TOWN OF BOWLING GREEN
PLANNING COMMISSION JOINT MEETING WITH TOWN COUNCIL

A G E N D A

Thursday, October 22, 2026
6:00 PM

Call To Order Town of Bowling Green Planning Commission:

Roll Call of Planning Commission Members Present:

Call to Order Town of Bowling Green Town Council:

Roll Call of Town Council Members Present:

Amendments to the Agenda:

Approval of the Agenda:

Pledge of Allegiance:

Public Comment:

JOINT PUBLIC HEARING – ORDINANCE TO REPEAL AND REPLACE ARTICLE 10.24 "CHESAPEAKE BAY PRESERVATION AREA" OF THE BOWLING GREEN ZONING ORDINANCE:

1. ORDINANCE TO REPEAL AND REPLACE ARTICLE 10.24 "CHESAPEAKE BAY PRESERVATION AREA" OF THE BOWLING GREEN ZONING ORDINANCE

Presentation of the Town of Bowling Green's Comprehensive Plan Revision Draft:

1. Comprehensive Plan Review

Adjournment of Town Council:

Recess – Planning Commission:

Reconvene – Planning Commission:

Approval of Minutes from September 17, 2026:

1. Minutes- September 17, 2026

UNFINISHED BUSINESS:

2. Comprehensive Plan Draft – Continued Discussion (Transportation Chapter)

3. Draft Cannabis Ordinance

NEW BUSINESS:

4. Commission Discussion and Action - Ordinance to Repeal and Replace Article 10.24 "Chesapeake Bay Preservation Area" of the Bowling Green Zoning Ordinance

ADJOURNMENT:

TO: **The Honorable Mayor & Town Council**
FROM: **Darla Odom Orr, Deputy Zoning Administrator**
SUBJECT: **Chesapeake Bay Protection Act (Bay Act)**
DATE: **October 22, 2026**

Summary:

The Chesapeake Bay Preservation Act is a comprehensive framework that integrates land use planning, local government authority, and environmental protection to safeguard the Chesapeake Bay. By designating Chesapeake Bay Preservation Areas (CBPAs), enforcing Resource Protection Areas (RPAs) and Resource Management Area (RMAs), and incorporating climate resilience measures, the Bay Act ensures that development and water quality protection are mutually supportive objectives.

Purpose and Overview:

The Bay Act was established to address **nonpoint source pollution** and ensure that land development and use do not degrade water quality in the Chesapeake Bay.

It emphasizes that healthy local economies and a healthy Chesapeake Bay are interconnected, promoting balanced economic development alongside environmental protection.

Local Government Responsibilities:

The Act empowers local governments to manage land use decisions while directly linking them to water quality protection.

Local governments implement the Bay Act through:

- **Comprehensive plans** that incorporate CBPA protection and water quality goals.
- **Zoning and subdivision ordinances** that enforce performance criteria for land use within CBPAs.
- **Plan of development review** to ensure that land use and construction activities protect water quality.
- **Oversight and technical assistance** provided by the Virginia Department of Environmental Quality (DEQ)

Other Noteworthy Items

- Revised completion of all deficiency actions is February 26, 2027.

TOWN OF BOWLING GREEN, VIRGINIA

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

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

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

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

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

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

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

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

§ 1. ARTICLE 10.24. CHESAPEAKE BAY PRESERVATION AREA

§ 10.24.010. Title.

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

§ 10.24.020. Authority; purpose and intent.

A. This Article is adopted pursuant to the Chesapeake Bay Preservation Act, Article 2.5 (§ 62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia; the Chesapeake Bay Preservation Area Designation and Management Regulations, 9VAC25-830-10 et seq.; and the Town's zoning, subdivision, and land-use authority under Title 15.2 of the Code of Virginia.

B. The purpose of this Article is to protect and improve the water quality of the Chesapeake Bay, its tributaries, and other state waters by minimizing the adverse effects of land use and development and by requiring that the use and development of land in Chesapeake Bay Preservation Areas be accomplished in a manner that protects water quality.

C. This Article is intended to: (1) protect existing high-quality state waters; (2) prevent increases in nonpoint source pollution; (3) reduce existing pollution where practicable; (4) conserve water resources and environmentally sensitive lands; (5) protect and restore Resource Protection Area buffers; (6) preserve indigenous vegetation and mature trees to the maximum extent practicable; and (7) incorporate resilience considerations into the Town's review of development within Chesapeake Bay Preservation Areas.

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

§ 10.24.030. Administration; relationship to other ordinances.

A. The Town Manager, or the Town Manager's designee, shall administer and enforce this Article and may establish application forms, checklists, technical procedures, and written administrative policies consistent with this Article, the Act, the Regulations, and DEQ guidance.

B. This Article is supplemental to the Town's zoning, subdivision, erosion and sediment control, stormwater, floodplain, wetlands, building, and other applicable requirements. Where this Article and another applicable provision impose different requirements, the requirement providing the greater protection of water quality shall apply to the extent permitted by law.

C. No zoning, subdivision, site plan, building, grading, land-disturbance, or other Town approval shall authorize an activity that violates this Article.

D. The Town shall maintain and publish on its website the elements and criteria used to implement its Chesapeake Bay Preservation Act program, including the current Chesapeake Bay Preservation Area map, this Article, applicable comprehensive plan elements, and applicable applications, checklists, policies, and procedures.

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

§ 10.24.040. Definitions.

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

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

Adaptation measure. A project, practice, or approach to mitigate or address an impact of climate change including sea-level rise, storm surge, and flooding including increased or recurrent flooding.

"Best management practice or BMP." a practice, or combination of practices, determined by a state or designated area-wide planning agency to be an effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water-quality goals.

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

Caliper. The diameter of a tree measured six (6) inches above existing grade.

Canopy tree. A tree that typically reaches 35 feet in height or taller when mature.

"Chesapeake Bay Preservation Area or CBPA." any land designated by the Town pursuant to the Act and Part III of 9VAC25-830; a CBPA consists of a Resource Protection Area and a Resource Management Area.

"Development." the construction or substantial alteration or installation of any improvement (including of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures) upon a parcel of land.

Diameter at breast height (DBH). A standard height for measuring a tree's diameter, 4.5 feet from the ground.

Fill. Material such as sand, soil, gravel, or crushed stone which is placed in an area, often to adjust elevation or create land contouring.

Floodplain. All lands that would be inundated by flood water as a result of a storm event of a 100-year return interval (1% annual chance of occurring). This includes any land area susceptible to being inundated by floodwaters from any source.

Freeboard. An additional amount of height above the Base Flood Elevation used as a factor of safety (e.g., 2 feet above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with state or community floodplain management regulations

Highly erodible soils. Those soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight (8). The erodibility index for any soil is defined as the product of the formula RKLS/T, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

Highly permeable soils. Soils with a potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the National Soil Survey Handbook of November 1996 in the Field Office Technical Guide of the U.S. Department of Agriculture Natural Resources Conservation Service.

"Impervious cover." a surface composed of any material that significantly impedes or prevents natural infiltration of water into soil, including buildings, roofs, streets, parking areas, and other structures and the components thereof, concrete, asphalt, or compacted gravel surface.

Mature tree. A canopy tree with a diameter at breast height (DBH) of 12 inches or greater or an understory tree with a DBH of four (4) inches or greater.

Nature-based solution. An approach that reduces the impacts of sea-level rise, flooding, and storm events through the use of environmental processes and natural systems.

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

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

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

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

Resilience. The capability to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, health, the economy, and the environment.

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

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

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

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

Understory tree. A tree that typically reaches 12 to 35 feet in height when mature.

"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 ports, the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, storm sewers, marinas and other boat docking structures, beaches and other public water-oriented recreation areas, fisheries, or other marine resources facilities.

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

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

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

A. The Town's Chesapeake Bay Preservation Areas consist of Resource Protection Areas and Resource Management Areas. The Town hereby designates the Resource Management Area jurisdiction-wide, consisting of all lands within the Town that are not included within the Resource Protection Area.

B. Resource Protection Areas shall include: (1) tidal wetlands; (2) nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; (3) tidal shores; (4) other lands determined by the Town to be necessary to protect the quality of state waters and meeting the criteria of 9VAC25-830-80; and (5) a buffer area not less than 100 feet in width located adjacent to and landward of the foregoing components and along both sides of any water body with perennial flow.

C. Resource Management Areas shall consist of all lands within the Town which are not designated as Resource Protection Areas. These lands, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area.

D. The Town Council shall adopt and maintain an official Chesapeake Bay Preservation Area map depicting the general location and extent of RPAs and the jurisdiction-wide RMA. The map is a screening and program-administration tool and does not eliminate the requirement for site-specific evaluation. Designation of the CBPA boundaries shown on the CBPA map shall not be subject to modification unless based on reliable, site-specific information.

E. As part of the plan of development process or review of a WQIA, the Town shall ensure or confirm that a reliable, site-specific evaluation is conducted to determine whether water bodies on or adjacent to a development site have perennial flow and shall adjust RPA boundaries on the site as necessary based on reliable site-specific information.

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

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

§ 10.24.060. Applicability.

A. Except as expressly exempted by the Act, the Regulations, or this Article, this Article applies to all use, development, redevelopment, and land disturbance within Chesapeake Bay Preservation Areas.

B. The requirements of this Article shall be considered in review of rezoning, special-use, subdivision, site-plan, building-permit, grading, land-disturbance, and other land-development applications affecting Chesapeake Bay Preservation Areas.

C. All development exceeding 2,500 square feet of land disturbance shall be accomplished through the plan of development review process established by § 10.24.090.

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

§ 10.24.070. General performance standards.

The general performance standards set forth in this section are intended to prevent a net increase in nonpoint source pollution from new development and development on previously developed land where the runoff was treated by a water quality protection best management practice. Except as otherwise provided herein, the following standards shall apply to all development and redevelopment in both Resource Protection Areas and Resource Management Areas of the Chesapeake Bay Preservation Area:

A. No more land shall be disturbed than is necessary to provide for the proposed use or development.

B. Existing indigenous vegetation shall be preserved to the maximum extent practicable, consistent with the proposed use or development and in accordance with the Virginia Stormwater Management Handbook, Version 1.1. Mature trees shall be protected during development and removed only where necessary.

C. Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the proposed use or development.

D. All land-disturbing activity exceeding 2,500 square feet, including construction of single-family houses, septic tanks, and drainfields as provided by state law, shall comply with all erosion and sediment control or erosion and stormwater management requirements and shall be accomplished through a plan of development review process as set forth in §10.24.090 of this Article and other such requirements set forth in Town ordinances.

E. Land-disturbing activities in a Chesapeake Bay Preservation Area equal to or greater than 2,500 square feet but less than one acre shall comply with 9VAC25-875-740 and 9VAC25-875-750, as applicable.

F. Evidence of all wetlands permits required by law shall be provided before the Town authorizes grading or other onsite activities to begin.

G. Onsite sewage treatment systems not requiring a VPDES permit shall comply with the pump-out, inspection, reserve drainfield, and related requirements of 9VAC25-830-130(7), as applicable. At least once every five years, the owner shall provide documentation of required pump-out or an authorized inspection alternative. The Town shall maintain or participate in an administrative

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

H. Agricultural lands shall be subject to the soil and water quality conservation assessment and planning requirements of 9VAC25-830-130(8), as applicable, with findings and recommendations submitted to the local Soil and Water Conservation District Board as plan-approving authority.

I. Silvicultural activities are exempt from the requirements of this Article to the extent provided by 9VAC25-830-130(9), provided the operation adheres to the water-quality protection procedures prescribed by the Virginia Department of Forestry.

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

§ 10.24.080. Resource Protection Area development and buffer standards.

