a historical heritage.

II-43 Home Garden: A garden in a residential district for the production of vegetables, fruits, and flowers generally for use and/or consumption by the occupants of the premises.

II-44 Home Occupation: Any occupation or profession carried on in a dwelling unit or on the premises thereof, provided that:

A. No person other than members of the family residing on the premises shall be engaged in such occupation.

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit or twenty-five (25) percent of said floor area if conducted in an accessory building, shall be used in the conduct of the home occupation.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one (1) square foot in area. The sign must have a white background with black trim. Letters must be in black and may be no more than three inches in height.

D. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

E. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling. In the case of the electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises. Bed and breakfast houses, boarding and rooming houses, tourist homes and private education institutions, the conducting of a beauty or barber shop, tea room or restaurant, rest home, clinic, doctor or dentist office, child care center, real estate office, or cabinet, metal, or auto repair shop shall not be deemed a home occupation.

II-45 Hospital: An institution rendering medical, surgical, obstetrical, or convalescent care, including nursing homes, homes for the aged and sanatoriums; but in all cases excluding institutions primarily for mental patients, epileptics, alcoholics, or drug addicts (certain nursing homes and homes for the aged may be "home occupations" if they comply with the definition herein).

II-46 Hospital, Special Care: A special care hospital shall mean an institution rendering care primarily for mental patients, epileptics, alcoholics, or drug addicts.

II-47 Impervious Cover: 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.

II-48 Institutional Use: For the purpose of this ordinance institutional uses shall be defined as those uses that pertain to government or education.

II-49 Junk Yard: An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

II-50 Kennel: Any place in which more than three (3) dogs, more than six (6) months of age are kept, or any number of dogs are kept for the purpose of sale or rental or in connection with boarding, care, or breeding, for which any fee is charged.

II-51 Livestock Market: A commercial establishment wherein livestock is collected for sale and auctioned off.

II-52 Lot: A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width, and lot areas as are required by this ordinance, and having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

II-53 Lot, Corner: A lot abutting on two (2) or more streets at their intersection. Of the two (2) sides of a corner lot, the front shall be deemed to be the shortest of the two (2) sides fronting on streets.

II-54 Lot, Depth of: The average horizontal distance between the front and rear lot lines.

II-55 Lot, Double Frontage: An interior lot having frontage on two (2) streets.

II-56 Lot, Interior: Any lot other than a corner lot.

II-57 Lot, Width: The width of any lot at the setback line, calculated by measuring back a uniform distance from the street line as required by the setback line shall also curve or angle uniformly with the street line and the lot width shall be calculated along the said curve or angle setback line.

II-58 Lot of Record: A lot which has been recorded in the Clerk's Office of the Circuit Court.

II-59 Manufacture and/or Manufacturing: The processing and/or converting of raw, unfinished materials, or products, or either of

them, into articles or substances of different character, or for use for a different purpose.

II-60 Manufactured Home: A structure constructed to federal standards, transportable in one or more sections, which, in the traveling mode, is eight (8) feet or more in width and is forty (40) or more feet in length, or when erected on site, is three-hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical conditions contained therein. The term "mobile home," once widely used to describe transportable housing units, has been replaced in the Code of Virginia, Section 36-85.16 et seq., by the term "manufactured home."

II-61 Manufactured Home Park or Subdivision: Any area designed to accommodate two (2) or more manufactured homes intended for residential use where residence is in manufactured homes exclusively.

II-62 Mobile Home: A transportable, factory built home designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974. (This definition shall not include motor homes and travel trailers.)

II-63 Motor Home: Every private motor vehicle with a normal seating capacity of not more than ten persons, including the driver, designed primarily for use as living quarters for human beings.

II-64 Nonconforming Lot: An otherwise legally platted lot that does not conform to the minimum area or width requirements of this ordinance for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

II-65 Nonconforming Activity: The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

II-66 Nonconforming Structure: An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

II-67 Nonpoint Source Pollution: 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.

II-68 Nontidal Wetlands: 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 U.S. Environmental Protection Agency pursuant to Section 404 of the federal Clean Water Act, in 33 C.F.R. 328.3b, dated November 13, 1986.

II-69 Noxious Weeds: Weeds that are difficult to control effectively, such as Johnson Grass, Kudzu, and multiflora rose.

II-70 Office: For the purpose of this ordinance offices are defined as a building, room or suite in which services, clerical work, professional duties or the like are carried out.

II-71 Parking Space: A permanently paved area with an all-weather surface, enclosed or unenclosed, sufficient in size to store one (1) standard size automobile, together with a permanently surfaced driveway connecting the parking space with a street or alley and permitting ingress or egress of an automobile.

II-72 Parking Area, Off-Street: Parking (as defined in II-70) space provided for vehicles outside the dedicated street right-of-way.

II-73 Plan of Development: The process for site plan or subdivision plat review to ensure compliance with Section 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.

II-74 Public Road: 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 (i) the Erosion and Sediment Control Law (Section 10.1-560 et seq. of the Code of Virginia) and (ii) the Virginia Stormwater Management Act (Section 10.1-603 et seq. of the Code of Virginia). This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by the local government in accordance with the standards of that local government.

II-75 Public Water and Sewer Systems: A water or sewer system owned and operated by the Town of Belle Haven or owned and operated by a private individual or a corporation approved by the governing

body and properly licensed by the State Corporation Commission, and subject to special regulations as herein set forth.

II-76 Recreational Vehicle: Vehicular-type structure designed as temporary living accommodations for recreation, camping, and travel use. There are four (4) basic types of recreational vehicles - travel trailers, motor homes, truck campers, and camping trailers.

II-77 Redevelopment: The process of developing land that is or has been previously developed.

II-78 Required Open Space: Any space required in any front, side, or rear yard.

II-79 Resource Management Area (RMA): That component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area. RMAs 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.

II-80 Resource Protection Area (RPA): That component of the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline 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.

II-81 Restaurant: Any building in which, for compensation, food or beverages are dispensed for consumption on the premises including, among other establishments, cafes, tea rooms, confectionery shops, or refreshment stands.

II-82 Retail Stores and Shops: Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards) such as the following which will serve as illustration: drug store, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop, and beauty shop.

II-83 Setback: The minimum distance by which any building or structure must be separated from the front lot line.

II-84 Sign: Any display of any letters, words, numerals, figures, device, emblems, pictures, or any parts or combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, where such display be made on, attached to, or as a part of a structure, surface, or any other thing including, but not limited to, the ground, any rock, tree, or other natural object, which display is visible beyond the boundaries of the

parcel of land on which the same is made. A display of less than one (1) square foot in area is excluded from this definition.

II-84.1 Business. A sign which directs attention to a product, commodity, or service available on the premises.

II-84.2 Home Occupation. A sign not exceeding one (1) square foot in area directing attention to a product, commodity, or service available on the premises, but which product, commodity, or service is clearly a secondary use of the dwelling. The sign must have a white background with black trim. Letters must be in black and no more than three inches in height.

II-84.3 General Advertising. A sign which directs attention to a product, commodity, or service not necessarily available on the premises.

II-84.4 Location. A sign which directs attention to the approximate location of an establishment from which the advertised product may be obtained.

II-84.5 Directional. A directional sign which indicates the direction to which attention is called four (4) square feet or less in area, giving the name only of the farm or business responsible for the erection of same, one end of which may be pointed, or on which an arrow may be painted.

II-84.6 Identification. A sign, not exceeding sixteen (16) square feet in area, for the purpose of showing the name and use of a convent, monastery, seminary, church, country club, sanitarium, cemetery, children's home, orphanage, fraternal organization, hospital, or other similar establishment, when such use is permitted in a residence zone as specified in this article and such sign is erected or displayed on the property as identified.

II-85 Sign Structure: Includes the supports, uprights, bracing, and framework of any structure, be it single-faced, double-faced, v-type, or otherwise exhibiting a sign.

II-86 Sign, Temporary: A sign applying to a seasonal or other brief activity such as, but not limited to, summer camps, horse shows, auctions, or sale of land. Temporary signs shall conform in size and type to directional signs.

II-87 Store: See Item II-82, Retail Stores and Shops.

II-88 Story: That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, the space between the floor and the ceiling next above it.

II-89 Story, Half: A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use.

II-90 Street, Road: A public thoroughfare, except an alley or driveway, which affords principal means of access to abutting property.

II-91 Street Line: The dividing line between a street or road right-of-way and the contiguous property.

II-92 Structure: Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, signs, etc.

II-93 Tidal Shore or Shore: Land contiguous to a tidal body of water between the mean low water level and the mean high water level.

II-94 Tidal Wetlands: Vegetated and nonvegetated wetlands as defined in Section 62.1-13.2 of the Code of Virginia.

II-95 Tributary Stream: Any perennial stream that is so depicted on the most recent U.S. Geological Survey 7-1/2 minute topographic quadrangle map (scale 1:24,000).

II-96 Tourist Court, Motel, Cabins, or Motor Lodge: One (1) or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

II-97 Tourist Home: A dwelling where only lodging is provided for compensation for up to fourteen (14) persons (in contradistinction to hotels and boarding houses) and open to transients.

II-98 Travel Trailer: Vehicular structure mounted on wheels which is designed as temporary living accommodations for recreation, camping, and travel use and can be easily towed by automobile or small truck and does not require special highway movement permits.

II-99 Truck Camper: Portable structure designed to be loaded onto or affixed to the bed or chassis of a truck. Designed to be used as temporary living accommodations for recreation, camping, and travel use.

II-100 Use, Accessory: A subordinate use customarily incidental to and located upon the same lot occupied by the main use.

II-101 Variance: A variance is a reasonable deviation, granted by the Board of Zoning Appeals, from those provisions regulating the size or area of a lot or parcel of land or the size, area, bulk, or location of a building or structure.

II-102 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. These facilities include, but are not limited to (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) marinas and other boat docking structures; (iv) beaches and other public water-oriented recreation areas; and (v) fisheries or other marine resources facilities.

II-103 Wayside Stand, Roadside Stand, Wayside Market: Any structure of land used for the sale of agricultural or horticultural produce, livestock, or merchandise produced by the owner or his family on their farm.

II-104 Wetlands: Tidal and nontidal wetlands.

II-105 Yard: An open space on a lot other than a court unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

II-105.1 Front. An open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line, and extending across the full width of the lot.

II-105.2 Rear. An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot.

