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## Article VI Environmental Regulations

### § 165-42 Purpose.

- A. Environmentally sensitive areas are compromised as urbanization occurs. Development decreases forest cover, increases impervious surface area, alters and disrupts water flow and water-sensitive soils and vegetation, and eliminates animal and biotic habitat. Once destroyed, many types of environmentally sensitive areas are permanently lost. Downtown areas become heat islands. Floodplain areas are altered, and wetlands are destroyed. Sheet runoff from roof, driveway, parking pad and road surfaces disrupts the hydrologic cycle and destroys the quality of streams. The result is a highly degraded environment lacking natural function. **[Amended 4-3-2017 by Ord. No. 780-17]**
- B. By recognizing sensitive areas and prioritizing the benefits associated with woodland areas, streams, wetlands, floodplains, erodible soils and sloped areas, environmentally unique areas may be protected from the destructive processes of urbanization. The preservation and, if possible, the reestablishment of sensitive areas will result in a more desirable living environment. **[Amended 4-3-2017 by Ord. No. 780-17]**
- C. Specifically, the intent of the Environmental Regulations is to preserve and protect ecologically and environmentally sensitive areas as identified in the Town of Bel Air Comprehensive Plan and achieve the following goals:
- (1) Protect the Winters Run and Bynum Run watersheds.
  - (2) Protect steep slopes.
  - (3) Protect water quality and quantity in streams, rivers and watercourses.
  - (4) Protect nontidal wetlands.
  - (5) Protect persons and property from environmental hazards, such as erosion, siltation and flood hazards.
  - (6) Promote tree retention, afforestation and reforestation measures identified in Chapters 216, Forest Conservation, and 435, Trees, of the Bel Air Town Code.

### § 165-43 Boundaries.

Sensitive areas **are** identified on the **Official Bel Air** Sensitive Areas Map **in the currently adopted Bel Air Comprehensive Plan** and those determined by the Department of Planning and Community Development to contain any resources of sensitive environmental value shall be subject to mitigation and enhancement and, whenever possible, protected and preserved as undevelopable open space. Major areas impacted by the Environmental Regulations are delineated on the **Official** Sensitive Areas Map in the Town's Comprehensive Plan, which is available for review at the Town Planning Office and Bel Air Town Hall.

### § 165-44 General regulations.

**[Amended 4-3-2017 by Ord. No. 780-17]**

Proposed residential subdivisions and nonresidential development projects containing environmentally

sensitive areas, as defined in Article **XIV** of this Part **2**, whether specifically indicated on the Official Sensitive Areas Map or not, shall be subject to protection measures. An environmental impact assessment report shall be prepared by a registered landscape architect, certified arborist, forester or a certified forest professional addressing identification, protection, impact mitigation, and enhancement of environmental resources of the project site and its vicinity. The report shall contain sufficient maps and analysis to describe the site, the proposed use and development, environmental characteristics and environmental effects of the proposal. Resources shall be fully described and accurately mapped as determined necessary by the Zoning Administrator. A forest conservation plan may serve as the environmental impact assessment report for a project site if determined sufficient by the Zoning Administrator. Road crossings, utility lines and trail systems may be permitted in the environmentally sensitive areas upon determination by the Zoning Administrator that all necessary steps have been taken to minimize any adverse effect on the environment. Protection, impact mitigation, and enhancement of all other proposed development in the environmentally sensitive areas shall be addressed as they relate to woodland areas, unique vegetation, flood hazard areas, nontidal wetlands, steep slopes and rare and endangered species. Wherever possible, the proposed development project shall be designed to use sensitive areas as visual or recreational open space, greenways or undisturbed space.