A. In addition to § 10.24.070, land development in an RPA subject to approval by the Town Manager may be allowed only as authorized by 9VAC25-830-140~~, including qualifying water-dependent facilities, redevelopment, development or redevelopment within a lawfully designated Intensely Developed Area, qualifying new uses or buffer encroachments, qualifying road or driveway crossings, and qualifying flood control or stormwater management facilities~~.

B. Except where the Regulations provide otherwise, a WQIA shall be required for proposed land disturbance in the RPA.

C. A 100-foot-wide vegetated buffer shall be retained if present and established where it does not exist. The buffer shall be managed to retard runoff, prevent erosion, filter nonpoint-source pollution, and protect state waters and aquatic life. Where establishment or reestablishment is required, trees shall be incorporated as appropriate to site conditions and to maximize buffer function; native species are preferred.

D. Where agricultural or silvicultural use within the buffer ceases and the land is proposed to be converted to another use, the full 100-foot buffer shall be reestablished with management measures that provide woody vegetation sufficient to assure the functions of the buffer. Tree planting shall be incorporated as appropriate to site conditions and to maximize buffer function, with native species preferred.

E. Permitted buffer encroachments for qualifying lots recorded before October 1, 1989, and for qualifying lots recorded between October 1, 1989, and March 1, 2002, may be approved administratively only when all applicable criteria of 9VAC25-830-140(4) are satisfied, including minimization of encroachment and required mitigation.

F. Existing buffer vegetation may be modified only as allowed by 9VAC25-830-140(5), including for reasonable sight lines, access paths, general woodlot management, approved BMPs, shoreline erosion control, and removal of dead, diseased, dying, or noxious vegetation. Mature trees shall be preserved to the maximum extent practicable and replacement vegetation shall be required where necessary to maintain buffer function.

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

§ 10.24.085. Agricultural activities within the RPA buffer.

A. Agricultural buffer areas shall be managed to prevent concentrated flows of surface water from breaching the buffer and may be managed to prevent noxious weeds from invading the buffer.

B. Agricultural activities may encroach into the landward 50 feet of the 100-foot buffer only when at least one agricultural BMP that, in the opinion of the Caroline-Hanover Soil and Water Conservation District Board, addresses the predominant water-quality issue on the adjacent land is being implemented and the combination of the undisturbed buffer and BMP provides water-quality protection at least equivalent to the 100-foot buffer.

C. Agricultural activities may encroach within the landward 75 feet only when agricultural BMPs addressing erosion control, nutrient management, and pest-chemical control are implemented on adjacent land in accordance with 9VAC25-830-140(5)(b).

D. If specific agricultural activities are causing pollution of a nearby water body with perennial flow or violate buffer performance standards, the Town, in cooperation with the Caroline-Hanover Soil and Water Conservation District, shall recommend a compliance schedule and require correction consistent with that schedule.

E. If a landowner, agent, or operator refuses assistance from the Caroline-Hanover Soil and Water Conservation District in complying with or documenting compliance with applicable agricultural requirements and the District reports noncompliance to the Town, the Town shall require correction within a specified period not to exceed 18 months from initial notification of the deficiencies and shall establish, in cooperation with the District, a compliance schedule that expedites environmental protection while accounting for seasonal and other temporal considerations.

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

§ 10.24.090. Plan of development review.

A. Before issuance of a building permit or other final land-development approval for development exceeding 2,500 square feet of land disturbance in a Chesapeake Bay Preservation Area, the Town shall complete a plan of development review sufficient to determine compliance with the Act, the Regulations, this Article, and other applicable Town ordinances.

B. The plan of development process for any development or redevelopment submission shall include, as applicable to the proposed activity and site the following plans and information: (1) a site plan or subdivision plat; (2) a site-specific RPA determination, including perennial-flow evaluation and delineation of RPA components and the 100-foot buffer; (3) an environmental site assessment identifying environmental features relevant to the Bay Act review; (4) a WQIA when required; (5) a resiliency assessment when required by the Town under subsection D; (6) an erosion and sediment control or erosion and stormwater management plan when required; (7) a landscape or buffer-management plan; (8) evidence of required wetlands or other state/federal permits; and (9) other information reasonably necessary to determine compliance.

C. The Town may require revisions, mitigation measures, conservation easements, notes, conditions, or other measures authorized by law that are reasonably necessary to ensure compliance. No approval shall be granted until the Town determines that the proposal complies with applicable requirements.

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

E. Any exemption from plan of development review shall be established and administered so as to ensure compliance with the Act and Regulations.

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

§ 10.24.100. Water Quality Impact Assessments.

A. A WQIA is required for any proposed development within an RPA and for other development in a Chesapeake Bay Preservation Area when the Town determines that an assessment is warranted because of the unique characteristics of the site or the intensity of the proposed use or development.

B. The purpose of the WQIA is to identify the impacts of proposed development on water quality and RPA lands and to determine specific measures necessary to avoid, minimize, and mitigate those impacts. A WQIA shall be sufficiently specific to demonstrate compliance with this Article and the Regulations.

C. Minor WQIA. The Town may allow a minor WQIA for a proposal involving limited RPA or buffer disturbance where the nature and extent of the impact can be adequately evaluated without the information required for a major WQIA. A minor WQIA shall include, at minimum: (1) a site drawing showing existing and proposed improvements, RPA components, buffer limits, limits of disturbance, vegetation to be removed, and drainage features; (2) a description and quantification of the proposed disturbance; (3) photographs or other documentation of existing site conditions; (4) proposed erosion, stormwater, vegetation-protection, and buffer-restoration measures; and (5) proposed mitigation sufficient to offset adverse water-quality impacts.

D. Major WQIA. A major WQIA shall be required where the Town determines that the scale, location, intensity, or potential water-quality effect of a proposal cannot be adequately evaluated through a minor WQIA. A major WQIA shall include the information required for a minor WQIA and, as applicable: (1) detailed site and environmental inventories; (2) hydrologic and drainage information; (3) soils, slopes, wetlands, streams, shorelines, and vegetation information; (4) calculations and analysis of existing and proposed impervious cover and pollutant impacts; (5) alternatives analysis demonstrating minimization of RPA disturbance; (6) proposed BMPs; (7) detailed buffer mitigation, restoration, and planting plans; (8) construction sequencing and long-term maintenance provisions; and (9) such other technical information as is reasonably necessary to demonstrate compliance.

E. Mitigation shall be commensurate with the nature and extent of the approved impact and shall be designed to maintain or improve water-quality protection and RPA buffer function. The Town may require onsite mitigation, buffer restoration or enhancement, tree and woody-vegetation planting, BMP installation or maintenance, conservation measures, or other measures consistent with the Act, Regulations, and current DEQ guidance.

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

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

10.24 110. Resiliency assessment. *[Please refer to the Resiliency Amendments Checklist for Locality Implementation when drafting local ordinance amendments to address resiliency requirements. Local program administrators are to make a number of crucial decisions that are specific to their locality prior to amending their ordinances. These decisions are outlined on the first page of the checklist (with correlating page numbers from the Model Ordinance).]*

(A) A resiliency assessment that considers the potential impacts of sea level rise, storm surge, and flooding on buffer function in light of a proposed RPA encroachment is required to be [either conducted by the Town or the applicant] during the review of a plan of development or other review process. Such an assessment is to be based upon the RPA as delineated at the time of the proposed land development and is required in addition to all other requirements of this and other local ordinances. At a minimum the resiliency assessment should contain the following information:

(1) *A scaled drawing or aerial image* of the proposed project that includes the RPA [and RMA, if not jurisdiction-wide] boundary, required setbacks, existing topography, and a graphic depiction of the anticipated impacts of sea level rise, flooding, and storm surge on the parcel and the proposed project, based upon a review of approved models and forecasts, to include the following:

(a) For sea level rise, use the 2017 National Oceanographic and Atmospheric Administration (NOAA) Intermediate-High scenario projection curve [or any subsequently updated version thereof] on the project site. Sea level rise data can be accessed on the AdaptVA website, maintained by the Virginia Institute of Marine Science (VIMS). When determining potential sea-level rise impacts, the applicant should use the model to identify both the extent of anticipated inland migration, as well as the water depth.

(b) For storm surge, use the most up to date NOAA hydrodynamic Sea, Lake, and Overland Surges Hurricanes (SLOSH) model on the project site. Storm surge data can be accessed on the AdaptVA website. [Selection of a default storm category should be determined by the locality based upon historical frequency and specified for use in conducting resiliency assessments by the applicant. If additional storm surge analysis is being used by the locality, it should be referenced here].

(c) For flooding, use the most up to date Special Flood Hazard Area and the Limit of Moderate Wave Action (LiMWA) model on the project site according to the Virginia Flood Risk Information System (VFRIS) model in conjunction with the requirements and application of the [local] floodplain management ordinance. VFRIS includes the Flood Insurance Rate Maps, flood insurance studies, and associated models produced by the Federal Emergency Management Agency, and is available on the Virginia Department of Conservation and Recreation (DCR) website. When identifying flooding impacts, the applicant may rely on existing use and application of the relevant Special Flood Hazard Area. This data is also accessible on the AdaptVA website.

(d) The anticipated impacts shall be based upon a thirty (30) year timeframe. [Unless the applicant demonstrates that the lifespan of the project proposed for development is less than thirty (30) years based upon the information in 2(b) as approved by the Town Administrator. Where a lifespan of less than 30 years is proposed, the applicant shall provide documentation of proposed building materials, anticipated quality of construction, design specifications, and other materials or information in support of a predicted lifespan of less than 30 years for the project. Alternatively, the applicant or locality may base the assessment on the default 30-year lifespan].

(2) A narrative [to be prepared as a report or presented on a form] that analyzes the results of the data and graphic research, and provides the following information:

(a) Define the intended service life of the proposed structure(s).

(b) Identification of any proposed impact directly from proposed impervious cover or structures in the RPA and the extent of such impact.

(c) Identification of extent of impact on the current buffer area including impacts to existing vegetation from the landward movement of water and vegetative migration.

(d) Describe the extent to which anticipated impacts can be or have been mitigated by altering the location design, size, or orientation of proposed structures or impervious cover, by preserving and/or supplementing existing buffer areas as provided for in Section 108 of this Ordinance, and/or by considering other limiting site conditions including required setbacks, and/or by proposing an adaptation measure in accordance with the provisions of Section 108.

(e) Identification of the utilization of existing local programs that already take potential impacts into account through the building permit or site design review processes, such as freeboard requirements enacted through the [local floodplain ordinance].

(3) Apply the results of the resiliency assessment to the proposed development. The Town Administrator will review the narrative [as a report or form from (2)] along with the water quality impact assessment and determine whether the anticipated impacts necessitate an alteration or conditions to the proposed project or implementation of an adaptation measure for approval.

(a) In considering whether a requirement for project alteration or adaptation measure is appropriate, the Town Administrator will ensure that the proposed alteration or adaptation measure is practical, achievable, and necessary to mitigate the identified impact.

(b) Where possible, consideration will be given to modifying the proposed development size or location, such that the extent of land disturbance or impervious cover can be reduced to avoid or minimize the area or areas of the parcel that the assessment indicates will be impacted.

(c) If the resiliency assessment reveals that impacts on the parcel can be addressed by structural design or siting alterations, then supplemental information on the potential alterations shall be provided for consideration by the Town Administrator. Supplemental information may include additional sketches or plans, including plan and section views, building specifications, and other supporting materials.

(d) Approval may be conditioned on the implementation of the proposed alterations, conditions, or adaptation measures.

(e) The resiliency assessment may also indicate that no alterations, conditions, or adaptation measures are required, in which case the applicant may proceed through the remainder of the approval process.

