1. Call to Order  
   a. Roll call and establish a quorum

2. Public Hearing  
   a. Proposed text amendments to zoning ordinance Article VIII, Section 8.7 and Section 8.20  
   b. Proposed zoning map amendment to the Historic Harbor Area Overlay District; proposed text amendments to zoning ordinance Article II, Section 2.9, Article III, Section 3.9 and Section 3.12, and Appendix A, Section 5.6  
   c. Close public hearing

3. Invocation and Pledge of Allegiance

4. Public Comments

5. Consent Agenda  
   a. Approval of Agenda Format  
   b. Approval of Minutes  
   c. Reports

6. Unfinished Business  
   a. Proposed text amendments to zoning ordinance Article IV, Section 4.5 and Section 4.6 - review

7. New Business  
   a. Comprehensive plan update  
   b. Proposed text amendments to zoning ordinance Article VIII, Section 8.7 and Section 8.20  
   c. Proposed zoning map amendment to the Historic Harbor Area Overlay District; proposed text amendments to zoning ordinance Article II, Section 2.9, Article III, Section 3.9 and Section 3.12, and Appendix A, Section 5.6  
   d. Proposed text amendments to zoning ordinance Article II, Section 2.9 – Definitions – Set public hearing date

8. Other business

9. Announcements

10. Adjourn
Notice of Public Hearings

The Cape Charles Town Planning Commission will hold public hearings on Tuesday August 6, 2019 at 6:00 pm in the Town Civic Center at 500 Tazewell Avenue, Cape Charles to receive comment on the following:

1) proposed zoning map amendment to amend the Harbor Area Overlay District boundaries;
2) proposed text amendments to zoning ordinance Article II, Section 2.9, to add definitions;
3) proposed text amendments to zoning ordinance Article III, Section 3.9, for changes to the Harbor District;
4) proposed text amendments to zoning ordinance Article III, Section 3.12, for changes to Planned Unit Developments;
5) proposed text amendments to zoning ordinance Article VIII, Section 8.7, for changes to the Historic District Review Board membership;
6) proposed text amendments to zoning ordinance Article VIII, Section 8.20, to require Town Council to adopt and amend the design guidelines;
7) proposed text amendments to zoning ordinance Appendix A for changes to the subdivision ordinance.

The Planning Commission will hold a meeting immediately following the public hearing to consider the requests. The applications are available for public review in the Town Planner’s Office, located at 2 Plum Street, during regular business hours. Please contact Town Planner Zach Ponds at 757-331-2036, or by email at planner@capecharles.org if you have any questions or require additional information. Anyone interested in attending and needing special assistance please contact the Town at least forty-eight hours before the hearing.
At 6:00 p.m., Chairman Bill Stramm, having established a quorum, called to order the Regular Meeting of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Diane D’Amico, Paul Grossman, Sandra Salopek and Michael Strub. Jim Holloway arrived after roll call. Dennis McCoy was not in attendance. Also, in attendance were Town Planner Zach Ponds and Deputy Clerk Tracy Outten. There were three members of the public in attendance.

A moment of silence was observed which was followed by the recitation of the Pledge of Allegiance.

PUBLIC COMMENTS:
There were no public comments.

CONSENT AGENDA
Motion made by Michael Strub, seconded by Paul Grossman, to approve the agenda format as amended to add item 7A Historic District Review Board Text Amendments under Other Business. The motion was approved by unanimous vote.

The Commissioners reviewed the minutes from the June 4, 2019 Planning Commission Regular Meeting.

Motion made by Paul Grossman, seconded by Jim Holloway, to approve the minutes from the June 4, 2019 Planning Commission Regular Meeting as presented. The motion was approved by unanimous vote.

REPORTS
Zach Ponds had nothing to add to the written report.

- Bill Stramm informed the commissioners that there would be a harbor committee staff report included in the July 18, 2019 Town Council Agenda Packet.
- Paul Grossman said he appreciated the bike trail information. Zach Ponds updated the staff report provided in the packet, adding that after today’s meeting a more efficient way to connect the trails was being looked at.

UNFINISHED BUSINESS
There was no unfinished business to discuss.

NEW BUSINESS
A. Comprehensive Plan Update
Bill Stramm informed the commissioners that a Comprehensive Plan Kick-off Workshop had been scheduled for July 25, 2019 from 6:00 p.m. to 8:00 p.m. in the Civic Center. The commissioners were given a workshop agenda that Bill Stramm had been working on. (Please see attached.) Jim Holloway suggested having facilitators for each discussion item. Bill Stramm would like the workshop to be advertised on Facebook, Cape Charles Happenings, and in the Cape Charles Gazette. Bill Stramm requested that Zach Ponds reach out to their District 1 Board Supervisor John Coker.
The three phases for the comprehensive plan were as follows: Phase I Background and Vision would go from July to February, Phase II Plan and Development would go from March to October, and Phase III Documentation and Adoption would go from November to February. Bill Stramm said any suggestions were welcome.

B. Proposed text amendments to Town Zoning Ordinance Article IV, Section 4.5 and Section 4.6, subsections A-F – review

Discussion and changes were as follows: (i) Section 4.5.A.5: Paul Grossman liked the way this section was worded. Diane D’Amico asked what would happen if someone was running a small car repair service. Zach Ponds answered they would need a business license and could be shut down because that was not allowed. (ii) Section 4.5.B.A & B: Diane liked the grasscrete idea. (iii) Table Sections 4.5.1.G.5 and 4.5.1.G.8: Paul Grossman said the required parking changes were not retrofitting and the new regulations would only be required for new development. There was much discussion on the total amount of parking spaces needed if a new park would be developed. Diane D’Amico suggested putting these sections on hold until they had a better feel for it. The other commissioners agreed. (iv) Section 4.5.C: Paul Grossman volunteered to work with Zach Ponds to work on wording for “Shared Parking”. Diane D’Amico suggested working on the words “in perpetuity”. (v) Section 4.6.D: Diane D’Amico suggested taking the “s” off of the word developments and that a definition for development needed be added. After much discussion on where bicycle parking could be beneficial and how it would be applied, the commissioners decided to set this section aside for now and figure out some exclusions. (vi) Section 4.5.E: Paul Grossman did not see golf cart parking helping the public area but it would help in residential. Diane D’Amico did not like the idea of golf cart spaces taking the place of car spaces and added she thought golf cart spaces worked best along the street. The commissioners would like to take out the allowance of supplementing golf cart spaces for car spaces. (vii) Section 4.5.F: There was some discussion on having metered electric charging stations. (viii) There only needed to be one definition for “drive-through”.

OTHER BUSINESS

A. Historic District Review Board Text Amendments – review

Bill Stramm informed the commissioners that some council members along with the town planner had been working on some amendments to Article VIII as follows: (i) increasing the Historic District Review Board (HDRB) from five members to seven; one would be a Town Council representative; and (ii) adding text that the guidelines would be adopted by Town Council.

Bill Stramm said these changes had been approved by the HDRB and a public hearing needed to be set for the above text amendments.

Motion made by Paul Grossman, seconded by Michael Strub, to set a public hearing for August 6, 2019 for the text amendments to Article VIII. The motion was approved by unanimous vote.

ANNOUNCEMENTS

• Bill Stramm wished Tracy Outten happy birthday and welcomed Jim Holloway.

Motion made by Sandra Salopek, seconded by Diane D’Amico, to adjourn the Planning Commission Regular Meeting. The motion was approved by unanimous vote.

The meeting adjourned at 7:40 p.m.

Chairman Bill Stramm

Deputy Clerk
Cape Charles Comprehensive Plan Public Workshop

1. Opening notes – Cape Charles Town Manager, Larry DiRe

2. Accomac/Northampton Planning District Commission, Claire Vaughn

3. Brief introduction to Comprehensive Plan Requirements and Use of Plan, Town Planner, Zach Ponds

4. Group Exercise

   A. What is the best way to engage Cape Charles citizens, stakeholders (e.g., more workshops, online survey, stakeholder meetings, small group forums, or other ideas)?

   B. Who are the critical players (stakeholders) who need to be engaged in the process?

   C. If the Comprehensive Plan process includes a community opinion survey, what topics or questions should be included?

   D. List the top three issues you would like to see the Comprehensive Plan address.

   E. What major projects should be included in the plan?

5. Group Reports

6. Comprehensive Plan Schedule, Town Planner, Zach Ponds

7. Closing, Town Manager, Larry DiRe
Historic District Review Board:

The Historic District Review Board regular session was held on July 16 to review two applications for Certificates of Appropriateness. The meeting agenda, minutes, and video and can be found here: [https://www.capecharles.org/agendalist.aspx?categoryid=11538](https://www.capecharles.org/agendalist.aspx?categoryid=11538). Both applicants are appealing the decision of the Historic District Review Board. The appeals will be held at the August 15 Town Council regular meeting.

Town Council held a special meeting on July 8 to hear four appeals from the Historic District Review Board’s decision from the June 18 meeting. All four of the applications were overturned, allowing the applicants to be issued a Certificate of Appropriateness and conduct work.

Town Council heard an appeal from the Historic District Review Board’s decision from the June 18 meeting at their regular session on July 18. The appeal was upheld, and a Certificate of Appropriateness was not issued for the proposed project.

The Historic District Review Board and Town Council will have a joint work session on August 1, and the Historic District Review Board will have a work session on August 2. A meeting was held with two representatives of the Department of Historic Resources, the Town Planner, the Town Manager, the Town Deputy Clerk, a Town Councilmember, and two Historic District Review Board members on July 15. The Mayor and one other Councilmember were invited but did not attend the meeting.
Harbor Area Review Board:
The Harbor Area Review Board had no business and did not meet in April.

Board of Zoning Appeals:
The Board of Zoning Appeals had a regular session scheduled on July 15 to discuss two variance proposals. Both variances were approved by the Board.

Wetlands and Coastal Dune Board:
The Wetlands and Coastal Dune Board did not meet in April.

Items of Interest:
- VDOT informed ANPDC that they will not be accepting Highway Safety Improvement Program applications this year. The no-match grant ANPDC planned to use for the Southern Tip Trail Phase IV is nested under that program through Bicycle and Pedestrian Safety Program funding. The letter to ANPDC from VDOT is attached.

- The Town Planner attended the Virginia American Planning Association Annual Conference in Hampton July 21 through July 23. The theme was Resiliency.

- The Town Planner has been named the Chair of the Eastern Shore Walkable Communities committee, which is part of the Eastern Shore Healthy Communities initiative. The Town Planner attended the Executive Committee Annual Retreat on July 26. A grant was awarded to this group by VDH Walkability Action Institute earlier this year. The final training session will be held on August 12. The Town Planner is working with five other participants to prepare a report addressing two goals: 1) Implement safe routes to school program – Metompkin Elementary Parksley, VA; and 2) Implement a Rails-to-Trails/Emergency Evacuation Route from the southern end of Virginia to the Maryland Border.

- The Town Planner has joined the ESVA Climate Adaptation Working Group. The first meeting will be held on July 30.
July 23, 2019

Dear Virginia Highway Safety Partners:

The purpose of this letter is to notify you that the Virginia Department of Transportation (VDOT) will not be accepting SmartPortal Highway Safety Improvement Program (HSIP) funding applications in 2019. This suspension applies to all highway safety programs except the Section 130- Rail at Grade Crossing Safety Improvement Program. The suspension is occurring while VDOT reviews the safety program to ensure the investment strategies result in the greatest return on investment for all Virginia travelers.

Over the next several months, VDOT will be working with the Office of Intermodal Planning and Investment (OIP) to prepare an HSIP funding policy for review and eventual approval by the Commonwealth Transportation Board. Once the funding policy is finalized and approved, we will notify everyone and advise when HSIP funding requests/applications will again be accepted. Localities and interested stakeholders will be invited to provide input on the HSIP funding policy at the fall transportation meetings.

We appreciate your continued partnership and patience as we work to make improvements to the safety program. If you have any questions or concerns, please contact Mark Cole at (804) 786-4196 or Tracy Turpin at (804) 786-6610.

Sincerely,

Raymond J. Khoury, P.E.
State Traffic Engineer
Prepared By:
Zach Ponds – Town Planner

Description:
Staff is proposing a zoning ordinance update to Article IV, Section 4.5 and Section 4.6. This update combines Section 4.5 – Parking Requirements, and Section 4.6 – Loading and Unloading, into one section, which will be titled Section 4.5 – Off-Street Parking and Loading Requirements. The proposed update reorganizes the current two sections to help staff and developers easily interpret and implement the off-street parking and loading requirements of the Town. There are also significant changes to the parking and loading requirements, which are summarized below. Staff believes these proposed changes better implement the Town’s Comprehensive Plan by enhancing multi-modal transportation opportunities and creating a more walkable, pedestrian-friendly environment. The changes will promote economic growth, increased safety, enhanced aesthetics, and good health for citizens and visitors alike.

At the March 5, 2019 Planning Commission regular session, it was agreed upon to review the proposed update in two parts. Staff has also identified definitions that need to be added with the proposed changes for subsections A-F. The first review includes subsections A-F, which are as follows:

A – General requirements
B – Minimum number of parking spaces required
Table 4.5.1 Minimum Parking Space Requirements Table
C – Shared parking
D – Bicycle parking
E – Golf cart parking
F – Electric vehicle charging stations
Definitions
Specifics:

At the April 2, 2019 Planning Commission regular meeting, the Commission began working through the text amendments section by section. Below are the changes (in green) that were recommended by PC and decided upon at the July 2 meeting, along with sections that the Board decided to revisit that needed more discussion (in red).

A – General requirements

- 4.5.A.5
  - No non-single-family detached residential parking area may be used for the sale, repair, dismantling, servicing, or long-term storage of any vehicles or equipment, unless such use is permitted by the zoning district in which the area is located. Any repairs deemed an emergency by the Zoning Administrator is exempt from this requirement.

Table 4.5.1 Minimum Parking Requirements Table

- Added definition for guest room (see attachment for definitions).

- 4.5.1.b
  - Changed “sales and rental of goods” to “sales and rental of living space and goods.”

- 4.5.1.g.5
  - Changed 1 space per 200 square feet to 2000. This regulation was initially 20 spaces at 6/4 meeting, then was changed to 1 per 200 square feet at 7/2 meeting. At the 7/2 meeting, it was discussed that the amount of parking was too much for the size of a proposed park. 1 space per 2000 square feet comes out to 22 spaces required for a 1-acre park.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Minimum Parking Space Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. Park, playground, community center, swimming pool and other recreational facilities as a principal use</td>
<td>1 space per 2000 square feet of surface area of parks, playgrounds, and/or swimming pools; plus 2 spaces per tennis court; plus 1 space per 500 square feet of recreational facility</td>
</tr>
</tbody>
</table>

C – Shared parking

- It was discussed at the 7/2 meeting that Paul Grossman and staff would work together to draft an ordinance for this section. We have not been able to meet prior to this meeting, so we will postpone shared parking to next month’s meeting.
D – Bicycle parking

• D.1.
  o Developments of new primary buildings in all R-3, CR, C-1, C-2, C-3, H, GBI, M-1, M-2, and OSD districts, other than single-family residential, shall provide bicycle parking spaces at a ratio of at least one bicycle parking space for every 20 automobile parking spaces.
    ▪ Staff added “new primary buildings” to make this regulation only pertain to new primary buildings being developed, and not to pertain to additions or other development projects. This also helps ensure that construction projects that are not new buildings along Mason Avenue would not be required to put in bicycle parking since the walkways are already somewhat tight in the existing built-up areas along Mason Avenue.
    ▪ Staff added “other than single-family residential” to make this regulation only pertain to commercial, multi-family, and mixed-use developments. Duplexes, condos, and single-family attached and detached housing would not be required to provide bicycle parking spaces.

• D.2.
  o No primary structure building, other than single-family residential, shall have fewer than three bicycle parking spaces nor be required to exceed a maximum of 20 spaces. If three or more bicycle parking racks are located within 100’ of the primary entrance of the proposed development on the same street frontage, they are exempt from this requirement.
    ▪ Staff added “located within 100’” so that streets will not have too much bicycle parking than is necessary for the probably number of bicycles.

E – Golf cart parking

• E.2. – For non-residential development, the number of off-street parking spaces required by this section may be reduced by one space for every three golf cart parking spaces provided, up to five percent of the total number of parking spaces or 12 total golf cart parking spaces, whichever is greater.
• E.3. – Spaces reserved for golf cart parking spaces shall not be counted toward the maximum.
  o Staff removed E.2 and E.3 after much discussion at the July 2 meeting to not allow a reduction of car parking spaces if providing golf cart parking.

F – Electric vehicle charging stations

• F.5
  o The owner of the property shall be responsible for the installation, maintenance, and operation of electric vehicle charging stations. The owner of the property may determine whether or not a fee is associated with the electric vehicle charging station.
    ▪ Staff added this after much discussion as to who is required to pay for the electricity when an EV is charging.
Additional Definitions

- Drive-through establishment/restaurant: A business establishment so developed that its retail or service character includes providing a driveway approach and service window for motor vehicles so as to serve patrons as they are seated in the motor vehicle and passing by the service window rather than serving them from within a building.

Staff Recommendation:

After discussion of the proposed changes provided in this staff report in red, recommend edits to staff for Sub-sections A-F.

Attachments:

1 – 4.5 Parking and Loading Standards DRAFT (with edits agreed upon by PC during the review process)
2 – DRAFT Definitions (with edits agreed upon by PC during the review process)
ARTICLE IV

General Regulations Applicable to All Districts

Section 4.5 Parking Requirements

Off-Street Parking and Loading Standards.

Except as otherwise provided in this ordinance, wherever a zoning or conditional use permit is required under this ordinance, the development shall meet the standards set out in this section which include but are not limited to providing adequate off-street parking and loading spaces.

A. General requirements.

1. It is the intent of this zoning ordinance that all buildings, structures, and uses of land shall provide off-street vehicular and bicycle parking in an amount sufficient to meet the needs caused by the building or use of land and that such parking and loading spaces be so oriented that they are readily useable for such purposes.

2. Each use of land and each building or structure hereafter constructed or established shall provide off-street parking and loading according to the standards set forth herein. When a change is proposed to a building that is nonconforming as to parking or loading requirements, a conforming amount of parking or loading shall be supplied based upon the size of the addition.

3. No addition, renovation, or change of use to an existing building shall be constructed or established which reduces the number of spaces, area, or usability of existing parking or loading space unless such building and its addition conform with the regulations for parking and loading contained herein.

4. The parking lot shall not be modified, enlarged, relocated, or expanded in a manner that violates any portion of this zoning ordinance.

5. No non-single-family detached residential parking area may be used for the sale, repair, dismantling, servicing, or long-term storage of any vehicles or equipment, unless such use is permitted by the zoning district in which the area is located. Any repairs deemed an emergency by the Zoning Administrator is exempt from this requirement.

6. Inoperable vehicles may not be parked in required parking spaces or in any side or front yard and shall be completely screened from view of all surrounding public streets.

B. Minimum number of parking spaces required.

1. The following are the parking space requirements by permitted use:
   a. For any use not listed, the Zoning Administrator shall determine the proper requirements by classifying the proposed use among the uses specified herein as to assure equal treatment. In making any such determination, the Zoning Administrator shall follow the principles set forth in the statement of purpose for the zoning ordinance in Article I.
   b. New infill structures or change of use projects on the first floor of structures in Commercial District C-1 and shall be exempt from complying with the requirements of this Section. New uses or changes of use units above the first floor shall be required to conform to the parking requirements set forth herein.

Commented [ZP1]: Added after 4/2/19 meeting per PC recommendation

Commented [ZP2]: Added after 6/4/19 meeting per PC recommendation

Commented [ZP3]: Added after 6/4/19 meeting per PC recommendation
2. Maximum number of parking spaces.
   a. The total number of permitted parking spaces shall not exceed 110 percent of the minimum number of off-street parking spaces required by type of permitted use, except when the excess spaces are contained in a parking structure.
   b. Any parking not included within a parking structure that is between 100 and 110 percent of the minimum number of off-street parking spaces required by type of permitted use shall be “grasscrete” or “grasspave” or other pervious paving systems as approved by the Zoning Administrator.

3. The following table states the minimum number of off-street parking spaces required by use. Any uses not listed would be required to provide the minimum number of parking spaces required by the parent category. When a determination of the number of parking spaces required by this table results in a requirement of a fraction of a space, any fraction shall be counted as one parking space.