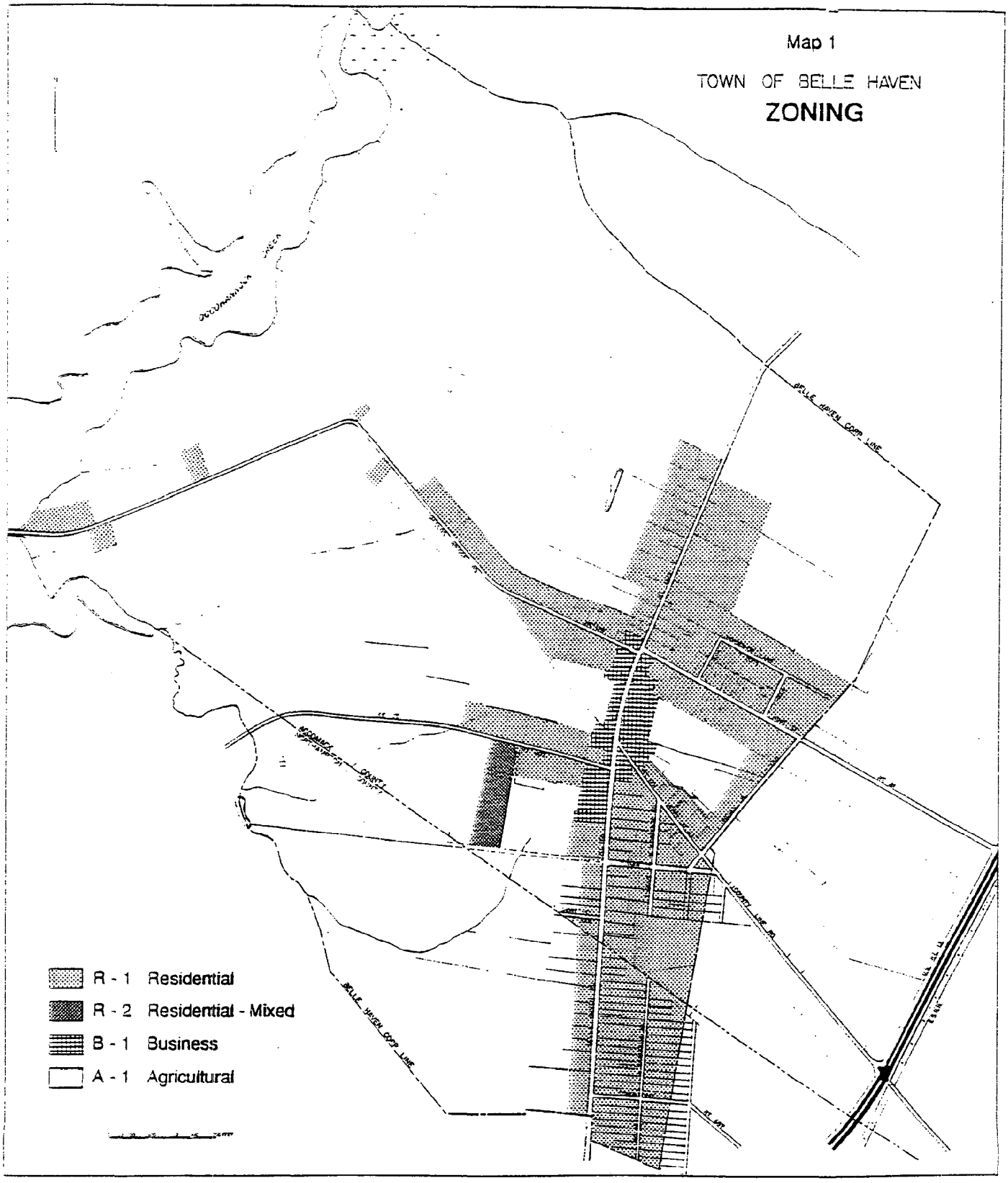
II-105.3 Side. An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot, and extending from the front yard line to the rear yard line.

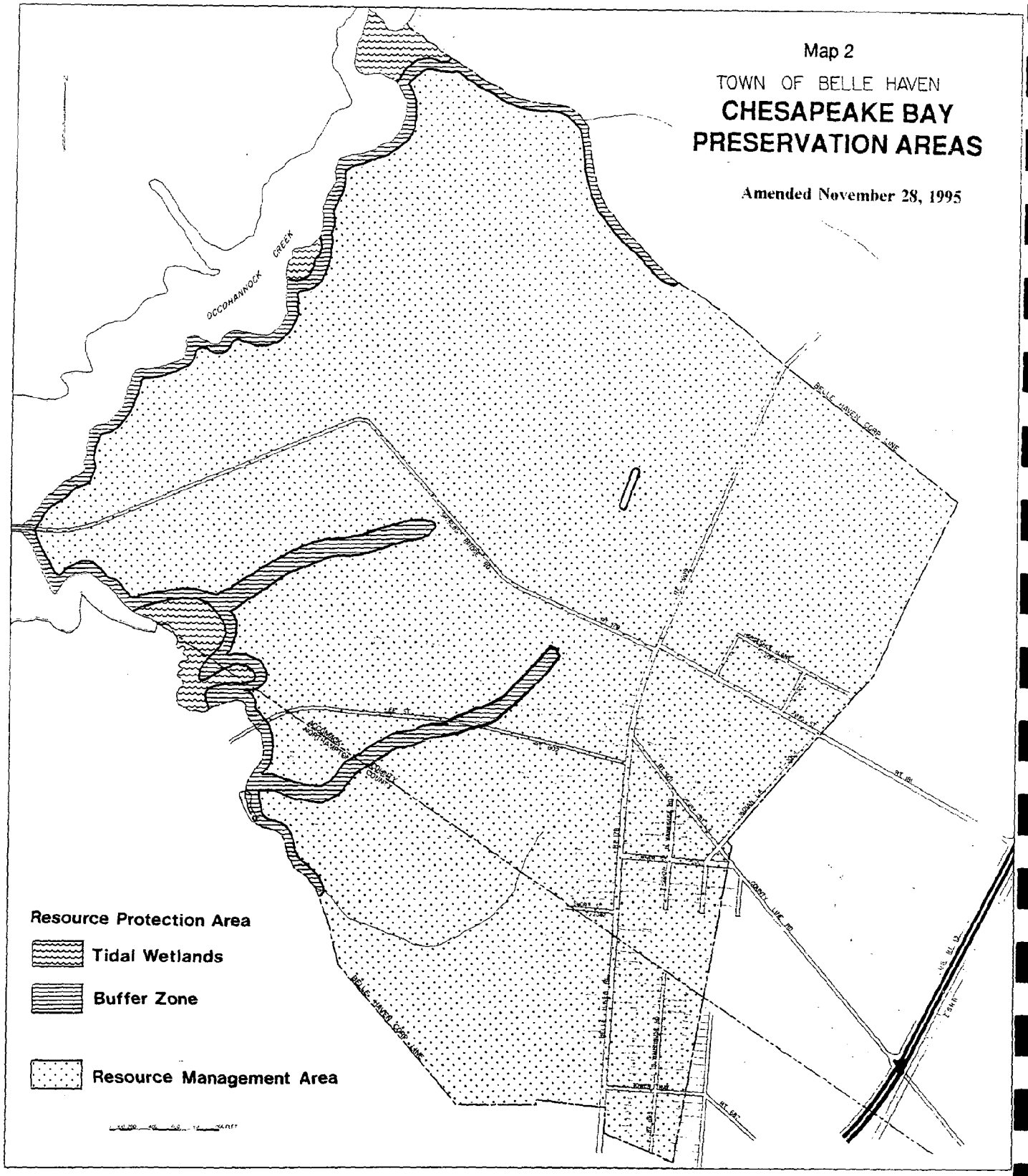
Article III - Districts

III-1 Enumeration of Districts. For the purpose of this ordinance, the incorporated area of the Town of Belle Haven, Virginia, is hereby divided into the following districts.

Residential, Single-Family:	R-1	page 20
Residential, Mixed:	R-2	page 23
Business, General:	B-1	page 26
Agricultural:	A-1	page 28
Chesapeake Bay Preservation Area Overlay District:	CBPA	page 30

Location of these districts can be found on Map 1, page 18, and Map 2, page 19.


Map 1
TOWN OF BELLE HAVEN
ZONING
R - 1 Residential
R - 2 Residential - Mixed
B - 1 Business
A - 1 Agricultural


Map 2
TOWN OF BELLE HAVEN
CHESAPEAKE BAY
PRESERVATION AREAS
Amended November 28, 1995
OCCOHANNOCK CREEK
BELLE HAVEN CORP. LINE
Resource Protection Area
Tidal Wetlands
Buffer Zone
Resource Management Area

III-2 Residential Single-Family District, R-1

III-2.1 Statement of Intent. This district is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development is recommended to occur by the Town of Belle Haven Comprehensive Plan. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, and to promote and encourage a suitable environment for family life where there are children. To these ends, development is limited to a relatively low concentration; and permitted uses are basically limited to single-unit dwellings providing homes for the residents, plus certain additional uses, such as parks, and certain public facilities that serve the residents of the district. This area is represented as R-1 on page 18 of the Town of Belle Haven, Virginia, Zoning Ordinance and as Residential on the Future Land Use Map in the Belle Haven Town Plan.

III-2.2 Principal Permitted Uses and Structures. The following uses shall be permitted subject to all the other requirements of this ordinance as a matter of right in Single-Family Residential District (R-1).

A. Single-Family Dwellings.

B. Parks and Playgrounds.

C. Public Utilities: poles, distribution lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities. These utilities do not include commercial radio antennae.

D. Accessory Buildings.

E. Group Homes, as defined.

III-2.3 Special Uses. The following uses shall be permitted in Single-Family Residential District (R-1), subject to all the other requirements of this ordinance, only upon the obtaining of a Special Use Permit from the Town Council.

A. Two-Family Dwelling.

1. Each dwelling unit shall not be permitted more than one apartment, which shall be contained within the dwelling unit itself.

2. The apartment shall not occupy more than thirty (30) percent of the floor area in the dwelling unit.

B. Home Occupations - as defined in II-43 .

C. Churches, in a building.

D. Bed and Breakfast Houses.

E. Day Care Centers, in a building.

F. Professional Offices, in a building.

III-2.4 Area Regulations. The minimum lot area required for a permitted use in the "R-1" district is 16,000 square feet.