(4) Identify conditions, alterations, or adaptation measures for the proposed development. Should an impact from sea-level rise, storm surge, or flooding be identified that exceeds available design alterations, approval of the proposed project should then be conditioned upon the requirement for an adaptation measure and the following information provided:

Describe the proposed adaptation measure(s) for the site as selected from one of the sources listed in subsection 109(A) of this Ordinance and submit documentation of the proposed adaptation measure and its suitability for use on the site, such as design specifications,

construction methods and materials that will provide shoreline stabilization until vegetation is established, and a proposed maintenance plan.

Describe how the selected adaptation measure meets the requirement for being a nature-based solution.

Describe how the selected adaptation measure(s) comply with applicable regulatory or permitting requirements. Submit a water quality impact assessment pursuant to Section 108 of this Ordinance and a site plan pursuant to Section 110 of this Ordinance detailing the proposed placement of the adaptation measure, existing and proposed topography and vegetation, proposed limits of clearing and grading, and mitigation for the area of land disturbance within the RPA. Additionally, provide documentation of as-built documentation of the final design and installation, including photographs, and final inspection is required upon completion of installation.

§ 10.24.~~110~~120. Nonconformities and exemptions.

A. Legal nonconforming uses and noncomplying structures may continue to the extent permitted by law. The Town may administratively waive or modify applicable criteria for structures on legal nonconforming lots or parcels only when there will be no net increase in nonpoint-source pollutant load and land disturbance exceeding 2,500 square feet complies with applicable erosion and sediment control requirements.

B. Nothing in this Article shall prevent reconstruction of a pre-existing structure within a Chesapeake Bay Preservation Area following casualty loss except as otherwise restricted by applicable Town ordinance or law.

C. Public utilities, railroads, public roads, facilities, and other activities shall be exempt only to the extent and under the conditions stated in 9VAC25-830-150(B).

D. Within RPAs, water wells, passive recreation facilities such as boardwalks, trails, and pathways, and historic preservation and archaeological activities may qualify for administrative exemption under 9VAC25-830-140(2), provided all applicable conditions are satisfied.

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

§ 10.24.~~120~~130. Administrative ~~buffer encroachments~~ and ~~administrative~~ exceptions.

Applications for waivers and exceptions from the requirements of §10.24.070, general performance standards, and §10.24.080 RPA development standards, shall be made in writing and filed with the Town Administrator. Such applications shall identify any potential impacts of the proposed waiver or exception on water quality and on lands within the RPA through the performance of a water quality impact assessment, pursuant to 10.24.100 of this Ordinance, and shall examine the impacts of sea level rise, storm surge, and flooding on the project through the performance of a resiliency assessment, pursuant to §10.24.110. Each application for a waiver and exception shall be approved, denied, or approved with conditions according to the review process outlined in the following subsections.

A. The Town Manager or designee may approve buffer encroachments expressly authorized for administrative review by 9VAC25-830-140(4), upon written findings that all applicable criteria are satisfied.

B. Additions and modifications to existing legal principal structures may be processed through administrative review, without a public hearing, only as authorized by 9VAC25-830-150(C)(4). This administrative process does not apply to accessory structures.

C. An administrative approval under this section shall be the minimum necessary to afford relief, shall not confer a special privilege, shall be in harmony with the purpose and intent of this Article, shall not cause substantial detriment to water quality, shall not be based on self-created or self-imposed conditions, and shall include reasonable and appropriate conditions necessary to prevent degradation of water quality.

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

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

§ 10.24.~~130~~140. Formal exceptions; notice and public hearing.

A. Except for matters expressly authorized for administrative review under § 10.24.120, an exception from the requirements implementing 9VAC25-830-130 or 9VAC25-830-140 may be granted only by the Town Council after notice and public hearing as provided in this section.

B. No formal exception shall be granted unless the Town Council makes written findings that: (1) the requested exception is the minimum necessary to afford relief; (2) granting the exception will not confer a special privilege denied to similarly situated property owners; (3) the exception is in harmony with the purpose and intent of this Article and is not of substantial detriment to water quality; (4) the request is not based on self-created or self-imposed conditions; and (5) reasonable and appropriate conditions are imposed as warranted to prevent degradation of water quality.

C. Before acting on a formal exception, the Town shall provide notice and conduct a public hearing in accordance with Virginia Code § 15.2-2204 and 9VAC25-830-150(C). Only one public hearing is required. Notice to owners, agents, or occupants of abutting property and property immediately across the street or road may be given by first-class mail to the extent authorized by state law.

D. The Town Council may impose conditions reasonably necessary to protect water quality, including mitigation, buffer restoration or enhancement, limits on disturbance, BMPs, monitoring, maintenance, and recordation of applicable restrictions.

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

§ 10.24.~~140~~150. Plats, site plans, and recordation requirements.

A. All plats and site plans for property within a Chesapeake Bay Preservation Area shall depict RPA and RMA boundaries and, where applicable, the 100-foot buffer and limits of approved encroachment or disturbance.

B. Plats shall contain notes required by 9VAC25-830-190(A)(4), including, as applicable: (1) the requirement to retain an undisturbed and vegetated 100-foot buffer; (2) onsite sewage treatment-system pump-out and reserve drainfield requirements; and (3) limitations on development within RPAs.

C. The Town may require recordation of conditions, easements, buffer areas, mitigation obligations, or other restrictions when reasonably necessary to ensure continuing compliance and when authorized by law.

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

§ 10.24.~~150~~160. Inspections, records, and annual program administration.

A. The Town Manager or designee may conduct inspections at reasonable times and in accordance with applicable law to determine compliance with this Article and approvals issued under it.

B. The Town shall maintain records sufficient to document decisions regarding CBPA development, land-disturbing activities, RPA uses and encroachments, buffer modifications, administrative and formal exceptions, WQIAs, mitigation, and other program actions.

C. The Town shall maintain procedures and tracking tools sufficient to support accurate annual implementation reporting to DEQ as required by 9VAC25-830-260.

State law/regulation reference: 9VAC25-830-260.

§ 10.24.~~160~~170. Violations, enforcement, restoration, and civil remedies.

A. Any use, development, land disturbance, or other activity conducted contrary to this Article, an approved plan, permit, exception, condition, or order issued under this Article constitutes a violation.

B. The Town may issue notices of violation, stop-work directives, restoration requirements, and other lawful administrative orders and may seek injunctions or other remedies available under state law. A violator may be required to restore or stabilize disturbed areas, reestablish vegetation or buffer functions, implement BMPs, and take other corrective measures reasonably necessary to abate environmental damage and achieve compliance.

C. Upon a finding by an appropriate circuit court, a person who violates this Article or violates or fails, neglects, or refuses to obey a final notice, order, rule, regulation, variance, exception, or permit condition authorized under this Article may be assessed a civil penalty not exceeding $5,000 for each day of violation, as authorized by Virginia Code § 62.1-44.15:74(E)(1).

D. With the consent of the person in violation, the Town may provide for a one-time civil charge for each violation in a specific sum not exceeding $10,000 for each violation, in lieu of an appropriate civil penalty, as authorized by Virginia Code § 62.1-44.15:74(E)(2). A civil charge may be in addition to the cost of required restoration.

E. Civil penalties and charges collected by the Town shall be used as required by Virginia Code § 62.1-44.15:74.

State law/regulation reference: Va. Code § 62.1-44.15:74(E).

§ 10.24.~~170~~180. Appeals.

A. A person aggrieved by an administrative decision under this Article may pursue any appeal authorized by the Town Code and Virginia law.

B. Any appeal from a decision of a board established or designated by the Town to hear cases under this Article shall be filed within the period prescribed by applicable Town ordinance and state law, which shall not be less than 30 days where Virginia Code § 62.1-44.15:74(F) applies.

State law/regulation reference: Va. Code § 62.1-44.15:74(F).

§ 10.24.~~180~~190. Severability.

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

§ 2. IMPLEMENTATION AND CONFORMING ADMINISTRATION.

A. The Town Manager is authorized and directed to prepare or update the administrative forms, application checklists, review procedures, septic-system notification and tracking procedures, Bay Act webpage materials, and annual-report tracking tools necessary to implement Article 10.24 consistently with the Act, the Regulations, current DEQ guidance, and the Town's corrective-action obligations.

B. The Town shall review its official Chesapeake Bay Preservation Area map and shall present any amendment determined necessary to Town Council for adoption so that mapped RPA features and the jurisdiction-wide RMA designation are consistent with Article 10.24 and the Regulations.

C. Nothing in this section shall be construed to amend the Town's comprehensive plan; any comprehensive-plan amendments required by law or by the Town's corrective-action obligations shall be considered separately in accordance with applicable law.

§ 3. REPEALER.

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

§ 4. EFFECTIVE DATE.

This ordinance shall take effect upon adoption.

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

By: _____

Tina Gambill, Mayor

Attest: _____

Town Manager and Clerk to Council

TOWN OF BOWLING GREEN, VIRGINIA

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

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

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

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

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

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

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

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

§ 1. ARTICLE 10.24. CHESAPEAKE BAY PRESERVATION AREA

§ 10.24.010. Title.

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

§ 10.24.020. Authority; purpose and intent.

A. This Article is adopted pursuant to the Chesapeake Bay Preservation Act, Article 2.5 (§ 62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia; the Chesapeake Bay Preservation Area Designation and Management Regulations, 9VAC25-830-10 et seq.; and the Town's zoning, subdivision, and land-use authority under Title 15.2 of the Code of Virginia.

B. The purpose of this Article is to protect and improve the water quality of the Chesapeake Bay, its tributaries, and other state waters by minimizing the adverse effects of land use and development and by requiring that the use and development of land in Chesapeake Bay Preservation Areas be accomplished in a manner that protects water quality.

C. This Article is intended to: (1) protect existing high-quality state waters; (2) prevent increases in nonpoint source pollution; (3) reduce existing pollution where practicable; (4) conserve water resources and environmentally sensitive lands; (5) protect and restore Resource Protection Area buffers; (6) preserve indigenous vegetation and mature trees to the maximum extent practicable; and (7) incorporate resilience considerations into the Town's review of development within Chesapeake Bay Preservation Areas.

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

§ 10.24.030. Administration; relationship to other ordinances.

A. The Town Manager, or the Town Manager's designee, shall administer and enforce this Article and may establish application forms, checklists, technical procedures, and written administrative policies consistent with this Article, the Act, the Regulations, and DEQ guidance.

B. This Article is supplemental to the Town's zoning, subdivision, erosion and sediment control, stormwater, floodplain, wetlands, building, and other applicable requirements. Where this Article and another applicable provision impose different requirements, the requirement providing the greater protection of water quality shall apply to the extent permitted by law.

C. No zoning, subdivision, site plan, building, grading, land-disturbance, or other Town approval shall authorize an activity that violates this Article.

D. The Town shall maintain and publish on its website the elements and criteria used to implement its Chesapeake Bay Preservation Act program, including the current Chesapeake Bay Preservation Area map, this Article, applicable comprehensive plan elements, and applicable applications, checklists, policies, and procedures.

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

§ 10.24.040. Definitions.

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

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

"Adaptation measure." A project, practice, or approach to mitigate or address an impact of climate change including sea-level rise, storm surge, and flooding including increased or recurrent flooding.

"Best management practice or BMP." a practice, or combination of practices, determined by a state or designated area-wide planning agency to be an effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water-quality goals.

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

"Caliper." The diameter of a tree measured six (6) inches above existing grade.

"Canopy tree." A tree that typically reaches 35 feet in height or taller when mature.

"Chesapeake Bay Preservation Area or CBPA." any land designated by the Town pursuant to the Act and Part III of 9VAC25-830; a CBPA consists of a Resource Protection Area and a Resource Management Area.

"Development." the construction or substantial alteration or installation of any improvement (including of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures) upon a parcel of land.

"Diameter at breast height (DBH)." A standard height for measuring a tree's diameter, 4.5 feet from the ground.