   **Minimum Parking Space Requirements Table**

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Minimum Parking Space Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Residential</td>
<td></td>
</tr>
<tr>
<td>1. Single-family residences</td>
<td>2 spaces per dwelling unit in all districts other than R-1; otherwise none</td>
</tr>
<tr>
<td>2. Multifamily residences</td>
<td>1 space per one-bedroom dwelling unit, otherwise two spaces per dwelling unit</td>
</tr>
<tr>
<td>3. Mixed-use developments</td>
<td>1.5 spaces per dwelling unit; 1 space per dwelling unit for age-restricted; plus 1 additional space per 200 square feet of commercial gross floor area</td>
</tr>
<tr>
<td>4. Home occupations</td>
<td>No additional spaces required</td>
</tr>
<tr>
<td>5. Accessory dwelling units</td>
<td>1 space per bedroom</td>
</tr>
<tr>
<td>6. Child and personal care uses</td>
<td>1 space per 2 employees</td>
</tr>
<tr>
<td>7. Institutional residence or care or confinement facilities</td>
<td>1 space per 2 beds</td>
</tr>
<tr>
<td>8. Rooming houses, boarding houses</td>
<td>1 space per bedroom</td>
</tr>
<tr>
<td>9. Tourist homes, bed and breakfasts, other temporary residences renting by the day or week</td>
<td>1 space per rentable bedroom plus 2 spaces if owner/landlord lives on premises</td>
</tr>
<tr>
<td>10. Temporary mobile homes approved in the event of an emergency, construction, or repair</td>
<td>2 spaces per temporary mobile home</td>
</tr>
<tr>
<td>b. Sales and Rental of Living Space and Goods</td>
<td></td>
</tr>
<tr>
<td>1. Sales and rental of goods, merchandise or equipment, non-motor vehicle related</td>
<td>1 space per 300 square feet of gross floor area</td>
</tr>
<tr>
<td>2. Wholesale sales, with or without outdoor display or storage of goods</td>
<td>1 space per 300 square feet of gross floor area devoted to sales or display, plus one space per 2,000 square feet of gross storage area</td>
</tr>
<tr>
<td>3. Hotels, motels and similar businesses or</td>
<td>1 space per unit plus 1 space per 5 units for visitors</td>
</tr>
</tbody>
</table>

Commented [ZP4]: Changed after 6/4/2019 meeting per PC recommendation

Commented [ZP5]: Added after 4/2/2019 meeting per PC recommendation

Commented [ZP6]: Changed after 4/2/19 meeting per PC recommendation

Commented [ZP7]: Added after 6/4/19 meeting per PC recommendation
<table>
<thead>
<tr>
<th>Institutions Providing Overnight Accommodations</th>
<th>1 Space Per Unit Plus 1 Space Per 5 Units for Visitors</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. Extended-stay motels/hotels</td>
<td></td>
</tr>
<tr>
<td>c. Restaurants</td>
<td></td>
</tr>
<tr>
<td>1. Restaurants</td>
<td>1 Space Per 100 Square Feet of Gross Floor Area</td>
</tr>
<tr>
<td>2. Event center</td>
<td>1 Space Per 3 Seats</td>
</tr>
<tr>
<td>d. Motor Vehicle-related Sales and Service Operations and Modifications</td>
<td>1 Space Per 200 Square Feet of Gross Floor Area</td>
</tr>
<tr>
<td>1. Motor Vehicle-related Sales and Service Operations and Modifications</td>
<td>Not Including Outdoor Car Display Areas for Dealerships,</td>
</tr>
<tr>
<td></td>
<td>1 Space Per 200 Square Feet of Gross Floor Area</td>
</tr>
<tr>
<td>e. Office, Clerical, Repair, Research and Personal</td>
<td>1 Space Per 300 Square Feet of Gross Floor Area</td>
</tr>
<tr>
<td>1. Services – Office, clerical, repair, research, and personal, not primarily related to the sale of goods and merchandise</td>
<td>1 Space Per 300 Square Feet of Gross Floor Area</td>
</tr>
<tr>
<td>f. Offices</td>
<td>1 Space Per 300 Square Feet of Gross Floor Area</td>
</tr>
<tr>
<td>g. Recreation, Amusement, and Entertainment</td>
<td>8 Space Per 2000 Square Feet of Surface Area of Parks, Playgrounds, and/or Swimming Pools; Plus 2 Spaces Per Tennis Court; Plus 1 Space Per 500 Square Feet of Recreational Facility</td>
</tr>
<tr>
<td>1. Baseball Batting Range</td>
<td>20 Spaces</td>
</tr>
<tr>
<td>2. Bowling Alleys</td>
<td>5 Spaces Per Alley</td>
</tr>
<tr>
<td>3. Golf Driving Range and/or Miniature Golf</td>
<td>20 Spaces</td>
</tr>
<tr>
<td>4. Health Clubs and Other Physical Fitness Establishments</td>
<td>1 Space Per 300 Square Feet</td>
</tr>
<tr>
<td>5. Park, Playground, Community Center, Swimming Pool and Other Recreational Facilities as a Principal Use</td>
<td>1 Space Per 200 Square Feet of Surface Area of Swimming Pools, Plus 2 Spaces Per Tennis Court, Plus 1 Space Per 500 Square Feet of Clubhouse, Offices, Meeting Rooms, or Other Similar Enclosed Buildings</td>
</tr>
<tr>
<td>6. Theaters (Indoors)</td>
<td>1 Space Per 3 Seats</td>
</tr>
<tr>
<td>7. Performing Arts Center</td>
<td>1 Space Per 3 Seats</td>
</tr>
<tr>
<td>8. Subdivision Recreation Area</td>
<td>1 Space Per 200 Square Feet of Surface Area of Swimming Pools, Plus 2 Spaces Per Tennis Court, Plus 1 Space Per 500 Square Feet of Clubhouse, Offices, Meeting Rooms, or Other Similar Enclosed Buildings</td>
</tr>
<tr>
<td>h. Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembling of Goods, Merchandise, or Equipment</td>
<td>1 Space Per 2,000 Square Feet of Gross Office, Plant, and/or Storage</td>
</tr>
<tr>
<td>1. Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, Assembling of Goods, Merchandise, or Equipment</td>
<td>1 Space Per 2,000 Square Feet of Gross Storage Area</td>
</tr>
<tr>
<td>2. Innovator Space</td>
<td>1 Parking Space Per 500 Square Feet</td>
</tr>
<tr>
<td>l. Storage and Parking</td>
<td>1 Space Per 2,000 Square Feet of Gross Storage Area</td>
</tr>
<tr>
<td>j. Services and enterprises related to animals</td>
<td>1 space per 250 square feet of gross floor area</td>
</tr>
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<td>-----------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>Services and enterprises related to animals</td>
<td>1 space per 250 square feet of gross floor area</td>
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<tr>
<td>k. Funeral related services (human and animal related)</td>
<td>1 space per 3 seats</td>
</tr>
<tr>
<td>1. Funeral related services (human and animal related)</td>
<td>1 space per 3 seats</td>
</tr>
<tr>
<td>l. Educational, cultural, religious, philanthropic, social, or fraternal uses</td>
<td>1 space per 3 seats</td>
</tr>
<tr>
<td>1. Funeral related services (human and animal related)</td>
<td>1 space per 3 seats</td>
</tr>
<tr>
<td>2. Trade or vocational schools</td>
<td>10 spaces per classroom</td>
</tr>
<tr>
<td>3. College, universities, community colleges</td>
<td>10 spaces per classroom</td>
</tr>
<tr>
<td>(including associated facilities such as dormitories, office buildings, athletic fields, etc.)</td>
<td>10 spaces per classroom</td>
</tr>
<tr>
<td>4. Assembly halls, including union halls, conference halls, civic halls and activities of similar nature</td>
<td>1 space for every 3 people allowed to occupy the building, as set by the maximum occupancy limit</td>
</tr>
<tr>
<td>5. Libraries, museums, art galleries, art centers, and similar uses (including associated educational and instructional activities)</td>
<td>1 space per 300 square feet of gross floor area</td>
</tr>
<tr>
<td>6. Place of worship and places of assembly</td>
<td>1 space for every 3 people allowed to occupy the building, as set by the maximum occupancy limit</td>
</tr>
<tr>
<td>7. Social, fraternal clubs or lodges, union halls, and similar uses</td>
<td>4 spaces per 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>8. Clubs and lodges catering exclusively to members and their guests</td>
<td>4 spaces per 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>m. Miscellaneous public and semi-public facilities</td>
<td>None</td>
</tr>
<tr>
<td>1. Miscellaneous public and semi-public facilities</td>
<td>None</td>
</tr>
<tr>
<td>n. Agricultural, forestry, mining, and quarrying operations</td>
<td>1 space per employee</td>
</tr>
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<tr>
<td>o. Temporary structures and special events used in connection with the construction of a permanent building or for some non-recurring purpose</td>
<td>Regulated on a case-by-case basis</td>
</tr>
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</tr>
</tbody>
</table>
A. Parking Spaces Required. Except as otherwise provided by this ordinance, every development or change of use shall provide a sufficient number of off-street parking spaces to accommodate the number of vehicles that are likely to be attracted to the development during the peak hour of a typical weekday or weekend, whichever is greater. In calculating the number of parking spaces needed, the number of spaces established for uses as set up in this Article, Table of Parking Standards, is presumed to be sufficient; however, the permit-issuing authority may, where appropriate, establish a different number of spaces by calculating such as need from the appropriate methodology set out in the most recent version of the Institute of Transportation Engineers (ITE) Reference Manual entitled “Parking Generation” or where that methodology is inadequate or inappropriate, from studies in the town and/or similar-sized towns and communities.

B. New in-fill structures or change of use projects on the first floor of structures in Commercial District C-1 shall be exempt from complying with the exact requirement of Section 4.5.A (Parking Spaces Required), Section 4.6 (Loading and Unloading), and Section 4.5.1 (Table of Parking Standards). Owners are encouraged to provide off-street or remote parking for themselves, employees, and loading facilities where possible (i.e., alleys to back yard areas). Owners shall evaluate existing parking and access and submit proposed plan to Town. Projects will be evaluated on a case-by-case basis. New or change of use second and third floor units shall be required to conform to parking requirements as set forth herein.

C. Reading the Table of Parking Standards. When a determination of the number of parking spaces required by this table results in a requirement of a fraction of a space, any fraction shall be counted as one parking space.

C. Shared parking.

1. Reduction of parking requirements through a shared parking arrangement may be granted by the Zoning Administrator through written request from an applicant.
2. A to-scale map indicating the location of proposed parking spaces shall be provided by the applicant; said map shall indicate or notate number of spaces in each parking area.
3. A shared parking study conducted by a professional civil engineer or similar shall be provided by the applicant that demonstrates that each use will have adequate parking provisions at all times. Said calculation must receive Zoning Administrator review and approval. The study shall document that the arrangement shall avoid conflicting parking demands and provide for safe pedestrian circulation and access.
4. For properties sharing parking spaces under this provision, cross-easements shall be filed establishing access to the shared parking spaces in perpetuity and documentation of filing provided to the Town.
5. Shared parking agreements shall be fully executed and submitted to the Zoning Administrator for review prior to receiving a Certificate of Occupancy.
6. A reduction in the number of parking spaces that would otherwise be required for each of the various uses on a multiple-use property must be clearly shown on the development plan. If shared parking is proposed for a combination of contiguous properties, a plan must be submitted covering all of the properties that will be sharing the parking spaces.
7. Any subsequent change in land uses within the participating developments shall require proof that adequate parking will be available. Prior to any change in use, the owner must apply to the Zoning Administrator for an evaluation and confirmation of the change. If the Zoning Administrator finds that the parking reduction is no longer justified, the Zoning Administrator shall notify the owner to construct the number of parking spaces necessary to meet the difference in the required parking between the proposed and previous uses.

8. In no case shall the Zoning Administrator approve a reduction of parking through a shared parking arrangement of greater than 25 percent for any use.

D. Adjustments—Satellite Parking

1. General. If the number of off-street parking spaces required by this Article cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section.

2. Location. Off-street parking, other than those intended for employees' use, shall be located within 600 feet of a public entrance of a principal building housing the use associated with such parking.

3. Condition. Property owners who obtain satellite parking in accordance with this section shall not be held accountable for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this ordinance. This means that the person owning the lot on which the satellite parking is being provided must secure a zoning or conditional use permit for the use and must meet the requirements of this ordinance. A developer desirous of taking advantage of the provisions for satellite parking must present satisfactory written evidence that he has the permission of the owner or the person in charge of the lot or parcel to use such space.

E. Adjustments—Shared Parking

One parking area may contain required spaces for several different uses, but except as provided below, the required space assignment to one use may not be credited to any other use. The extent that developments wish to make joint use of the same parking spaces operated at different times, the same space may be credited to both uses. In determining the parking requirements where the uses intend to share parking, the permit-issuing authority will establish the peak hourly demand by calculating such a need from appropriate methodology set out in the most recent version of ITE Reference Manual entitled “Parking Generation,” or where that methodology is inadequate from studies done in the town or similar towns and communities. Persons intending to take advantage of this provision are required to demonstrate that an enforceable agreement exists between two or more parties who intend to share parking.

D. Bicycle parking

1. Development of new primary buildings in all R-3, CR, C-1, C-2, C-3, H, GBI, M-1, M-2, and OSD districts, other than single-family residential, shall provide bicycle parking spaces at a ratio of at least one bicycle parking space for every 20 automobile parking spaces.
2. No primary building, other than single-family residential, shall have fewer than three bicycle parking spaces nor be required to exceed a maximum of 20 spaces. If three or more bicycle parking racks are located within 100’ of the primary entrance of the proposed development on the same street frontage, they are exempt from this requirement.

3. Bicycle parking spaces shall be located within 20 feet of the front entrance of the primary structure, or as approved by the Zoning Administrator. Bicycle parking spaces shall not interfere with pedestrian access along sidewalks or walkways.

4. Bicycle parking shall provide an inverted U steel frame or decorative rack approved by the Zoning Administrator. The rack shall be anchored to a concrete pad.

E. Golf cart parking.

1. Golf cart parking spaces are permitted in all off-street surface parking lots and parking structures.

2. Each golf cart parking space shall be six feet wide and at least 11 feet deep.

3. Golf cart parking spaces shall be identified by paving markings and by appropriate signage. Signage shall not count against the maximum aggregate sign area permitted on a lot.

4. Permeable pavers shall be used for golf cart parking spaces as approved by the Zoning Administrator.

5. Wheel bumpers shall be placed at the head of all golf cart parking spaces that do not abut a curb. Wheel bumpers shall be made of concrete, a minimum of four feet long, five inches high, and six inches wide and securely fastened to the pavement by steel re-bars or steel anchors.

F. Electric vehicle charging stations.

1. Electric vehicle charging stations are permitted in all off-street surface parking lots and parking structures.

2. Spaces for electric charging shall be identified by paving markings and by appropriate signage. Signage shall not count against the maximum aggregate sign area permitted on a lot.

3. Spaces reserved for electric vehicle charging stations may be counted as part of the minimum required parking spaces but shall not be counted toward the maximum.

4. Any new building with over 20,000 square feet of gross floor area space shall equip at least one required parking space on its property with an electric vehicle charging station prior to receiving a Certificate of Occupancy.

5. The owner of the property shall be responsible for the installation, maintenance, and operation of electric vehicle charging stations. The owner of the property may determine if a fee is associated with the electric vehicle charging station.

6. Electric vehicle charging stations shall be installed per U.S. Green Building Council (USGBC) standards.

G. Parking in non-single-family zoning districts.

1. Parking spaces.
a. Off-street surface parking lots shall not be located between the principal building and the street except where otherwise permitted below.

1. Lots within CR, C-1, C-2, C-3, H, GBI, M-1, and M-2 districts with a lot area of less than 13,000 square feet shall be permitted to have automobile parking located within the front yard only when the following regulations are met:
   a. Front yard parking shall be limited in area to a maximum of 50 percent of the area of the front yard.

b. When permitted, automobile parking is only permitted in front yards when located on the permitted access driveway on a paved surface.

c. Required dimensions for each parking space. Each automobile parking space shall be not less than nine feet wide and 18 feet deep. Adequate interior driveways shall connect each parking space with a public right-of-way, and each space shall have an overhead clearance of at least 6.5 feet.

d. Shall have access to a public street.

e. Shall be graded and paved, including access drive(s), and be curbed when needed for effective drainage control, and meet the following requirements:
   1. A minimum depth of six inches of number 21A aggregate base and a minimum of 1.5 inches of asphalt; or
   2. Six inches of concrete on appropriate base; or
   3. Four inches of brick or porous paving block on four inches of number 21A aggregate base.
   4. Permeable pavers may be used for any parking area, alley, or other low traffic driveway as approved by the Zoning Administrator.

f. Shall have spaces marked with painted lines, curbstones, or other similar devices, and areas shall be properly maintained in all respects. Landscaping shall be kept healthy and well maintained, surfaces shall be free of potholes, and lines marking spaces shall be distinct and clear.

g. Shall be drained so as to prevent damage to abutting properties or public streets and where possible shall be drained towards infiltration swales located in the five-foot, head-to-head landscape strips required between vehicles in Section 4.5.L.1.d.

h. Shall have adequate lighting if the facilities are to be used at night, provided such lighting shall be arranged and installed so as not to reflect or cause glare on abutting properties. Light poles used in parking lots with 100 parking spaces or less may not exceed 20 feet in height. Light poles used in parking lots with more than 100 parking spaces may not exceed 35 feet in height. All lighting is to be compliant with Dark Sky lighting standards.

i. Shall be designed to conform to the geometric design standards of the Institute of Traffic Engineers (ITE) when not expressly required in this section.

j. Wheel bumpers shall be placed at the head of all parking spaces that do not abut a curb and any spaces that abut a sidewalk. Wheel bumpers shall be made of concrete, a minimum of six feet long, five inches high, and six inches wide and securely fastened to the pavement by steel re-bars or steel anchors. Individual wheel bumpers shall be placed a minimum of 24 inches from the end of each required parking space.
k. Shall be required to provide handicapped spaces in accordance with the provisions of the Americans with Disabilities Act. All handicapped spaces shall be identified by appropriate restrictive signing and markings.

l. Pedestrian circulation.

1. Parking areas shall be designed to facilitate safe and convenient use by pedestrians.

2. Parking areas with more than 50 cars shall provide safe pathways from aisles of parking to the nearest building entrance and to adjacent streets. Such pathways shall be at least five feet wide and consist of raised pathways constructed of pavers or other contrasting material.

F. General Design of Parking Areas

1. Vehicular accommodation area

   a. Safety in relation to streets. Every off-street vehicular accommodation area shall be designed so it has access to a public street without impeding vehicular movement in that street. Vehicle accommodation areas, other than for single-family dwellings and duplexes on local or minor streets, shall be designed so that vehicles exit such areas without backing onto a public street.

   b. Pedestrian safety. Vehicular accommodation areas shall be designed so that vehicles can proceed without posing a significant danger to pedestrians or other vehicles. The permit-issuing authority may allow driveways handling two-way traffic to be built to one-way traffic standards where aisles will be less than sixty feet in length and where the number of parking spaces served will be fewer than five spaces.

   c. Drainage. Except where the authority determines that adequate capacity in the storm drainage system to which the site is draining exists and is willing to accept the increase volume in runoff, no vehicle accommodation area shall be constructed in such a manner that a significant volume of surface water from the lot will be drained onto the public street or buildings. No vehicle accommodation area shall be constructed in such manner that will increase the quantity or decrease the quality of the runoff to adjacent lots.

   d. Lighting. Adequate lighting shall be provided for vehicle accommodation areas that are used at night. Parking lights shall not exceed 18 feet in height. Lighting shall not interfere with the use of nearby properties or the safe use of public streets. All lighting is to be compliant with Dark Sky lighting standards.

   e. Landscaping. All vehicle accommodation areas shall be landscaped. Said landscaping shall be in compliance with all other requirements of this ordinance.

      i. The primary landscaping material used in parking areas shall be trees which provide shade or are capable of providing shade at maturity.

      ii. Landscaping areas shall be reasonably dispersed throughout, located so as to divide and break up the expanse of paving. The area designated as required setbacks shall not be calculated as required landscaping area.
f. Screening. Plantings which meet the standards for screening of this ordinance will be used to screen vehicle accommodation areas other than those serving single-family and duplex dwellings from an adjacent residential district or use. Fencing may be substituted for plantings with the approval of the Zoning Administrator.

g. Reductions for protecting trees. The minimum number of spaces required may be reduced where the permit-issuing authority has determined that the reductions are necessary to preserve a healthy tree or trees with a three-inch or greater diameter from being damaged or removed and where the site plan provides for the retention of said tree or trees.

h. Handicapped spaces. Any use shall be required to provide handicapped spaces in accordance with the provisions of the Americans with Disabilities Act. All handicapped spaces shall be identified by appropriate restrictive signing and markings.

i. Compact spaces. In parking areas containing ten or more spaces, up to 35 percent of the required parking spaces may be set aside for the exclusive use of compact cars (being defined as cars 100 inches or less). Compact car spaces must be clearly marked and designated as such.

j. Bicycle racks and motorcycle pads. The number of spaces required by this section may be reduced by one space for each bicycle rack for five or more bicycles and each motorcycle pad for two or more motorcycles which are provided up to a total of 5 percent of the number of spaces.

k. Marking and maintenance. Parking stalls in paved areas shall be marked as such. Vehicular accommodation areas shall be properly maintained in all respects. Without limiting the foregoing, landscaping shall be kept healthy and well maintained, surfaces shall be free of potholes, and lines marking spaces shall be distinct and clear.

l. Vehicles in working condition. All off-street parking facilities shall be used solely for the parking of vehicles in operating condition. No motor vehicle repair work, except for emergencies, no storage of merchandise, and no motor vehicle parked for the sole purpose of sale shall be permitted in any required vehicle accommodation area.