III-2.5 Setback Regulation. Structures shall be located thirty-five (35) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or sixty (60) feet or more from the center of any street right-of-way less than fifty (50) feet in width; however, no building need be set back more than the average of the setbacks of the two adjacent structures on either side. A vacant lot fifty (50) feet or more in width may be assumed to be occupied by a building having a minimum setback. This shall be known as the "setback line." On corner lots, the structures shall be set back thirty (30) feet from both streets.

III-2.6 Frontage Regulations. The minimum lot width measured along a street at the setback line shall be one-hundred (100) feet or more, and for each additional dwelling unit there shall be at least ten (10) feet of additional lot width at the "setback line."

III-2.7 Yard Regulations.

Side: The minimum side yard shall be fifteen (15) feet or more. A one story accessory building shall have a side yard of five (5) feet or more and any accesory building over 1 story in height shall be ten (10) feet or more from any lot line.

Rear: Each main building shall have a rear yard of twenty-five (25) feet or more. A one story accessory building shall have a rear yard of five (5) feet or more and each accessory building over 1 story shall be ten (10) feet or more from any lot line.

III-2.8 Height Regulations. Buildings may be erected up to 35 feet and two and one-half (2 1/2) stories in height except that:

A. Public utility structures, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, residential television antennae and residential radio aerials are exempt. Parapet walls may be up to 4 feet above the height of the building on which the walls rest.

B. Accessory buildings shall be limited to two (2) stories in height.

III-2.9 Access. Each dwelling unit shall front on a dedicated public street or a thirty-four (34) foot minimum width access easement.

III-4 Residential Mixed District (R-2)

III-4.1 Statement of Intent. This district is composed of a mix of single-family and multi-family residential areas plus certain open areas where similar residential development is recommended by the Town of Belle Haven Comprehensive Plan. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to limit activities of a commercial nature. This district allows a higher density of dwelling units than R-1. Permitted uses include one and two family dwellings and only after the issuance of Special Use Permit as provided in Article VIII would dwellings of three or more units be permitted. Homes will be provided for residents plus certain public facilities that serve the residents of the district. This area is represented as R-2 on page 18 of the Town of Belle Haven, Virginia, Zoning Ordinance and as Residential: Mixed on the Future Land Use Map in the Belle Haven Town Plan.

III-4.2 Principal Permitted Uses and Structures. The following uses shall be permitted by right.

A. Accessory Buildings.

B. Single-Family Dwellings.

C. Two-Family Dwellings.

D. Parks and Playgrounds.

E. Public Utilities: poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage systems. These utilities do not include commercial radio antennae.

F. Group Homes, as defined.

III-4.3 Special Uses. The following uses shall be permitted in Residential Mixed District, R-2, subject to all other requirements of this ordinance, only upon the obtaining of a special use permit from the governing body.

A. Multi-Family Dwellings.

B. Tourist Homes.

C. Bed and Breakfast Houses.

D. Rest Homes.

E. Day Care Centers, in a building.

F. Home Occupations - as defined in II-43.

G. Churches, in a building.

III-4.4 Area Regulations.

A. The minimum lot area for residential lots containing one (1) dwelling unit is 16,000 square feet.

B. The minimum lot area for residential lots containing two dwelling units is 26,000 square feet for two (2) dwelling units and 10,000 square feet for each additional unit.

III-4.5 Setback Regulations. Structures shall be located thirty-five (35) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or sixty (60) feet or more from the center of any street right-of-way less than fifty (50) feet in width; however, no building need be set back more than the average of the setbacks of the two adjacent structures on either side. A vacant lot fifty (50) feet or more in width may be assumed to be occupied by a building having a minimum setback. This shall be known as the "setback line." On corner lots, the structures shall be set back thirty (30) feet from both streets.

III-4.6 Frontage Regulations.

A. The minimum lot width measured along a street at the setback line shall be ninety (100) feet or more for a lot containing a single-family residential unit.

B. The minimum lot width measured along a street at the setback line shall be one hundred twenty (120) feet or more for a lot containing a two-family residential unit with an additional ten (10) feet required for each additional dwelling unit.

III-4.7 Yard Regulations.

Side: The minimum side yard shall be ten (10) feet or more. A one story accessory building shall have a side yard of five (5) feet or more and any accessory building over 1 story in height shall be ten (10) feet or more from any lot line.

Rear: Each main building shall have a rear yard of twenty-five (25) feet or more. A one story accessory building shall have a rear yard of five (5) feet or more and each accessory building over 1 story shall be ten (10) feet or more from any lot line.

III-4.8 Supplemental Regulations for Multi-Family Units.

A. No more than eight (8) multi-family units shall be included in any one multi-family grouping.

B. The facades of dwelling units in a multi-family development should be varied by changed front yards and variation in materials or design, so that abutting units need not have the same front yard depth or the same, or essentially the same, architectural treatment of facades and roof lines.

III-4.9 Height Regulations. Buildings may be erected up to 35 feet and two and one-half (2 1/2) stories in height except that:

A. Public utility structures, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, residential television antennae and residential radio aerials are exempt. Parapet walls may be up to 4 feet above the height of the building on which the walls rest. This exception shall not include commercial radio antennae.

B. Accessory buildings shall be limited to two (2) stories in height.

III-4.10 Access. Each dwelling unit shall front on a dedicated public street or a thirty-four (34) foot minimum width access easement.

III-5 Business, General, District B-1

III-5.1 Statement of Intent. This district is intended to provide for the conduct of limited business which provide convenience, goods and services. This area is represented by B-1 on page 18 of the Town of Belle Haven, Virginia, Zoning Ordinance and as Business on the Future Land Use Map in the Belle Haven Town Plan.

III-5.2 Principal Permitted Uses and Structures. The following uses shall be permitted by right.

A. All Uses Permitted in R-1 and R-2.

B. Retail Food Stores.

C. Banks and Lending Institutions.

D. Theaters.

E. Restaurants.

F. Signs as Permitted under Article IV herein.

G. Retail Service Stores.

H. Retail Sales Stores.

I. Public Utilities: Poles, distribution lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewage facilities. These utilities shall not include commercial radio antennae.

J. Virginia ABC Stores.

K. Drainage, Erosion and Flood Control Devices.

L. Residential Apartments above stores.

M. Accessory Buildings.

III-5.3 Special Use. The following uses shall be permitted in Business, General, District, B-1, subject to all the other requirements of this ordinance, only upon the obtaining of a Special Use Permit from the governing body.

A. Clubs and Lodges.

B. Libraries.

C. Wholesale Stores.

D. Machinery Sales and Service.

III-5.4 Area Regulations. None, except for those uses permitted in R-1 and R-2 Districts. The area regulations in R-1 shall apply to R-1 uses and area regulations in R-2 shall apply to R-2 uses. The required area for any use requiring individual sewage disposal shall be approved by the county health official.

III-5.5 Frontage Regulations. For those uses permitted in R-1 and R-2 Districts, the frontage regulations in R-1 shall apply to R-1 uses and frontage regulations in R-2 shall apply to R-2 uses.

III-5.6 Setback Regulations. For those uses permitted in R-1, the setback requirement in R-1 shall prevail. For those uses permitted in R-2, the setback requirement in R-2 shall prevail.

III-5.7 Yard Regulations. For those uses permitted in R-1, the yard regulations in R-1 shall prevail. For those uses permitted in R-2, the yard regulations in R-2 shall prevail. For the other permitted uses in B-1, should a side or rear yard be utilized, the minimum side yard shall be ten (10) feet and the minimum rear yard shall be twenty (20) feet and, should the property be adjacent to a residential district, the minimum side yard shall be twenty-five (25) feet and the minimum rear yard shall be twenty (20) feet.

III-5.8 Height Regulations. Buildings, other than residential buildings, may be erected to a height of 45 feet, except that:

A. Public utility structures, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, residential television antennae and residential radio aerials are exempt. Parapet walls may be up to 4 feet above the height of the building on which the walls rest.

B. Accessory buildings shall be limited to two (2) stories in height and any accessory building over one (1) story in height shall be at least ten (10) feet from any lot line.

III-5.9 Access. Each main building shall front on a dedicated public street or a thirty-four (34) foot minimum width access easement.

III-6 Agricultural District District, A-1

III-6.1 Statement of Intent. It is the intent of this district to provide appropriate locations for open farm land or wooded land. The regulations for this district are designed to keep the farmland for farming purposes as open land with a minimum of other development. The intent of the district is to restrict general farming activity only as far as it would cause health hazards or excessive annoyance to neighboring residential areas. This area is represented as A-1 on page 18 of the Town of Belle Haven Zoning Ordinance and as Agricultural on the Future Land Use Map in the Belle Haven Town Plan.

III-6.2 Principal Permitted Uses and Structures. The following uses and structures shall be permitted by right subject to other provisions herein:

A. General farming, except for hog farms and poultry houses.

B. Forestry.

C. Single-family Dwellings.

D. Churches.

E. Schools, Kindergarten, Nursery.

F. Public Utilities.

G. Animal Hospital and Veterinary Office.

H. Specialized Animal Raising.

I. Nurseries and Greenhouses.

J. Open Space Recreation, Playgrounds, Parks.

K. Group Homes, as defined.

III-6.3 Special Use. The following uses shall be permitted in the Agricultural District, A-1, subject to all the other requirements of this ordinance, only upon the obtaining of a Special Use Permit from the governing body.

A. Manufactured Housing less than nineteen feet in width.

B. Migrant Farmworker Housing.

C. Radio and Television Towers.

III-6.4 Area Regulations. The minimum lot area for a single-family dwelling, kindergarten, nursery, animal hospital, or veterinary

office shall be two (2) acres. The minimum lot area for any other permitted use shall be unrestricted.

III-6.5 Setback Regulations. All structures shall be located thirty-five (35) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or sixty (60) feet or more from the center of any street right-of-way less than fifty (50) feet in width; however, no building need be set back more than the average of the setbacks of the two adjacent structures on either side. A vacant lot fifty (50) feet or more in width may be assumed to be occupied by a building having a minimum setback. This shall be known as the "setback line." On corner lots, the structures shall be set back thirty-five (35) feet from both streets.

III-6.6 Frontage Regulations. For permitted uses the minimum lot width at the setback line shall be one-hundred (100) feet.

III-6.7 Yard Regulations. For permitted uses the minimum side yard shall be fifteen (15) feet.

III-6.8 Height Regulations. Buildings may be erected to a height of 35 feet and two and one-half (2 1/2) stories, except that:

A. Public utility structures, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, residential television antennae and residential radio aerials are exempt. Parapet walls may be up to 4 feet above the height of the building on which the walls rest.

B. Accessory buildings shall be limited to two (2) stories in height and any accessory building over one (1) story in height shall be at least ten (10) feet from any lot line.