"Fill." Material such as sand, soil, gravel, or crushed stone which is placed in an area, often to adjust elevation or create land contouring.

"Floodplain." All lands that would be inundated by flood water as a result of a storm event of a 100-year return interval (1% annual chance of occurring). This includes any land area susceptible to being inundated by floodwaters from any source.

"Freeboard." An additional amount of height above the Base Flood Elevation used as a factor of safety (e.g., 2 feet above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with state or community floodplain management regulations

"Highly erodible soils." Those soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight (8). The erodibility index for any soil is defined as the product of the formula RKLS/T, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

"Highly permeable soils." Soils with a potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the National Soil Survey Handbook of November 1996 in the Field Office Technical Guide of the U.S. Department of Agriculture Natural Resources Conservation Service.

"Impervious cover." a surface composed of any material that significantly impedes or prevents natural infiltration of water into soil, including buildings, roofs, streets, parking areas, and other structures and the components thereof, concrete, asphalt, or compacted gravel surface.

"Mature tree." A canopy tree with a diameter at breast height (DBH) of 12 inches or greater or an understory tree with a DBH of four (4) inches or greater.

"Nature-based solution." An approach that reduces the impacts of sea-level rise, flooding, and storm events through the use of environmental processes and natural systems.

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

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

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

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

"Resilience." The capability to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, health, the economy, and the environment.

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

"Resource Protection Area or RPA." the component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have intrinsic water-quality

value due to the ecological and biological processes they perform or are sensitive to impacts that may result in significant degradation to the quality of state waters.

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

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

"Understory tree." A tree that typically reaches 12 to 35 feet in height when mature.

"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 ports, the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, storm sewers, marinas and other boat docking structures, beaches and other public water-oriented recreation areas, fisheries, or other marine resources facilities.

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

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

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

A. The Town's Chesapeake Bay Preservation Areas consist of Resource Protection Areas and Resource Management Areas. The Town hereby designates the Resource Management Area jurisdiction-wide, consisting of all lands within the Town that are not included within the Resource Protection Area.

B. Resource Protection Areas shall include: (1) tidal wetlands; (2) nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; (3) tidal shores; (4) other lands determined by the Town to be necessary to protect the quality of state waters and meeting the criteria of 9VAC25-830-80; and (5) a buffer area not less than 100 feet in width located adjacent to and landward of the foregoing components and along both sides of any water body with perennial flow.

C. Resource Management Areas shall consist of all lands within the Town which are not designated as Resource Protection Areas. These lands, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area.

D. The Town Council shall adopt and maintain an official Chesapeake Bay Preservation Area map depicting the general location and extent of RPAs and the jurisdiction-wide RMA. The map is a screening and program-administration tool and does not eliminate the requirement for site-specific

evaluation. Designation of the CBPA boundaries shown on the CBPA map shall not be subject to modification unless based on reliable, site-specific information.

E. As part of the plan of development process or review of a WQIA, the Town shall ensure or confirm that a reliable, site-specific evaluation is conducted to determine whether water bodies on or adjacent to a development site have perennial flow and shall adjust RPA boundaries on the site as necessary based on reliable site-specific information.

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

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

§ 10.24.060. Applicability.

A. Except as expressly exempted by the Act, the Regulations, or this Article, this Article applies to all use, development, redevelopment, and land disturbance within Chesapeake Bay Preservation Areas.

B. The requirements of this Article shall be considered in review of rezoning, special-use, subdivision, site-plan, building-permit, grading, land-disturbance, and other land-development applications affecting Chesapeake Bay Preservation Areas.

C. All development exceeding 2,500 square feet of land disturbance shall be accomplished through the plan of development review process established by § 10.24.090.

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

§ 10.24.070. General performance standards.

The general performance standards set forth in this section are intended to prevent a net increase in nonpoint source pollution from new development and development on previously developed land where the runoff was treated by a water quality protection best management practice. Except as otherwise provided herein, the following standards shall apply to all development and redevelopment in both Resource Protection Areas and Resource Management Areas of the Chesapeake Bay Preservation Area:

A. No more land shall be disturbed than is necessary to provide for the proposed use or development.

B. Existing indigenous vegetation shall be preserved to the maximum extent practicable, consistent with the proposed use or development and in accordance with the Virginia Stormwater Management Handbook, Version 1.1. Mature trees shall be protected during development and removed only where necessary.

C. Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the proposed use or development.

D. All land-disturbing activity exceeding 2,500 square feet, including construction of single-family houses, septic tanks, and drainfields as provided by state law, shall comply with all erosion and sediment control or erosion and stormwater management requirements and shall be accomplished through a plan of development review process as set forth in §10.24.090 of this Article and other such requirements set forth in Town ordinances.

E. Land-disturbing activities in a Chesapeake Bay Preservation Area equal to or greater than 2,500 square feet but less than one acre shall comply with 9VAC25-875-740 and 9VAC25-875-750, as applicable.

F. Evidence of all wetlands permits required by law shall be provided before the Town authorizes grading or other onsite activities to begin.

G. Onsite sewage treatment systems not requiring a VPDES permit shall comply with the pump-out, inspection, reserve drainfield, and related requirements of 9VAC25-830-130(7), as applicable. At least once every five years, the owner shall provide documentation of required pump-out or an authorized inspection alternative. The Town shall maintain or participate in an administrative notification and tracking process sufficient to document compliance, except to the extent state law assigns management and enforcement to another agency.

H. Agricultural lands shall be subject to the soil and water quality conservation assessment and planning requirements of 9VAC25-830-130(8), as applicable, with findings and recommendations submitted to the local Soil and Water Conservation District Board as plan-approving authority.

I. Silvicultural activities are exempt from the requirements of this Article to the extent provided by 9VAC25-830-130(9), provided the operation adheres to the water-quality protection procedures prescribed by the Virginia Department of Forestry.

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

§ 10.24.080. Resource Protection Area development and buffer standards.

A. In addition to § 10.24.070, land development in an RPA subject to approval by the Town Manager may be allowed only as authorized by 9VAC25-830-140.

B. Except where the Regulations provide otherwise, a WQIA shall be required for proposed land disturbance in the RPA.

C. A 100-foot-wide vegetated buffer shall be retained if present and established where it does not exist. The buffer shall be managed to retard runoff, prevent erosion, filter nonpoint-source pollution, and protect state waters and aquatic life. Where establishment or reestablishment is required, trees shall be incorporated as appropriate to site conditions and to maximize buffer function; native species are preferred.

D. Where agricultural or silvicultural use within the buffer ceases and the land is proposed to be converted to another use, the full 100-foot buffer shall be reestablished with management measures that provide woody vegetation sufficient to assure the functions of the buffer. Tree planting shall be

incorporated as appropriate to site conditions and to maximize buffer function, with native species preferred.

E. Permitted buffer encroachments for qualifying lots recorded before October 1, 1989, and for qualifying lots recorded between October 1, 1989, and March 1, 2002, may be approved administratively only when all applicable criteria of 9VAC25-830-140(4) are satisfied, including minimization of encroachment and required mitigation.

F. Existing buffer vegetation may be modified only as allowed by 9VAC25-830-140(5), including for reasonable sight lines, access paths, general woodlot management, approved BMPs, shoreline erosion control, and removal of dead, diseased, dying, or noxious vegetation. Mature trees shall be preserved to the maximum extent practicable and replacement vegetation shall be required where necessary to maintain buffer function.

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

§ 10.24.085. Agricultural activities within the RPA buffer.

A. Agricultural buffer areas shall be managed to prevent concentrated flows of surface water from breaching the buffer and may be managed to prevent noxious weeds from invading the buffer.

B. Agricultural activities may encroach into the landward 50 feet of the 100-foot buffer only when at least one agricultural BMP that, in the opinion of the Caroline-Hanover Soil and Water Conservation District Board, addresses the predominant water-quality issue on the adjacent land is being implemented and the combination of the undisturbed buffer and BMP provides water-quality protection at least equivalent to the 100-foot buffer.

C. Agricultural activities may encroach within the landward 75 feet only when agricultural BMPs addressing erosion control, nutrient management, and pest-chemical control are implemented on adjacent land in accordance with 9VAC25-830-140(5)(b).

D. If specific agricultural activities are causing pollution of a nearby water body with perennial flow or violate buffer performance standards, the Town, in cooperation with the Caroline-Hanover Soil and Water Conservation District, shall recommend a compliance schedule and require correction consistent with that schedule.

E. If a landowner, agent, or operator refuses assistance from the Caroline-Hanover Soil and Water Conservation District in complying with or documenting compliance with applicable agricultural requirements and the District reports noncompliance to the Town, the Town shall require correction within a specified period not to exceed 18 months from initial notification of the deficiencies and shall establish, in cooperation with the District, a compliance schedule that expedites environmental protection while accounting for seasonal and other temporal considerations.

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

§ 10.24.090. Plan of development review.

A. Before issuance of a building permit or other final land-development approval for development exceeding 2,500 square feet of land disturbance in a Chesapeake Bay Preservation Area, the Town shall complete a plan of development review sufficient to determine compliance with the Act, the Regulations, this Article, and other applicable Town ordinances.

B. The plan of development process for any development or redevelopment submission shall include, as applicable to the proposed activity and site the following plans and information: (1) a site plan or subdivision plat; (2) a site-specific RPA determination, including perennial-flow evaluation and delineation of RPA components and the 100-foot buffer; (3) an environmental site assessment identifying environmental features relevant to the Bay Act review; (4) a WQIA when required; (5) a resiliency assessment when required by the Town under subsection D; (6) an erosion and sediment control or erosion and stormwater management plan when required; (7) a landscape or buffer-management plan; (8) evidence of required wetlands or other state/federal permits; and (9) other information reasonably necessary to determine compliance.

C. The Town may require revisions, mitigation measures, conservation easements, notes, conditions, or other measures authorized by law that are reasonably necessary to ensure compliance. No approval shall be granted until the Town determines that the proposal complies with applicable requirements.

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

E. Any exemption from plan of development review shall be established and administered so as to ensure compliance with the Act and Regulations.

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

§ 10.24.100. Water Quality Impact Assessments.

A. A WQIA is required for any proposed development within an RPA and for other development in a Chesapeake Bay Preservation Area when the Town determines that an assessment is warranted because of the unique characteristics of the site or the intensity of the proposed use or development.

B. The purpose of the WQIA is to identify the impacts of proposed development on water quality and RPA lands and to determine specific measures necessary to avoid, minimize, and mitigate those impacts. A WQIA shall be sufficiently specific to demonstrate compliance with this Article and the Regulations.

C. Minor WQIA. The Town may allow a minor WQIA for a proposal involving limited RPA or buffer disturbance where the nature and extent of the impact can be adequately evaluated without the information required for a major WQIA. A minor WQIA shall include, at minimum: (1) a site drawing showing existing and proposed improvements, RPA components, buffer limits, limits of

disturbance, vegetation to be removed, and drainage features; (2) a description and quantification of the proposed disturbance; (3) photographs or other documentation of existing site conditions; (4) proposed erosion, stormwater, vegetation-protection, and buffer-restoration measures; and (5) proposed mitigation sufficient to offset adverse water-quality impacts.

D. Major WQIA. A major WQIA shall be required where the Town determines that the scale, location, intensity, or potential water-quality effect of a proposal cannot be adequately evaluated through a minor WQIA. A major WQIA shall include the information required for a minor WQIA and, as applicable: (1) detailed site and environmental inventories; (2) hydrologic and drainage information; (3) soils, slopes, wetlands, streams, shorelines, and vegetation information; (4) calculations and analysis of existing and proposed impervious cover and pollutant impacts; (5) alternatives analysis demonstrating minimization of RPA disturbance; (6) proposed BMPs; (7) detailed buffer mitigation, restoration, and planting plans; (8) construction sequencing and long-term maintenance provisions; and (9) such other technical information as is reasonably necessary to demonstrate compliance.