2. Parking stalls and aisle dimensions

a. Normal. A required off-street parking space shall include a rectangular area with a length of at least 18 feet and a width of at least 9 feet, exclusive of access drives or aisles, ramps, columns, or office or work parking area. Such space shall have a vertical clearance of at least 6½ feet. Aisles shall not be less than 18 feet for 90° parking nor less than 13 feet for 45° parking. Angles shall be measured between centerline of the parking space and centerline of the aisle. For parallel parking, the length of the space shall be increased an additional two feet and the width increased by one foot.

b. Compact. A compact car parking space shall have a minimum length of 16 feet and a minimum width of 8½ feet.

Surfacing:

a. Paved parking areas. All paved parking areas shall meet the following requirements:
i. a minimum depth of six inches of number 21A aggregate base and a minimum of one and one half inches of asphalt; or
ii. four inches of brick or porous paving block on four inches of number 21A aggregate base.

iv. Land development shall minimize impervious cover to promote infiltration of storm water into the ground consistent with the use or the development permitted.
   (a) Grid and modular pavements may be used for any required parking area, alley, or other low-traffic driveway unless otherwise approved by the Zoning Administrator.

4. Standards for non-paved areas. Whenever a vehicle accommodation area is exempt from the paved parking requirements, the permit-issuing authority:
   a. may require that landscaped aisles or special separations be provided every three or more spaces where it finds it is desirable to ensure that the parking stalls will be readily identifiable to the users, and
   b. may require that the perimeter of the accommodation area, encompassing but not limited to the unpaved parking stalls and the side of any unpaved drive or aisle leading to said stalls, be rimmed or edged with landscape timbers, railroad ties, brick, or curbing of adequate size where it finds that it is desirable to prevent erosion or the washing away of the parking area.

5. Porous paving materials may be used. The permit-issuing authority may require that porous paving materials be substituted for other surfaces in any portion of an accommodation area where it finds it is necessary to protect the root system of a tree or trees from damage.

H. Compact parking spaces.
   1. Developments where 30 or more parking spaces are provided shall be required to provide compact parking spaces, as follows:
      a. A minimum of five spaces, or ten percent of the total number of parking spaces, whichever is greater, shall be set aside for compact cars.
      b. A maximum of 25 percent of the total required parking spaces may be set aside for compact cars, up to a maximum of 50 spaces, whichever is less.
      c. Compact parking spaces shall be identified by pavement markings and/or by appropriate signage.
      d. Parking spaces for compact cars shall not be less than eight feet wide and 16 feet deep.

I. On-Street parking.
   1. The Zoning Administrator may approve credit for on-street parking spaces as a means to reduce the off-street parking requirements for a parcel.

Section 4.5.1 Table of Parking Standards

<table>
<thead>
<tr>
<th>Nature of Use</th>
<th>Parking Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Park and Open Space</td>
<td></td>
</tr>
</tbody>
</table>
1. Park and playground as determined by authority
2. Golf course 36.0 spaces per 18-hole course plus 1 space per employee
3. Accessory building as determined by authority

B. Agricultural
1. Agricultural, as defined 1.0 space per employee

C. Residential
1. Single-family dwelling 2.0 spaces per dwelling unit
2. Two family dwelling 2.0 spaces per dwelling unit
3. Townhouse 2.0 spaces per dwelling unit
4. Multi-family dwelling 1.0 space per one-bedroom dwelling unit; otherwise 2.0 spaces per dwelling unit
5. Mobile home 2.0 spaces per dwelling unit

D. Care Facility/Institutional
1. Library 1.0 space per 300 sf GFA (Gross Floor Area)
2. Museum 1.0 space per 300 sf GFA
3. School
   a. Nursery 1.0 space per employee
   b. Elementary 1.0 space per employee
   c. Middle 1.0 space per employee
   d. Junior 1.0 space per employee
   e. Other 0.25 space per student plus 1.0 space per employee
4. Instructional school 0.5 space per student plus 1.0 space per employee
5. Church
   a. Parish house; Educational/Social annex 0.25 space per seat
   b. Place of Worship 0.25 space per seat
6. Hospital 2.0 spaces per bed
7. Cemetery 20 spaces per chapel or 0.25 space per seat
8. Funeral home 20 spaces per chapel or 0.25 space per seat, whichever is greater

E. Residential/Commercial
1. Home occupation see Section 4.8.C Residential Standards
2. Bed and breakfast 1.0 space per bedroom plus 1.0 space per owner/resident (see Section 3.2.C 4.c)
3. Rooming house 1.0 space per bedroom plus 1.0 space per employee
4. Boarding house 1.0 space per bedroom plus 1.0 space per employee
5. Hotel and motel 1.0 space per bedroom plus 1.0 space per employee
space per employee

F. Offices

1. Office
   a. Professional  1.0 space per 300 sf GFA
   b. Other  1.0 space per 300 sf GFA

2. Principal Office/Medical
   a. Physician  1.0 space per 200 sf GFA
   b. Surgeon  1.0 space per 200 sf GFA
   c. Dentist  1.0 space per 200 sf GFA

3. Bank
   a. Standard  1.0 space per 200 sf GFA
   b. Drive-in  1.0 space per 200 sf GFA
     (stacking as per Section 4.5.B)

4. Real estate  1.0 space per 250 sf GFA

G. Retail  1.0 space per 200 sf GFA

H. Restaurant

1. Standard (no drive in)  1.0 space per 100 sf GFA
2. Carry-out  1.0 space per 100 sf GFA
3. Fast food (no-drive in)  1.0 space per 100 sf GFA
4. Drive-in  1.0 space per 65 sf GFA
5. Delivery only/catering  1.0 space per employee

   and 1.0 space per each delivery vehicle

I. Service/General  1.0 space per 275 sf GFA

J. Entertainment

1. Private club  1.0 space per 3 seats
2. Club and lodge  1.0 space per 3 seats
3. Auditorium/assembly hall  1.0 space per 3 seats
4. Theater  1.0 space per 3 seats
5. Commercial recreation/entertainment  1.0 space per 3 seats
6. Recreation facility  1.0 space per 3 seats

K. Service/Manufacturing

1. Sign printing shop  1.0 space per 400 sf GFA
2. Upholstery shop  1.0 space per 400 sf GFA
3. Cabinet and furniture  1.0 space per 400 sf GFA
4. Printing/publishing  1.0 space per 400 sf GFA
5. Blacksmith shop  1.0 space per 400 sf GFA

L. Motor Vehicles

1. Convenience store  1.0 space per 200 sf GFA
2. Auto service station  2.0 spaces per service island
   plus 1.0 space per employee
3. Car wash  3.0 spaces per washing bay
4. Auto/trailer sales  3.0 spaces per employee
5. Automobile service  1.0 spaces per employee plus
   4.0 spaces per bay
M. Wholesale
1. Nursery ........................................... 1.0 space per 400 sf GFA
2. Machinery ........................................
   a. Sales .......................................... 1.0 space per 500 sf GFA
   b. Service ...................................... 3.0 spaces per service bay plus 2

N. Utilities
1. Transportation ................................. 1.0 space per 200 sf GFA
2. Public utilities and service .................. 2.0 spaces per employee
3. Public utility generating, booster, or relay stations, transmission lines and tower, for maintenance of public utilities, including railroads and facilities and water and sewerage facilities

O. Storage:
1. Monumental stone works .................... 1.0 space per 1,500 sf GFA
2. Coal, wood yards, lumber yards, feed and seed ........................................ 1.0 space per 1,500 sf GFA
3. Frozen food locker ............................ 1.0 space per 1,500 sf GFA

P. Manufacturing
1. Manufacturing .................................. 1.0 space per 500 sf GFA

J. Stacking spaces for drive-through service windows and drive-through facilities.
1. Stacking spaces shall be provided for any use having a drive-through service window or areas having drop-off and pick-up areas in accordance with the following:
   a. Inbound stacking spaces shall be provided before the first service window as stipulated below and at least one outbound stacking space shall be provided after each service window of a drive-through facility.
   b. Each stacking space shall be a minimum of 22 feet long.
   c. Designed stacking spaces shall not interfere with circulation of the lot or free movement or access to parking spaces.
2. Banks with drive-through facilities shall provide a minimum of six spaces before each service position and one outbound space after the service window.
3. Restaurants with drive-through service windows shall provide a minimum of ten stacking spaces for inbound drive-through customers and one additional outbound space after each service window.
4. Other facilities with drive-through service windows shall provide three stacking spaces for each window or drive-through service facility.
5. Drive-through service window lanes shall be separated by striping or curbing from off-street parking areas. Individual lanes shall be striped, marked, or otherwise distinctly delineated.
6. Stacking lanes shall be a minimum of 8.5 feet adjacent to the service window.
7. All drive-through service windows shall be provided with a bypass lane with a maximum width of 8.5 feet.
8. All stacking lanes shall be at least 75 feet from an intersection with the nearest street or internal driveway. The distance is measured from the back of the stacking space nearest the entrance to the curb line of the nearest intersection.

9. Pedestrian pathways crossing drive-through lanes shall be clearly signed and identified using alternative materials or raised crosswalks. Painted crosswalks alone are not permitted.

Q. Storage and Stacking Spaces Required. Whenever a use involves the storage or stacking of vehicles awaiting service, the development shall also provide a sufficient number of storage spaces or adequately sized stacking lanes to accommodate the peak hourly demand for the peak day in a typical week for said storage. The following uses are presumed to require the following number of storage spaces or stacking area:

Typical Use—uses with a drive-in window including but not limited to banks and drive-in restaurants.

Space Required—lanes sufficient to stack six automobiles per window including, in the event of a staged drive-in, three automobiles beyond the stage farthest from the window without interfering with the use of the adjacent road or street.

Type Use—Vehicle repair uses including but not limited to enclosed auto repair and boat and trailer repair.

Space Required—four spaces per service bay or repair area.

Any stacking lane or storage space shall be required to be surfaced to the same standards as the paved parking area with which it is associated.

K. Landscaping in parking lots.

1. Interior landscaping for off-street parking areas shall be required for all surface parking lots designed for 20 or more spaces. The following requirements shall apply:

a. Landscape islands shall be located no farther apart than every ten parking spaces and at the terminus of all rows of parking. Each landscaped island shall be at least 200 square feet in area with a minimum width or diameter of ten feet.

b. There shall be at least one overstory tree, ten low shrubs and a minimum of 60 percent living ground cover, sod, and/or annual or perennial color in each landscaped island. Shrubs, sod and/or living ground cover shall not to exceed three feet in height.

c. Vehicles shall be separated from sidewalks, driveways, and streets in public rights-of-way by wheel bumpers and by a strip of land at least ten feet wide, reserved as open space, and planted in grass containing at least one understory or overstory tree, as appropriate, and ten shrubs per 50 linear feet, and a minimum of 80 percent living ground cover, sod, and/or annual or perennial color in the landscape strip surface area. Wheel bumpers shall be placed a minimum of 48 inches from the nearest tree trunk.

d. Head-to-head parking shall provide a five-foot grass strip with curb. The grass strip may be counted as part of the landscaped areas and shall have one tree every 50 feet containing at least one overstory tree, and ten shrubs, per 50

Commented [ZP39]: Requires the provision of a raised crosswalk for pedestrian safety

Commented [ZP40]: Moved to J above and expanded upon

Commented [ZP41]: This whole subsection is important to keep large asphalt lots without any shade or landscaping from being developed.

Commented [ZP42]: Only for 20 spaces or more...not on small parking lots

Commented [ZP43]: Strip in between two parking spaces where two cars would be parked directly perpendicular to one another.
e. Perimeter landscape strips. The perimeter of a surface parking lot shall provide a five-foot wide landscape strip where such parking lot abuts side or rear property lines. The perimeter landscape strip shall be planted with a single row of overstory trees of a species appropriate for buffers and spaced every 40 linear feet of landscape strip, and evergreen shrubs spaced every 5 linear feet of landscape strip. The perimeter landscape strip shall be continuous except for near perpendicular crossings of driveways and sidewalks.

f. Landscaped areas in parking lots shall provide drainage and irrigation that ensures full drainage to the storm drainage system.

g. See the Cape Charles Master Tree Plan for trees that shall and shall not be permitted within parking lot landscape areas.

h. The requirement in Section 4.5.H.1.1.2 for all developments to have pedestrian walkways connecting ground level parking to public sidewalks and all building entrances shall be met and shall not be interpreted to prevent the landscaping requirements of this section to be fully met.

2. The minimum number of spaces required may be reduced where the Zoning Administrator has determined that the reductions are necessary to preserve a healthy tree or trees with a three-inch or greater diameter from being damaged or removed and where the site plan provides for the retention for said tree or trees.

3. Screening. Plantings which meet the standards for screening of this ordinance will be used to screen vehicle accommodation areas other than those serving single-family and duplex dwellings from an adjacent residential district or use. Fencing may be substituted for plantings with the approval of the Zoning Administrator.

L. Parking in single-family residential districts.

1. Parking any automobile, motorcycle, motor vehicle, recreational vehicle, or trailer shall not be allowed in the front yard, side yard, or rear yard of a residence unless said automobile, motorcycle, motor vehicle, recreational vehicle, or trailer is parked on a concrete, asphalt, or gravel driveway or parking area. It shall be unlawful to park any automobile, motorcycle, motor vehicle, recreational vehicle, or trailer on the grass, lawn, or dirt areas.

2. Recreational vehicles may be kept on residentially zoned properties as follows:
   a. A maximum of one recreational vehicle, not including golf carts, may be parked or stored on a single-family residential property in the side or rear yard. Recreational vehicles, not including golf carts, shall not be parked in street side yards.
   b. Additional recreational vehicles may only be parked or stored in enclosed buildings or in a carport if said recreational vehicle fits entirely within the building.
   c. Such vehicle may also be parked in a street front yard or street side yard on any part of residential properties for a period of not more than 24 hours during

Commented [ZP44]: Landscaping will help with stormwater

Commented [ZP45]: This would include boats and golf carts

Commented [ZP46]: This would include golf carts

Commented [ZP47]: This would include boats
loading or unloading. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use.

3. Commercial vehicles may be kept on residentially zoned properties as follows:
   a. Such vehicle is parked or stored within a fully enclosed structure that meets all other criteria of the zoning district.
   b. Such vehicle is temporarily parked or standing for up to eight hours.
   c. Such vehicle is engaged in loading or unloading.

M. Access management.

1. Driveways
   a. Interior driveway. Where 90-degree parking is utilized, all interior driveways shall be a minimum of 22 feet in width. If 45- or 60-degree angle parking is used, then the interior driveway shall be at least 12 feet in width. Where parallel parking is utilized or there is no parking, interior driveways shall be a minimum of 10 feet in width for one-way traffic and 20 feet in width for two-way traffic.
   b. Driveways and drive aisles are not permitted between the sidewalk and a building and shall be perpendicular to any adjacent street.
   c. All developments other than single-family detached dwellings shall have pedestrian walkways a minimum width of five feet connecting ground level parking to the public sidewalks and to all building entrances.

Section 4.6 Loading and Unloading

N. Provisions for off-street loading.

1. This Subsection shall apply to all activities related to loading and unloading.
   a. Loading activities within 150 feet of residential uses shall only be permitted to undertake said activities Monday through Friday from 7:00am to 10:00pm and on Saturdays from 9:00am to 9:00pm.
   b. In no case shall loading activities hinder or obstruct free movement of vehicles, and pedestrians over a street, sidewalk, alley, or interrupt parking lot circulation.
   c. All off-street loading activities and access shall be provided with an asphalt or concrete surface.
   d. Loading structures and bays.
      1. Buildings or structures shall be designed so that the loading areas are not visible from any of the project perimeters adjoining any residential district or any public right-of-way.
      2. When required, one or more off-street loading spaces shall be provided on the same or adjoining premises with the facility it serves, either inside or outside a building or structure.
      3. A loading space shall have a minimum dimension of 12 feet wide and 35 feet deep.

Commented [ZP48]: These measurements were taken from other ordinances. We may need to discuss this with the fire department to make sure their vehicles can access what they need to access.

Commented [ZP49]: This takes away a driveway between the building and the street, creating a more walkable, pedestrian-friendly environment.

Commented [ZP50]: Pedestrian safety – catering to the pedestrian over the automobile

Commented [ZP51]: combining loading with parking because they go hand-in-hand

Commented [ZP52]: This would regulate the times allowed for loading and unloading activities, which is important for mixed-use areas with residential units above commercial.

Commented [ZP53]: No gravel off-street loading areas. Must be paved, and not with pavers.
4. All loading spaces shall maintain overhead clearance of at least 14 feet.
5. All off-street loading spaces shall have access from an alley, or if there is no alley, from a street.

e. Minimum loading space requirements for non-residential uses:

<table>
<thead>
<tr>
<th>Gross floor area</th>
<th>Required loading spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 49,000 square feet</td>
<td>1</td>
</tr>
<tr>
<td>49,000 – 100,000 square feet</td>
<td>2</td>
</tr>
<tr>
<td>100,000 – 160,000 square feet</td>
<td>3</td>
</tr>
<tr>
<td>160,000 – 240,000 square feet</td>
<td>4</td>
</tr>
<tr>
<td>240,000 – 320,000 square feet</td>
<td>5</td>
</tr>
<tr>
<td>320,000 – 400,000 square feet</td>
<td>6</td>
</tr>
<tr>
<td>Each 90,000 above 400,000 square feet</td>
<td>1</td>
</tr>
</tbody>
</table>

A. Loading and Unloading Areas Required. Whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area shall be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner. This section also pertains to uses that generate a need for consumer pick-up.

B. Number of Loading Spaces Required. The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are anticipated to use this area. The following indicates the number and size of spaces that are presumed to satisfy this requirement; however, the permit-issuing authority may require more or less loading and unloading area where it finds that such an area is more appropriate for the development.

Uses which normally handle large quantities of goods including but not limited to the following categories:

- Schools
- Churches
- Care facilities
- Hospitals
- Retail sales
- Wholesale sales
- Storage
- Manufacturing
- Agricultural

<table>
<thead>
<tr>
<th>Gross Floor Area (GFA)</th>
<th>Number of Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,500 - 19,999 sf</td>
<td>1</td>
</tr>
<tr>
<td>20,000 - 39,999 sf</td>
<td>2</td>
</tr>
<tr>
<td>40,000 - 99,999 sf</td>
<td>3</td>
</tr>
</tbody>
</table>
Uses which do not normally handle large quantities of goods presumably shall provide off-street loading facilities in the following amounts:

<table>
<thead>
<tr>
<th>Gross Floor Area (GFA)</th>
<th>Number of Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>5,000 - 79,999 sf</td>
<td>1</td>
</tr>
<tr>
<td>80,000 - 200,000 sf</td>
<td>2</td>
</tr>
<tr>
<td>Each additional 200,000 sf</td>
<td>1</td>
</tr>
</tbody>
</table>

C. Location. Loading and unloading areas shall be located and designed so that the vehicles intended to use them can maneuver safely and conveniently to and from the public right-of-way and complete loading and unloading operations without obstruction or interfering with on-site parking and movement of vehicles in the vehicle accommodation area. Loading and unloading areas shall be marked and designated with appropriate restrictive signage.

D. Loading Areas. Sites shall be designed and buildings shall be oriented so that loading areas are not visible from any of the project perimeters adjoining any agricultural or residential district or any public right-of-way.

O. Dumpsters:

1. A solid fence on three sides shall enclose all dumpsters.
   a. The height of the fence shall be equal to or higher than the height of the dumpster, in accordance with Section 4.2.G.
   b. The visible material of the fence shall be made up of brick, stucco, or stone.
2. The operable side of the dumpster shall be concealed with a gate equal to or higher than the height of the dumpster. The gate shall be opaque and constructed of durable materials.
3. Dumpsters shall be placed in the rear yard and shall be located a minimum of five feet from property lines.
4. In no case shall loading activities hinder or obstruct the free movement of vehicles, and pedestrians over a street, sidewalk, alley, or to interrupt parking lot circulation.
5. Service activities within 150 feet of residential uses shall only be permitted Monday through Friday between 7:00am to 10:00pm and on Saturdays from 9:00am to 9:00pm.
6. Temporary construction trash and recycling dumpsters, which are not enclosed, shall be permitted up until such time as a Certificate of Occupancy is issued.
7. Access to dumpsters shall be provided via a paved, dust-free surface.
Definitions

**Child and personal care uses:** Any establishment that provides regular shelter, care, activity, and supervision (with or without academic instruction) for five or more children.