III-6.9 Access. Each building shall front on a dedicated public street or a thirty-four (34) foot minimum width access easement.

III-7 Chesapeake Bay Preservation Area Overlay District, CBPA

GENERAL PROVISIONS

III-7.1 Title. This district shall be known and referenced as the "Chesapeake Bay Preservation Area Overlay District" of the Town of Belle Haven, Virginia.

III-7.2 Findings of Fact. The Chesapeake Bay and its tributaries constitute one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of the Town of Belle Haven and the Commonwealth of Virginia. The health of the Bay is vital to maintaining the Town of Belle Haven's economy and the welfare of its citizens.

The Chesapeake Bay waters have been degraded significantly by many sources of pollution, including nonpoint source pollution from land uses and development. Existing high quality waters are worthy of protection from degradation to guard against further pollution. Certain lands that are proximate to shorelines have intrinsic water quality value due to the ecological and biological processes they perform. Other lands have severe development constraints from flooding, erosion, and soil limitations. With proper management, they offer significant ecological benefits by providing water quality maintenance and pollution control, as well as flood and shoreline erosion control. These lands together, designated by the Belle Haven Town Council as Chesapeake Bay Preservation Areas (hereinafter "CBPAs"), which include Resource Protection Areas (hereinafter "RPAs") and Resource Management Areas (hereinafter "RMAs"), need to be protected from destruction and damage in order to protect the quality of water in the Bay and consequently the quality of life in the Town of Belle Haven and the Commonwealth of Virginia.

III-7.3 Authority. This Article is enacted under the authority of Section 10.1-2100 et seq. (The Chesapeake Bay Preservation Act) and Section 15.1-489, of the Code of Virginia. Section 15.1-489 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 Section 62.1-44.85 (8)."

III-7.4 Conflict with Other Regulations. In any case where the requirements of this Article conflict with any other provision of the Town of Belle Haven Code or existing state or federal regulations, whichever imposes the more stringent restrictions shall apply.

III-7.5 Definitions. The words and terms used in the Overlay District have the meanings which are defined in Article II,

Definitions, of the Town of Belle Haven Zoning Ordinance, unless the context clearly indicates otherwise.

III-7.6 Purpose and Intent.

A. This ordinance is enacted to implement the requirements of Section 10.1-2100 et seq. of the Code of Virginia (The Chesapeake Bay Preservation Act) as part of the Town of Belle Haven Zoning Ordinance. The intent of the Belle Haven Town Council and the purpose of the Overlay District is to: (1) protect existing high quality state waters; (2) 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; (3) safeguard the clean waters of the Commonwealth from pollution; (4) prevent any increase in pollution; (5) reduce existing pollution; and (6) promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the Town of Belle Haven.

B. This district shall be in addition to and shall overlay all other zoning districts where they are applied so that any parcel of land lying in the Chesapeake Bay Preservation Area Overlay District shall also lie in one or more of the other zoning districts provided for by the Zoning Ordinance. Unless otherwise stated in the Overlay District, the review and approval procedures provided for in the Town of Belle Haven Zoning Ordinance Article XII, Plan of Development Requirements, the Accomack County Erosion and Sediment Control Ordinance, and the Accomack County Building Code, including all grading permits and building permits, shall be followed in reviewing and approving development, redevelopment, and uses governed by this Article.

AREAS OF APPLICATION

III-7.7 Application of CBPA District.

A. The Chesapeake Bay Preservation Area Overlay District shall apply to all lands identified as CBPAs as designated by the Belle Haven Town Council and as shown on the Town of Belle Haven Zoning Map as the Chesapeake Bay Preservation Area Overlay District. The Chesapeake Bay Preservation Area Overlay District is composed of a Resource Protection Area and a Resource Management Area.

(1) Resource Protection Areas include the following land categories, the protection of which is necessary to protect the quality of state waters:

a. Tidal wetlands;

b. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or tributary streams;

c. Tidal shores;

d. A 100-foot vegetated buffer area located adjacent to and landward of the components listed in subsections a. through c. above, and along both sides of any tributary stream.

(2) Resource Management Areas are generally composed of the following land categories: floodplains; highly erodible soils, including steep slopes; highly permeable soils; nontidal wetlands not included in the RPA; and hydric soils.

B. The Town of Belle Haven Zoning Map shows the general location of CBPAs and should be consulted by persons contemplating activities within the Town of Belle Haven prior to engaging in a regulated activity.

III-7.8 Interpretation of Resource Protection Area Boundaries.

A. Delineation by the Applicant.

The site-specific boundaries of the Resource Protection Area shall ordinarily be determined by the applicant through the performance of an environmental site assessment, subject to approval by the Zoning Administrator and in accordance with Section Article XII, Plan of Development Requirements, of this Zoning Ordinance.

B. 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 remote sensing, hydrology, soils, plant species, and other data, and consult other appropriate resources as needed to perform the delineation.

C. Where Conflict Arises Over Delineation.

Where the applicant has provided a site-specific delineation of the RPA, the Zoning Administrator will 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 Article XII, Plan of Development Requirements, of the Town of Belle Haven Zoning Ordinance. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of Section XII-4.D, Appeals.

III.7.9 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.

III-7.10 Lot Size.

Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any lot shall have sufficient area outside the RPA to accommodate an intended development, in accordance with the performance standards in Section III-7.12, Performance Standards, when such development is not otherwise allowed in the RPA.

III-7.11. Required Conditions.

A. Development in RPAs may be allowed only if it: (i) is water-dependent; or (ii) constitutes redevelopment. A new or expanded water-dependent facility may be allowed provided that:

1. It does not conflict with the Belle Haven Town Plan;

2. It complies with the performance criteria set forth in Section III-7.12 of this Article;

3. Any non-water-dependent component is located outside of Resource Protection Areas;

4. Access will be provided with the minimum disturbance necessary. Where possible, a single point of access will be provided.

B. A water quality impact assessment shall be required for any proposed development or redevelopment within RPAs and for any development within RMAs when required by the Zoning Administrator because of the unique characteristics of the site or intensity of development, in accordance with the provisions of Section III-7.13, Water Quality Impact Assessment, of this Article.

C. All development and redevelopment exceeding 2500 square feet of land disturbance shall be subject to a plan of development process, in accordance with Article XII, Plan of Development Requirements, of this Zoning Ordinance, including the approval of a site plan in accordance with the provisions of Section XII-4, Site Plan, of the Zoning Ordinance or a subdivision plat in

accordance with Article III of the Land Subdivision and Development Ordinance of the Town of Belle Haven.

III-7.12. Performance Standards.

A. 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 10% reduction in nonpoint source pollution from redevelopment; and achieve a 40% reduction in nonpoint source pollution from agricultural uses.

B. General Performance Standards for Development and Redevelopment.

(1) Land disturbance shall be limited to the area necessary to provide for the desired use or development.

a. In accordance with an approved site plan, the limits of land disturbance, including clearing or grading shall be strictly defined by the construction footprint. These limits shall be clearly shown on submitted plans and physically marked on the development site.

b. Impervious cover shall not exceed 60% of the site.

c. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the Zoning Administrator.

(2) Indigenous vegetation shall be preserved to the maximum extent possible consistent with the use and development permitted and in accordance with the Virginia Erosion and Sediment Control Handbook.

a. Existing trees over six (6) inches diameter at breast height (DBH) shall be preserved outside the

construction footprint. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed.

b. Clearing shall be allowed only to provide necessary access, positive site drainage, water quality BMPs, and the installation of utilities, as approved by the Zoning Administrator.

c. Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected 5 feet outside of the dripline of any tree or stand of trees to be preserved. These 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 impervious cover to promote infiltration of stormwater into the ground consistent with the use or development permitted.

a. Pervious material shall be used for any required parking area, alley, or other low traffic driveway, unless otherwise approved by the Zoning Administrator.

b. Parking space size shall be 162 square feet. Parking space width shall be nine (9) feet; parking space length shall be 18 feet. Two-way drives shall be a maximum of 22 feet in width.

(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 the Accomack County Erosion and Sediment Control Ordinance.

(5) All on-site sewage disposal systems not requiring a Virginia Pollutant Discharge Elimination System (VPDES) permit shall be pumped out at least once every five years, in accordance with the provisions of the Accomack County Health Code.

(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 Accomack County Health Code. 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.

(7) For any development or redevelopment, stormwater runoff shall be controlled by the use of best management practices that achieve the following:

a. For development, the post-development nonpoint source pollution runoff load shall not exceed the pre-development load, based on the calculated average land cover condition of the subwatershed area, as calculated by the Eastern Shore Soil and Water Conservation District;

b. For redevelopment sites, the nonpoint source pollution load shall be reduced by at least 10 percent. The Zoning Administrator may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided the following provisions are satisfied:

1. In no case may the post-development nonpoint source pollution runoff load exceed the pre-development load;

2. Runoff pollution loads must have been calculated and the BMPs 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. A new maintenance agreement may be required to ensure compliance with this Article.

c. 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.

(8) 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 Article XII, Plan of Development Requirements, of this Zoning Ordinance.

(9) Land upon which agricultural activities are being conducted shall have a soil and water quality conservation plan. Such plan shall be based upon the Field Office Technical Guide of the U.S. Department of Agriculture Soil Conservation Service and accomplish water quality protection consistent with this ordinance. Such a plan shall be approved by the local Soil and Water Conservation District by **January 1, 1995.**

C. 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 100-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source 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 tributary stream. The full buffer area shall be designated as the landward component of the RPA, in accordance with Section III-7.7, Application of CBPA District, and Article XII, Plan of Development Requirements, of this Zoning Ordinance.

The 100-foot buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients. A combination of a buffer area not less than 50 feet in width and appropriate best management practices located landward of the buffer area which collectively achieve water quality protection, pollutant removal, and water resource conservation at least the equivalent of the full 100-foot buffer area may be employed in lieu of the 100-foot buffer if approved by the Zoning Administrator after consideration of the Water Quality Impact Assessment, in accordance with Section III-7.13 of this Article.

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 only to provide for reasonable sight lines, access paths, general

woodlot management, and best management practices, as follows:

a. 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.

b. Any path shall be constructed and surfaced so as to effectively control erosion.

c. Dead, diseased, or dying trees or shrubbery may be removed at the discretion of the landowner, and silvicultural thinning may be conducted based upon the best available technical information, which can be obtained from the local State Forester and County Extension Office.

d. For shoreline erosion 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 areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Zoning Administrator may modify the width of the buffer area in accordance with Article XII, Plan of Development Requirements, and the following criteria:

a. Modifications to the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;

b. Where possible, an area equal to the area encroaching the buffer area shall be established elsewhere on the lot or parcel in a way to maximize water quality protection; and

c. In no case shall the reduced portion of the buffer area be less than 50 feet in width.