E. Mitigation shall be commensurate with the nature and extent of the approved impact and shall be designed to maintain or improve water-quality protection and RPA buffer function. The Town may require onsite mitigation, buffer restoration or enhancement, tree and woody-vegetation planting, BMP installation or maintenance, conservation measures, or other measures consistent with the Act, Regulations, and current DEQ guidance.

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

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

§ 10.24 110. Resiliency assessment.

A resiliency assessment that considers the potential impacts of sea level rise, storm surge, and flooding on buffer function in light of a proposed RPA encroachment is required to be [either conducted by the Town or the applicant] during the review of a plan of development or other review process. Such an assessment is to be based upon the RPA as delineated at the time of the proposed land development and is required in addition to all other requirements of this and other local ordinances. At a minimum the resiliency assessment should contain the following information:

(1) *A scaled drawing or aerial image* of the proposed project that includes the RPA [and RMA, if not jurisdiction-wide] boundary, required setbacks, existing topography, and a graphic depiction of the anticipated impacts of sea level rise, flooding, and storm surge on the parcel and the proposed project, based upon a review of approved models and forecasts, to include the following:

(a) For sea level rise, use the 2017 National Oceanographic and Atmospheric Administration (NOAA) Intermediate-High scenario projection curve [or any subsequently updated version thereof] on the project site. Sea level rise data can be accessed on the AdaptVA website, maintained by the Virginia Institute of Marine Science (VIMS). When determining potential sea-level rise impacts, the applicant should use the model to identify both the extent of anticipated inland migration, as well as the water depth.

(b) For storm surge, use the most up to date NOAA hydrodynamic Sea, Lake, and Overland Surges Hurricanes (SLOSH) model on the project site. Storm surge data can be accessed on the AdaptVA website. [Selection of a default storm category should be determined by the locality based upon historical frequency and specified for use in conducting resiliency assessments by the applicant. If additional storm surge analysis is being used by the locality, it should be referenced here].

(c) For flooding, use the most up to date Special Flood Hazard Area and the Limit of Moderate Wave Action (LiMWA) model on the project site according to the Virginia Flood Risk Information System (VFRIS) model in conjunction with the requirements and application of the [local] floodplain management ordinance. VFRIS includes the Flood Insurance Rate Maps, flood insurance studies, and associated models produced by the Federal Emergency Management Agency, and is available on the Virginia Department of Conservation and Recreation (DCR) website. When identifying flooding impacts, the applicant may rely on existing use and application of the relevant Special Flood Hazard Area. This data is also accessible on the AdaptVA website.

(d) The anticipated impacts shall be based upon a thirty (30) year timeframe. [Unless the applicant demonstrates that the lifespan of the project proposed for development is less than thirty (30) years based upon the information in 2(b) as approved by the Town Administrator. Where a lifespan of less than 30 years is proposed, the applicant shall provide documentation of proposed building materials, anticipated quality of construction, design specifications, and other materials or information in support of a predicted lifespan of less than 30 years for the project. Alternatively, the applicant or locality may base the assessment on the default 30-year lifespan].

(2) A narrative [to be prepared as a report or presented on a form] that analyzes the results of the data and graphic research, and provides the following information:

(a) Define the intended service life of the proposed structure(s).

(b) Identification of any proposed impact directly from proposed impervious cover or structures in the RPA and the extent of such impact.

(c) Identification of extent of impact on the current buffer area including impacts to existing vegetation from the landward movement of water and vegetative migration.

(d) Describe the extent to which anticipated impacts can be or have been mitigated by altering the location design, size, or orientation of proposed structures or impervious cover, by preserving and/or supplementing existing buffer areas as provided for in Section 108 of this Ordinance, and/or by considering other limiting site conditions including required setbacks, and/or by proposing an adaptation measure in accordance with the provisions of Section 108.

(e) Identification of the utilization of existing local programs that already take potential impacts into account through the building permit or site design review processes, such as freeboard requirements enacted through the [local floodplain ordinance].

(3) Apply the results of the resiliency assessment to the proposed development. The Town Administrator will review the narrative [as a report or form from (2)] along with the water quality impact assessment and determine whether the anticipated impacts necessitate an alteration or conditions to the proposed project or implementation of an adaptation measure for approval.

(a) In considering whether a requirement for project alteration or adaptation measure is appropriate, the Town Administrator will ensure that the proposed alteration or adaptation measure is practical, achievable, and necessary to mitigate the identified impact.

(b) Where possible, consideration will be given to modifying the proposed development size or location, such that the extent of land disturbance or impervious cover can be reduced to avoid or minimize the area or areas of the parcel that the assessment indicates will be impacted.

(c) If the resiliency assessment reveals that impacts on the parcel can be addressed by structural design or siting alterations, then supplemental information on the potential alterations shall be provided for consideration by the Town Administrator. Supplemental information may include additional sketches or plans, including plan and section views, building specifications, and other supporting materials.

(d) Approval may be conditioned on the implementation of the proposed alterations, conditions, or adaptation measures.

(e) The resiliency assessment may also indicate that no alterations, conditions, or adaptation measures are required, in which case the applicant may proceed through the remainder of the approval process.

(4) Identify conditions, alterations, or adaptation measures for the proposed development. Should an impact from sea-level rise, storm surge, or flooding be identified that exceeds available design alterations, approval of the proposed project should then be conditioned upon the requirement for an adaptation measure and the following information provided:

Describe the proposed adaptation measure(s) for the site as selected from one of the sources listed in subsection 109(A) of this Ordinance and submit documentation of the proposed adaptation measure and its suitability for use on the site, such as design specifications, construction methods and materials that will provide shoreline stabilization until vegetation is established, and a proposed maintenance plan.

Describe how the selected adaptation measure meets the requirement for being a nature-based solution.

Describe how the selected adaptation measure(s) comply with applicable regulatory or permitting requirements. Submit a water quality impact assessment pursuant to Section 108 of this Ordinance and a site plan pursuant to Section 110 of this Ordinance detailing the proposed placement of the adaptation measure, existing and proposed topography and vegetation, proposed limits of clearing and grading, and mitigation for the area of land disturbance within the RPA. Additionally, provide documentation of as-built documentation of the final design and installation, including photographs, and final inspection is required upon completion of installation.

§ 10.24.120. Nonconformities and exemptions.

A. Legal nonconforming uses and noncomplying structures may continue to the extent permitted by law. The Town may administratively waive or modify applicable criteria for structures on legal nonconforming lots or parcels only when there will be no net increase in nonpoint-source pollutant load and land disturbance exceeding 2,500 square feet complies with applicable erosion and sediment control requirements.

B. Nothing in this Article shall prevent reconstruction of a pre-existing structure within a Chesapeake Bay Preservation Area following casualty loss except as otherwise restricted by applicable Town ordinance or law.

C. Public utilities, railroads, public roads, facilities, and other activities shall be exempt only to the extent and under the conditions stated in 9VAC25-830-150(B).

D. Within RPAs, water wells, passive recreation facilities such as boardwalks, trails, and pathways, and historic preservation and archaeological activities may qualify for administrative exemption under 9VAC25-830-140(2), provided all applicable conditions are satisfied.

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

§ 10.24.130. Administrative waivers and exceptions.

Applications for waivers and exceptions from the requirements of §10.24.070, general performance standards, and §10.24.080 RPA development standards, shall be made in writing and filed with the Town Administrator. Such applications shall identify any potential impacts of the proposed waiver or exception on water quality and on lands within the RPA through the performance of a water quality impact assessment, pursuant to 10.24.100 of this Ordinance, and shall examine the impacts of sea level rise, storm surge, and flooding on the project through the performance of a resiliency assessment, pursuant to §10.24.110. Each application for a waiver and exception shall be approved, denied, or approved with conditions according to the review process outlined in the following subsections.

A. The Town Manager or designee may approve buffer encroachments expressly authorized for administrative review by 9VAC25-830-140(4), upon written findings that all applicable criteria are satisfied.

B. Additions and modifications to existing legal principal structures may be processed through administrative review, without a public hearing, only as authorized by 9VAC25-830-150(C)(4). This administrative process does not apply to accessory structures.

C. An administrative approval under this section shall be the minimum necessary to afford relief, shall not confer a special privilege, shall be in harmony with the purpose and intent of this Article, shall not cause substantial detriment to water quality, shall not be based on self-created or self-imposed conditions, and shall include reasonable and appropriate conditions necessary to prevent degradation of water quality.

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

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

§ 10.24.140. Formal exceptions; notice and public hearing.

A. Except for matters expressly authorized for administrative review under § 10.24.120, an exception from the requirements implementing 9VAC25-830-130 or 9VAC25-830-140 may be granted only by the Town Council after notice and public hearing as provided in this section.

B. No formal exception shall be granted unless the Town Council makes written findings that: (1) the requested exception is the minimum necessary to afford relief; (2) granting the exception will not confer a special privilege denied to similarly situated property owners; (3) the exception is in harmony with the purpose and intent of this Article and is not of substantial detriment to water quality; (4) the request is not based on self-created or self-imposed conditions; and (5) reasonable and appropriate conditions are imposed as warranted to prevent degradation of water quality.

C. Before acting on a formal exception, the Town shall provide notice and conduct a public hearing in accordance with Virginia Code § 15.2-2204 and 9VAC25-830-150(C). Only one public hearing is required. Notice to owners, agents, or occupants of abutting property and property immediately across the street or road may be given by first-class mail to the extent authorized by state law.

D. The Town Council may impose conditions reasonably necessary to protect water quality, including mitigation, buffer restoration or enhancement, limits on disturbance, BMPs, monitoring, maintenance, and recordation of applicable restrictions.

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

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

A. All plats and site plans for property within a Chesapeake Bay Preservation Area shall depict RPA and RMA boundaries and, where applicable, the 100-foot buffer and limits of approved encroachment or disturbance.

B. Plats shall contain notes required by 9VAC25-830-190(A)(4), including, as applicable: (1) the requirement to retain an undisturbed and vegetated 100-foot buffer; (2) onsite sewage treatment-system pump-out and reserve drainfield requirements; and (3) limitations on development within RPAs.

C. The Town may require recordation of conditions, easements, buffer areas, mitigation obligations, or other restrictions when reasonably necessary to ensure continuing compliance and when authorized by law.

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

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

A. The Town Manager or designee may conduct inspections at reasonable times and in accordance with applicable law to determine compliance with this Article and approvals issued under it.

B. The Town shall maintain records sufficient to document decisions regarding CBPA development, land-disturbing activities, RPA uses and encroachments, buffer modifications, administrative and formal exceptions, WQIAs, mitigation, and other program actions.

C. The Town shall maintain procedures and tracking tools sufficient to support accurate annual implementation reporting to DEQ as required by 9VAC25-830-260.

State law/regulation reference: 9VAC25-830-260.

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

A. Any use, development, land disturbance, or other activity conducted contrary to this Article, an approved plan, permit, exception, condition, or order issued under this Article constitutes a violation.

B. The Town may issue notices of violation, stop-work directives, restoration requirements, and other lawful administrative orders and may seek injunctions or other remedies available under state law. A violator may be required to restore or stabilize disturbed areas, reestablish vegetation or buffer functions, implement BMPs, and take other corrective measures reasonably necessary to abate environmental damage and achieve compliance.

C. Upon a finding by an appropriate circuit court, a person who violates this Article or violates or fails, neglects, or refuses to obey a final notice, order, rule, regulation, variance, exception, or permit condition authorized under this Article may be assessed a civil penalty not exceeding $5,000 for each day of violation, as authorized by Virginia Code § 62.1-44.15:74(E)(1).