**Construction:** Any site or building preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

**Drive-through establishment/restaurant:** A business establishment so developed that its retail or service character includes providing a driveway approach and service window for motor vehicles so as to serve patrons as they are seated in the motor vehicle and passing by the service window rather than serving them from within a building.

**Dwelling, condominium:** A single, separately owned dwelling unit in a multi-unit development or structure, with jointly owned and shared areas and facilities.

**Dwelling, duplex:** A building designed as a single structure, containing two separate dwelling units, has direct access to the outside, and each of which is designed or arranged to be occupied by two families living independently of each other.

**Dwelling, multifamily:** A building designed for and containing two or more dwelling units.

**Dwelling, single-family:** A structure containing not more than one dwelling unit designed for residential use and not attached to another dwelling unit.

**Dwelling, single-family attached (townhouse):** A dwelling unit which is located on an individual lot of record and which is attached to another dwelling unit or any adjoining lot by a common wall.

**Dwelling, single-family detached:** A single-family dwelling that is located on an individual lot of record.

**Event center:** A multi-purpose facility generally used for meetings, parties, banquets, weddings, and other social gatherings, conventions, and the display of merchandise by a variety of industrial groups, professional groups, social groups and trade organizations.

**Extended-stay motel/hotel:** Any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes for guests and contain kitchen facilities for food preparation, including but not limited to, such facilities as refrigerators, stoves, and ovens. May also be known as "apartment hotels."

**Floor area:** The gross horizontal areas of a building, including mezzanines and lofts, exclusive of garages, parking structures, basements, open balconies and porches, and equipment and service areas, measured from the exterior face of the exterior walls of a building.

**Gross floor area (GFA):** The total covered floor area inside the building envelope, including exterior walls, and excluding the roof.

**Guest room:** An accommodation combining living, sleeping, sanitary, and storage facilities within a hotel, motel, boarding house or extended stay.

**Innovator space:** Space in an existing or new building that is designed to support innovative design, fabrication and wholesale or retail sales of small articles that are unique in design and employ methods of low volume, high value-added production that employ innovative technology and/or artistic skill that are not hazardous or noxious.
Institutional uses: A nonprofit or quasi-public use, such as a religious institution, library, public or private school, hospital, or government owned or government operated structure or land used for public purpose.

Owner: The legal or beneficial titleholder of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

Parking lot or parking garage: An area or building designated and designed for the temporary storage of vehicles.

Parking space: A marked or striped usable hard-suraced area enclosed within a main or accessory building, or unenclosed, permanently reserved for the temporary storage of one vehicle.

Place of worship: A building where persons regularly assemble for religious purposes and related social events and which is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

Premises: Any building, lot, parcel of land, or portion of land whether improved, or unimproved including adjacent sidewalks and parking strips.

Private: Property owned by individuals, corporations, and other organizations and not by city, county, state or federal governments.

Project: The entire proposed development.

Public: The term "public," when used as a modifier shall mean "government-owned" or "government-operated."

Regulation: Any rule, development standard, or other requirement adopted by the governing body pursuant to the requirements of this Zoning Ordinance.

Temporary structure: A structure without any foundation or footing and removed when the designated time period, activity, or use of which the temporary structure was erected has ceased.
Item Specifics:
The Town held the Comprehensive Plan Kick-off Workshop on July 25. 50 people were in attendance at the meeting, including the public, elected and appointed town officials, consultants, supervisors, and facilitators. During this meeting, five questions were asked at five different tables comprised of approximately ten people at each table. The questions asked were as follows:

A. What is the best way to engage Cape Charles citizens and stakeholders (e.g. more workshops, online survey, stakeholder meetings, small group forums, etc.)?

B. Who are the critical players (stakeholders) who need to be engaged in the process?

C. If the Comprehensive Plan process includes a community opinion survey, what topics or questions should be included?

D. List the top three issues you would like to see the Comprehensive Plan address.

E. What major projects should be included in the plan?

A detailed report of the answers to these questions is being prepared and will be distributed to all participants of the Comprehensive Plan Kick-off. The report will also be posted on the 2019 Comprehensive Plan Update webpage.

Discussion:
A scope and schedule for the Comprehensive Plan update is attached (Attachment 2). Phase One: Background and Vision, is scheduled for August 2019 through February 2020. Public input during phase one includes the following three items:

1. Kick-off workshop (held July 25)
2. Community survey
3. Stakeholder meetings
The phase one tasks (and responsible parties, listed in italics) includes the following:

- Review existing plans, issues, and regulations (all)
- Craft a vision statement for Cape Charles (Planning Commission)
- Develop Comprehensive Plan scope and outline (staff & Planning Commission)
- Draft goals for scope topic areas (Planning Commission)

The phase one outputs include the following four items:
1. Analysis of existing plan and needs
2. Survey summary
3. Plan outline and inception report
4. Vision and goals

Recommendation:
Following discussion, provide direction to staff and commissioners on the next steps for the comprehensive plan update.

Attachments:
Attachment 1 – Agenda from the July 25 Comprehensive Plan Kick-Off Workshop
Attachment 2 – Schedule and Scope for 2019 Comprehensive Plan Update
Planning Commission
Comprehensive Plan Kickoff Workshop
Cape Charles Civic Center – 500 Tazewell Avenue
July 25, 2019 6:00 P.M.

1. Opening Notes – Larry DiRe, Cape Charles Town Manager

2. Accomac/Northampton County Planning District Commission – Clara Vaughn, ANPDC Regional Planner

3. Brief Introduction to Comprehensive Plan Requirements and Use of Plan – Zach Ponds, Cape Charles Town Planner

4. Group Discussion
   A. What is the best way to engage Cape Charles citizens and stakeholders (e.g. more workshops, online survey, stakeholder meetings, small group forums, etc.)?
   B. Who are the critical players (stakeholders) who need to be engaged in the process?
   C. If the Comprehensive Plan process includes a community opinion survey, what topics or questions should be included?
   D. List the top three issues you would like to see the Comprehensive Plan address.
   E. What major projects should be included in the plan?

5. Group Reports

6. Comprehensive Plan Schedule – Zach Ponds, Cape Charles Town Planner

7. Closing Comments – Larry DiRe, Cape Charles Town Manager
## 2019 Comprehensive Plan Update
### Scope and Schedule

<table>
<thead>
<tr>
<th>Phase 1: Background &amp; Vision</th>
<th>Phase 2: Plan Development</th>
<th>Phase 3: Documentation &amp; Adoption</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Schedule:</strong> August 2019 - February 2020</td>
<td><strong>Schedule:</strong> March 2020 - October 2020</td>
<td><strong>Schedule:</strong> November 2020 - February 2021</td>
</tr>
<tr>
<td><strong>Public Input in this Phase:</strong></td>
<td><strong>Public Input in this Phase:</strong></td>
<td><strong>Public Input in this Phase:</strong></td>
</tr>
<tr>
<td>• Kickoff workshop</td>
<td>• Focus Workshop 1 (topics TBD)</td>
<td>• Draft plan open house</td>
</tr>
<tr>
<td>• Community survey</td>
<td>• Stakeholder meetings</td>
<td>• Public hearings</td>
</tr>
<tr>
<td>• Stakeholder meetings</td>
<td>• Focus Workshop 2 (topics TBD)</td>
<td><strong>Phase Tasks (responsible party):</strong></td>
</tr>
<tr>
<td><strong>Phase Tasks (responsible party):</strong></td>
<td><strong>Phase Tasks (responsible party):</strong></td>
<td><strong>Phase Outputs:</strong></td>
</tr>
<tr>
<td>• Review existing plans, issues, and regulations <em>(all)</em></td>
<td>• Research outlined topic areas <em>(all)</em></td>
<td>• Analysis of existing plan and needs</td>
</tr>
<tr>
<td>• Craft a vision statement for Cape Charles <em>(Planning Commission)</em></td>
<td>• Obtain expert input <em>(all)</em></td>
<td>• Survey summary</td>
</tr>
<tr>
<td>• Develop Comprehensive Plan scope and outline <em>(staff + Planning Commission)</em></td>
<td>• Draft plan chapters according to established scope and outline <em>(staff)</em></td>
<td>• Plan outline and inception report</td>
</tr>
<tr>
<td>• Draft goals for scope topic areas <em>(Planning Commission)</em></td>
<td>• Develop land use and transportation mapping <em>(staff)</em></td>
<td>• Vision and goals</td>
</tr>
<tr>
<td><strong>Phase Outputs:</strong></td>
<td>• Identify implementation actions to achieve plan goals <em>(Planning Commission + public)</em></td>
<td><strong>Phase Outputs:</strong></td>
</tr>
<tr>
<td>• Analysis of existing plan and needs</td>
<td><strong>Phase Outputs:</strong></td>
<td>• Adopted Comprehensive Plan</td>
</tr>
<tr>
<td>• Survey summary</td>
<td>• Draft Comprehensive Plan chapters</td>
<td><strong>Phase Tasks (responsible party):</strong></td>
</tr>
<tr>
<td>• Plan outline and inception report</td>
<td>• Maps, graphics, and supporting exhibits</td>
<td><strong>Phase Outputs:</strong></td>
</tr>
<tr>
<td>• Vision and goals</td>
<td><strong>Phase Outputs:</strong></td>
<td><strong>Phase Tasks (responsible party):</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Compile and produce draft Comprehensive Plan document <em>(staff)</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Present draft plan for public input <em>(Planning Commission)</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Revise plan based on draft input <em>(staff)</em></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Produce final plan <em>(staff)</em></td>
</tr>
</tbody>
</table>
Item Specifics:

All proposed amendments of the zoning ordinance shall be referred by the Town Council to the Town’s Planning Commission for its recommendations after at least one advertised public hearing (Section 2.7.2). The Mayor and Town Council have asked the Planning Commission to review and make a recommendation for text amendment updates to Article VIII, Sections 8.7 and 8.20.

**Article VIII Section 8.7 Historic District Review Board; Membership**

At the May 16, 2019 Town Council regular meeting, Councilman Grossman presented a staff report proposing action on the part of Town Council to expand the Historic District Review Board from five members to seven, with one of the seven members being a Town Council representative. The report from this meeting is included in this report as Attachment 1. At this meeting, a motion was made to approve the expansion of the Historic District Review Board to seven members with one member being a representative from the Town Council and requiring a minimum of four members being residents of the Historic District. The motion was approved by a unanimous vote.

For this motion to take effect, Section 8.7 must be amended as follows:

**Section 8.7 Historic District Review Board; Membership**

The members of said Historic District Review Board will be appointed by the Town Council. The Membership shall consist of five seven citizens, at least three four of whom shall be residents of the local historic district, and one member must be from Town Council.

**Article VIII Section 8.20 Design Guidelines; Standards for Review**

At the May 21, 2019 Historic District Review Board work session, the Board discussed proposed changes to the Historic District Review Board process. The report from this meeting is included in this report as Attachment 2. One of these proposed changes (recommendation 2 in the staff report) included having the Historic District Guidelines be reviewed and adopted by Town Council. Currently, the guidelines are amended and adopted by the Historic District Review Board only. The Historic
District Review Board agreed that the zoning ordinance should be updated to require adoption by Town Council instead of the Board.

For this recommendation to take effect, Section 8.20 must be amended as follows:

Section 8.20 Design Guidelines; Standards for Review

A. In order to achieve the purposes of the Historic District, the Historic District Review Board shall be guided in its decisions by the design guidelines as authorized in subsection B of this section.

B. It shall be the duty of the Historic District Review Board to prepare, adopt, and amendments to specific the design guidelines, illustrated as necessary, for buildings, structures, and sites in the historic district.

C. The Historic District Review Board may Town Council must adopt and amend a set of the design guidelines after conducting at least one public hearing pursuant to Section 15.2204 Code of Virginia.

Recommendation:
Following discussion, make a recommendation to Town Council for the proposed text amendments.

Attachments:
Attachment 1 – TC 05-16-2019 Staff Report - HDRB Organization
Attachment 2 – HDRB 06-05-2019 Staff Report – Proposed Changes to HDRB Process
Attachment 2 – Proposed Article VIII Text Amendments
PURPOSE:

As a result of recent discussions during Town Council meetings, there was an expressed desire to expand the size of the Historic District review Board. The purpose of this report is to propose action on the part of Town Council to move this forward.

BACKGROUND:

The following are extracts taken from various recent Town Council meetings containing suggestions/recommendations for the Historic District Review Board organization:

December 20, 2018 Regular Meeting Minutes (Page 5): addressing chimney appeal
Councilwoman Holloway had additional comments as follows: i) She suggested adding a Council representative to the HDRB, like on other boards. ...

January 3, 2019 Work Session Minutes (Page 2)
xi) There was some discussion regarding the restructuring of the HDRB, possibly increasing the number of members and adding a Town Council representative. The majority of the Town’s boards and Planning Commission include a Council representative; ...

February 21, 2019 Public Hearing, Regular Meeting & Executive Session Minutes (Page 7)
Councilman Grossman commented as follows: i) He extended his thanks to Joe Fehrer and David Gay for their service on the Historic District Review Board (HDRB). Both had done a tremendous amount of work and both recently resigned. The HDRB was down to three members. Council needed to expand this board to seven members and move on. Interviews needed to be scheduled to at least fill the two vacancies. ...

INVESTIGATION:

The following documents and sources of information were reviewed;
1. Town of Cape Charles zoning ordinance Article VIII, Historic District Overlay
2. Town of Cape Charles Historic District Review Board By-Laws
3. Town of Cape Charles zoning ordinance Article IX, Historic Harbor Area Overlay District
4. Code of Virginia, title 15.2, Paragraph 15.2-2306, Preservation of historical sites and architectural areas
5. Historic Preservation Plans from the following cities and towns;
   a. Savannah Historic District (www.thempc.org/Ordinance/Savannah)
   b. Cape May, NJ Historic Preservation District (http://www.capemaycity.com)
   c. Salt Lake City Historic District (https://www.slc.gov/historic-preservation/design-guidelines-and-ordinance-regulations/)
   d. Town of Perinton, NY Historic Architect Commission (http://www.perinton.org/Departments/hist/nistordin/)
   e. Town of Wiscasset, Maine Historic District (http://www.wiscasset.org/boards-and-committees/historic-preservation)
   f. Smithfield, VA Historic District (https://smithfieldva.gov/page/zoning-ordinance/)
FINDINGS:
1. The governing ordinance for the HDRB is Article VIII. The HDRB is also governed by by-laws which have a certain degree of overlap with Article VIII. If there are discrepancies between these two documents, Article VIII governs.
2. The number of members between HARB and HDRB are different (7 vs 5). HARB requires a TC member. HDRB requires 3 members that reside in the historic district. Both boards require members to be citizens.
3. The qualifications of board members are identical.

STAFF REVIEW:
The Town Planner has reviewed the recommendation below and agrees with the content.

RECOMMENDATION:
The make-up of the Historic Review board should be expanded to 7 members with a quorum needed of 4; 7 members must be citizens; 4 members must be residents from the historic district and one member must be from Town Council. It is recommended that the Town Council adopt these proposed changes and forward these to the Planning Commission for incorporation into by-laws and ordinances accordingly.

Applicable to: HDRB by-laws and Article VIII.

Basis
- There have been recent meetings (2) over the past year where only three members of the HDRB were available. With the high volume of applications to process, any one meeting’s postponement due to lack of quorum would present a burden to applicants. The proposed number of 7 with a quorum of 4 would be in line with HARB requirements.
- A member of the Town Council would provide a beneficial perspective to the Commission and lend further legitimacy to its proceedings [reference Oklahoma]. Communication between council and board would be strengthened.
- Apart from the Oklahoma reference above, other plan references reviewed did not stipulate that a member of the board had to be from TC. However, Cape May did require that a commission member act as liaison between Commission and Council.
PURPOSE:

As a result of recent discussions during Town Council meetings, research was undertaken in order to address those issues raised and to provide recommendations for changes to the Historic District Review Board’s (HDRB) process.

The scope of this review does not include the substance of preservation criteria, design guidelines or designation of historic district or landmarks. There are no changes being proposed for the Demolition process.

BACKGROUND:

The following are extracts taken from a recent Town Council meeting containing suggestions/recommendations for the Historic District Review Board process:

January 6, 2019 Work Session Minutes (Page 2)

“xv) A two-phased HDRB application process was suggested, similar to the process for the Harbor Area Review Board (HARB). With HARB, there was an initial meeting followed by a Town Council meeting where staff provided a summary report being provided to Council. HARB would have their second meeting to review any additional information and provide their recommendation to Council for a decision at the next Council meeting. With HDRB, preliminary plans and all specifics could be discussed and any requested information could be provided at the second meetings, when a decision would be made; …….” [For clarity, this referenced two-phase application process refers to a Harbor Development Certificate.]

INVESTIGATION:

The following documents and sources of information were reviewed;

1. Town of Cape Charles zoning ordinance Article VIII, Historic District Overlay
2. Town of Cape Charles Historic District Review Board By-Laws
3. Historic District Design Guidelines
4. Town of Cape Charles zoning ordinance Article IX, Historic Harbor Area Overlay District
5. Town of Cape Charles zoning ordinance Article III, Section 3.9, Harbor District
6. Historic Preservation Plans from the following cities and towns;
   a. Savannah Historic District (www.thempc.org/Ordinance/Savannah)
   b. Cape May, NJ Historic Preservation District (http://www.capemaycity.com)
   c. Salt Lake City Historic District (https://www.slc.gov/historic-preservation/design-guidelines-and-ordinance-regulations/)
   d. Town of Perinton, NY Historic Architect Commission
e. Town of Wiscasset, Maine Historic District (http://www.wiscasset.org/boards-and-committees/historic-preservation)
f. Smithfield, VA Historic District (https://smithfieldva.gov/page/zoning-ordinance/)

7. Code of Virginia, title 15.2, Paragraph 15.2-2306, Preservation of historical sites and architectural areas
8. HARB meeting minutes 2017 through 2019

FINDINGS:

1. The governing ordinance for the HDRB is Article VIII. The HDRB is also governed by by-laws which have a certain degree of overlap with Article VIII. If there are discrepancies between these to documents, Article VIII governs.
2. The governing ordinance for the HARB Certificate of Appropriateness is Article IX. There are no additional by-laws.
3. The governing ordinance for the HARB’s Harbor Development Certificate is Article III, Section 3.9. This is a two-step process through Harbor Board. However, two steps (through HARB) were not utilized over the past seven applications reviewed.

<table>
<thead>
<tr>
<th>HARB Meeting date</th>
<th>Subject</th>
<th>2-step process used for Harbor Dev. Certificate per Art. III, Section 3.9</th>
<th>Town Council Information Session</th>
<th>Town Council Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan 8, 2019</td>
<td>33 Marina Rd – Shanty expansion</td>
<td>No</td>
<td>1/19/19</td>
<td>2/21/19</td>
</tr>
<tr>
<td>Nov 13, 2018</td>
<td>Design Changes to Strawberry Plaza</td>
<td>No</td>
<td>11/29/18</td>
<td>12/20/18</td>
</tr>
<tr>
<td>Oct 17, 2018</td>
<td>Relocation of Pilot House</td>
<td>No</td>
<td>11/1/18</td>
<td>11/15/18</td>
</tr>
<tr>
<td>Dec 13, 2017</td>
<td>Old Harbor Master Bldg. – new porch</td>
<td>No</td>
<td>12/21/17</td>
<td>1/18/18</td>
</tr>
<tr>
<td>Oct 28, 2017</td>
<td>Mason Ave Southside – Phase 2 mixed use</td>
<td>No</td>
<td>11/16/17</td>
<td>12/7/17</td>
</tr>
<tr>
<td>May 24, 2017</td>
<td>1011 Bayshore Rd – Widen decks @ 2 story comm. Bldg. and bath addition</td>
<td>No</td>
<td>6/1/17</td>
<td>6/15/17</td>
</tr>
<tr>
<td>April 11, 2017</td>
<td>Strawberry plaza town lot – plaza and landscaping</td>
<td>No</td>
<td>-</td>
<td>4/20/17</td>
</tr>
</tbody>
</table>

4. Article VIII and Article IX are very similar in both content and ordinance structure/format.
5. An overview of the HDRB process flow for Certificate of Appropriateness is provided as Attachment A. Currently, a one-step application process is required by ordinance for a Certificate of Appropriateness.
6. An overview of the HARB process flows for a Harbor Development Certificate is provided as Attachment B. Note a one-step application process through HARB is required for a Certificate of Appropriateness while a two-step process through HARB is required for a Harbor Development Certificate along with Town Council approval.
7. HARB has design guidelines; Harbor Area Design Guidelines (2006). HDRB has design guidelines;
Historic District Guidelines (last amended October 2017). HDRB has the capability to revise their guidelines with public notice. HARB revisions go through Planning Commission and Town Council with associated public meetings for Town Council eventual adoption.