(3) On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds from

invading the buffer area. The agricultural buffer area may be reduced as follows:

a. To a minimum width of 50 feet when the adjacent land is implementing a federal, state, or locally-funded agricultural best management practices program, provided that the combination of the reduced buffer area and the best management practices achieve water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100 foot buffer area;

b. To a minimum width of 25 feet when a soil and water quality conservation plan, as approved by the local Soil and Water Conservation District, has been implemented on the adjacent land. Such plan shall be based upon the Field Office Technical Guide of the U.S. Department of Agriculture Soil Conservation Service and accomplish water quality protection consistent with this Article.

c. The buffer area is not required for agricultural drainage ditches which appear as perennial streams on USGS topographic maps 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.

III-7.13. Water Quality Impact Assessment.

A. 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 Resource Protection Areas and other environmentally sensitive lands; ensure that, where development does take place within Resource Protection Areas and other sensitive lands, it will be located on those portions of a site and in a manner that will be least disruptive to the natural functions of Resource Protection Areas and other sensitive lands; to protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high ground water, erosion, or vulnerability to flood and storm damage; and specify mitigation which will address water quality protection.

B. Water Quality Impact Assessment Required.

A water quality impact assessment, to be submitted during the plot plan, site plan and/or subdivision review process, is required for:

(1) Any proposed development or redevelopment within a Resource Protection Area, including any buffer area modification or reduction as provided for in Section III-7.12.C of this Article.

(2) Any proposed development or redevelopment within an RMA. The Zoning Administrator may waive this requirement when it is apparent that the unique characteristics of the site (such as the topography, soils, groundcover, location of wetlands and tidal shores) will prevent the proposed development from causing a degradation of water quality.

C. Contents of a Water Quality Impact Assessment.

The water quality impact assessment shall be of sufficient specificity to demonstrate compliance with this Article. The information required in this section shall be considered a minimum, the Zoning Administrator may determine that additional information is necessary due to the nature and scope of the proposed use and development of land. The impact statement shall be prepared by qualified persons acting within the limits of their professional expertise and license, and shall include the following:

(1) Location of the components of the RPA, including the one hundred (100) foot RPA buffer.

(2) Location and nature of any proposed encroachments into the RPA buffer area including the type of paving material; areas of clearing or grading; and the location of any structures, driveways and other impervious cover.

(3) Type and location of proposed stormwater management facilities and best management practices necessary to comply with performance standards for stormwater management contained in Section III-7.12.B(7).

(4) Calculation of pre- and post-development pollutant loading in accordance with Section III-7.12.B(7).

(5) Identification and status of any required wetlands permits from federal, state or local agencies.

(6) An erosion and sediment control plan in accordance with the requirements of Accomack County's Erosion and Sediment Control Ordinance.

(7) A narrative describing the site; the impacts of the proposed development on topography, soils, hydrology and geology; and the measures taken to mitigate nonpoint source pollution.

D. Evaluation Procedure.

(1) Upon the completed review of a water quality impact assessment, the Zoning Administrator will determine if any proposed modification or reduction to the buffer area is consistent with the purpose and intent of this Article or if the proposed development is consistent with the purpose and intent of this Article. The Zoning Administrator will make a finding based on the following criteria in conjunction with Article XII:

a. The necessity of the proposed encroachment into the buffer area and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area:

b. Within any RPA, the proposed development is water-dependent;

c. The disturbance of wetlands will be minimized;

d. Impervious surface is minimized;

e. The development, as proposed, meets the purpose and intent of this Article;

f. Proposed erosion and sediment control devices are adequate to achieve the reductions in runoff and prevent off-site sedimentation;

g. Proposed stormwater management facilities and practices are adequate to control the stormwater runoff to achieve the required standard for pollutant control;

h. The development will not result in unnecessary destruction of plant materials on site;

i. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.

(2) The Zoning Administrator may request review of the water quality impact assessment by the Chesapeake Bay Local Assistance Department (CBLAD). Any comments by CBLAD

will be considered by the Planning Commission provided that such comments are provided by CBLAD within thirty (30) days of the request.

ADMINISTRATION AND ENFORCEMENT

III-7.14 Exemptions.

A. Exemptions for Utilities, Railroads, and Public Roads.

Construction, installation, operation, and maintenance of electric, gas, and telephone transmission lines, railroads, and public roads and their appurtenant structures, including sidewalks and lighting, in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (Section 10.1-560 et seq. of the Code of Virginia) and the Stormwater Management Act (Section 10.1-603.1 et seq. of the Code of Virginia), (ii) an erosion and sediment control plan and a stormwater management plan approved by the Virginia Departmentof Conservation and Recreation, or (iii) local water quality protection criteria at least as stringent as the above state requirements will be exempt from the Overlay District requirements. The exemption of public roads is further conditioned on the following:

a. Optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize (i) encroachment in the Resource Protection Area and (ii) adverse effects on water quality;

b. Public roads as defined in Section II of this article are exempt from Overlay District requirements.

B. Construction, installation, and maintenance of water, sewer, and local gas lines shall be exempt from the Overlay District provided that:

a. To the degree possible, the location of such utilities and facilities shall be outside RPAs;

b. No more land shall be disturbed than is necessary to provide for the desired utility installation;

c. 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

d. Any land disturbance exceeding an area of 2,500 square feet complies with all local erosion and sediment control requirements.

C. 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 Department of Forestry in its "Best Management Practices Handbook for Forestry Operations."

D. Exemptions in Resource Protection Areas.

The following land disturbances in Resource Protection Areas may be exempted from the Overlay District: (i) water wells; (ii) passive recreation facilities such as boardwalks, trails, and pathways; and (iii) 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 2500 square feet shall comply with all local erosion and sediment control requirements.

III-7.15 Exceptions.

A. A request for an exception to the requirements of this Overlay District shall be made in writing to the Zoning Administrator. It shall identify the impacts of the proposed exception on water quality and on lands within the RPA through the performance of a water quality impact assessment which complies with the provisions of Section III-7.13.

B. The Zoning Administrator 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 Zoning Administrator finds:

(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 non-conforming 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, and not injurious to the neighborhood or otherwise detrimental to the public welfare; and

(5) Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

C. If the Zoning Administrator cannot make the required findings or refuses to grant the exception, the Zoning Administrator 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, with a copy to the Board of Zoning Appeals. The applicant may then apply to the Board of Zoning Appeals for a variance as provided in Article IX, Provisions for Appeal.

D. The Board of Zoning Appeals shall consider the water quality impact assessment and the findings and rationale of the Zoning Administrator in determining consistency with the purpose and intent of this Article.

Article IV - Sign Regulations

IV-1 Statement of Purpose. The following sign regulations are established to assure compatibility of signs with surrounding land usage, to enhance the economy of the Town, to protect the public investment in streets and highways, to promote the safety and recreational value of public travel, to preserve natural beauty and to promote the reasonable, orderly and effective display of outdoor advertising.

IV-2 Advertising Outdoors Regulated. No person except a public officer or employee in performance of a public duty, shall paste, post, paint, print, nail, tack, erect, place, maintain, or fasten any sign, pennant, flags, outdoor advertising signs, billboard, or notice of any kind, or cause the same to be done, facing or visible from any public street or public open space, except as provided herein.

IV-3 Signs and Flags Permitted by Right in any District.

IV-3.1. Memorial tablets or signs.

IV-3.2. Signs required to be maintained by law or governmental order, rule, or regulation, with a total surface area not exceeding ten (10) square feet on any lot or parcel.

IV-3.3. Signs which are within a ball park or other similar private recreational use and which cannot be seen from a public street or adjacent properties.

IV-3.4. Flags or emblems of civic, governmental, philanthropic, educational, or religious organizations, and corporate designed flags.

IV-3.5. Signs displayed for the direction or convenience of the public, including signs which identify rest rooms, location of public telephones, freight entrances, no trespassing and posted signs, or the like not exceeding a total area of eight (8) square feet per sign.

IV-3.6. Signs placed by a public utility showing the location of underground facilities.

IV-3.7. Church bulletin board and identification signs with a total surface area not exceeding twenty (20) square feet per sign.

IV-3.8. Home occupation signs with a total surface area not exceeding one (1) square foot per sign.

IV-3.9. Up to four (4) signs, not to exceed four (4) square feet, advertising the sale or rent of the specific premises where the sign is located.

IV-3.10. Signs or a combination of letters may be attached to a building or structure, where business is conducted on the premises, for the purpose of advertising and displaying the name, address, and/or a business slogan, of the specific business.

IV-3.11. Signs advertising only the price of a product provided the sign is attached to a permanent structure on the specific premises where the business is located. These signs shall be limited to the B-1 District.

IV-3.12. In any district, except in Residential Districts, one (1) of the following business signs options shall be permitted by right only on the specific premises where the business is located, subject to other applicable provisions of this Article.

A. One (1) sign which shall not exceed thirty-two (32) square feet.

B. Two (2) signs which shall not exceed sixteen (16) square feet.

All signs shall be of balanced proportions and symmetrical in shape. All signs and the surrounding area shall be maintained in a neat and orderly manner.

IV-4 Height Regulations. Signs shall not exceed a height of 20 feet above ground level or the street to which it is oriented, whichever is higher.

IV-5 General Regulations.

IV-5.1. Except for authorized traffic signs, no sign shall be erected at the intersection of any streets in such a manner as to create a traffic hazard by obstructing vision between heights of two and one-half (2 1/2) and eight (8) feet; or at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign.

IV-5.2. No sign will be erected which imitates or resembles any official traffic sign, signal or device or uses the words "Stop" or "Danger" prominently displayed or presents or implies the need or requirement of stopping or the existence of danger on any highway.

IV-5.3. No sign will be erected which advertises any activities which are illegal under State or Federal law or regulations in effect at the location of such sign or at the location of such activities.

IV-5.4. No sign will be erected which is inconsistent with State law or the provisions of this ordinance.

IV-5.5. No sign will be erected which involves noise, motion or rotation of any part of the structure or displays intermittent or flashing lights, without a Special Use Permit from the governing body.