D. With the consent of the person in violation, the Town may provide for a one-time civil charge for each violation in a specific sum not exceeding $10,000 for each violation, in lieu of an appropriate civil penalty, as authorized by Virginia Code § 62.1-44.15:74(E)(2). A civil charge may be in addition to the cost of required restoration.

E. Civil penalties and charges collected by the Town shall be used as required by Virginia Code § 62.1-44.15:74.

State law/regulation reference: Va. Code § 62.1-44.15:74(E).

§ 10.24.180. Appeals.

A. A person aggrieved by an administrative decision under this Article may pursue any appeal authorized by the Town Code and Virginia law.

B. Any appeal from a decision of a board established or designated by the Town to hear cases under this Article shall be filed within the period prescribed by applicable Town ordinance and state law, which shall not be less than 30 days where Virginia Code § 62.1-44.15:74(F) applies.

State law/regulation reference: Va. Code § 62.1-44.15:74(F).

§ 10.24.190. Severability.

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

§ 2. IMPLEMENTATION AND CONFORMING ADMINISTRATION.

A. The Town Manager is authorized and directed to prepare or update the administrative forms, application checklists, review procedures, septic-system notification and tracking procedures, Bay Act webpage materials, and annual-report tracking tools necessary to implement Article 10.24 consistently with the Act, the Regulations, current DEQ guidance, and the Town's corrective-action obligations.

B. The Town shall review its official Chesapeake Bay Preservation Area map and shall present any amendment determined necessary to Town Council for adoption so that mapped RPA features and the jurisdiction-wide RMA designation are consistent with Article 10.24 and the Regulations.

C. Nothing in this section shall be construed to amend the Town's comprehensive plan; any comprehensive-plan amendments required by law or by the Town's corrective-action obligations shall be considered separately in accordance with applicable law.

§ 3. REPEALER.

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

§ 4. EFFECTIVE DATE.

This ordinance shall take effect upon adoption.

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

By: _____

Tina Gambill, Mayor

Attest: _____

Town Manager and Clerk to Council

Town Council and Planning Commission Memorandum

TO: The Honorable Members of the Town Council and Planning Commission
FROM: Darla Odom, Deputy Zoning Administrator
COPY: John Anzivino, Interim Town Manager
SUBJECT: **Staff Presentation - Comprehensive Plan Review**
DATE: October 22, 2026

SUMMARY:

A Comprehensive Plan describes the future vision for a community and serves as a decision making guide for its public officials. A Comprehensive Plan is not regulation, like a Zoning Ordinance, but it should provide the foundation for those regulatory tools – and should be coordinated with other plans and studies, like a Capital Improvement Plan.

The purpose of a comprehensive plan is to guide and accomplish a coordinated, adjusted, and harmonious development of the locality's territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity, and general welfare of the inhabitants, including the elderly and persons with disabilities.

The Town's authority and responsibility to develop and update the Comprehensive Plan originates from state law. The Code of Virginia mandates much of what goes into a plan, how the plan is adopted and when the plan must be reviewed and updated (Virginia Code § 15.2-2223). The Code requires a locality to review their comprehensive plan - at least every 5 years.

BACKGROUND:

The Town's current Comprehensive Plan was adopted in April 1, 2021 with subsequent amendments approved to update the future land use map to include a mixed use area along Route 301 and an amendment approved in November 2022 to define mixed use. It has been offered that there was another Plan amendment in 2023 also relative to mixed use. Staff is continuing to finalize the dates and language for these amendments. Based on the original adoption date, the Town is reviewing its current Comprehensive Plan.

The Town has agreed that this review will generally update demographic information and existing land uses, and ensure compliance with state code such as with housing and transportation. Staff is also reviewing the document for ease of understanding and clarity.

At the joint work session, staff will offer a presentation to update Town Council on the work of the Planning Commission and staff this year to update the Comprehensive Plan.

FISCAL IMPACT:

None identified at this time.

RECOMMENDATION:

For the Town Council and Commission review and discussion.

TOWN OF BOWLING GREEN - COMPREHENSIVE PLAN REVIEW - PROJECT TIMELINE			v.10.22.26														
			2026										2027				
Phase	#	Task Description	February	March	April	May	June	July	August	September	October	November	December	January	February	March	April	May
Comp Plan Update	A1	Project Management	C	C	C	C	C	C	C	C								
	A2	Project Kickoff/PC SWOT Analysis	C															
	A3	Document Review at PC Meetings		C	C	C	C	C	C	C								
	A4	Demographics & Existing Conditions		C	C	C	C	C	C	C								
	A5	Draft Plan Text Amendments				C	C	C	C	C								
	A6	Mapping								C								
	A7	Joint Work Session (10.22.26)																
	A8	Review & Clean Up								C								
	A9	PC WS & Open House (PC regular mtg)																
	A10	Incorporate Final Revisions																
	A11	Planning Commission Public Hearing																
	A12	Town Council Public Hearing																
	A13	Post-Adoption Materials																

TOWN OF BOWLING GREEN
PLANNING COMMISSION MEETING

M I N U T E S

Thursday, September 17, 2026
6:00 PM

PLEDGE OF ALLEGIANCE:

- Chair Matthew Benjamin called the meeting to order at 6:02 PM. The Pledge of Allegiance was observed.

ROLL CALL AND DETERMINATION OF A QUORUM:

Commissioners Present: Chair Matthew Benjamin, Vice-Chair Lisa Gattie, Commissioner Lauren Griemsman, Commissioner Scott Seigmund, Commissioner Jeff Voit

Staff Present: Darla Odom, Deputy Zoning Administrator; Jeffrey Smith, Administrative Assistant/Deputy Clerk

PUBLIC COMMENT:

- The public comment period opened and closed at 6:09 PM with no comments from the public.

PUBLIC HEARING:

None.

APPROVAL OF THE MINUTES:

1. Minutes- August 20, 2026

- Commissioner Jeff Voit motioned to approve the August 20, 2026, meeting minutes as presented. Commissioner Scott Seigmund seconded the motion. The motion carried unanimously.

REPORT OF THE ZONING ADMINISTRATOR:

UNFINISHED BUSINESS:

2. Comprehensive Plan Discussion

   A. Town Council Briefing

   B. Project Timelines

   C. October Work Session

- Ms. Darla Odom, Deputy Zoning Administrator, reported that Town Council was receptive to the Comprehensive Plan update presented on September 3 and reviewed a revised project schedule incorporating Chesapeake Bay compliance requirements. The October 8 work session would include draft plan chapters and ordinance amendments being prepared by the Town Attorney. The October 22 joint meeting would include a Comprehensive Plan briefing and a joint public hearing on the Chesapeake Bay ordinance amendments. Following the hearing, Town Council would adjourn and the Planning Commission would continue its meeting and consider a recommendation on the amendments, with Council action anticipated in

November. A December work session and public open house would precede final revisions and anticipated Comprehensive Plan public hearings before the Planning Commission in January and Town Council in February. Ms. Darla Odom, Deputy Zoning Administrator, emphasized the February 28 compliance deadline and advised that the environmental chapter might need to proceed separately if the overall plan were delayed.

- Commissioner Jeff Voit motioned to schedule a Comprehensive Plan work session and public open house for December 17, 2026. Commissioner Scott Seigmund seconded the motion. The motion carried unanimously.

3. Chapter 2: Community Profile Draft

- Ms. Darla Odom, Deputy Zoning Administrator, and Administrative Assistant/Deputy Clerk Jeffrey Smith presented the Community Profile narrative incorporating previously reviewed demographic, housing, economic, and education data. Commissioners supported the chapter's organization and requested clearer identification of estimates, inclusion of additional racial categories and both male and female population figures, definition of the Quarterly Census of Employment and Wages acronym at first use, and white text in dark table headers. Discussion addressed clarifying that the 786 county establishments represented places of employment, adding their associated employment total, and distinguishing employed-worker statistics from total-population and working-age measures. Commissioners also requested research on aggregate private-school and homeschool enrollment and discussed the limitations of available data. Staff agreed to investigate whether additional demographic information was available and appropriate. Commissioners recalled a historic-resource inventory in an earlier plan and offered to locate it for possible incorporation. Ms. Darla Odom, Deputy Zoning Administrator, requested written comments on materials already distributed by September 25 so revisions could be prepared for the October 8 work session and the October 22 joint meeting.

4. Chapter 3: Environmental Sustainability & Resilience Draft

- Ms. Darla Odom, Deputy Zoning Administrator, reviewed the environmental chapter's discussion of soils, development constraints, wetlands, flood-prone areas, natural heritage resources, groundwater, and water supply. She identified remaining updates concerning well information provided by Mr. Inboden, permitted outfall sites, petroleum storage tanks, septic systems, and mapping. The chapter would include goals, objectives, implementation actions, and timeframes addressing DEQ's corrective-action requirements, including streambank erosion, existing and potential pollution sources, and clarification that the entire Town is within a Resource Management Area. Commissioners requested correction of the chapter title, removal of redundant introductory language, and consistent capitalization of "Town." Discussion emphasized verifying storage-tank ownership, locations, and operating status against state registration and current parcel records, distinguishing active gas stations from former stations, and considering potential hazards associated with unused and residential tanks. Ms. Darla Odom, Deputy Zoning Administrator, agreed to circulate a revised draft incorporating updated well and water-supply information the following day, with comments requested by September 25.

5. Chapter 5: Housing & Neighborhoods Diagnostic/Draft

- Ms. Darla Odom, Deputy Zoning Administrator, reported that the housing draft was not yet ready and would be provided for the October 8 work session. She discussed the Town's variety of housing types, mixed-use development, and accessory dwelling units as housing opportunities for younger and older residents. Commissioners discussed manufactured housing, affordability, compatibility with established neighborhoods and historic homes, and possible approaches to development standards. Ms. Darla Odom, Deputy Zoning Administrator, agreed to consult colleagues working with other localities on similar issues, and Administrative Assistant/Deputy Clerk Jeffrey Smith was asked to verify with the Commissioner of the Revenue whether manufactured homes existed within the Town. Further discussion would occur when the draft chapter was made available at a future meeting.

NEW BUSINESS:

6. Draft Amendments to Zoning Ordinance Being Prepared by the Town Attorney– Chesapeake Bay Preservation Area Overlay

- Ms. Darla Odom, Deputy Zoning Administrator, reported that six items identified in the Chesapeake Bay corrective-action agreement had been shared with the Town Attorney for preparation of ordinance amendments. Draft amendments were anticipated for review at the October 8 work session, followed by a joint public hearing with Town Council on October 22.

INFORMATIONAL ITEMS:

- Ms. Darla Odom, Deputy Zoning Administrator, and Commissioner Jeff Voit discussed Town Manager India Adams-Jacobs's departure and the upcoming management transition. Commissioner Jeff Voit reported that Interim Town Manager Johnny Anzovino, who previously served as interim Town Manager, would return in an interim capacity while the Town conducted a search. Mr. Perry was introduced as the new Assistant Town Manager.

COMMISSION COMMENTS AND REPORTS:

ADJOURNMENT:

- Chair Matthew Benjamin motioned to adjourn the meeting. Commissioner Jeff Voit seconded the motion. The motion carried unanimously, and the meeting adjourned at 7:18 PM.

Attest:

Chair: _____
Chair Matthew Benjamin

Clerk: _____
John Anzivino, Interim Town Manager, Town Clerk

Planning Commission Memorandum

TO: The Honorable Members of the Planning Commission
FROM: Darla Odom, Deputy Zoning Administrator
COPY: John Anzivino, Interim Town Manager
SUBJECT: **Comprehensive Plan Review – Transportation Component**
DATE: October 22, 2026

SUMMARY:
In the fall of 2025, the Planning Commission kicked off the Town's Comprehensive Plan review. It was agreed that the review will generally update chapters of the current Comprehensive Plan with a concentration on ensuring compliance with state code such as with housing, Chesapeake Bay Preservation Area overlay and transportation.