8. There is no specified wait period specified after Certificate of Appropriateness approval to when a work permit is able to be pulled. However, HDRB has indicated to applicants verbally that a 30 day wait period is needed for above ground work pending the potential for appeal by any aggrieved person.

9. The current ordinances for HARB and HDRB do not specify the need to document in writing the reasons for denials for Certificate of Appropriateness.

10. Differences between applicants’ need for a HDRB/HARB certificate of appropriateness and a harbor development certificate are:
   a. Certificate of appropriateness – “Evidence of the approval required under the terms of the Historic District shall be a certificate of appropriateness issued by the HDRB, or the Zoning Administrator as the case may require, stating that the demolition, moving, or changes in the exterior architectural appearance of the proposed construct, reconstruction, alteration, or restoration for which application has been made are approved by the HDRB or the Administrator as the case may require.” Article VIII, Section 8.18
   b. Certificate of appropriateness – “… No building or structure, including signs, shall be erected, reconstructed, restore, or substantially altered in exterior appearance and no buildings or structures shall be razed or demolished within a historic district and no permit authorizing same shall be granted unless and until the same is approved by the HARB and a Certificate of Appropriateness has been issued by that body…. , as being architecturally compatible with the historical, cultural, and/or architectural aspects of the structure and its surrounding.” Article XI, Section 9.18
   c. Harbor Development Certificate – “No zoning clearance shall be issued for location, construction, or enlargement of any building or structure within the Harbor District until a Harbor Development Certificate has been issued.” The scope of this certificate will include such items as location of off-street parking, vehicle circulation, alleys, loading and unloading, open space, architectural details, microclimate effects, view sheds, signage, etc. “Other development applications, including application for any necessary Certificate of Appropriateness, may be submitted concurrently with an application for a Harbor Development Certificate.” Article III, Section 3.9.1

“Activities requiring a Harbor Development Certificate, as described in Section 3.9, are exempt from requiring a Certificate of Appropriateness.” Article IX, Section 9.18

**HDRB REVIEW:**

TBD

**ATTACHMENTS:**

A - HDRB process flow for Certificate of Appropriateness (one-step)
B – HARB process flow for Harbor Development Certificate (two-step)
C – Proposed process flow for HDRB Certificate of Appropriateness

**RECOMMENDATION:**

It is recommended that the Town Council adopt or modify, as necessary, the individual proposed changes following and forward these to the Planning Commission for incorporation into ordinances accordingly.
1. Process for HDRB Certificate of Appropriateness should remain a one-step process from application to board review. However, a new requirement for applicant to have a formal pre-application meeting (with pre-defined submittal requirements) with the zoning administrator will be inserted into the process in addition to the ability for HDRB to defer decision making pending additional information from the applicant. Refer to Attachment C.

**Basis**

- Both HDRB and HARB certificate of appropriateness processes currently contain a one-step process. Previous HARB agenda/meeting minutes document that a one-step process had been used for Harbor Development Certificates even though the ordinance requires a two-step process.
- Additional steps through the boards make the process longer for a two-step process. Given the length of time from an initial meeting with the board until finalized plans are agreed between architect and applicant, two additional months could easily occur before a second meeting is achieved.
- All of the referenced historic preservation plans reviewed contained only a one-step process.
- Cape May does include an informational meeting option as follows;
  
  Cape May, NJ § 525-37. Certificate of appropriateness.
  
  “D. Informational meetings/conceptual review. Persons considering action that requires a certificate of appropriateness, as set forth in this section, are encouraged to request an informal informational meeting with the Commission and/or its Chairman prior to submitting a formal application for a certificate of appropriateness. Requests for such informational meetings can be made to the administrative officer, who will contact the Chairman of the Commission. The Commission shall hold such informational meetings within 15 days of receipt of such request. The purpose of an informational meeting is to review the design guidelines and standards of appropriateness and the procedures for obtaining a certificate of appropriateness. Neither the applicant nor the Commission shall be bound by any informational meeting or conceptual review. Conceptual review shall not apply to any applications for development. The Commission shall not consider conceptual review of an application for development unless specifically referred to it by either the Planning Board or the Zoning Board of Adjustment.”
- Oklahoma reference includes editorial comments; “Any applicant may request a meeting with City staff for consultation before submitting an application. Early consultation eases the burden on the Commission. In addition, it is beneficial to the applicant—the pre-application procedure is designed, in part, to warn an applicant of probable commission denial.”
- The agenda for the April 16, 2019 Cape Charles Historic District Review Board meeting had 12 applications for review for a Certificate of Appropriateness. The May 21, 2019 meeting has five applications. With a two-step process, where the applicant is required to come in front of the Board during a regular meeting, the May 21, 2019 meeting would have 17 applications presented to the Board. This is not a sustainable approach for the Historic District Review Board members or staff.

2. Current HDRB Design Guidelines are not directly included within the ordinances. It is proposed that they remain that way at this time. However, the current HDRB Guidelines should be reviewed and adopted by the Town Council. In addition, any revisions are to follow the process similar to HARB of (1) HDRB recommendations – (2) Planning commission review and public meeting and recommendation – (3) Town Council review, public meeting and final adoption. This should be written into ordinance.

**Basis**

- It is the duty of the HDRB to prepare, and adopt, and amend specific design guidelines, illustrated as necessary, for buildings, structures, and sites in the historic district. Article VIII, Section 8.20.
- The HARB process for design guidelines contains Planning Commission concurrence, public meetings and final governing body approval.
Town Council, without adopting the HDRB Guideline revisions has not demonstrated explicit concurrence with the latest content. Appeals to Town Council allow discussions to open up and question the content within the guidelines since the last major revision (October 2017) has never been approved by the governing body in accordance with the ordinance prescribed process.

The subject of acceptance of vinyl siding for example would finally be settled at the Town Council level since there is a current conflict on use between zoning ordinance and HDRB guidelines.

The review of other preservation plans shows that some plans contain specific guidelines/criteria within the historic/preservation ordinance while others have separate design guideline documents.

Cape May – ordinance para. 525-39F – “Standards, as are adopted by the Historic Preservation Committee are hereby adopted and made part of this chapter [ordinance]. The standards may be amended by the Historic Preservation Commission but shall not take effect until approved by ordinance of City Council”.

Salt Lake City ordinance includes under Design Guideline definition the following “Design guidelines are officially adopted by City Council.”

3. The Town Council shall only reverse the decision of the Historic District Review Board if it determines that the decision contained a procedural error or was clearly contrary to the provisions of the Ordinance, or was not supported by the facts as presented during the initial determination. This should be written into ordinance.

**Basis**

- The Town council should not be reviewing an appeal against the criteria contained within the guidelines but to the process by which the HDRB review was conducted. The addition of this to ordinances would clearly articulate what is being reviewed by Town Council.
- Town of Wiscasset, Maine
  “Where an appeal is from a decision of the Historic Preservation Commission, the review by the Board of Appeals shall be appellate in nature and shall be limited to a review of the record developed before the Historic Preservation Commission. The person submitting the appeal and any opponents to the position of that person may make written and/or oral presentations to the Board of Appeals about why they feel the decision of the Historic Preservation Commission was correct or incorrect, but they shall not be allowed to present any evidence that was not presented to the Historic Preservation Commission. The Board of Appeals shall only reverse the decision of the Historic Preservation Commission if it determines that the decision contained a procedural error or was clearly contrary to the provisions of this Ordinance, or was not supported by the facts. “
- Salt Lake City appeals - The Appeals Hearing Officer or Historic Preservation Appeal Authority shall uphold the decision unless it is not supported by substantial evidence in the record or it violates a law, statute, or ordinance in effect when the decision was made.
- Savannah appeals - Appeals from decisions made pursuant to the requirements of this ordinance and from the design standards contained therein shall be made as follows: (1) Applicability. Any person adversely affected by any determination made by the Board may appeal such determination. **Visual Compatibility Factors shall not be the basis for appeal.** [I.e., Height, Proportion of structures’ front façade, Proportion of openings, Rhythm of solids to voids I front façade, Relationship of materials, texture and color, etc.]

4. Denials of applications (or specific aspects of the application) are to be stated in writing to the applicant along with the reasons for such denials. This should be written into ordinance.

**Applicable to Article VIII.**

**Basis**

- The job of a board is to develop and articulate the logic supporting their actions. A written decision will serve to document such logic.
- The recent appeal regarding chimneys brought to Town Council did not have the specific reasons for
HDRB denial provided in writing by the board.

- **Oklahoma reference**
  “The Commission shall mail to the applicant the reasons for such denial by citing the section of the ordinance violated and may include suggestions regarding actions the applicant might take to secure the approval of the Commission as to the issuance of a Certificate of Appropriateness. The Commission’s decision should be delivered in writing. It is particularly important to many judges that the reviewing body give reasons for its decision—even if not required by state law, providing written reason is prudent. Requiring the Commission to cite the Ordinance section violated or the specific violation of the Design Guidelines helps ensure that Commission action was based on permissible standards. Any commission decision may be overturned for impermissible considerations or an omission of a required finding.”

- **Town of Wiscasset reference**
  “If the Commission determines that a certificate of appropriateness should not be issued, it shall make findings describing how the application does not meet the standards of this Ordinance. The Commission shall notify the applicant and the Code Enforcement Officer within 10 days of the final determination. All decisions shall include the Commission’s findings and conclusions.”

5. The zoning administrator per ordinance is currently allowed to pass judgement on certain minor actions exempted from review by the Historic District Review Board (see Section 8.16). In addition, Administrator in a case within his authority, may permit modifications of original proposals if such modifications are formally acknowledged, clearly described, and recorded in the records of the case (see Section 8.19). The following changes are to be made:
   a. Those decisions made by the Zoning Administrator are to be presented at the next board meeting for acknowledgement. This should be written in ordinance.
   b. Minor actions exempted from review by the HDRB should be expanded to include:
      i. All signs (size, etc. regulated by ordinance)
      ii. All fences (height, location, materials regulated by ordinance)
      iii. Uncovered decks in side or rear yards (covered decks alter roof line)
      iv. Accessory structures under 256 square feet (256 sf is the threshold for requiring a permit)
      v. All off-street parking and loading areas (currently 5+ requires review of the board)

**Basis**

- This should be considered a mere formality for board awareness and meeting minutes documentation to reflect the number and nature of these ‘minor’ decisions.
- **Smithfield reference**
  “The Planning and Zoning Administrator shall keep a record of his decisions under this section and shall report such decisions to the Review Board at its next regular meeting.”
- The list of minor actions should be expanded since these items are already regulated by ordinance.

6. Applicants have been told verbally upon approval of the certificate of appropriateness that permits will not be issued until the appeal timeframe has expired (30 days). They have been allowed to perform ground work. This should not be continued as a practice. However, the Certificate of Appropriateness form is to be modified to include a cautionary statement to the applicant that should an appeal be made within the 30-day window, a stop-work will be issued.

No changes to ordinance recommended.

**Basis**

- A process is defined through ordinance. Current ordinance specifies that permits can be drawn upon approval of a certificate of appropriateness. If there are other constraints to issuance of a permit, these restraints and timeframes have not been clearly specified.
- An additional 30 days has the potential for adding to construction time.
• The probability of appeal by an aggrieved party is low. Note that Item 3 above, if accepted, would limit the Town Council’s review of an appeal to determining if the board’s decision contained a procedural error or was clearly contrary to the provisions of the Ordinance, or was not supported by the facts.

• A review of the reference preservation plans/ordinances listed above did not find any that had any written restrictions on pulling permits upon approval of a certificate of appropriateness.
Attachment A: Historic District Review Board Certificate of Appropriateness

Article VIII

Materials Required for Review:
Architectural Plans
Site Plans
Landscaping Plans
Construction methods
Proposed signs
Proposed exterior lighting
Elevations of structures
Visual construction material
Design of doors and windows
Colors
Relationship to adjoining structures

End
Attachment B: Harbor Development Certificate - 2 step process
Article III Section 3.9.I

No zoning clearance issued for location, construction, or enlargement of any bldg or structure without Harbor Dev. Certificate

Process

Pre-application meeting
with Zoning Admin and HARB - discuss goals & procedures

Applicant submits for General Review to Zoning Admin

Post-application Meeting
Zoning Admin and HARB Meeting - discuss content and formulate recommendations to applicant

First Review Meeting
Zoning Admin, HARB and applicant - discuss board's recommendations and provide notice to submit detailed application

Applicant submits Detailed Application

Zoning Admin detailed report and report to HARB

Second review meeting
HARB to review application and provide further recommendations, if any

HARB recommendation to TC

TC review and decision; approve, modify, deny

Issuance of Harbor Dev. Certificate

Materials Required for General Review:
- Application, fee, letter stating general terms of proposed use, changes and plot plan
- 30 days

Materials Required for Detail Review:
- Location, amount, character and continuity of open space
- Delineation of scenic assets or natural features plus elevations and protected views
- Separation of pedestrian, vehicular traffic
- Convenience of Access
- Landscape plans
- Signage
- Conceptual renderings of bldg exteriors
- Other requested info
- 45 days

No time specified

Criteria for HARB to consider in 3.9.I.3

Criteria for TC to consider in 3.9.I.3
Attachment C: Proposed Process for Obtaining HDRB Certificate of Appropriateness

**Timeline**
- 5 weeks before Board meeting
- 4 weeks before Board meeting
- 3 weeks before Board meeting
- 1 week before Board meeting
- Board meeting

**Material Needed**
- Pre-application form
- Proposed Site Plan/Survey
- Photos/elevations of existing structure
- Visual Project Concept
- List of architectural elements including style & materials (e.g., doors, windows, siding, chimney, etc.)
- Proposed signage
- Proposed exterior lighting

**Certificate of Appropriateness or Development Certificate**

**Zoning Admin.**
- Approve
- Reject/Appeal

**Official Application Submittal to Zoning Administrator**
- Zoning Admin. To review for completeness of application

**Zoning Admin. Staff Report and Recommendation**
- Deferral for additional information with an agreed to time frame for return

**HDRB Board Review* **
- Approve
- Defer
- Reject
- Approve/Appeal
- Reject/Appeal

**Town Council**
- Approve
- Reject
- Approve/Appeal
- Reject/Appeal

**Circuit Court**
- Approve
- Reject

**End**

* Certain follow-up items can be delegated by Board to ZA for subsequent review and approval/rejection as documented in the Certificate of Appropriateness
Town of Cape Charles

Article VIII

Historic District Overlay

“The Cape Charles Historic District encompasses nearly all of the town of Cape Charles as it was originally laid out in 1883-1884 as well as the Sea Cottage addition, an area west of the original limits of the town, that was developed after 1909…The town was originally laid out in an unusual twenty-seven block grid pattern dominated by a central park with four landscaped streets that radiate from the park and serve as a main cross axis for the town’s circulation pattern. No other such plan is known to exist in Virginia.” – 1989 National Register of Historic Places Registration Form Section 7, page 1.

“An interesting stock of architectural styles in both the residential area and the downtown commercial area contribute an historic style and authenticity. The street patterns, lot configurations and boundaries, which were laid out in an historic grid pattern, have remained largely unaltered, adding to the Town’s historical integrity. Cape Charles’ late nineteenth and early twentieth century character is a key element in the Town’s interest and attractiveness to tourists. The traditional downtown commercial area on Mason Avenue still serves as the commercial center for the Town. It is important that the Town’s historic character be protected, not only for its intrinsic value, but also to contribute to attract and expand tourism in Cape Charles.” – Town of Cape Charles 1999 Comprehensive Plan, page 40.

The Town of Cape Charles participates in the Certified Local Government program and in so doing demonstrates a commitment to keep what is significant from the past for the benefit of future generations. The architectural integrity of existing structures shall be recognized, and future development shall be compatible.

Section 8.1 Purpose of the District [revised – 08/16/18]

The purpose of this district is to provide for protection against destruction or encroachment upon historic areas, buildings, monuments, or other features, or buildings and structures of registered architectural significance which contribute or will contribute to the cultural, social, economic, political, artistic, or architectural heritage of the Town of Cape Charles and the Commonwealth of Virginia. It is also the purpose of the district to preserve the designated historic areas and historic landmarks and other historic or architectural features from destruction, damage, defacement to ensure that buildings, structures, streets, walkways, or signs shall be erected, reconstructed, altered, or restored so as to be kept architecturally compatible with the character of the historic district.

Section 8.2 Criteria for Establishing Historic Districts--General Character

The boundaries of the Historic District shall in general be drawn to include areas containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation. The district may include either individual buildings or places of such character, and a reasonable distance beyond, or it may include areas or groupings of structures which have significance relative to their patterns of development or social and
economic or architectural interrelationships even though some structures in the area might not possess significant merit when considered alone.

**Section 8.3 Inventory of Landmarks and Contributing Properties Established**

The Town of Cape Charles has established as part of this ordinance an inventory map covering the area included in the Historic District, based on the criteria set forth in this ordinance. This map herein after called the inventory map shall be as much a part of this ordinance as if fully described herein and shall be filed as a part of this ordinance by the Town Clerk of the Town of Cape Charles. Structures or sites designated as properties which contribute to the historic character of the Town shall be known as contributing properties for the purpose of this Ordinance. Structures or sites not designated as landmark or contributing properties shall be known as noncontributing properties. The inventory map may be amended from time to time in the same manner as the zoning district map.

**Section 8.4. Application of the District; Relation to Other Zoning Districts**

To enable the district to operate in harmony with the plan for land use and population density embodied in these regulations, the Historic District is created as a special district to be superimposed on other districts contained in these regulations and is to be so designated by a special symbol for its boundaries on the Zoning District Map. The uses, housing types, minimum lot requirements, minimum yard requirements, maximum height, and accessory uses and accessory signs shall be determined by the regulations applicable to the other districts over which the Historic District is superimposed except as these other district regulations may be modified by application of the regulations in the Historic District.

**Section 8.5 Permitted Uses [revised – 08/16/18]**

A building or land shall be used only for any use or accessory use permitted in the zoning district in which the premises are situated and upon which the Historic District is superimposed.

**Section 8.6 Historic District Review Board; Creation**

For the general purposes of this Article as herein stated and specifically to preserve and protect historic places and areas in the Town through the control of demolition of such places and through the regulation of architectural design and uses of structures in such areas, there is created a board known as the Historic District Review Board.

**Section 8.7 Historic District Review Board; Membership [revised – 08/16/18]**

The members of the Historic District Review Board shall be appointed by the Town Council. The Membership shall consist of five seven citizens, at least three four of whom shall be residents of the local historic district, and one member must be on Town Council.

**Section 8.8 Historic District Review Board; Terms [revised – 08/16/18]**

Upon approval by the Town Council, members shall be appointed for a term of five years. Appointments to fill vacancies shall be only for the unexpired term. Members may be
reappointed to succeed themselves. A member whose term expires shall continue to serve until a successor is appointed and qualifies.

Section 8.9 Historic District Review Board; Qualifications [revised – 08/16/18]
Members of the Historic District Review Board shall have demonstrated interest and knowledge in the historical and architectural development of the Town.

Section 8.10 Historic District Review Board; Organization [revised – 08/16/18]
The Historic District Review Board shall elect from its own membership a chairman and vice chairman who shall serve annual terms and may succeed themselves. The chairman shall preside over all meetings in addition to having the duties and responsibilities of other members of the Board. The vice chairman shall preside over meetings of the Board in the absence of the chairman.

Section 8.11 Historic District Review Board; Rules [revised – 08/16/18]
The Board shall meet in regular session on the third Tuesday of every month when an application has been filed requiring consideration. Special meetings of the Board may be called by the chairman or a majority of the members after public notice as required.

Section 8.12 Historic District Review Board; Meetings; Hearings [revised – 08/16/18]
Written notice of a special meeting is not required if the time of special meeting has been fixed at a regular meeting or if all members are present at a special meeting or file a written waiver of notice. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all voting members of the Board. The Board may make, alter, or rescind rules and forms for its procedures, consistent with the ordinances of the Town and the general laws of the Commonwealth of Virginia.

Section 8.13 Historic District Review Board; Procedures
The Board shall establish procedures for all matters coming before it for review and all meetings shall be open to the public.

Section 8.14 Historic District Review Board; Powers and Duties
The Historic District Review Board shall have the power and authority for issuing or denying Certificates of Appropriateness for construction, reconstruction, substantial exterior alteration, razing, or relocation within the historic district: In addition, the Board shall have the following duties:

A. To assist and advise the Town Council, the Planning Commission, and other Town departments, agencies, and property owners in matters involving historically significant sites at buildings or other properties in historic districts such as, but not limited to, appropriate land usage, parking facilities, and signs.

B. To continuously evaluate conditions and advise owners of historic landmarks or contributing structures or other properties in historic districts on problems of preservation.
C. To conduct studies deemed necessary by the Town Council or Planning Commission concerning location of historic districts and means of preservation, utilization, improvement, and maintenance of historic assets in the Town.

D. To propose additional historic districts or additions or deletions to districts.

E. To adopt standards for review to supplement the standards set forth in this Ordinance.

F. To formulate recommendations to the Town Council concerning the establishment of an appropriate system of markers for selected historic sites and buildings, including proposals for the installation and care of such historic markers.