IV-5.6. No sign will be erected which is mobile. Except for signs attached to buildings or permanent structures and those permitted in Sections IV-3.10 and IV-3.12 all other signs of whatever type or size permitted in this ordinance shall be permanently anchored in concrete or permanently attached to piling or posts firmly embedded in the ground. All wheels and other portable structural equipment shall be removed from the structure.

IV-6 Nonconforming Signs. Any sign lawfully in existence at the time of the effective date of this ordinance may be maintained although it does not conform with the provisions of this ordinance. Such nonconforming signs shall comply in all respects with the requirements of Article VI relating to nonconforming uses.

If such nonconforming sign is destroyed, demolished, or removed due to any reason, it shall not be replaced without complying with all provisions of Article IV.

Article V - Off-Street Parking

V-1 Statement of Intent. The schedule below shall control the provision of parking spaces in the various Town zoning districts. The purpose of off-street parking provisions is to insure adequate access to any part of the Town by fire and emergency medical services, and to promote the economic well-being of the Town by creating a pleasant shopping climate.

V-2 Schedule of Off-Street Parking.

Districts	Off-Street Parking Requirements
R-1	Two (2) parking spaces per dwelling unit.
R-2	Two (2) parking spaces per dwelling unit.
B-1	One (1) parking space for each two hundred (200) square feet of gross floor area or fraction thereof.

V-3 Special Uses. The following uses are controlled separately from the above district-wide off-street parking regulations.

V-3.1. For churches, high schools, college and university auditoriums, and for theaters, general auditoriums, stadiums and other similar places of assembly, at least one (1) parking space for every five (5) fixed seats provided in said building.

V-3.2. For hospitals, at least one (1) parking space for each two (2) bed capacity, including infants' cribs and children's beds.

V-3.3. For medical and dental offices, at least ten (10) parking spaces. Three (3) additional parking spaces shall be furnished for each doctor or dentist in such offices in excess of three doctors or dentists.

V-3.4. For fraternal lodges, hunting clubs, golf courses, yacht clubs, country clubs, and marinas, at least twenty-five (25) parking spaces shall be provided. Additional parking may be required by the Zoning Administrator.

V-3.5. For post offices at least one (1) for each fifty (50) box holders but not less than ten (10) spaces.

V-3.6. For restaurants at least one (1) parking space per table or booth plus six (6) for employees.

Article VI - Nonconforming Uses

VI-1 Continuation.

VI-1.1. If at the time of enactment of this ordinance, any legal activity is being pursued, or any lot or structure is being legally utilized in a manner or for the purpose which does not conform to the provisions of this ordinance, such manner of use or purpose may be continued as herein provided.

VI-1.2. If any change in title of possession or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

VI-1.3. If any nonconforming use (structure or activity) is discontinued for a period exceeding two (2) years after the enactment of this ordinance, it shall be deemed abandoned and any subsequent use shall conform to the requirements of this ordinance.

VI-1.4. Temporary seasonal nonconforming uses that have been in continual operation for a period of two (2) years or more prior to the effective date of this ordinance are excluded.

VI-1.5. Uses which were allowed as a use by right which under revisions now require a special use permit are to be considered uses of right. However, any new use would require a special use permit.

VI-2 Procedure.

VI-2.1. An application for a nonconforming use and development 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:

a. Name and address of applicant and property owner;

b. Legal description of the property and type of proposed use and development;

c. 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 for any lot or parcel located within a Chesapeake Bay Preservation Area;

d. Location and description of any existing private water supply or sewage system.

VI-2.2. A nonconforming use and development waiver shall become null and void twelve months from the date issued if no substantial work has commenced.

VI-3 Repairs and Maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the current replacement value of the structure provided that the cubic content of the structure as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

VI-4 Expansion or Enlargement.

VI-4.1. A nonconforming structure to be extended or enlarged shall conform with the provision of this ordinance.

VI-4.2. A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this ordinance.

VI-4.3. The Zoning Administrator may grant a nonconforming use and development waiver for structures on legal nonconforming lots or parcels in Chesapeake Bay Preservation Areas to provide for remodeling and alterations or additions to such nonconforming structures provided that:

a. There will be no increase in nonpoint source pollution load;

b. Any development or land disturbance exceeding an area of 2500 square feet complies with all erosion and sediment control requirements in Article III of this ordinance.

c. Encroachment into the required buffer area will be the minimum necessary.

VI-5 Restoration or Replacement.

VI-5.1. If a nonconforming activity is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed fifty

percent (50%) of the cost of reconstructing the entire activity or structure, it shall be restored only if such use complies with the requirements of this ordinance.

VI-5.2. If a nonconforming structure is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed seventy-five percent (75%) of the cost of reconstructing the entire structure, it shall be restored only if it complies with the requirements of this ordinance.

VI-5.3. When a conforming structure devoted to a nonconforming activity is damaged less than fifty percent (50%) of the cost of reconstructing the entire structure, or where a nonconforming structure is damaged less than seventy-five percent (75%) of the cost of reconstructing the entire structure, either may be repaired or restored, provided any such repair or restoration is started within twelve (12) months and completed within eighteen (18) months from the date of partial destruction.

VI-5.4. The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.

Article VII Administration and Enforcement

VII-1 Zoning Permits. No use of any real property within the corporate limits of the Town of Belle Haven shall take place nor shall any construction or excavation or grading therefor commence prior to the issuance of a zoning permit therefor by the Zoning Administrator. The zoning permit shall state that the proposed construction, use, or other activity is in accord with all provisions of this Zoning Ordinance. The Zoning Administrator may promulgate rules determining what information shall accompany each application for a permit herein.

VII-2 Commission Permits. No street, park or other public area, or public structure, or public utility, public building or public service corporation, whether publicly or privately owned, shall be constructed, established or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the Planning Commission as being substantially in accord with the adopted Comprehensive Plan or part thereof. In connection with any such determination the Commission may, and at the direction of the Council shall, hold a public hearing, after notice as required by 15.1 - 431 of the Code of Virginia.

VII-3 Zoning Administrator. This ordinance shall be administered by the Zoning Administrator who shall be appointed by the Town Council and shall be assisted by such other persons as the Town Council may direct. The Zoning Administrator shall have all necessary authority to administer and enforce the provisions of this ordinance.

Along with his deputies and inspectors, the Zoning Administrator is hereby empowered to enter and go upon any private or public property in the Town for the purpose of inspecting for compliance with this ordinance and of administration and enforcement hereof, provided that any and all such entries shall be in accordance with the general requirements of due process and nothing herein shall authorize or purport to authorize any unlawful search or seizure.

VII-4 Violations and Penalties. Any person who violates any provision of this ordinance or any amendment thereto, or who fails to perform any act required hereunder or does any prohibited act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars ($100) or imprisonment in the county jail for not more than thirty (30) days, or both, for each offense. Each and every day on which any violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. Any violation of this ordinance is hereby declared to be a public nuisance per se and shall be enjoined to cease.

Article VIII Special Use Permits

VIII-1 Statement of Intent. It is recognized in this ordinance that certain uses are not necessarily incompatible with the uses traditionally associated with standard zoning districts, if the proper mitigating conditions are enacted along with the proposed use. Therefore, such uses have been designated as special uses, and have been included in Article III. Such uses are allowed in the associated districts upon the issuance of a Special Use Permit by the Belle Haven Town Council.

VIII-2 Procedure. An application for a special use permit may be submitted by the property owner, contract owner, or optionee of the property affected. Procedures for application and review shall be as follows:

A. The applicant shall submit an application to the Zoning Administrator. Such application shall be accompanied by evidence that the specific criteria set forth in the ordinance for the special use requested will be met. Accompanying maps showing the site of the proposed use may be required.

B. The Zoning Administrator shall review the application, visit the site, request additional information or review by other agencies, and formulate a recommendation to the Town Planning Commission.

C. The Zoning Administrator will transmit the collected information and his recommendation to the Planning Commission. The Planning Commission shall hold a public hearing in accordance with Section 15.1-431 of the Code of Virginia, as amended, within thirty days of receipt of the Zoning Administrator's report. The Zoning Administrator's Report, a summary of the Planning Commission public hearing, and a recommendation from the Planning Commission, shall be transmitted to the Town Council by the Town Council's first meeting after the date public hearing is held.

D. The Town Council shall hold a public hearing in accordance with Section 15.1-431 of the Code of Virginia, in order to receive public comment and to decide upon the Special Use Permit application. Such public hearing shall be scheduled to coincide with the regularly scheduled Town Council meeting that most closely follows the Council's receipt of the Special Use Permit application. If the requirement for proper notice for a public hearing makes such regularly scheduled Town Council meeting impractical, the public hearing shall be scheduled for the Town Council meeting one meeting hence from the meeting most closely following receipt of the application by the Town Council.

VIII-3 Conditions and Bonds. The Town Council may impose conditions, limitations, or other special requirements as it deems necessary to protect the public health, safety, and general welfare, such as, but not limited to, the following:

A. Abatement or restriction of noise, smoke, dust, vibration, odors, wastes, or other elements that may affect surrounding properties.

B. Establishment of setback, side, front, and rear yard requirements necessary for orderly expansion and for preventing traffic congestion.

C. Provision for adequate parking and ingress and egress to public streets and roads necessary to prevent traffic congestion.

D. Provision for adjoining property with a buffer or shield from view of the proposed use and/or structure.

E. Establishment of a time limit for expiration after which the permit shall no longer be valid or shall require renewal.

F. The Town Council may require a bond, in a reasonable amount determined by the Council, to be payable to the Zoning Administrator to insure compliance with the terms and conditions of any special use permit.

G. After due consideration, the Town Council shall make a decision and promptly notify the applicant of its decision in writing, along with a justification for denial or special conditions.

VIII-4 Review Standards. The Zoning Administrator, Planning Commission, and Town Council shall consider the following in reviewing a special use application:

A. The proposed use and/or structure appears on the official schedule of district regulations or elsewhere in this ordinance.

B. The proposed use and/or structure complies with the regulations governing individual special uses.

C. The proposed use and/or structure is consistent with the Town Plan.

D. The proposed use and/or structure will not tend to change the character and established pattern of development of the district in which it will be located.

E. The proposed use and/or structure, and accompanying parcel development, are in harmony with the uses permitted by right in the zoning district and with the intent of the zoning district regulations and will not adversely affect the use of neighboring property or impair the value thereof.

VIII-4 Effect of Approval. The issuance of a special use permit shall authorize the applicant to construct only such structure or conduct only such uses as are specifically made part of the special use permit. No deviations, expansion, or other changes whatsoever shall be made from the term of the special use permit without the express written consent of the Town Council.

