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§165-42 PURPOSE

All too often environmentally sensitive areas are compromised as urbanization occurs. Development decreases forest cover, increases impervious surface area, alters and disrupts water flow and water sensitive soils and vegetation, and eliminates animal and biotic habitat. Once destroyed many types of environmentally sensitive areas are permanently lost. Downtown areas become heat islands. Floodplain areas are altered and wetlands are destroyed. Sheet runoff from roof, driveway, parking pad and road surfaces disrupts the hydrologic cycle and destroys the quality of streams. The result is a highly degraded environment lacking natural function.

By recognizing sensitive areas and prioritizing the benefits associated with woodland areas, wetlands and floodplains, and erodible soils and sloped areas, environmentally unique areas may be protected from the destructive processes of urbanization. The preservation and, if possible, the reestablishment of sensitive areas will result in a more desirable living environment.

Specifically, the intent of the Environmental Regulations is to preserve and protect ecologically and environmentally sensitive areas as identified in the Town of Bel Air Comprehensive Plan and achieve the following goals:

- Protect the Winters Run and Bynum Rum watersheds
- Protect steep slopes
- Protect water quality and quantity in streams, rivers and water courses
- Protect non tidal wetlands
- Protect persons and property from environmental hazards such as erosion, siltation and flood hazards
- Promote tree retention, afforestation and reforestation measures identified in Chapters 216 and 435 of the Bel Air Town Code

§165-43 BOUNDARIES

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

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§165-44 GENERAL REGULATIONS

Proposed residential subdivisions and non residential development projects containing environmentally sensitive areas, as defined in Section 14 of this Article, whether specifically indicated on the official Sensitive Areas map or not, shall be subject to measures to protect, mitigate impacts, and enhance these resources. An Environmental Impact Assessment Report shall be prepared addressing identification, protection, impact mitigation, and enhancement of environmental resources of the project site and its vicinity. The report shall contain sufficient maps and analysis to describe the site, the proposed use and development, environmental characteristics and environmental effects of the proposal. Resources shall be fully described and accurately mapped as determined necessary by the Zoning Administrator. A Forest Conservation Plan may serve as the Environmental Impact Assessment Report for a project site if determined sufficient by the Zoning Administrator. Road crossings, utility lines and trail systems may be permitted in the environmentally sensitive areas upon determination by the Zoning Administrator that all necessary steps have been taken to minimize any adverse effect on the environment. Protection, impact mitigation, and enhancement of all other proposed development in the environmentally sensitive areas shall be addressed, as they relate to woodland areas, unique vegetation, flood hazard areas, non tidal wetlands, steep slopes and rare and endangered species. Wherever possible, the proposed development project shall be designed to use sensitive areas as visual or recreational open space, greenways or undisturbed space.

§165-45 WOODLAND AREAS AND UNIQUE VEGETATION

A. Description of the Area

Woodlands and areas of unique vegetation include any land areas where contiguous forest cover of at least 3500 square feet exists or trees of any species ten (10) inches or greater in diameter at breast height (DBH).

B. Special Regulations

The identification, location and methods of protection and enhancement of woodland and unique vegetation shall be provided through the following means as applicable. The design of proposed development shall to the maximum extent possible incorporate existing stands of trees into the overall development. Development proposals shall preserve these stands and provide for protection and retention through maintenance of pervious surfaces within the drip line of trees and separation of trees from vehicular traffic. Unique vegetation shall be similarly protected in consultation with a registered landscape architect and/or certified arborist.

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1. Subdivision And Large Lot Development

Any parcel in excess of 40,000 square feet in area shall be subject to the provisions of the Town of Bel Air Forest Conservation Ordinance, Chapter 216 of the Bel Air Town Code. At a minimum, a Forest Stand Delineation is required at the time of site plan review. A Forest Conservation Plan must be completed and approved prior to final site plan approval.

2. Small Lot Development

Design of any development on parcels of land less than 40,000 square feet in area must take into consideration any existing mature trees or forest cover. A mature tree shall be considered any tree measuring ten (10) inches in DBH or greater. All mature trees, shall be mapped on the grading plan and submitted prior to or in conjunction with the site plan for the proposed development. Adequate protection measures, including but not limited to, tree protection fences, root pruning and non-invasive construction methods may be required.

On wooded sites, a minimum of fifty percent (50%) of all mature trees must be preserved and protected during the development process. When development design cannot be accomplished without removal of more than fifty percent (50%) of the mature trees, the applicant shall replace each tree removed that reduces the fifty percent (50%) threshold with a species determined to be appropriate by the reviewing agency. At a minimum, two (2) trees shall be required for every one (1) tree removed below the threshold.

The tree replacement requirement shall be determined by the Planning staff and Bel Air Tree Committee, in order to adequately maintain the environmental value of the site. Recommended replacement requirements are as follows:

<u>DBH</u>	<u>Ratio of Replacement to Existing</u>
10" - 17"	2:1
18" - 24"	3:1
>24"	4:1

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

- a) Trees in excess of thirty six inches (36") in DBH.
- b) Trees listed on the Town Champion Tree List.

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- c) Trees fifty percent (50%) or more the size of the State Champion for the species.