G. To cooperate with and enlist assistance from the Virginia Department of Historic Resources, the National Trust for Historic Preservation, and other interested parties both public and private in its efforts to preserve, restore, and conserve historic landmarks, buildings, sites, or areas within the Town.

Section 8.15 Summary of Administration Review Procedures [revised – 08/16/18]

In general, it is the purpose of this ordinance to establish review procedures for actions affecting properties in the Historic District. To this end, some actions are exempted from special historic and architectural review altogether, except as normal review may be necessary for issuance of a building permit. Other actions, depending on the possible consequences thereof, may be reviewed by the Zoning Administrator or by the Historic District Review Board acting with original jurisdiction, or, in the most serious cases, action by the Town Council following action by the Historic District Review Board. In all cases the decisions of the Zoning Administrator shall be appealed to the Board of Zoning Appeals as stated in §2-2.6.2.C, the decisions of the Historic District Review Board may be appealed to the Town Council, and the final decisions of the Town Council may be appealed to the Circuit Court of Northampton County.

Section 8.16 Certain Minor Actions Exempted from Review by the Historic District Review Board [revised – 08/16/18]

Within the Historic District certain minor actions which are deemed not to have permanent effects upon the character of the historic district are exempted from review for architectural compatibility by the Historic District Review Board. Such actions shall include the following and any similar actions which in the opinion of the Zoning Administrator will have no more effect on the character of the district than those listed:

A. Repainting the structure. (Original painting of masonry surfaces is not exempted from review.)

B. Replacement of missing or broken window panes, roofing slates, tiles, porch floor, posts, rails, shingles, window frames, or shutters where no substantial change in design or material is proposed.

C. Addition or deletion of storm doors or storm windows, window gardens, or similar appurtenances and portable air conditioners located in existing windows, doors, or
other existing wall openings (if no building permit is required for such addition or deletion).

D. Addition or deletion of television and radio antennas or skylights and solar collectors in locations not visible from a public street or a waterway.

E. Landscaping involving minor grading, walks, low retaining walls, temporary fencing, small fountains, and ponds which will not substantially affect the character of the property and its surroundings.

F. Construction of off-street loading areas and off-street parking areas.

G. Creation of outside storage in a commercial or industrial district which does not require structural changes or major grading and is not visible from a public street or waterway.

Section 8.17 Delegation of Authority [revised – 08/16/18]

A. The Zoning Administrator shall have authority to order that work be stopped and that an appropriate application be filed for review by the Historic District Review Board in any case where the action has an adverse effect on the Historic District.

B. The Historic District Review Board shall periodically review the design guidelines contained in this section.

Section 8.18 Approval of Historic District Review Board Required [revised – 08/16/18]

A. Except as herein otherwise provided in this article, no building or structure, including signs, shall be erected, reconstructed, restored, or substantially altered in exterior appearance and no buildings or structures shall be razed or demolished within a historic district and no permit authorizing same shall be granted unless and until the same is approved by the Historic District Review Board and a Certificate of Appropriateness has been issued by that body, with right of direct appeal to the Town Council as hereinafter provided, as being architecturally compatible with the historical, cultural, and/or architectural aspects of the structure and its surroundings.

B. "Substantial alterations" shall be defined as any and all work done on buildings, structures, or sites in a historic district other than those specifically exempted herein:
   1. General examples of "non-substantial" alterations:
      a. Work done to prevent deterioration or to replace parts of a structure with similar materials in order to correct any deterioration, decay of, or damage to any structure or on any part thereof, or
      b. To restore same as nearly as practical to its condition prior to such deterioration, decay, or damage.
   2. Examples of work not constituting "substantial alteration" include those minor actions exempted from review by §8.16 of this article.
3. General examples of work constituting "substantial alterations" include:

a. Construction of a new building at any location or a new accessory building on a landmark or contributing property or on a site within the Historic District.

b. Any addition to or alteration of a building which increases the square footage of the building or otherwise alters substantially its size, height, contour, or outline.

c. Any change or alteration of the exterior architectural style of a structure, including removal or rebuilding of porches, openings, dormers, window sashes, chimneys, columns, structural elements, stairways, terraces, and the like.

d. Any change or alteration of the exterior color scheme of the structure or any of its significant elements, including porches, openings, dormers, window sashes, awnings, canopies, chimneys, columns, stairways, terraces, or any other structural elements. This also applies to all structures on the site.

e. Addition to or removal of one or more stories or alteration of a roof line.

f. Any other major actions not specifically covered by the terms of this section but which would have an effect on the character of the historic district.

C. In any case in which there might be some question as to whether a project may be exempted from review may constitute a minor action or may constitute "substantial alteration," the Zoning Administrator shall be contacted for an interpretation prior to commencement of work.

Section 8.19. Certificate of Appropriateness [revised – 08/16/18]

Evidence of the approval required under the terms of the Historic District shall be a certificate of appropriateness issued by the Historic District Review Board, stating that the demolition, moving, or changes in the exterior architectural appearance of the proposed construction, reconstruction, alteration, or restoration for which application has been made are approved by the Historic District Review Board. The Historic District Review Board may permit modifications of original proposals if such modifications are formally acknowledged, clearly described, and recorded in the records of the case. A certificate of appropriateness shall be in addition to any other permits required. Any action by applicants following issuance of a permit-requiring certificate of appropriateness shall be in accord with the application and material approved and any conditions appended thereto.

Section 8.20 Design Guidelines; Standards for Review [revised – 08/16/18]
A. The Historic District Review Board shall be guided in its decisions by the design guidelines, as authorized in subsection B of this section.

B. It shall be the duty of the Historic District Review Board to prepare, adopt, and amend specific design guidelines, illustrated as necessary, for buildings, structures, and sites in the historic district.

C. The Historic District Review Board Town Council may adopt and amend a set of design guidelines after conducting at least one public hearing pursuant to §15.22204 Code of Virginia.

Section 8.21 Maintenance and Repair Required [revised – 08/16/18]

A. The purpose of this section is solely to stop demolition by neglect, whereby owners of property in the Historic District allow the structure, or historic attributes of the structure, to become a hazardous building or structure.

B. All buildings and structures in the Historic District shall be preserved against decay and deterioration and maintained free from structural defects to the extent that such decay, deterioration, or defects may, in the opinion of the Historic District Review Board and Town Council, result in the irreparable deterioration of any exterior appurtenance or architectural feature or produce a detrimental effect upon the character of the district as a whole or upon the life and character of the structure itself, including but not limited to:

1. The deterioration of exterior walls or other vertical supports, including broken doors and window panes;

2. The deterioration of roofs or horizontal members;

3. The deterioration of exterior chimneys;

4. The deterioration or crumbling of exterior plaster, wood, or mortar;

5. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

C. After notice by the Historic District Review Board by certified mail of specific instances of failure to maintain or repair and of an opportunity to appear before the Historic District Review Board, the owner or person in charge of said structure shall have ninety (90) days to remedy such violation. Thereafter, each day during which there exists any violation of this section shall constitute a separate offense and shall be punishable as provided in this ordinance. In the alternative, if the owner fails to act, the Historic District Review Board may recommend to the Town Council that the Zoning Administrator, after due notice to the owner, enter the property and make or cause to be made such repairs as are necessary to preserve the integrity and safety of the structure and the reasonable costs thereof shall be placed as a lien against the property.
Section 8.22 File of Actions to be Maintained [revised – 08/16/18]
In order to provide guidance for application of standards and guidelines, for the improvement of standards and guidelines, and for assistance to future applicants and the promotion of consistent policies in guiding applicants toward better standards of design, the Zoning Administrator and the Historic District Review Board shall maintain a file containing a record of all applications brought before them, including drawings and photographs pertaining thereto and the decision of the Zoning Administrator or the Historic District Review Board in each case. The file documents shall remain the property of the Town but shall be held available for public review.

Section 8.23 Administration; Zoning Administrator
Except as authorized herein the Zoning Administrator shall not authorize a permit for any erection, reconstruction, integral exterior facade change, demolition, or razing of a building or structure in the Historic District until the same has been approved by the Historic District Review Board as set forth in the following procedures.

Section 8.24 Receipt of Application
Upon receipt of an application by the Zoning Administrator for each permit in the historic district, the Zoning Administrator shall:

A. Forthwith forward to the Historic District Review Board a copy of the application, together with a copy of the site plan and the building plans and specifications filed by the applicant if such application requires the Historic District Review Board to meet and render a decision;

B. Maintain in his office a record of all such applications and of his handling and final disposition of the same;

C. Require applicants to submit three (3) copies of material required to permit compliance with the foregoing.

Section 8.25 Material to be Submitted for Review [revised – 08/16/18]
By general rule, or by specific request in a particular case, the Historic District Review Board may require submission of any or all of the following in connection with the application: architectural plans, site plans, landscaping plans, construction methods, proposed exterior lighting arrangements, elevations of all portions of structures with important relationships to public view and such other exhibits and reports as are necessary for its determinations. Requests for approval of activities proposed in historic districts shall be accepted only from the record owner of the land involved in such proposal, or his agent.

Section 8.26 Other Approvals Required
In any case in which an applicant's proposal also requires the approval of the Board of Zoning Appeals, final action by the Board of Zoning Appeals shall precede final action by the Historic District Review Board. The Board of Zoning Appeals may, however, table a proposal in order to request the comments of the Historic District Review Board. Final action by the Historic District Review Board shall be taken prior to consideration of proposals requiring site plan approval.

**Section 8.27 Action by the Historic District Review Board; Issuance of Certificates of Appropriateness [revised – 08/16/18]**

The Historic District Review Board shall render a decision upon any request or application for a Certificate of Appropriateness within sixty (60) days after the filing of an application accepted as complete. Failure of the Historic District Review Board to render such a decision within said sixty (60) day period, unless such period be extended with the concurrence of the applicant, shall entitle the applicant to proceed as if the Historic District Review Board had granted the Certificate of Appropriateness applied for prior to denying the Certificate of Appropriateness. The Historic District Review Board, on the basis of the review of information received, shall, upon request, indicate to the applicant the changes in plans and specifications, if any, which in the opinion of the Historic District Review Board, would protect and/or preserve the historical aspects of the landmark, building, structure, or district. If the applicant determines that he will make the suggested changes and does so in writing, the Historic District Review Board may issue the Certificate of Appropriateness.

**Section 8.28 Expiration of Certificates of Appropriateness [revised – 08/16/18]**

Any certificate issued pursuant to this article shall expire of its own limitation twelve (12) months from the date of issuance if the work authorized thereby is not commenced by the end of such twelve (12) month period; and further, any such certificate shall also expire and become null and void if such authorized work is suspended or abandoned for a period of twelve (12) months after being commenced. Any period or periods of time during which the right to use any such certificate is stayed pursuant to this article shall be excluded from the computation of the twelve (12) months.

**Section 8.29 Inspection by Administrator After Approval**

When a Certificate of Appropriateness has been issued, the Zoning Administrator or Town Building Official shall from time to time inspect the alteration or construction approved by such certificate and shall give prompt notice to the applicant of any work not in accordance with such certificate or violating any ordinances of the Town. The Zoning Administrator or Town Building Official may revoke the certificate or the building permit if violations are not corrected by the applicant in a timely manner.

**Section 8.30 Delay of Approval**

In the case of a proposal other than for demolition or moving but involving a designated landmark where the Historic District Review Board or, on appeal, the Town Council cannot reach a satisfactory agreement with the owner and where the Historic District Review Board or, on appeal, the Town Council decides such action to be in the public interest and not in conflict with any provision of law, it may delay the effective date of an approval for a period of three(3) months from the date of application or appeal to enable negotiations to
be undertaken and completed for acquisition of the property for preservation or public use. Failure of negotiations within this period shall be the equivalent of a denial of the application by the Historic District Review Board or, on appeal, by the Town Council.

Section 8.31 Conditions Imposed by the Historic District Review Board

In approval of any proposal under this section, the Historic District Review Board or, on appeal, the Town Council may limit such approval by such reasonable conditions as the case may require, including but not limited to, the specifications enumerated for conditional uses and for the Town Council.

Section 8.32 Appeals; Decisions of the Historic District Review Board

A notice of appeal specifying the grounds thereof; a signed statement listing any personal or business relationship with any general or subcontractors associated with the project under appeal; a signed statement that all real and personal property taxes are current as of the date of the filed appeal notice; a signed statement listing any personal or business relationship or partnership with the property owner(s) associated with the project under appeal. The Zoning Administrator shall transmit to the Town Council within five (5) days all the papers constituting the record upon which the action appealed from was taken. The Town Council shall fix a reasonable time for the hearing, give public notice thereof and decide the same within sixty (60) days. At the hearing the appealing party may appear in person or by agent. In exercising its powers, the Town Council may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify any order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the Historic District Review Board.

Section 8.33 Appeals; Decisions of the Zoning Administrator

An appeal from a decision of the Zoning Administrator may be taken to the Board of Zoning Appeals by the owner of the property in question or by any party aggrieved and must show that he has an immediate, pecuniary and substantial interest in the litigation, and not a remote or indirect interest, which shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator the following: a notice of appeal specifying the grounds thereof; a signed statement listing any personal or business relationship with any general or subcontractors associated with the project under appeal; a signed statement that all real and personal property taxes are current as of the date of the filed appeal notice; a signed statement listing any personal or business relationship or partnership with the property owner(s) associated with the project under appeal. The Zoning Administrator shall transmit to the Board of Zoning Appeals within five (5) days all the papers constituting the record upon which the action appealed from was taken. The Board of Zoning Appeals shall fix a reasonable time for the meeting, give public notice thereof as
required pursuant to §15.2-2204; Code of Virginia, and decide the same within sixty (60) days. At the meeting the party may appear in person or by agent. In exercising its powers, the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify, any order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made.

Section 8.34 Appeal to the Circuit Court from a Decision of the Town Council
[revised – 11/15/18]
An appeal from a final decision of the Town Council may be filed with the Circuit Court within thirty (30) days after said decision in the manner prescribed by law by the owner of the property in question, by any party aggrieved and must show that he has an immediate, pecuniary and substantial interest in the litigation, and not a remote or indirect interest, or by the Historic District Review Board. The filing of an appeal shall stay the decision of the Town Council pending the outcome of the appeal to the court, except that the filing of such petition shall not stay the decision of the Town Council if such decision denies the right to raze or demolish a designated landmark, building, or structure. The court may reverse or modify the decision of the Town Council, in whole or part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the Town Council.

Section 8.35 Violations and Penalties
Any violation of this Article and the penalties for all such violations shall be as set forth in §2.43 of the Zoning Ordinance.

Section 8.36 Definitions [revised – 08/16/18]
For the purpose of this article, certain terms and words pertaining to the Historic District are hereby defined. The general rules of construction contained in Article II of this Ordinance are applicable to these definitions.

ALTERATION is any change, modification, or addition to a part or all of the exterior of any building or structure.

BUILDING is any enclosed or open structure which is a combination of materials to form a construction for occupancy or use.

ADMINISTRATOR, THE ZONING ADMINISTRATOR, is that person appointed by the Town Council as the individual who issues the permit for the construction, alteration, reconstruction, repair, restoration, demolition, or razing of all or part of any building.

BUILDING PERMIT is an approval statement signed by the Building Permit Office authorizing the construction, alteration, reconstruction, repair, restoration, demolition, or razing of all or a part of any building.

CERTIFICATE OF APPROPRIATENESS is a certificate or other statement indicating approval by the Administrator or the Historic District Review Board as the case may require of plans for construction alteration, reconstruction, repair,
restoration, relocation, demolition, or razing of a building or structure or part thereof in a historic district.

**CONTRIBUTING PROPERTIES** are those properties constructed fifty (50) years or more ago.

**DESIGN GUIDELINES** are those set of guidelines, standards, and regulations adopted pursuant to §8.20 of this Code.

**HISTORIC DISTRICT** means an area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community of such significance as to warrant conservation and preservation.

**HISTORIC LANDMARK** is defined as any building or place listed on the National Register of Historic Places or on the Register of the Virginia Historic Landmarks Commission.

**RECONSTRUCTION** is any or all work needed to remake or rebuild all or part of any building to a sound condition, but not necessarily of original materials.

**REPAIRS** are any or all work involving the replacement of existing work with equivalent material for the purpose of maintenance, but not including any addition, change, or modification in construction.

**RESTORATION** is any or all work connected with the returning to or restoring of a building or a part of any building to its original condition through the use of original or nearly original materials.

This ordinance was duly considered following a required public hearing held on December 11, 2001, and adopted by the Town Council of Cape Charles at its regular session on the same day. All members voted in favor of its adoption: Chris Bannon, Charles Brown, Donald Clarke, James Davis, Dave Flora, and Frank Lewis.
Description:
The railroad property, located between the south side of Mason Avenue and the Town Harbor, a 40+ acre parcel that will likely be developed in the near future. With the railroad being decommissioned, the property will soon be available for development. On March 13, 2019, the Mayor, Planning Commission Chair, and Harbor Area Review Board Chair, met to discuss to next steps concerning the Cape Charles Harbor District. The Mayor requested a committee be formed, comprised of two Planning Commissioners, two Town Councilmembers, two Harbor Area Review Board members, and the Town Planner. The “Harbor Committee” was formed to assess the current zoning regulations for the Harbor District to ensure development within this area would be appropriate.

Specifics:
The Harbor Committee reviewed the Harbor District (Section 3.9), the Planned Unit Development District (Section 3.12), the Subdivision Ordinance (Appendix A), the Harbor District Overlay, and the Village District section of the Accawmacke Plantation Planned Unit Development. The following items were discussed and agreed upon by the Harbor Committee:

- **Definitions (Section 2.9):** Definitions needed to be added to provide clarity to all the documents that were reviewed by the Harbor Committee. These definitions are proposed to be added to Section 2.9.

- **Harbor District Overlay:** The Harbor District Overlay needed to be clearly defined on the zoning map. The Harbor Committee agreed upon the boundaries shown on page 7 of the Cape Charles Harbor Area Design Standards as the proposed official boundary of the Harbor District Overlay. Once adopted, this will be added to the Official Zoning Map for the Town of Cape Charles.

- **Harbor District (Section 3.9):** Changes to the Harbor District were identified as follows:
  - Section 3.9.B.1 - The Mainstreet Mixed-use Area was reduced from 300 feet from the south side of Mason Avenue to 120 feet.
Section 3.9.B.1.a-h – Requirements for buildings located in the Mainstreet Mixed-use area were expanded upon to require the following:

- Minimum of two stories with only residential above the first floor
- Residential portions shall have two entrances/exits to the ground floor that are separate from the commercial entrances/exits
- The primary entrance of the residential portions shall be visible from Mason Avenue and shall face Mason Avenue.
- Only non-motor vehicle related uses are allowed on the ground floor
- Drive-through facilities are prohibited
- The primary façade shall face Mason Avenue, and there should be two primary facades if located on a corner lot
- All blocks shall align and be equal in frontage length to the blocks on the north side of Mason Avenue
- Maximum height of 40 feet
- The front setback shall be the prevailing setback of adjacent properties along the south side of Mason Avenue instead of 8 feet
- Development design standards are subject to Historic District Review Board and Harbor Area Review Board

Section 3.9.F.3.b – Added that no building or structure shall be located within 30 feet of Marina Road, Bayshore Road, or Parcel 83A3-A-10 (town property just north of Town Harbor) to allow for the community trail to be built in this area

- Planned Unit Developments (Section 3.12): Changes to the Planned Unit Development District were identified as follows:
  
  Section 3.12.B – Requirements for permitted uses were changed as follows:
  - The R-E and GBI districts were removed from permitted zoning districts allowed in a PUD district
  - PUD districts shall provide a mix of two of the following use categories: residential units, commercial offices, retail, hotel, or civic uses. This requirement makes all PUD districts required to be mixed-use districts.

  Section 3.12.C – The required acreage for a PUD was reduced from 50 acres to 5 contiguous acres.

  Section 3.12.E – Impervious surface allowed was increased to 80 percent from 60 percent. This percentage includes building footprint, private roads, and parking lots, but does not include the required landscape, sidewalk clear, supplemental zones, and public roads.

  Section 3.12.F – All common areas are required to provide permanent easement arrangements to ensure public access to these areas.

  Section 3.12.H – The height maximum is per the underlying zoning district used in each PUD subdistrict.