BACKGROUND:
The Town's current Comprehensive Plan was adopted on April 1, 2021, with subsequent amendments approved to update the future land use map to include a mixed use area along Route 301 in an amendment approved on November 3, 2022, to define mixed use.

There likely have not been many changes in transportation projects in town since the adoption, but we are preparing a diagnostic for compliance with state code.

Staff has attached the Transportation Chapter of the current Comprehensive Plan for the Planning Commission and staff to discuss at the October 22 work session.

RECOMMENDATION:
Provide for the Commission's review and preparation for the work session discussion.

ATTACHMENT:
1. Transportation Chapter of Current Comprehensive Plan

CHAPTER 6 - TRANSPORTATION

Introduction

A town's economic vitality and quality of life can be greatly affected by the strength of the local transportation system. This chapter will review the existing highway network, examine local traffic counts, and define each highway's functional classification. In addition, transportation services in the region such as GWRC Rideshare and other commuting options for Bowling Green residents will be discussed. Finally, the planned improvement of local roads, pedestrian facilities and the appearance of Main Street will be described.

The Highway Network

Located approximately 10 miles to the east of Interstate 95 and 18 miles south of Fredericksburg, access to Bowling Green is provided by Route 301, Route 207 and Route 2. With the addition of the annexed area, the town has approximately 5.0 miles of primary highways and 5.6 miles of secondary highways **(See Highway Network Map)**. The major recent change in the transportation network serving Bowling Green was the opening of the Route 207/Route 301 Bypass, which lessens the impact of through traffic on North and South Main Street (Route 301 Business) as well as East and West Broaddus Ave.

Primary Highways in the area include Route 301, Route 207 and Route 2. All other highways are designated as secondary highways. The Virginia Department of Transportation (VDOT) maintains the majority of streets and highways in Bowling Green, including Courthouse Lane which was recently accepted into the state system. Trewalla Lane is the only town-maintained street.

Traffic Counts

The largest increase in traffic was on Route 207 Business from Route 207 to Route 2/Route 301 Business (2,000 vehicles in 1996 to 5,200 in 2001, an increase of over 200%). Traffic on all secondary highways decreased from 1995 to 2001. This can be attributed to the completion of the Route 207/Route 301 Bypass.

Town of Bowling Green Comprehensive Plan 2008

Highway Network



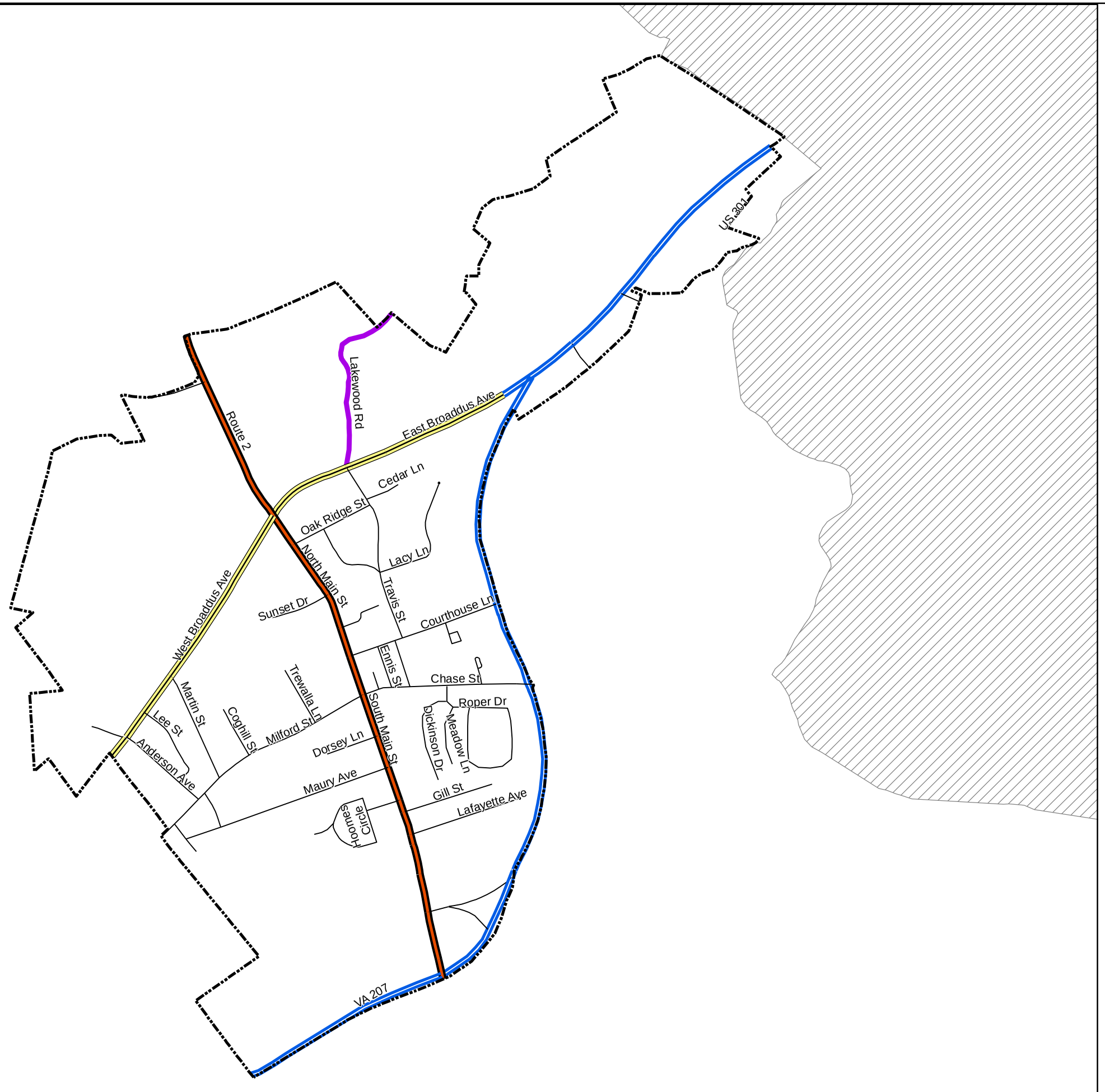
Road Network

Town Boundary

N

0 0.125 0.25 0.5 Miles

Town of Bowling Green Comprehensive Plan 2008



Highway Functional Classifications

- Primary Arterial
- Major Collector
- Minor Arterial
- Minor Collector

- Town Boundary
- Fort A.P. Hill

0 0.125 0.25 0.5 Miles

Table 6-1: Average Annual Daily Traffic (AADT)

	Route	From	To	AADT	Year	AADT	Year	AADT	Year
	Primary Highways								
1	Rte 2	Rte 301 Bus.	NCL Bowling Green	5,800	1996	6,100	2001	6,494	2006
2	Rte 207	Rte 207 Bus	Rte 301	6,500	1996	6,700	2001	9,153	2006
3	Rte 207 Bus.	WCL Bowling Green	Rte 2/Rte 301 Bus.	2,000	1996	5,200	2001	5,328	2006
4	Rte 301/Rte 2	SCL Bowling Green	Rte 2	5,500	1996	5,800	2001	6,479	2006
5	Rte 301 Bus.	Rte 2	SCL Bowling Green	3,600	1996	3,700	2001	3,079	2006
6	Rte 301	Rte 301 Bus. S	Rte 301 Bus. N	6,600	1995	7,300	2001	11,036	2006
7	Rte 301	Rte 301 Bus. N	Rte 608	11,000	1995	9,400	2001	11,912	2006
	Secondary Highways								
8	Milford St.	Rte 207	WCL Bowling Green	829	1995	660	2001	527	2006
9	Milford St.	WCL Bowling Green	Rte 301 Bus. S	1,930	1995	1,500	2001	1.539	2007
10	Chase St.	Rte 301 Bus.	Ennis St.	2,002	1995	1,400	2001	1,502	2006
11	Chase St.	Ennis St.	Route 301	981	1995	740	2001	805	2006
12	Maury Ave.	Rte 1216	Route 301	527	1997	350	2001	N/A	N/A
13	Anderson Ave.	Milford St.	Route 207	1,090	1995	950	2001	1,149	2007
14	Davis Ct.	N. Main St.	Dead End	1,491	1995	650	2001	590	2007
15	Courthouse Ln	Ennis St.	Route 1229	1,377	1995	1,000	2001	1,066	2007

Source: Virginia Department of Transportation

Functional Classification

Rural highways in Virginia are classified by VDOT according to function based upon a system developed by the American Association of State Highway and Transportation Officials (AASHTO). The following is a short description of each of the classifications. These classifications are also shown on the **Highway Classification map**.

Principal Arterial highways provide an integrated network of roads that connect principal metropolitan areas and serve virtually all urban areas with a population greater than 25,000. They serve long distance travel demands such as state-wide and interstate travel. The only principal arterial route directly serving Bowling Green follows Route 207 to the Route 301 bypass, includes the bypass, and then continues northeast along Route 301. Minor Arterial highways link cities and large town's and provide an integrated network for intrastate and intercounty service. They supplement the principal arterial system so that all demographic areas are within a reasonable distance of an arterial highway and are intended as routes that have minimum interference to through movement. Route 301/Route 2 to the south of Bowling Green, Route 301 Business from the bypass to Route 2, and Route 2 north are classified as minor arterial highways.

Direct access to properties from arterials is discouraged. Access to adjacent properties should occur through the utilization of access management techniques such as internal, frontage, or service roads; shared entrances; and limitations on the number, location, and spacing of entrances.

Major Collector highways provide service to any county seat, large towns, or other major traffic generators not served by the arterial system. They provide links to the higher classified routes and serve as important intracounty travel corridors. Major collectors include Route 301 Business from the intersection of Route 2 to the bypass, Route 207

Business, and Route 619 (Chase Street) between the Route 301 Bypass and Main Street.

Minor Collector highways collect traffic from local streets and bring all developed areas within a reasonable distance of a collector road. They provide service to small communities and link important local traffic generators with the rural areas. The closest minor collector to Bowling Green is Lakewood Drive (Route 608).

Local Streets provide access to adjacent land and serve travel of short distances as compared to the higher systems, and typically collect traffic from local subdivision roads and carry these vehicles to adjacent neighborhoods and arterial roads. The design of the roadway and adjacent development should minimize potential conflicts between vehicles and pedestrians. All of the remaining streets in Bowling Green are classified as local.

The intended functional classification of a road plays a role in the determination of recommended right-of-way widths. Recommended right-of-way widths based upon VDOT standards are shown in the adjacent table.