**§ 165-45 Woodland areas and unique vegetation.**

- A. Description of the area. Woodlands and areas of unique vegetation include any land areas where contiguous forest cover of at least 3,500 square feet exists or trees of any species 10 inches or greater in diameter at breast height (DBH).
- B. Special regulations. The identification, location and methods of protection and enhancement of woodland and unique vegetation shall be provided through the following means, as applicable. The design of proposed development shall, to the maximum extent possible, incorporate existing stands of trees into the overall development. Development proposals shall preserve these stands and provide for protection and retention through maintenance of pervious surfaces within the critical root zone of trees and separation of trees from vehicular traffic. Unique vegetation shall be similarly protected in consultation with a registered landscape architect and/or certified arborist. **[Amended 4-3-2017 by Ord. No. 780-17]**
  - (1) Subdivision and large lot development. Any parcel in excess of 40,000 square feet in area shall be subject to the provisions of Chapter **216**, Forest Conservation, of the Bel Air Town Code. At a minimum, a forest stand delineation is required at the time of site plan review. A forest conservation plan must be completed and approved prior to final site plan approval.
  - (2) Small lot development. Design of any development on parcels of land less than 40,000 square feet in area must take into consideration any existing mature trees or forest cover. A mature tree shall be considered any tree measuring 10 inches in DBH or greater. All mature trees shall be mapped on the grading plan and submitted prior to or in conjunction with the site plan for the proposed development. Adequate protection measures, including but not limited to tree protection fences, root pruning and noninvasive construction methods, may be required. On wooded sites, a minimum of 50% of all mature trees must be preserved and protected during the development process.
    - (a) When development design cannot be accomplished without removal of more than 50% of the existing mature trees, the applicant shall replace each tree removed that reduces the fifty-percent threshold with a species determined to be appropriate by the reviewing agency. At a minimum, two trees shall be required for every one tree removed below the threshold. The tree replacement requirement shall be determined by the planning staff and

Bel Air Tree Committee, in order to adequately maintain the environmental value of the site. Recommended replacement requirements are as follows: [**Amended 4-3-2017 by Ord. No. 780-17**]

<b>Diameter at Breast Height (DBH)</b>	<b>Ratio of Replacement to Existing</b>
<b>(inches)</b>	
10 to 24	2:1
Greater than 24	4:1

(b) The following trees may only be removed if the applicant can adequately document, to the satisfaction of the Bel Air Tree Committee and the planning staff, that no other option exists:

[1] Trees in excess of 36 inches in DBH.

[2] Trees listed on the Town champion tree list.

[3] Trees 50% or more the size of the state champion for the species.

(c) The Zoning Administrator and/or the Planning Commission may permit the tree replacement requirements to be satisfied through the payment of a fee in lieu of on-site planting when replacement of trees is impractical due to site conditions.

(d) Fees shall be determined by statute based on tree replacement costs. Tree fee-in-lieu payments shall be used for tree planting and maintenance through the Town's Tree Planting Fee-in-Lieu Fund.

§ 165-46 **Flood hazard areas.**

A. Description of the area.

- (1) Flood hazard areas are described as those areas delineated as special flood hazard areas on the Flood Insurance Rate Map (FIRM), part of the one-hundred-year floodplain determination criteria established by FEMA for flood-prone areas. The Department of Planning and Community Development and the Department of Public Works may determine other areas as flood-prone and require hydrologic analysis to determine the extent of impact the proposed development may have on the area. If area is impacted, Chapter **210**, Floodplain Management, of the Bel Air Town Code shall apply.
- (2) The official floodplain maps used in the enforcement of this chapter shall be the "Flood Insurance Rate Maps," as prepared by the Federal Emergency Management Agency, issued on April 19, 2016, and any subsequent amendments. [**Amended 4-3-2017 by Ord. No. 780-17**]
- (3) The delineated one-hundred-year floodplain and other areas determined to be flood prone may be revised, amended and modified as specified in Chapter **210**, Floodplain Management, of the Bel Air Town Code.

B. Special regulations.

- (1) Specific use and Development Regulations specified in Chapter **210**, Floodplain Management,

of the Bel Air Town Code shall govern development proposed in floodplain areas. Protection measures shall include replanting and/or maintenance of natural vegetation to ensure bank stabilization, erosion control and stream protection.