  Section 3.12.I – Side and rear setbacks are per the underlying zoning district used in each PUD subdistrict. The front yard setback, other than R-1 subdistricts, shall be located directly adjacent to the supplemental zone.
o Section 3.12.J – An Overall Development Plan is required to be submitted for review for all PUDs.
  ▪ Section 3.12.J.2.a - No gated communities or gated roads. Roads should travel east-west and north-south to the greatest extent possible, and there shall be no cul-de-sacs or dead ends.
  ▪ Section 3.12.J.2.b – addition of a landscape zone, sidewalk clear zone, and supplemental zone

o Section 3.12.L – Overall Development Plan must include the following:
  ▪ Analysis of existing site conditions
  ▪ Master plan
  ▪ Landscape plan
  ▪ Architectural design
  ▪ Phasing plan
  ▪ Parking analysis
  ▪ Environmental impact plan
  ▪ Proof of ownership of parcel(s)
  ▪ Any other information deemed necessary by the Zoning Administrator

• Subdivision Ordinance (Appendix A): Blocks shall respect viewsheds (Section 5.6), block length reduced to 600 feet from 1200 feet, and the block lengths along the south side of Mason Avenue shall align with the blocks on the north side of Mason Avenue have all been added.

Staff Recommendation:
Staff recommends Planning Commission recommend APPROVAL of the proposed text amendments to Town Council as presented.

Attachments:
Attachment 1 – Proposed Definitions (Section 2.9)
Attachment 2 – Proposed Harbor Area Overlay District Boundary
Attachment 3 – Proposed Harbor District (Section 3.9) Text Amendments
Attachment 4 – Proposed Planned Unit Development (Section 3.12) Text Amendments
Attachment 5 – Proposed Subdivision Ordinance (Appendix A) Text Amendments
Definitions Ordinance Update

*Building footprint:* The land area on which a proposed building is located.

*Grading:* The act of excavation or filling or combination thereof or any leveling to a smooth horizontal or sloping surface on a property, but not including normal cultivation associated with an agricultural operation.

*CURRENT Frontage:* means the portion of the lot contiguous to the street.

*PROPOSED Frontage:* The width in linear feet of each lot where it abuts the right-of-way of any public or private street.

*CURRENT Hotel, motel, motor lodge, tourist court, or motor court:* means a facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms, entertainment and recreational facilities.

*PROPOSED Hotel:* A building in which lodging or boarding and lodging facilities are provided for transient guests, and offered to the public for compensation and in which ingress and egress to and from all rooms are through an inside lobby or office supervised by a person in charge at all hours.

*CURRENT Impervious surface:* means any ground material that prevents absorption of storm water into the ground.

*PROPOSED Impervious:* Any paved, hardened or structural surfaces which prevent or impede the infiltration of stormwater into the soil.

*Landscape plan:* A plan indicating the location, size, quantity and species of replacement trees and shrubbery.

*Landscape zone:* Area reserved for the growing and maintenance of landscape materials, including approved street trees and ground cover.

*PROPOSED Motel:* One or more buildings in which lodging or board and lodging are provided for transient guests for compensation. Ingress and egress to and from all rooms are made primarily directly from an exterior walkway rather than from an inside lobby.

*CURRENT Open space:* means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

*PROPOSED Open space:* A lot or portion of a lot set aside, designated or reserved for the outdoor enjoyment of the public or for all persons occupying a building on the lot, and is preserved as natural areas or is designed as a park or recreational area.

*CURRENT Overlay zone:* means a zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.
PROPOSED Overlay district: An area where certain additional requirements are superimposed upon a base zoning district or underlying district to a greater or lesser degree.

Pervious: Any surface or element through which water can infiltrate directly into the ground.

Pervious paving: Any paving surface that presents an opportunity for precipitation to infiltrate or percolate directly into the ground.

Phase or phased: Subparts or segments of construction projects where the subpart or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

Proffer: An offer of restrictions on use of property presented by an applicant for conditional rezoning or a special exception.

Public art: A fountain, sculpture, painting, mural, or similar object that is sited within a planned development as a focal point and is intended for the enjoyment of the general public.

Retail: The selling of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license.

Retaining wall: A structure constructed and erected between lands of different elevations to protect structures and/or to prevent erosion.

Transportation facility: Any structure or facility that is primarily used, as part of a transit system, for the purpose of loading, unloading, or transferring passengers or accommodating the movement of passengers from one mode of transportation to another.

Viewshed: The areas of land extending south from Washington Avenue to Bayshore Lane, that align in width and angle with the existing streets to the north (including Harbor Street and Peach Street), that shall be restricted to only ground-level development and their amenities, including but not limited to streets, pedestrian or multi-modal trails, or linear parks, so as to maintain the view from the north to the south and vise-versa.
Aerial Photo of Project Area - The Central Harbor District

LEGEND

- Mason Avenue Transition Zone
- Central Harbor Mixed-Use District
- Central Harbor Waterfront District

INFORMATION
Section 3.9 Harbor District (revised 01-08-09)

A. Statement of Intent. The intent of this zoning district is to encourage a vibrant working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles’ working maritime and rail heritage and its strong historic traditions. Any new development shall provide and encourage public access to the water’s edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs. This zoning district is also intended to implement the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines as an overall guide to the future development and redevelopment of the harbor area.

B. Mainstreet Mixed Use-use Area; Floor Area Ratio.

1. The area of the Harbor District along the south side of Mason Avenue, beginning at the western edge of Parcel 83A3-A-5, and projecting eastward to Nectarine Street, and southward a distance of 300-120 feet from the south side of Mason Avenue, is defined as the “Mainstreet Mixed Use Area.” All buildings in the Mainstreet Mixed-use Area shall meet the following requirements:
   a. Each building shall be a minimum of two stories and shall have only residential uses above the first floor.
      i. Residential portions of the building shall have at least two entrances/exit ways to the ground floor that are separate from the entrances/exit ways used by occupants of nonresidential portions of the building.
      ii. The primary entrance for the residential portion of the building shall be clearly visible from Mason Avenue and shall face Mason Avenue.
   b. Ground floor uses shall be limited to non-motor vehicle related uses, including restaurants, sales and rental of goods, merchandise or equipment establishments, banks and financial institutions, or offices.
   c. Drive-through facilities are prohibited.
   d. The primary façade shall face Mason Avenue. On a corner lot, each side adjacent to a street shall be considered a primary façade.
   e. All blocks shall align with and be equal in frontage length to the blocks on the north side of Mason Avenue so that existing viewsheds to the harbor are maintained.
   f. No building or structure shall exceed 40 feet in height.
   g. The front setback shall be the prevailing setback of adjacent properties along the south side of Mason Avenue.
h. Development design standards in this area shall be subject to both the Historic District Review Board and the Harbor Area Review Board.

a. Whenever the provisions of subsection 3.9.B.1 impose standards that are more restrictive than are required in or under any other statute, ordinance or resolution, these standards shall prevail, unless otherwise specified in this Zoning Ordinance.

2. The Mainstreet Mixed Use Area shall use the Floor Area Ratio (FAR) to measure the density of permitted and conditional development. For each lot, the FAR is calculated as the ratio of the gross floor area of all structures and improvements on the lot to the lot area in square feet. For purposes of this Article III, “floor area” shall also include parking areas other than uncovered ground level parking areas. The maximum FAR for the Mainstreet Mixed Use Area shall be 1.5 by right and up to 2.0 with a Conditional Use Permit.

C. The maximum FAR for the balance of the Harbor District shall be 1.75 by right and up to 2.0 with a Conditional Use Permit. Nothing in this paragraph shall modify or waive the open space requirement set forth in subsection F of this Article III.

D. Permitted Uses. The following uses are permitted by right:

1. Accessory uses customarily associated and clearly incidental and subordinate to a principal use.

2. Food service-related uses of the following types:
   a. Bakeries, confectionaries, delicatessens, and catering services
   b. Cafes and coffee shops
   c. Delicatessens
   d. Eating and drinking establishments
   e. Ice cream parlors
   f. Restaurants

3. Marine-related uses of the following types:
   a. Bait and tackle shops
   b. Boat rentals
   c. Marinas, docks and wharves if contiguous to harbor
     a. Sail and canvas making and repair
   d. Ship stores and chandleries

4. Office and institutional uses of the following types:
   a. Business studios
   b. Civic and government facilities
   c. Educational facilities
   d. Financial institutions
   b. Medical clinics
   c. Medical, dental and other laboratories
   d. Offices
   e. Office supply stores
   f. Real estate sales and rentals

5. Recreational, cultural, and entertainment uses of the following types:
   a. Art galleries and art studios
   b. Athletic clubs
c. Conference centers
d. Health and fitness facilities
e. Libraries and galleries
f. Museums and cultural centers
g. Outdoor recreational uses
h. Parks
6. Retail goods establishments of the following types with 2,500 square feet or less of gross floor area:
   a. Antique shops
   b. Bookstores, new and used
   c. Camera shops
d. Candy stores
e. Clothing stores
f. Dry goods stores
g. Florists, gift shops, card shops, and stationery shops
h. Grocery stores
i. Music stores
j. Newsstands
k. Tobacco stores
l. Upholstering shops and fabric stores
m. Video stores
n. Watch and jewelry stores
7. Retail service establishments of the following types with 2,500 square feet or less of gross floor area:
   a. Beauty and barbershops
   b. Bicycle, moped, and street legal golf cart sales and rentals
c. Blueprinting shops
d. Dressmaking, tailoring, millinery, dry cleaning
8. Public Utility Facility

E. Conditional Uses. The following uses may also be permitted, subject to securing a conditional use permit as provided for in this ordinance:

1. Marine--related uses of the following types:
   a. Boat and marine engine repair shops
   b. Boatels
c. Marine and sports equipment consignment stores
2. Markets of the following types:
   a. Crafts markets
   b. Farmers’ markets
c. Watermen’s markets
3. Recreational, cultural, and entertainment uses of the following types:
   a. Assembly halls
   b. Auditoriums
c. Commercial recreational uses
d. Entertainment establishments
e. Theaters
4. Retail goods establishments of the following types with more than 2,500 square feet of gross floor area:
Town of Cape Charles Zoning Ordinance
Article III – District Regulations

a. Antique shops
b. Bookstores, new and used
c. Camera shops
d. Candy stores
e. Clothing stores
f. Dry goods stores
g. Florists, gift shops, card shops, and stationery shops
h. Grocery stores
i. Music stores
j. Newsstands
k. Tobacco stores
l. Upholstering shops and fabric stores
m. Video stores
n. Watch and jewelry stores

5. Retail service establishments of the following types with more than 2,500 square feet of gross floor area:
   a. Beauty and barbershops
   b. Bicycle moped, and golf cart sales and rentals
   c. Blueprinting shops
   d. Dressmaking, tailoring, millinery, dry cleaning

6. Single-family and multi-family dwellings provided the following requirements are met:
   a. All dwelling units shall have direct access to the street level. Means of access may be shared with other dwelling units, but not commercial uses. Access through a commercial establishment on the first level is not permitted.
   b. Dwelling units shall occupy no more than 50 percent of the first floor of any building.
   c. The first floor of all building facades adjacent to a public street shall have a commercial appearance and shall not have a residential appearance.

7. Other miscellaneous uses of the following types:
   a. Bed and breakfasts and tourist homes, provided the following requirements are met:
      (1.) The owner and family must occupy the residence. The owner and his/her appointed agent is responsible for supervising guests.
      (2.) The single-family dwelling appearance must be maintained.
      (3.) Parking should be considered on a case-by-case basis as part of the conditional use application, ensuring adherence to Section 4.8.E.2 (Table of Parking Standards) using both on and off-street parking areas.
      (4.) A sign no larger than four square feet shall be permitted.
      (5.) The number of room accommodations shall be subject to recommendation by the Planning Commission and approved by the Town Council.
      (6.) The dwelling must meet all of the requirements of Section 3.9.D.6.
   b. Child care and child care education centers
   c. Hotels and motels
   d. Laundromats
e. Liquor and package stores
f. Off-site parking
8. Any other use which is compatible in nature with the foregoing permitted and conditional uses and which the Zoning Administrator determines to be compatible with the intent of the District and is concurred with by the Planning Commission.

F. Lot and Height Requirements. Within the Harbor District, the following standards shall apply:

1. Minimum lot requirements
   - lot area .................. 11,200 square feet
   - lot frontage .............. 80 feet
   - lot depth .................. 140 feet
   - block length.............. all blocks in the Mainstreet Mixed Use Area shall align with and be equal in frontage length to the blocks on the north side of Mason Avenue so that existing viewsheds to the harbor shall be maintained.

2. Height.
   a. Measurement criteria. For the purpose of the Harbor District, height means the vertical distance measured from the crown of the nearest street to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs. When the crown of the nearest street has an elevation greater than three feet above the adjacent ground elevation of the building, the adjacent ground elevation shall be used in place of the crown of the nearest street when measuring height. Note: Mechanical equipment, chimneys, air conditioning units, elevator penthouses, church spires and steeples, water towers, and similar appurtenances are exempted from height restrictions. However, these exclusive items may not exceed the height limit by more than fifteen feet.
   b. Maximum permitted height. No building or structure shall exceed 40 feet in height in the Mainstreet Mixed Use Area. No building shall have the same continuous elevation for a distance of more than 80 linear feet. Building heights greater than 40 feet and equal to or less than 55 feet may also be permitted in other parts of the Harbor District, subject to securing a conditional use permit as provided for in this ordinance. When reviewing a conditional use permit application for the height of a building in the Harbor District, the following criteria shall be met:
      (1.) On each block, the average height of all buildings greater than 40 feet and equal to or less than 55 feet in height shall not exceed 45 feet. For the purpose of this section, a block is defined as the property fronting on one side of a right-of-way or waterway, and lying between two intersecting rights-of-way or otherwise limited by a waterway or other physical barrier of such nature as to interrupt the continuity of development.
(2.) The application shall adhere to policies established in the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines, the Comprehensive Plan, and other officially adopted plans of the Town.

   a. Mason Avenue setback requirement. No building or structure shall be located within 8 feet of the Mason Avenue VDOT right-of-way.
   b. Waterfront setback requirement. No building or structure shall be located within 30 feet of the Cape Charles Harbor or within 30 feet of a Resource Protection Area not part of an Intensely Developed Area (IDA), or within 30 feet of Marina Road, Bayshore Road, or parcel 83A3-A-10. This requirement shall not preclude any other applicable regulations, including but not limited to those associated Chesapeake Bay Preservation Areas. The following shall be exempt from the waterfront setback requirement when permitted by all other applicable regulations:
      (1.) Water-dependent facilities as defined by Zoning Ordinance Section 7.3.
      (2.) Walkways, promenades, decks, gazebos, permitted signs, and similar structures intended to accommodate or provide amenities for pedestrians.

G. Required open space. Open space shall be provided equivalent to 25 percent of lot area. For the purpose of this section, the term open space shall be construed to consist of open space amenities and spacing between buildings. Open space amenities include plazas, esplanades, landscaped areas, walkways, public recreational facilities, and the like designed and maintained for use by pedestrians and open to the public. Such open space amenities shall not be open to vehicular uses except for public safety purposes, and shall be directly accessible from street level. Where feasible, open space shall be designed to serve as part of a coordinated pedestrian circulation system.

H. Utilities. All utilities shall be installed underground.

I. Harbor Development Certificate required. No zoning clearance shall be issued for location, construction, or enlargement of any building or structure within the Harbor District until a Harbor Development Certificate has been issued. Submission of a Harbor Development Certificate Application and approval by the Town Council shall be required to obtain a Harbor Development Certificate.

   a. General Application. The General Application shall include the following items:
      (1.) An application on forms provided by the Zoning Administrator.
      (2.) A fee established by the Town Council.
      (3.) A letter of application stating in general terms the proposed use of the property, the effect of the changes on the surrounding area, and the reason for the request.
(4.) A plot plan in accordance with the Site Plan Ordinance.

b. Detailed Application. The contents of the Detailed Application may be delineated on the plot plan required for the General Application, or provided in separate maps, elevations, or written document as appropriate. The Detailed Application shall indicate the following:

(1.) Location, amount, character and continuity of open space.

(2.) A delineation of those general areas that have scenic assets or natural features deserving protection and preservation, including elevations demonstrating protection of views from existing streets, and a statement of how such will be accomplished.

(3.) Convenience of access through and between buildings or in other locations where appropriate for public purposes and where such access will reduce pedestrian congestion on public streets.

(4.) Separation of pedestrian and vehicular traffic.

(5.) Landscape plans delineating dimensions and distances and the location, type, size, and description of all existing and proposed plant materials.

(6.) Location and dimensions of on-site signage.

(7.) Conceptual renderings of building exteriors.

(8.) Such other matters as are appropriate to determinations in the specific case. Other information may be requested by the Zoning Administrator, the Harbor Area Review Board, or Town Council.

2. Review procedure.

a. Pre-application meeting. Prior to application submission, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a pre-application meeting. The purpose of the meeting shall be to discuss the general goals of the project and application procedures.

b. General Application. Following the pre-application meeting, the applicant shall submit a General Application. The contents of the General Application are detailed in Section 3.9.I.1.a.

c. Post-application meeting. Within 30 days of receipt of the complete General Application, the Zoning Administrator and the Harbor Area Review Board shall meet in a post-application meeting. The purpose of the meeting shall be to discuss the content of the General Application and to formulate recommendations for the applicant.

d. First review meeting. Within 30 days of the post application meeting, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a first review meeting. The purpose of the meeting shall be to provide the applicant with the Harbor Area Review Board’s recommendations and to provide notice to proceed with the Detailed Application.

e. Town Council summary. Following the first review meeting, the Harbor Area Review Board will present the Town Council with the General Application and a general description of discussion held at the first review meeting. The Town Council summary will be provided at a Town Council regular session or a Town Council work session for informational purposes.
f. Detailed Application. Following the first review meeting, the applicant shall submit a Detailed Application. The contents of the Detailed Application are provided in Section 3.9.H.1.b.

g. Zoning Administrator action. Following the Zoning Administrator's receipt of the Detailed Application and his determination that it is complete pursuant to Section 3.9.H.1.b, the Zoning Administrator shall prepare a thorough review and analysis of the Harbor Development Certificate Application and a written staff report. The Zoning Administrator's written report shall be forwarded to the Harbor Area Review Board within 45 days of receipt of the Detailed Application.

h. Second review meeting. After receipt of the Detailed Application, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a second review meeting. The purpose of the meeting shall be to review the Harbor Development Certificate Application, consisting of the General Application and the Detailed Application, and provide the applicant with any necessary recommendations. Follow up meetings may be scheduled to further review the application or to review modifications to the application.

i. Harbor Area Review Board action. After the second review meeting, the Harbor Area Review Board shall forward its recommendation to approve, deny, or approve subject to modification, to the Town Council along with written findings of fact supporting its recommendation.

j. Town Council action. After receipt of the Harbor Area Review Board’s recommendations and findings, the Town Council shall decide to approve, deny, or approve subject to modification.

k. Concurrent review permitted. Other development applications, including application for any necessary Certificate of Appropriateness, may be submitted concurrently with an application for a Harbor Development Certificate.

3. Criteria for review. In reviewing the Harbor Development Certificate Application, the Zoning Administrator, the Harbor Area Review Board, and the Town Council shall consider the following criteria:

   a. Use characteristics of the proposed development.
   b. Preservation of historic structures; preservation of significant features of existing buildings when such buildings are to be renovated; relation to nearby historic structures or districts including a need for height limits.
   c. Location and adequacy of off-street parking and loading provisions, including the desirability of bicycle parking.
   d. Vehicular circulation within the development and its relation to other existing and proposed transportation facilities.
   e. Inclusion of alleys to enhance vehicular transportation within the development.
   f. Provision of concealed commercial loading and unloading areas adjacent to alleys to prevent loading, unloading, and trash collection along public rights of way.
   g. Traffic generation characteristics of the proposed development in relation to street capacity.
h. Provision of open space to meet the requirements of the district; the location, design, landscaping and other significant characteristics of this public open space, and its relation to existing and planned public and private open space.

i. Multi-modal transportation facilities within the proposed development and their relation to public open space and pedestrian circulation patterns.

j. Architectural relationships, both formal and functional, of the proposed development to surrounding buildings, including building siting, massing, proportion, and scale.

k. Use of architectural details, storefront design, window openings, roof shapes, porches, and columns to balance the proportions of facades into pleasant and cohesive compositions.

l. Microclimate effects of proposed development, including effects on wind velocities, sun reflectance, and sun access to streets and/or existing buildings and/or public open space.

m. Protection of significant views and view corridors, particularly views of the Cape Charles Harbor from existing road intersections.

n. Relationship of on-site lighting and landscaping to other surrounding lighting and landscaping designs both public and private.

o. Relationship of on-site signage to architectural elements of the proposed development and relationships to nearby development.

p. Adherence to policies included in the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines, the Comprehensive Plan, and other officially adopted plans of the Town.

q. Adherence to the intent and requirements of the Harbor District.

4. Other requirements. Issuance of a Harbor Development Certificate shall not exempt a property owner from obtaining other necessary zoning clearances and building permits as required.

J. Exemption.

Railroad activities in this district are subject to federal preemption to the extent that the activities are an integral part of the railroad’s interstate operations. 49 U.S.C. 10501 (b). Therefore, “state and local permitting or pre-clearance requirements [such as building permits, zoning clearances, and site plan requirements] which, by their nature, interfere with interstate commerce by giving the [Town of Cape Charles] the ability to delay or deny the [railroad’s] right to construct facilities or conduct operations are preempted.” Borough of Riverdale v. New York Susquehanna & Western Railway Corporation, Surface Transportation Board, Docket No. FD 33466 0, September 9, 1999.