Article IX Provisions for Appeal

IX-1 Board of Zoning Appeals.

IX-1.1. A Board of Zoning Appeals, which shall consist of no more than seven (7) and no less than five (5) residents of the Town but shall always be an odd number, shall be appointed by the Circuit Court of Belle Havenk County according to the provisions of the Code of Virginia, Section 15.1-494. Members of the Board may receive such compensation as may be authorized by the governing body. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

IX-1.2. The term of office shall be for five (5) years, except that original appointments shall be made for such terms that the term of one member shall expire each year. Members of the board shall hold no other public office in the County or Town except that one may be a member of the local planning commission.

IX-1.3. Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has a legal interest.

IX-1.4. The board shall choose annually its own chairman, vice-chairman, and secretary. The vice-chairman shall act in the absence of the chairman.

IX-2 Powers of the Board of Zoning Appeals. The Board of Zoning Appeals shall have the following powers and duties:

IX-2.1. To hear and decide appeals from any order, requirements, decision or determination made by an administrative officer or Zoning Administrator in the administration or enforcement of this ordinance or of any ordinance adopted pursuant thereto.

IX-2.2. To authorize upon appeal in specific cases such variances from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of specific piece of property at the time of the effective date of the ordinance or where by reason of exceptional

topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

No such variance shall be authorized by the board unless it finds:

1. That the strict application of the ordinance would produce undue hardship; and

2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No such variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

In authorizing a variance the board may impose such conditions regarding the location, character and other features of the proposed structure for use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

IX-2.3 Interpretation. The Board of Zoning Appeals shall have the authority to hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by Section 15.1-431 of the Code of Virginia, the board may interpret the map in such a way as to carry out the intent and purpose of the ordinance for the particular section or district in question. The Board shall not have the power to change

substantially the location of district boundaries as established by ordinance.

IX-3 Applications for Variances. Applications for variances may be made by any property owner, tenant, governmental official, department, board or bureau. Such applications shall be made to the Zoning Administrator in accordance with rules and regulations adopted by the Board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the Board who shall place the matter on the docket to be acted upon by the Board. No such variances shall be authorized except after notice and hearing as required by Section 15.1-431 of the Code of Virginia. The Zoning Administrator shall also transmit a copy of the application to the Planning Commission which may send a recommendation to the Board or appear as a party at the hearing.

IX-4 Appeal to the Board of Zoning Appeals. An appeal to the board may be taken by any person aggrieved or by any office, department, board or bureau of the county or municipality affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator, and with the board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise, than by a restraining order granted by the board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown. No such appeal shall be heard until after notice and hearing as required by Section 15.1-431 of the Code of Virginia.

IX-4.1. Appeals shall be mailed to the Board of Zoning Appeals c/o the Zoning Administrator, and a copy of the appeal mailed to the secretary of the planning commission. A third copy should be mailed to the individual official, department or agency concerned, if any.

IX-5 Rules and Regulations.

IX-5.1. The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary.

IX-5.2. The meeting of the board shall be held at the call of its chairman or at such times as a quorum of the board may determine.

IX-5.3. The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

IX-5.4. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examination and other official actions, all of which shall be immediately filed in the Town Hall and shall be a public record.

IX-5.5. All meetings of the board shall be open to the public.

IX-5.6. A favorable vote of the majority of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass.

IX-6 Public Hearing. The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within sixty (60) days. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of an administrative officer, or may decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or may effect any variance from the ordinance. The board shall keep minutes of its proceedings and other official actions which shall be filed in the Town Hall and shall be public record. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

IX-7 Decision of the Board of Zoning Appeals.

IX-7.1. Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board, or bureau of the county or municipality, may present to the Circuit Court of the county a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the Town Hall.

IX-7.2. Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court.

The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on

application, on notice to the Board and on due cause shown, grant a restraining order.

IX-7.4. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

IX-7.5. Costs shall not be allowed against the Board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision from which appealed.

Article X Amendments

X-2 General Provisions. The regulations, restrictions and boundaries established in this ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed by the governing body, provided:

X-1.1. The Planning Commission shall hold at least one (1) public hearing on such proposed amendment after notice as required by law, and may make appropriate changes in the proposed amendment to the governing body together with its recommendations and appropriate explanatory materials. Such public hearing may be held jointly with the governing body at its public hearing.

X-1.2. Before approving and adopting any amendment, the governing body shall hold at least one (1) public hearing thereon, pursuant to public notice as required by law after which the governing body may make appropriate changes or corrections in the proposed amendments; provided, however, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public hearing after notice required by law. An affirmative vote of at least a majority of the members of the governing body shall be required to amend the zoning ordinance.

X-2 Effect of Repeal, Amendments, or Recodification of any Part of this Ordinance on prior Proceedings, Acts or Offenses. The repeal, amendment or recodification of any part of this ordinance shall not affect any act, or offense done or committed, or any penalty incurred, or any right established, accrued or accruing on or before the effective date of such repeal, amendment or recodification, nor enlarge any such right or privilege, except as specifically provided by such repeal, amendment or recodification. Neither shall the repeal, amendment or recodification of any part of this ordinance affect any proceeding, prosecution, suit or action which may be pending, said prior laws being continued in full force and effect for those purposes.

Article XI - Zoning Guidelines

XI-1 Statement of Intent. In the process of considering the rezoning of land it is the intent that in order to meet the test of reasonableness and the test of like - land treated alike, the following factors shall be considered before zoning for a particular category:

A. Character of the area.

B. Land use and activities.

C. Suitability for proposed use.

D. Availability of public facilities.

E. Compliance with the Town of Belle Haven Comprehensive Plan.

XI-2.1 Supplemental Considerations and Regulations. Rapid development of employment, residential and commercial facilities in the Town of Belle Haven and the resulting impact on existing public facilities, highways and other necessary public facilities and services and natural resources could exceed the ability of the Town to provide for such facilities. Therefore, under authority of Article 5.2 of this ordinance and Section 15.1-491 of the Code of Virginia, as amended, the Belle Haven Town Council may impose conditions, including reasonable employment limitations, to ease the effect of rezoning land on the general public and on the natural resources of the Town.

XI-2.2 Conditions. In addition to the regulations herein provided for the respective zoning districts, the Town Council may adopt as a part of an amendment to the zoning map reasonable conditions provided that said conditions shall have been proffered in writing in advance to the public hearing on said amendment to the zoning map by the applicant for rezoning and provided that said conditions are accepted by the governing body as a condition to said amendment of the zoning map. Such accepted conditions shall be recorded in the records of the circuit court and run with the land until changed as a result of another rezoning approval or amended with the approval of the land owners and governing body.

XI-3 Conditional Zoning Procedure

A. Upon the receipt by the Zoning Administrator of a rezoning petition, it shall be reviewed by the Zoning Administrator in accordance with the guidelines found in Section XII-1. The Zoning Administrator shall prepare a report for presentation to the Planning Commission. The report from the Zoning Administrator shall contain a recommendation on the

reasonableness of the requested rezoning, with specific reasons provided for the recommendation.

B. The Planning Commission, within thirty (30) days of receiving the Zoning Administrator's report, shall consider the Zoning Administrator's recommendations and discuss same with the applicant. The applicant shall be advised of the possibility of proffered conditions in a rezoning decision, which conditions are not meant to change the character of a fundamentally unsound rezoning, but are meant to be responsive to Town growth pressures not specifically foreseen in the existing district regulations.

C. The Planning Commission shall forward the report of the Zoning Administrator, along with a report summarizing the content of the Planning Commission public hearing, to the Town Council.

D. After the Town Council has received the reports from the Zoning Administrator and the Planning Commission, the applicant for the rezoning under consideration may proffer a set of conditions for consideration along with the rezoning. Such a proffer shall be addressed to the Mayor of the Town of Belle Haven.

E. The Town Council shall hold a public hearing on the requested rezoning in accordance with 15.1-431 of the Code of Virginia, as amended. The rezoning request and the proffered condition shall be considered at this time.

F. In the event that a request for rezoning is approved and the proffered conditions accepted, these same conditions shall be recorded in the Clerk of Circuit Court office as a lien on such property involved in the rezoning petition and shall run with the land until removed by the Town Council as a result of an amendment to the original application or as a result of a subsequent rezoning petition.

ARTICLE XII - Plan of Development Requirements

XII-1 Statement of Intent.

This Article is enacted to ensure compliance with all applicable ordinances and statutes, to promote innovative and creative design, to enhance the Town of Belle Haven's traffic circulation system by providing for the convenient and safe movement of vehicles and pedestrians, to protect the economic value of the natural environment from unwise and disorderly development, to ensure the efficient use of land, and to promote high standards in the layout, design, landscaping, and construction of development.

XII-2 Application.

Any development or redevelopment exceeding 2,500 square feet of land disturbance shall be accomplished through a plan of development process prior to any clearing or grading of a site or the issuance of any building permit, to assure compliance with all applicable requirements of this Ordinance. The plan of development process shall generally be satisfied by the approval of a site plan, or a plot plan in the case of single-family dwellings and accessory structures, and any additional plans or studies as required by the Zoning Administrator.

XII-3 Plot Plans.

A plot plan for individual single-family dwellings or accessory structures for single-family residences shall be submitted to the Zoning Administrator for review and approval. However, any encroachment into an RPA shall require an applicant to prepare a site plan as outlined in Section XII-4 below, including the submission of a Water Quality Impact Assessment, in accordance with Article III-7.13.

A. Required Information.

At a minimum, the plot plan shall be drawn to scale and contain the following information:

1. A boundary survey of the site drawn to scale or site drawing showing the north arrow and property line boundaries and distances.

2. Area of the lot/parcel.

3. Location, dimensions, and use of proposed and existing structures including marine and temporary structures. In the case of temporary structures, the date when the structures will be removed must be indicated.

4. Location of all building restriction lines, setbacks, easements, covenant restrictions, and rights of way.

5. Dimensions and location of all existing and proposed driveways, parking areas, or any other impervious surfaces.

6. Location of all existing and proposed septic tanks and drainfield areas including reserve areas and the location of all existing and proposed wells.

7. Limits of clearing and grading.

8. Specifications for the protection of existing trees and vegetation during clearing, grading, and all phases of construction.

9. Location of Resource Protection Area (RPA) boundary, as specified in Article III-7.8, and any additional required buffer areas.

10. Location of all erosion and sediment control devices.

11. Amount of impervious surface proposed for the site.

B. Plot Plan Administration.

The Zoning Administrator shall review and approve or disapprove plot plans in accordance with Sec. XII-4.C.