- (2) Perpetual protection shall be provided through the use of deed restrictions, restrictive covenants or donation to a land trust.
- (3) To prevent excessive damage to buildings and structures, restrictions shall apply to all new construction and substantial improvements (as defined in Chapter **210**, Floodplain Management, of the Bel Air Town Code) to existing structures occurring in a special flood hazard area. The Department of Planning and Community Development and/or the Department of Public Works may impose similar restrictions, as necessary, to adequately prevent damage to structures located in close proximity to special flood hazard areas. This may include, but not be limited to, structures proposed within 50 feet of a special flood hazard area, or a structure with the lowest floor elevation below the established base flood elevation of the special flood hazard area affecting the parcel.
- (4) The design, placement and construction of all public and private utilities and facilities in designated flood hazard areas shall meet the following requirements:
  - (a) New or replacement water distribution and treatment systems and/or sanitary sewage systems shall be designed and floodproofed to eliminate or minimize infiltration of floodwaters into the systems and discharges from the systems into floodwaters and to avoid impairment during flooding and to minimize flood damage. Cesspools and seepage pits are prohibited. All pipes connected to sewage systems shall be sealed to prevent leakage.
  - (b) All gas, electrical and other facility and utility systems shall be located, constructed and floodproofed to eliminate or minimize flood damage.
  - (c) All new storm drainage facilities within and leading to or from the Floodplain District shall be adequately designed, floodproofed and installed to eliminate or minimize property damage resulting from the floodwaters of the one-hundred-year flood and to minimize the adverse environmental impacts of their installation and use.
- (5) Building permit approval in designated flood areas may require variance approval and shall be subject to procedures specified in Article **XI** of this Part **2**. The Board of Appeals may grant a variance upon a finding of uniqueness and practical difficulty as specified in Article **XII** of this Part **2**.
- (6) In granting a variance, the Board of Appeals must make a determination that failure to grant a variance would result in exceptional hardship (other than economic) to the applicant, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local and state laws or ordinances.
- (7) Any variance granted to allow building in a designated flood area shall be the minimum necessary, considering the flood hazard, to afford relief. In considering a variance action, comments from the NFIP Coordinating Office, Maryland Department of Environment, must be taken into account and maintained with the permit file.

§ 165-47 **Nontidal wetlands and streams.**

- A. Description of the area. Wetlands are defined as areas that have a predominance of hydric soils and that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and, under normal circumstances, do support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.
- B. Special regulations. The applicant shall design proposed development in accordance with all pertinent state and federal regulations, including but not limited to those of the United States Army Corps of Engineers, the Fish and Wildlife Service, the Maryland Department of Environment, the State Department of Natural Resources (DNR) and Chapter **210**, Floodplain Management, of the Bel Air Town Code. Design of the proposed development shall incorporate mitigation of impacts and protection of wetlands. A buffer of at least 25 feet, as required by the State Nontidal Wetlands Protection Act, shall be maintained in areas adjacent to wetlands, unless waived by the Maryland Department of Environment. The applicant shall prepare a delineation of wetlands and hydric soils in conformance with the latest edition of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (or alternate method approved by the Zoning Administrator). Copies of the submission material shall be provided to the Maryland Department of Environment and the Town of Bel Air. **[Amended 4-3-2017 by Ord. No. 780-17]**
- C. Seasonally flowing stream channels delineated on the Sensitive Areas Map in the currently adopted Comprehensive Plan shall be protected from adverse impact by development. A 25-foot non-disturbance buffer measured from the top of stream bank is required for any new development. Redevelopment containing existing structures or paving within the buffer area shall not expand or change without approval from the Zoning Administrator. Mitigation including but not limited to planting, minor grading, and stabilization may be required to attenuate any adverse impact from development.**
- D. A 50-foot stream non-disturbance buffer for any stream within the limits of a Special Flood Hazard Area as measured from the top of stream bank is required for any new development. Redevelopment containing existing structures or paving within the buffer area shall not expand or change without approval from the Zoning Administrator. Mitigation including but not limited to planting, minor grading, and stabilization may be required to attenuate any adverse impact from development.**

§ 165-48 **Steep slopes.**

- A. Steep slopes are defined as natural land areas in excess of 20% slope as measured over a ten-foot interval encompassing a minimum area of 20,000 square feet and identified on the Town of Bel Air Sensitive Areas Map. These areas shall be left undisturbed by development with any disturbance requiring approval by the Board of Appeals. **[Amended 4-3-2017 by Ord. No. 780-17]**
- B. Special regulations. Proposed development shall be of extent, scale, and design appropriate for the soil, geologic and topographic conditions of the site. Development plans must indicate pre- and post-construction grades. Natural vegetation shall be maintained whenever possible, and revegetation and stabilization of the slope shall be required. Any development other than required infrastructure shall be prohibited on areas in excess of 25% slope.

§ 165-49 **Rare and endangered species.**

- A. Description of the area: any area previously or currently identified during site review and planning design as containing any rare and/or endangered species or habitat.

B. Special regulations. The applicant shall consult the State Department of Natural Resources (DNR) Natural Heritage and Environmental Review to identify any valuable habitats on or in the vicinity of the project site. However, reliance solely on existing DNR information shall be considered an incomplete analysis. All findings in consultation with the DNR shall be submitted to the Town. Applicants shall fulfill all requirements of the DNR in protection of identified environmentally significant habitats and/or species and shall document fulfillment of the requirements to the satisfaction of the Town Department of Planning and Community Development and the Department of Public Works.