Table 6-2: Recommended Rights of Way

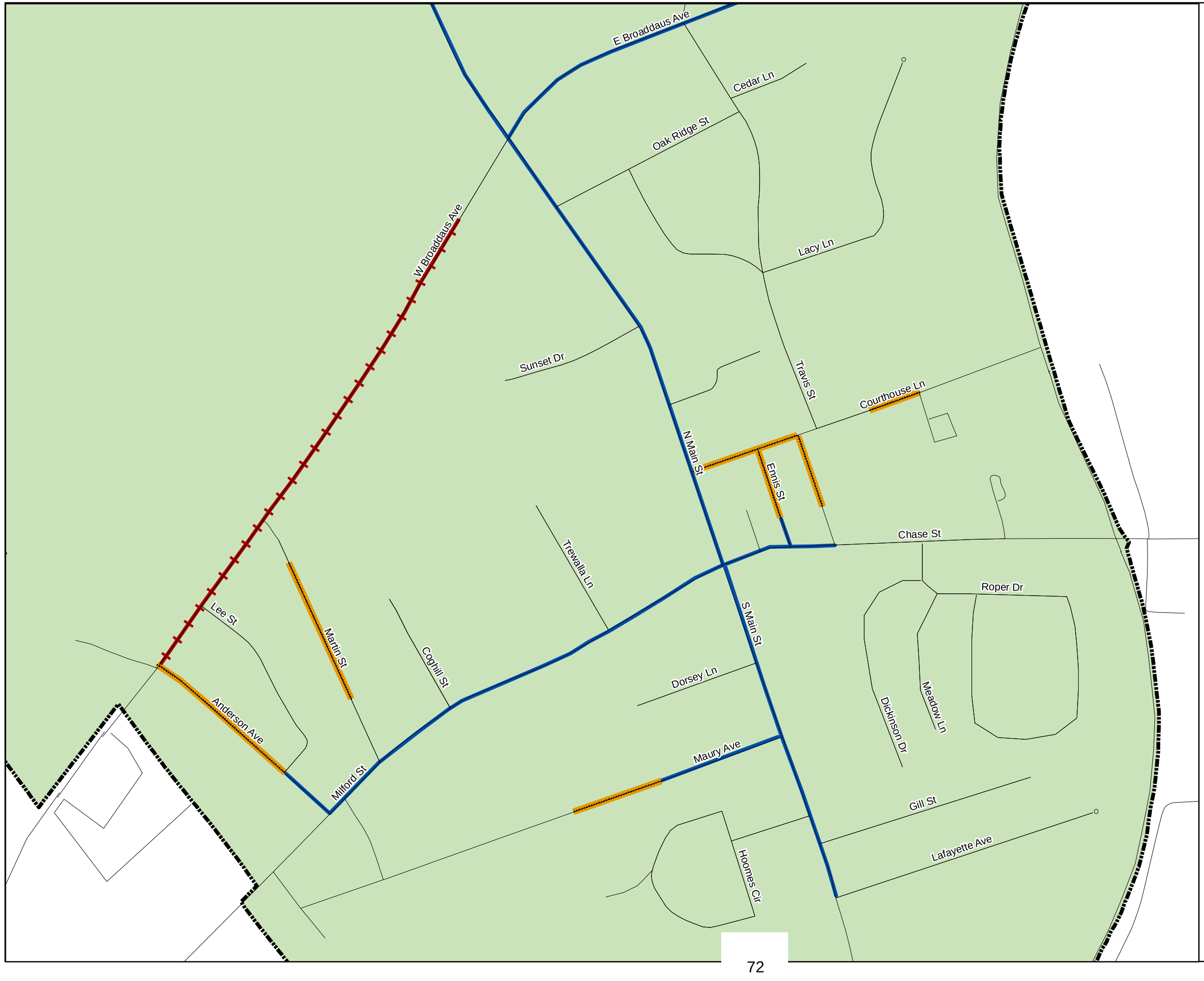
Functional Classification	Recommended Right Of Way Widths
Principal Arterials	120 to 200 feet
Minor Arterials	90 to 120 feet
Major Collectors	70 to 90 feet
Minor Collectors	70 to 90 feet
Local Streets	40 to 80 feet

Source: VDOT Geometric Design Standards

GWRC Rideshare/Commuting Options

GWRC Rideshare is a program designed to promote ridesharing and provide commuting information on all modes of transportation to residents of Planning District 16 which includes Caroline, King George, Spotsylvania and Stafford Counties as well as the City of Fredericksburg. The Rideshare assists persons who are seeking transportation from the GWRC area to employment locations in the Washington (DC-MD-VA) and Richmond metropolitan areas. GWRC also assists citizens in commuting to employment centers within the GWRC area.

It is the primary goal of the program to place commuters in various modes of mass transportation to eliminate their single occupancy vehicles from the highways. To foster this goal, the program assists in the creation of new commuter pools (cars, vans and buses) and works to keep these pools successfully operating.



Town of Bowling Green Comprehensive Plan 2008

Sidewalk Network

Streets

- Single Side
- Both Sides
- Designated Bikeway (Single Side)
- No Sidewalk

- Town Boundary

μ

0 0.05 0.1 0.2 Miles

The closest commuter parking lot to Bowling Green is located at the intersection of Route 1 and Route 207 in Carmel Church. The lot has 43 spaces. Three private commuter bus lines offer daily service to Washington from commuter lots in Spotsylvania County on Route 208 and Route 3. In addition, commuter rail service on the Virginia Railway Express (VRE) is offered from the Fredericksburg Rail Station. Six commuter trains run each day between Fredericksburg and Union Station in Washington for the morning and afternoon commuting period. There is also one mid-day train that runs from Union Station in Washington to Fredericksburg.

Rail/Bus/Air Service

Although Amtrak does not serve any stations in Caroline County, stops are made in Fredericksburg to the north and Ashland in Hanover County to the south. Eight passenger trains travel between Richmond and Washington each day. Bus service to Richmond and Washington from the area is provided by Greyhound Bus Lines. In 2002 Caroline County received TEA 21 funding to contract with the Fredericksburg Regional Transit "FRED" to provide bus service to the County. This provides bus service between Bowling Green, Milford, Ladysmith, Carmel Church and FRED Central. From FRED Central riders can get connecting service throughout much of Fredericksburg and the entire region. The initial cost was only $.25.

The closest major airport to the town is Richmond International Airport. General aviation airports in the area include Shannon Airport in Fredericksburg, Stafford Regional Airport, and the Hanover Airpark in Hanover County.

Sidewalks

The town has a relatively extensive sidewalk system in place, most of which are maintained by VDOT **(See Sidewalks Map)**. In 2000 and 2001 VDOT undertook a program of sidewalk repair in the town. The revitalization of Main Street also includes the replacement of sidewalks needing repair. The town should continue to work with VDOT to ensure the remaining sidewalks are kept in a serviceable and safe condition.

Transportation Enhancements

The Transportation Enhancement Program administered by VDOT was created as a result of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and is now called TEA 21. This program makes funding available to jurisdictions throughout Virginia to undertake projects that would not typically be funded with federal transportation funds. In 1997, Bowling Green successfully applied for funding under this program to improve pedestrian linkages and the appearance of Main Street through the provision of pedestrian and bicycle facilities, the removal of aboveground utilities, landscaping, new sidewalks, and other improvements. Work on this project began in February 2003 and was completed in June 2003

Recommendations

There are a number of specific trouble spots and deficiencies on the town's road network and system of sidewalks which will likely necessitate improvements over the next several years. The potential improvements discussed below range from changes in lane striping to the installation of curb and gutter along several well traveled town roads. The following is a short summary of each recommended improvement.

1. New Town Block - To open new areas for commercial development downtown and to improve traffic circulation, it is recommended that the town investigate the feasibility of constructing a new street(s) between Main Street and Milford Street. An investigation of public and private funding sources to construct the new street(s) should be studied.

2. Maury Avenue - The combination of roadway width and pavement conditions along Maury Avenue often pose significant safety problems, especially when vehicles are parked alongside the street. Future parking prohibitions on one side of the street may be necessary to lessen this problem. The widening of Maury Avenue as well as the installation of curb and gutter are recommended.

3. White Street - With the construction of the Bowling Green Plaza Shopping Center, traffic on White Street has increased significantly. Vehicles traveling westbound on Milford Street are using Maury Avenue to White Street to Anderson Ave to avoid stopping at the light at Milford Street and Main Street.

4. Chase Street - Due to a great deal of pedestrian traffic, the installation of new sidewalks along Chase Street which connect to the street's existing sidewalks are recommended. This pedestrian traffic is due in part to the apartments located along the easternmost section of the street. In addition, curb and gutter are also recommended for the easternmost section of this street between Butler Street and Route 301.

5. Courthouse Lane - To facilitate drainage and preserve the edge of the existing road surface, the installation of curb and gutter are recommended for Courthouse Lane between Butler Street and Route 301.

6. Travis Street - Sight distance problems along Travis Street will likely necessitate the clearing of brush and other vegetation along several stretches of the street. Travis Street experiences a great deal of cut-through traffic to Courthouse Lane.

7. Sidewalk Extensions – The town should pursue the addition of sidewalks on North and South Main Street into the annexed areas.

8. Sidewalk Maintenance – The town should complete a sidewalk condition inspection and provide a list of problem areas to VDOT for action. The first inspection was completed in February 2008.

MEMORANDUM

TO: The Honorable Town Council
FROM: Darla Odom Orr, Deputy Zoning Administrator
COPY: Jeff Gore, Town Attorney; John Anivino, Interim Town Manager
DATE: October 22, 2026
RE: Draft Cannabis Regulations to the Planning Commission for Consideration and Public Hearing (November 19, 2026)

Summary

Town Council initiated proposed zoning text amendments governing cannabis businesses and referred the item to the Planning Commission for consideration and a public hearing at the Commission's November 19, 2026 meeting. The Commission's recommendation would then return to Council for its own public hearing and final action.

Background

On June 29, 2026, the General Assembly enacted the 2026–2028 biennial budget (HB 30), which establishes a complete framework for a regulated adult-use retail cannabis market in Virginia, administered by the Virginia Cannabis Control Authority (CCA). Adult possession has been legal since 2021; the new law adds licensed commercial cultivation, processing, testing, transport, delivery, and retail sales. Key points for the Town:

- **Timeline.** The CCA must adopt regulations by February 1, 2027, and may begin accepting license applications on that date. The CCA released draft regulations on September 9, 2026. No retail sales may occur before July 1, 2027. Up to 350 retail store licenses may be issued statewide before January 1, 2028.
- **No local opt-out.** Unlike earlier proposals, the enacted framework does not allow localities to ban cannabis businesses or put the question to a local referendum.
- **Retained local authority.** Localities keep control over where and how these businesses operate through zoning, business licensing, hours of sale, and ordinances on public consumption. State law sets a 1,000-foot minimum separation between retail stores and schools and certain other sensitive uses.
- **Local review of sites.** A selected applicant must secure a compliant property and satisfy local zoning and land-use rules. The local governing body is notified of the proposed site and has 30 days to object.
- **Local tax.** A local cannabis sales tax of 1% to 3.5% applies in addition to the 6% state tax (rising to 8% on July 1, 2029) and the existing sales tax.
- **Hemp.** Regulation of retail hemp products has moved to the CCA, and the 25:1 CBD-to-THC exemption ended August 15, 2026. Definitions in the Town's ordinance should be coordinated with these changes.

Discussion

Because localities cannot prohibit these uses, the practical question is where and under what standards they may operate. Without defined use categories and standards, staff and applicants would have to force cannabis uses into existing classifications, inviting uncertainty and potential disputes once applicants begin seeking local site approval in early 2027.

Staff has been working to draft ordinance amendments for the Planning Commission to consider using the following scope:

1. **Definitions and classification** for each state license type (retail store, microbusiness, cultivation, processing, testing, transporter, and delivery operator), and coordination with hemp, tobacco, and alcohol retail definitions.
2. **Districts and approval type:** where each use is permitted by right, permitted by special use permit, or not permitted, consistent with state law barring local prohibition.
3. **Separation standards** consistent with the state 1,000-foot minimum, and any additional local separation the Town may lawfully adopt.
4. **Site and operational standards:** hours of operation, signage and advertising, odor control, security and lighting, parking, and building and floor-area limits (state law caps retail floor space at 2,500 square feet).

There are items, such as adopting a tax on these businesses that fall to Council rather than the Commission and will be brought forward separately by the Town Administrator such as whether to adopt the local cannabis sales tax, an ordinance on public consumption in parks and on sidewalks, and any business license provisions.

Fiscal Impact

There is no direct cost beyond staff time and legal advertising for the public hearings. Any future local tax or business license revenue depends on whether a licensed business locates in the Town and cannot be estimated at this time.

Recommendation

Staff recommends that the Planning Commission agree to hold a public hearing at their November 19, 2026 meeting to consider these zoning text amendments. Staff will review the draft zoning ordinance amendments with the Planning Commission at their meeting.