XII-4 Site Plan.

A. Procedures for Preparation.

1. Site plans or any portion thereof involving engineering, architecture, landscape architecture, or land surveying shall be respectively certified by an engineer, architect, landscape architect, or land surveyor duly authorized by the state to practice as such.

2. Site plans shall be prepared to a scale of one inch equals fifty feet (1" = 50') or larger. Site plans shall be submitted in clearly legible blue or black line copies. The size of each print shall be twenty-four (24) by thirty-six (36) inches.

3. If the site plan is prepared on more than one sheet, match lines shall clearly indicate where the several sheets join.

4. Five (5) copies of the site plan shall be filed with the Zoning Administrator. The filing of the plan signed by the

applicant and his or her agent along with payment of any required fees shall constitute the application for approval.

B. Required Information.

1. General information required.

a. The proposed title of the project and the names and addresses of the professional(s) preparing the plan, the owner or owners of record, and the applicant, if different, and a signature panel for the Zoning Administrator's approval.

b. North arrow, scale, and vicinity map.

c. The boundaries of the property by bearings and distances.

d. The present zoning and current use of the property and all contiguous or abutting parcels.

e. Existing topography with a maximum contour interval of two (2) feet; except where existing ground is on a slope of less than two percent (2%), either one (1) foot contours or spot elevations shall be provided where necessary , but not more than fifty (50) feet apart.

f. Delineation of any Resource Protection Area boundary and any required buffer areas.

g. All wetlands permits required by law.

2. Existing features.

a. The location, floor area, and height of all existing buildings and structures, and their distances from all property lines and from each other.

b. All existing streets, utilities, easements and watercourses, and their names and widths.

c. Existing natural land features, trees, water features and all proposed changes to these features shall be indicated on an "Environmental Site Assessment" (see Sec. XII-5). Water features shall include ponds, streams, wetlands, floodplains, drainage areas, and stormwater retention areas.

3. Proposed improvements.

The location, dimension, size and height of the following when proposed:

a. Buildings and structures, including number of floors, distance between buildings and distance from all property lines, floor area, and proposed general use for each building. If single family detached or multi-family, the number, size, and type of dwelling units shall be shown.

b. Streets, sidewalks, utilities and easements, their names and widths.

c. All off-street parking and parking bays, loading spaces and walkways indicating type of surfacing, size, angle of stalls, width of aisles, and a specific schedule showing the number of parking spaces provided and the number required in accordance with this ordinance.

d. Public sanitary sewer system, public water mains and fire hydrants.

e. Slopes, terraces, retaining walls, fencing and screening within required yards, and any shoreline stabilization structures.

f. Plans for collecting and depositing stormwater and method of treatment of natural and artificial watercourses, including a delineation of proposed limits of floodplains, if any, as created or enlarged by proposed development.

g. Finished grading by contours to be supplemented by finished spot elevations.

h. Locations and acreage of all open spaces, required buffer areas, and identification of areas for, and improvements to, all recreational facilities.

i. Outdoor lighting within required yards.

j. Location and type of all proposed signage.

4. Environmental Site Assessment requirements. An environmental site assessment, in accordance with Sec. XII-5 shall be provided.

5. Erosion and sediment control requirements. Provisions for the adequate control of erosion and sedimentation, as required in Article III-7.12(B), shall be indicated on the site plan. When necessary for clarity, this information will be indicated on a separate sheet or sheets.

6. Stormwater management requirements. A stormwater management plan shall contain maps, graphs, tables, narrative descriptions, and citations to supporting references as

appropriate to communicate information required by Article III-7.12(B).

a. At a minimum, the stormwater management plan must contain the following:

(1) Location and design of all planned stormwater control devices.
(2) Procedures for implementing non-structural stormwater control practices and techniques.
(3) Pre- and post-development nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations.
(4) For facilities, verification of structural soundness, including a Professional Engineer or Class IIIB Surveyor Certification.

b. Site specific facilities shall be designed for the ultimate development of the contributing watershed based on zoning and the Town comprehensive plan.

c. All engineering calculations must be performed in accordance with procedures outlined in the current edition of the Local Assistance Manual or any other good engineering methods deemed appropriate by the Zoning Administrator.

d. The plan shall establish a long-term schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for performing maintenance. If the designated maintenance responsibility is with a party other than the Town of Belle Haven then a maintenance agreement shall be executed between the responsible party and the Town.

C. Review and Approval.

1. After the appropriate submission of a site plan, related materials and fees, the Zoning Administrator will review the site plan and related materials for completeness and compliance with the requirements of this Ordinance and all other applicable regulations.

2. The Zoning Administrator will normally act upon the site plan within twenty (20) working days, unless modification to the plan or other circumstances require additional time. If the plan is approved, the Zoning Administrator shall certify thereon his or her approval and state the conditions of such approval, if any. If the plan is disapproved, the Zoning

Administrator shall indicate his or her disapproval and the reasons therefor in writing to the applicant.

3. Clearing or grading, and construction may begin upon approval of the site plan by the Zoning Administrator, payment of all required plan fees, and acquisition of building permits. All building and occupancy permits shall be issued in accordance with approved site plans.

4. An approved site plan shall become null and void if no significant work is done or development is made on the site within twelve months after site plan approval.

D. Appeals.

If an application for site plan approval is denied, or if a condition deemed unacceptable by the applicant is imposed, the applicant may appeal the action to the Town Planning Commission. The appeal must be submitted in writing and filed within thirty (30) days of the date of notification of the decision being appealed.

XII-5. Environmental Site Assessment.

An environmental site assessment shall be submitted as a component of, and in conjunction with, site plan approval. Landscaping plans shall be prepared and/or certified by design professionals practicing within their areas of competence as prescribed by the Code of Virginia.

A. Contents of the Plan.

1. The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:

   a. Tidal wetlands;
   b. Tidal shores;
   c. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or tributary streams;
   d. A 100 foot buffer area located adjacent to and landward of the components listed in subsections a. through c. above, and along both sides of any tributary stream;
   e. 100-year floodplain; and
   f. Any additional water features.

2. The environmental site assessment shall clearly delineate the location, size, and description of existing and proposed plant material. All existing trees on the site six (6) inches or greater DBH shall be shown on the environmental site assessment. Where there are groups of trees, stands may be outlined instead. The specific number of trees six (6) inches

or greater DBH to be preserved outside of the construction footprint shall be indicated on the assessment. Trees to be removed to create a desired construction footprint shall be clearly delineated on the environmental site assessment.

3. Any required buffer area shall be clearly delineated on the environmental site assessment. Within the buffer area, trees to be removed for sight lines, vistas, access paths, and best management practices, as provided for in this Ordinance, shall be shown on the assessment. Vegetation required by this Ordinance to replace any existing trees within the buffer area shall be also be shown on the environmental site assessment.

4. Trees to be removed for shoreline stabilization projects and any replacement vegetation required by this Ordinance shall be shown on the environmental site assessment.

5. The assessment shall depict grade changes or other work adjacent to trees which would affect them adversely. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.

6. The environmental site assessment will include specifications for the protection of existing trees during clearing, grading, and all phases of construction.

B. Plant Specifications.

1. All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.

2. All supplementary or replacement plant materials shall be living and in a healthy condition.

3. Where areas to be preserved, as designated on an approved environmental site assessment, are encroached, replacement of existing trees and other vegetation will be achieved at a ratio of three (3) planted trees to one (1) removed. Replacement trees shall be a minimum three and one-half (3.5) inches DBH at the time of planting.

C. Maintenance.

1. The applicant shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of this Ordinance.

2. In buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy

growing condition and free from refuse and debris. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season, as required by the provisions of this Ordinance.

XII-6 Installation and Bonding Requirements.

1. Where buffer areas, landscaping, stormwater management facilities or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed, in accordance with the approved site plan.

2. When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to the Town of Belle Haven a form of surety satisfactory to the Zoning Administrator in amount equal to the remaining plant materials, related materials, and installation costs of the required landscaping or other specifications and/or maintenance costs for any required stormwater management facilities.

3. All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety may be forfeited to the Town of Belle Haven.

4. All required stormwater management facilities or other specifications shall be installed and approved within 18 months of project commencement. Should the applicant fail, after proper notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to the Town of Belle Haven. The Town may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.

5. After all required actions of the approved site plan have been completed, the applicant must submit a written request for a final inspection. If the requirements of the approved plan have been completed to the satisfaction of the Zoning Administrator, such unexpended or unobligated portion of the surety held shall be refunded to the applicant or terminated within 60 days following the receipt of the applicant's request for final inspection. The Zoning Administrator may require a certificate of substantial completion from a Professional Engineer or Class III B Surveyor before making a final inspection.

XII-7 Minimum Standards and Improvements Required.

The following minimum standards and improvements, as applicable, shall be required for any site requiring a site plan. All improvements required by this Article shall be installed at the cost of the developer.

1. All street and highway construction standards and geometric design standards shall be in accordance with those specified by the Virginia Department of Transportation (VDOT).

2. Cul-de-sacs shall be designed and constructed in accordance with the street standards specified by VDOT, and may not be construed or employed as a parking area.

3. Minimum utility easement width shall be twenty (20) feet unless specifically reduced as specified by the Zoning Administrator. Where multiple structures or pipes are installed, the edge of the easement shall be five (5) feet clear of the outside pipes. Where easements do not follow the established lot lines, the nearest edge of any easement shall be a minimum of five (5) feet from any building.

4. Sidewalks and pedestrian walkways shall be designed to enable patrons and tenants to walk safely and conveniently from one (1) building to another within the site and to adjacent sites.

5. All required screening shall be sufficiently dense or opaque to screen development effectively from the adjacent properties.

6. In order to preserve Town character, the natural environment and to provide visual and noise buffering, the Zoning Administrator may refuse to approve any site plan which proposes the unnecessary destruction of trees and other natural features. The Town may require assurance that the developer has made reasonable effort in light of the proposed development to preserve, replenish, and protect trees six (6) inches DBH or larger, trees within required buffer areas, and trees within setbacks and outside of any approved construction footprint.

7. Adequate drainage for the disposition of storm and natural waters both on and off-site shall be provided, in accordance with Article III-7.12(B) of this Ordinance and the Accomack County Erosion and Sediment Control Ordinance.

XIII. Fee Schedule

Zoning Ordinance	$ 5.00
Special Use Permit	$35.00
Variance	$60.00
Rezoning	$60.00

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