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

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

§165-46 FLOOD HAZARD AREA

A. Description of the Area

Flood hazard areas are described as those areas delineated as Special Flood Hazard Areas on the Flood Insurance Rate Map (FIRM), part of the 100 year floodplain determination criteria established by FEMA for flood prone areas. The Departments of Planning and Public Works may determine other areas as flood prone and require some suitable type of hydrologic analysis to determine the extent of impact the proposed development may have on the area. If area is impacted, the Town's Floodplain Ordinance provisions shall apply.

The Official Floodplain Maps used in the enforcement of this Ordinance shall be the "Flood Insurance Rate Maps," as prepared by the Federal Emergency Management Agency, issued on January 7, 2000, and any subsequent amendments.

The delineated 100 year floodplain and other areas determined to be floodprone may be revised, amended and modified as specified in the Town of Bel Air "Floodplain Management Ordinance." (Chapter 210 of the Bel Air Town Code)

B. Special Regulations

Specific use and development regulations specified in the Town of Bel Air "Floodplain Management Ordinance" (Chapter 210 of the Bel Air Town Code) shall govern development proposed in floodplain areas. Protection measures shall include replanting and/or maintenance of natural vegetation to assure bank stabilization, erosion control and stream protection.

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Perpetual protection shall be provided through the use of deed restrictions, restrictive covenants or donation to a land trust.

To prevent excessive damage to buildings and structures, restrictions shall apply to all new construction and substantial improvements (as defined in the Floodplain Management Ordinance), to existing structures occurring in a special flood hazard area. The Planning and/or Public Works Departments may impose similar restrictions, as necessary, to adequately prevent damage to structures located in close proximity to special flood hazard areas. This may include, but not be limited to, structures proposed within fifty (50) feet of a special flood hazard area, or a structure with the lowest floor elevation below the established base flood elevation of the special flood hazard area affecting the parcel.

The design, placement and construction of all public and private utilities and facilities in designated flood hazard areas shall meet the following requirements:

1. New or replacement water distribution and treatment systems and/or sanitary sewage systems shall be designed and floodproofed to eliminate or minimize infiltration of flood waters into the systems and discharges from the systems into flood waters, and to avoid impairment during flooding, and to minimize flood damage. Cesspools and seepage pits are prohibited. All pipes connected to sewage systems shall be sealed to prevent leakage.
2. All gas, electrical and other facility and utility systems shall be located, constructed and floodproofed to eliminate or minimize flood damage.
3. All new storm drainage facilities within and leading to or from the Floodplain District shall be adequately designed, floodproofed and installed to eliminate or minimize property damage resulting from the flood waters of the One Hundred Year Flood and to minimize the adverse environmental impacts of their installation and use.

Building permit approval in designated flood areas may require a variance approval and shall be subject to procedures specified in Section 11 of this Article. The Board of Appeals may grant a variance upon a finding of uniqueness and practical difficulty as specified in Section 12 of this Article.

In granting a variance, the Board of Appeals must make a determination that failure to grant a variance would result in exceptional hardship (other than economic) to the applicant and a determination that the granting of a variance

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will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local and State laws or ordinances.

Any variance granted to allow building in a designated flood area shall be the minimum necessary, considering the flood hazard, to afford relief. In considering a variance action, comments from the NFIP Coordinating Office, Maryland Department of the Environment, must be taken into account and maintained with the permit file.

§165-47 NON-TIDAL WETLANDS

A. Description of the Area

Wetlands are defined as areas that have a predominance of hydric soils and that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

B. Special Regulations

The applicant shall design proposed development in accordance with all pertinent State and Federal regulations including, but not limited to those of the U.S. Army Corps of Engineers, the Fish and Wildlife Service, the Maryland Department of the Environment, the State Department of Natural Resources (DNR) and the Bel Air Town Code, Floodplain Management Ordinance. Design of the proposed development shall incorporate mitigation of impacts and protection of wetlands. A buffer of at least twenty-five (25) feet, as required by the State Nontidal wetlands Protection Act, shall be maintained in areas adjacent to wetlands unless waived by Maryland Department of the Environment. The applicant shall prepare a delineation of wetlands and hydric soils in conformance with the Federal Manual for Identifying and Delineating Jurisdictional wetlands, January 1989 (or alternate method approved by the Zoning Administrator). Copies of the submission material shall be provided to the Maryland Department of the Environment and the Town of Bel Air.

§165-48 STEEP SLOPES

A. Description of the Area

Steep slopes are defined as natural land areas in excess of twenty percent (20%) slope

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as measured over a ten (10) foot interval and identified on the Town of Bel Air Sensitive Areas Map.

B. Special Regulations

Proposed development shall be of extent, scale, and design appropriate for the soil, geologic and topographic conditions of the site. Development plans must indicate pre- and post- construction grades. Natural vegetation shall be maintained whenever possible, and revegetation and stabilization of the slope shall be required. Any development other than required infrastructure shall be prohibited on areas in excess of twenty-five percent (25%) slope.

§165-49 RARE AND ENDANGERED SPECIES

A. Description of the Area

Any area previously or currently identified during site review and planning design as containing any rare and/or endangered species or habitat.

B. Special Regulations

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

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