However, environmental and other public health and safety issues and “activities and facilities not integrally related to the provision of rail service are not subject to [Surface Transportation Board] jurisdiction or subject to federal preemption.” Id. Also, “interstate railroads ... are not exempt from certain local fire, health, safety and construction regulations and inspections.” Id.

K. Modifications may be allowed that do not change the wall to window area ratio, and do not add to or reduce the number and type of porches/balconies.
Modification is solely at the discretion of the zoning administrator, the building official, and the town manager upon approval of a Harbor Development Certificate.

L. Modifications may be allowed to balconies and building architectural projections, and there is no change to street/sidewalk access or percentage of open space upon approval of a Harbor Development Certificate. Modification is solely at the discretion of the zoning administrator, the building official, and the town manager.

M. Modification may be allowed if the required percentage of open space, required landscape, buffering, and Dark Sky compliance are met upon approval of a Harbor development Certificate. Modification is solely at the discretion of the zoning administrator, the building official, and the town manager.
Section 3.12 Planned Unit Developments (PUD)

A. **Statement of Intent.** The intent of this district is to promote creative and imaginative development designs for residential and commercial uses by allowing greater flexibility than is possible under the restrictions of conventional zoning regulations. It is further intended to promote more efficient use of the land while encouraging variety and convenience for the overall development and the development of recreational areas and open spaces within the project. As in all zoning districts, the intent of the district is to ensure approved development will comply with the Zoning Ordinance, Town Code, and any adopted master plans, Subdivision Ordinance, the Site Plan Ordinance, the Chesapeake Bay Preservation Ordinance, the Coastal Primary Sand Dune Zoning Ordinance, the Erosion and Sediment Control Ordinance, the Wetlands Ordinance, and all other applicable regulations. Whenever the provisions of this section impose standards that are more restrictive than are required in or under any other statute, ordinance or resolution, these standards shall prevail, unless otherwise specified in this Zoning Ordinance.

B. **Permitted Uses.** The following uses may be permitted within a PUD districts:

1. Residential
   a. Any use permitted in the R-1, R-2, and R-3 districts, and R-E Districts.

2. Commercial
   a. Any use permitted in the CR, C-1, C-2, C-3, M-1, and Harbor districts, and GBI Districts.
   b. Commercial recreation uses
   c. Outdoor recreational uses
   d. Schools, parks, playgrounds, athletic fields, and related facilities
   e. Transportation facilities

3. Accessory uses
   a. Accessory uses as permitted in the R-1, R-2, and R-3 districts, and R-E residential districts

4. Conditional uses
   a. Any use listed as a conditional use in the R-1, R-2, R-3, and R-E residential districts or in the CR, C-1, C-2, C-3, M-1, and Harbor districts, and GBI commercial districts shall may be a conditional use in the PUD districts and must shall follow the procedures of this ordinance on issuance of Conditional Use Permits.

5. PUD districts shall provide a mix of a minimum of two of the following use categories:
   a. Residential units;
   b. Commercial offices;
   c. Retail;
   d. Hotel; or
   e. Civic uses.

C. **Area Regulations.** The minimum contiguous area for a planned unit development PUD districts shall be 50-5 acres.

D. **Density of Development.** The sub-areas of the PUD districts may contain the density requirements of one or more of the R-1, R-2, and R-3 for residential districts, and R-E residential districts or in the CR, C-1, C-2, C-3, M-1, and Harbor, and GBI commercial
for the commercial districts. This is to accommodate flexibility and imaginative development designs. The density shall be consistent with conditions that are applicable to the property, such as topography, the character of the surrounding property, potential health or safety hazards, traffic safety considerations, and the effects upon existing public facilities that could be alleviated by a reduction in density.

E. Coverage. The maximum impervious surface coverage in a PUD districts by impervious surface shall not exceed 60-80 percent of the total gross area of development. Impervious surface which includes as impervious surface buildings, impervious private roads, and impervious parking lots. Not included as impervious surface for the PUD calculations is any recreational facility such as tennis courts, bathhouses, and swimming pools, required landscape, sidewalk clear, and supplemental zones, and public roads, pervious roads, and pervious parking lots. No more than 33 percent of wetlands present in a PUD districts may be used when calculating total gross area of development.

F. Common Areas. All common areas, including open spaces, parking areas, street, and landscape areas shall be maintained by the owner/developer of the project until transfer to a corporation of property owners, organizing and operating in accordance with the incorporation law of Virginia. All common areas shall provide a permanent easement arrangement to ensure public access to said areas.

G. Utilities. All utilities shall be installed underground. Central instrumentation and substations shall be screened from all rights-of-way with approved fencing and/or landscaping.

H. Height. The maximum height of any building in a PUD districts shall be 35 feet per the underlying zoning district requirement.

I. Yard Requirements. Side, front, and rear yard setbacks requirements will be established by reference to the applicable setback regulations of the R-1, R-2, R-3, and R-E residential districts or in the C-1, C-2, C-3, M-1, Harbor, and GBI commercial districts shall be per the underlying zoning district requirement. Front yard setbacks other than in the R-1 underlying zoning district shall be located directly adjacent to the supplemental zone, as described in subsection 3.12.B.2.iii. The applicant may propose modifications to the setback regulations in accordance with the procedures of Section 3.12 L. below.

J. Design guidelines. 1. External relationships. PUD districts shall provide protection for areas within PUD districts and of the development for existing surrounding areas from potentially adverse surrounding influences, and protection of surrounding areas from potentially adverse influences within the development. In particular, the Master Plan Overall Development Plan for the PUD districts shall demonstrate the following features:
   a. Access. Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Left-hand storage and right-hand turn lanes and/or traffic dividers shall be required where existing or anticipated heavy flows indicate need. In general, minor streets shall not be connected with
streets outside the district in such a way as to encourage the use of such minor streets by substantial amounts of through traffic. **Existing public streets on adjacent properties shall be utilized as access into PUD districts.**

b. (2) **Screening.** Yards, fences, walls, or vegetative screening at the edges of the PUD districts shall be provided where needed when necessary to protect residents from undesirable view, lighting, noise, or other off-site influences, or to protect residents of adjoining residential districts from similar adverse influences within the PUD districts. In particular, extensive off-street areas for parking areas, and service areas for loading and unloading non-passenger vehicles, and areas of storage and collection of refuse and garbage shall be screened with approved fencing and/or landscaping.

2. **Design Guidelines—Internal relationships:** The PUD districts shall provide for safe, efficient, convenient, and harmonious grouping of structures, uses, and facilities. Elements of the proposed development shall be organized in relation to topography, the size and shape of the plot, the character of adjoining property, existing desirable trees, and the views within and beyond the site. **In particular, the Overall Development Plan for PUD districts shall demonstrate the following features:**

   a. (1) **Private Multi-modal circulation and street cross-sections.** Private streets may be permitted by conditional use permit in the PUD district. However, unless specifically approved by the Town Council as a conditional use permit, the arrangement, character, extent, width, grade, and location of all streets shall be designed and constructed in accordance with specifications acceptable to the Virginia Department of Transportation for inclusion in the state highway system for maintenance. When private streets are proposed as a conditional use permit, the standards, specifications and a proposed maintenance agreement shall be submitted with the conditional use permit application and shall also be included on the concept plan for the proposed PUD rezoning request. **There shall be no gated communities or gated roads allowed in PUD districts. Streets shall travel east-west and north-south to the greatest extent possible, and there shall be no cul-de-sacs or dead ends.**

   b. **Streetscape design.** Properties with required landscape, sidewalk clear, or supplemental zones that are located on private property shall provide a permanent easement arrangement to ensure public access to said zones. The following standards apply to all streets within PUD districts:

   i. **Landscape zone.** All required street trees, streetlights, and pedestrian lights shall be provided in the landscape zone, which shall be 5’ minimum. Said zone shall be located immediately adjacent to the curb and shall be continuous. All street tree and other plantings in the landscape zone shall follow the VDOT standards for street trees and plantings. Trees shall be located 40’ on center, with pedestrian lights located between every other street tree (80’ on center). Street lights shall be located as required by the Zoning Administrator. Landscaping shall be kept to no more than 36” tall for ground cover and limbed up to no lower than 6’ above ground to provide clear, uninterrupted sight lines.

   ii. **Sidewalk clear zone.** The sidewalk clear zone shall be located immediately contiguous to the landscape zone and shall be
continuous. Sidewalks meeting VDOT standards shall be installed in the sidewalk clear zone, which shall be a minimum of 5’. Sidewalk clear zones located adjacent to Marina Road and Bayshore Road shall be a minimum of 10’. Sidewalks shall be unobstructed for a minimum height of 8’. Where newly constructed sidewalks abut narrower existing adjacent sidewalks, the newly constructed sidewalk shall provide an adequate transitional clear zone width for the purposes of providing a safe facilitation of pedestrian flow between the adjacent sidewalks, as approved by the Zoning Administrator. All existing sidewalks shall be replaced in accordance with these provisions within a PUD district. Sidewalks shall be broom-finished concrete with 4’ trowel edge along edge joints.

iii. Supplemental zone. All lots within an underlying zoning district sub-area of R-1 shall be exempt from the supplemental zone requirements. Non-residential, multifamily, and mixed-use developments shall be hardscaped. However, a maximum of 20 percent may be occupied by landscaping, planters, or other areas not accessible by pedestrians. This zone shall be used for the following pedestrian amenities: benches, trash receptacles, pet stations, bicycle parking racks, outdoor dining, display of public art, other street furniture, or other similar elements. The supplemental zone shall be located on private property.

1. Facades shall be located immediately adjacent to the supplemental zone(s).
2. At a minimum, at least one bench, one trash receptacle shall be provided on each street frontage, unless a bench or receptacle is already provided within 500’ on the same street frontage.
3. At least one additional pedestrian amenity shall be provided on each street frontage.
4. Adjacent ground floor uses must be visible, accessible, and oriented toward the supplemental zone.
5. The supplemental zone shall be no more than 24 inches higher than the adjacent sidewalk, unless existing topographical conditions render this requirement unreasonable, per approval by the Zoning Administrator.
6. Any authorized walls surrounding landscaped and grassed areas shall not exceed 24 inches, except retaining walls which shall not exceed a maximum of 36 inches, unless existing topographical conditions render this requirement unreasonable, as approved by the Zoning Administrator.
7. Pedestrian amenities shall be connected to the public sidewalk with a public access easement.

1-8. Storage, utility rooms, private restrooms, or other accessory service uses shall not be located adjacent to the supplemental zone.
K. Modifications to Standards. The PUD districts may provide flexibility through modifications to the foregoing standards of Section 3.12, PUD district list of permitted uses, area regulations, density of development, coverage, common areas, height, yard requirements, and stated design guidelines of the PUD district. All such modifications shall be expressly shown on the Master Plan in the Overall Development Plan and approved by the Town Council after lawfully advertised public hearings with the Planning Commission and Town Council, and shall be in keeping with the purpose of the PUD districts, the intent of the Zoning Ordinance, the Comprehensive Plan, and the design guidelines of the PUD district and any adopted master plans.

L. Procedures for Applications. The creation of a PUD district has the same effect as rezoning of the property. Therefore, the same process of public hearings will be used and the zoning map amended in order to register the change. The Planning Commission and Town Council shall consider application for PUD districts in accordance with the Town’s and the Code of Virginia’s rezoning procedures, which includes advertised public hearings. In approving the application based on the Overall Development Plan, the Council may establish such conditions and require such modifications as deemed necessary to ensure fulfillment of the intent of PUD districts, the purposes of the Zoning Ordinance, the goals of the adopted Comprehensive Plan, and compliance with applicable subdivision and site plan ordinances and the Code of Virginia. For PUD districts proposed for property located in a Chesapeake Bay Preservation Area, the development plan shall have been approved pursuant to the procedures of Town of Cape Charles Chesapeake Bay Preservation Ordinance prior to submission for approval to the Planning Commission and Town Council.

1. Overall Development Plan (ODP). The application will be made in accordance with administrative procedures implemented by the Town’s Zoning Administrator and the following additional requirements: Development of PUD districts is governed by an Overall Development Plan that designates the standards of zoning and development for PUD districts. The ODP shall be submitted as part of a PUD application, shall be prepared by a licensed professional team, and a list of members of the team with their qualifications shall be submitted with the ODP.

1.2. At a minimum, the ODP must include:

a. Analysis of existing site conditions. An analysis of existing site conditions including a boundary survey and topographic map of the site at a minimum 1 inch = 40 feet scale shall include the total area of the tract presented in square feet or acreage, and information on all existing manmade and natural features, utilities, all streams and easements, and features to be retained, moved, or altered. The existing shape and dimensions of the existing lot to be built upon including the size, measurement, and location of any existing buildings or structures on the lot shall be included.

b. Master plan. A master plan at a minimum of 1 inch = 40 feet scale outlining all proposed regulations and calculations which shall include, but not be limited to, the following:

   a. Information on proposed improvements, including proposed building footprints, door locations, densities, parking ratios, open space, height, sidewalks, yards, under and over-head utilities, internal circulation and parking, grading, lighting, the general location of all proposed community and public facilities and the generalized proposed plan for water, sanitary
waste facilities and drainage improvements, drainage, amenities, and similar details including their respective measurements; The applicant will submit a Master Plan of development for review that includes all the information required for a rezoning and the additional information stipulated in paragraph 3.12 L. 2. below. The Master Plan shall be prepared by a qualified professional team. A listing of the members of the team with their qualifications must be submitted with the plan. For any PUD district proposed for property located in a Chesapeake Bay Preservation Area, the development plan must have been approved pursuant to the procedures of Town of Cape Charles Chesapeake Bay Preservation Ordinance prior to submission for approval to the Planning Commission and Town Council.

b. The type and location of all intended uses, together with their sub-area zoning district designations, and including all proposed modifications to the permitted uses, area regulations, density of development, coverage, common area, utilities, height, yard requirement, and design guidelines listed in this section of the ordinance, together with the rationale for such modifications;

c. Expected gross land area of all intended uses, including open space;

d. A statement of the anticipated residential density, residential unit sizes for all buildings, and the total number of dwelling units;

e. The total floor area of all commercial uses;

f. The names and route numbers of all boundary roads or streets and the width of existing rights-of-way;


g. The owners, zoning districts, and uses of each adjoining tract;

c. Landscape plan. A site plan at a minimum of 1 inch = 40 feet scale showing proposed regulations and calculations which shall include, but not be limited to, information on landscaping, tree species, and the number of all plantings and open space including the landscaping that is being preserved, removed, and that which is replacing the landscaping that is removed;

d. Architectural design. Preliminary architectural plans and all elevations with sufficient detail to demonstrate proposed design criteria that shall include, but not be limited to, scaled floor plans and elevation drawings of proposed buildings and structures and information on building materials, features, exterior finish legend, windows, doors, colors, and items affecting exterior appearance, including their respective measurements.

e. Phasing plan. Should a PUD be expected to require five years or longer to complete, a phasing plan shall be provided by the applicant that indicates the timeframe for construction and development of different aspects of the PUD;

f. Parking analysis. A parking analysis must be prepared by a qualified third-party professional engineer;


g. Environmental impact plan. A comprehensive plan that describes the natural features and characteristics of a proposed development site, the changes that will occur as a result of the proposed development activities on the site, the anticipated environmental impacts and consequences of the proposed development, and the mitigation measures to be taken to minimize undesirable impacts to the environment.

h. An attorney’s certificate showing the owner or owners of the subject property, marketable title to the subject property in such owner or owners, naming
the source of applicant’s title or interest in the subject property, and the place of record of the latest instrument in the chain of title for each parcel constituting the tract; and

a.i. Any other information deemed necessary by the Zoning Administrator.

2. Contents of a Master Plan. In addition to the requirements for a rezoning application, the Master Plan shall contain all the following:

(1) Vicinity map at a scale of not less than one inch equals 2,000 feet.
(2) Boundary survey including area of the tract related to true meridian or United States Geological Survey grid north.
(3) Attorney’s certificate showing the owner or owners of the subject property, marketable title to the subject property in such owner or owners, naming the source of applicant’s title or interest in the subject property, and the place of record of the latest instrument in the chain of title for each parcel constituting the tract.
(4) Total area of the tract presented in square feet or acreage.
(5) Scale and north arrow.
(6) Location of all existing buildings and structures.
(7) Names and route numbers of all boundary roads or streets and the width of existing right(s) of way.
(8) Owners and uses of each adjoining tract.
(9) Existing topography with a maximum contour interval of two (2) feet.
(10) A statement in tabular form of the anticipated residential density and the total number of dwelling units, the percentage of the tract which is to be occupied by structures, and the total floor area of all commercial uses.
(11) A schematic land use plan at an appropriate scale showing the areas of residential and commercial use and densities, together with their sub-area zoning district designations; proposed traffic circulation plan, including major streets and major pedestrian, bike and golf cart paths; all proposed major open space areas; limits of clearing; the general location of all proposed community and public facilities and the generalized proposed plan for water, sanitary waste facilities and drainage improvements.
(12) A delineation of those general areas that have scenic assets or natural features deserving protection and preservation, and a statement of how such will be accomplished.
(13) When the development is to be constructed in stages or units, a sequence of the development schedule showing the order of construction of each principal functional element of such stages or units, the approximate completion date for each stage or unit.
(14) A traffic impact study shall be prepared by a qualified professional third party approved by the Town showing the effects of traffic generated by the project on surrounding roads, unless the proposed traffic increase is declared insignificant by the Planning Commission.
(15) Location and description of screening and buffering around commercial use areas and along the perimeter of the district.
(16) All proposed modifications to the permitted uses, area regulations, density of development, coverage, common area, utilities, height, yard requirement and stated design guidelines listed in Section 3.12, Planned Unit Development, together with the rationale for such modifications.
(17) Supplementary data for the particular development, as reasonably deemed necessary by the Planning Commission or the Zoning Administrator.

3. Proffers. If the applicant proffers reasonable conditions in connection with the application, a set of signed proffers must be submitted prior to the public hearing with the Town Council in accordance with Section 2.7.5 of this ordinance.

4. The Planning Commission and Town Council shall consider the application for PUD rezoning in accordance with the Town’s procedures and the Code of Virginia. This will include advertised public hearings. In approving the application based on the Master Plan, the Council may establish such conditions and require such modifications as deemed necessary to ensure fulfillment of the intent of the PUD district, the purposes of the Zoning Ordinance, the goals of the adopted Comprehensive Plan, and compliance with applicable subdivision and site plan ordinances and the Code of Virginia.

M. Effect of approval of the PUD districts.

1. All terms, conditions, safeguards and stipulations included in the Town Council’s approval of the PUD districts, including without limitation those contained in the Master Plan—Overall Development Plan to the extent approved and adopted by the Town Council, shall be part of the zoning applicable to the property, shall be included in the ordinance approving the rezoning to PUD district, and shall be binding upon the applicant and all successors in interest. Unapproved modifications from the plans Overall Development Plan or failure to comply with any requirements, conditions, or safeguards shall constitute a violation of the Zoning Ordinance.

2. After approval of the PUD districts, the owner may submit subdivision plats and site plans for approval consistent with the rezoning Overall Development Plan. No building permits will be issued until site plan approval and final subdivision plats have been approved and recorded in the County land records according to applicable law.

3. The project may be built in stages with individual site plans for each stage. However, site plans must be in conformance with the approved zoning.
Town of Cape Charles

APPENDIX A

Subdivision Ordinance

An ordinance to regulate the subdivision of property into lots, streets, alleys, and other public areas, to provide for the making and recording of plats of such subdivision and the certification of same and provide for the approval of plats.

Whereas, (pursuant to) Article 7 of the Virginia Planning Act as found in the Code of Virginia, 15.1-465 et seq., the governing body of the Town of Cape Charles, Virginia, is authorized to adopt regulations to provide:

1. For size, scale, and other plat details;
2. For the coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area as to location, widths, grades, and drainage;
3. For adequate provisions for drainage and flood control and other public purposes and for light and air;
4. For the extent to which and the manner in which streets shall be graded, graveled, or otherwise improved and water and storm and sanitary sewer and other public utilities or other community facilities are to be installed;
5. For the acceptance of dedication for public use of any right-of-way located within any subdivision which has constructed therein, or proposed to be constructed therein, any street, curb, gutter, sidewalk, drainage or sewerage system, or other improvement, financed or to be financed in whole or in part by private funds only if the owner or developer (a) certifies to the governing body that the construction costs have been paid to the persons constructing such facilities or (b) furnishes to the governing body a certified check in the amount of the estimated costs of construction or a bond, with surety satisfactory to the governing body, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned;
6. For monuments of specific types to be installed establishing street and property lines;
7. That unless a plat be filed for recordation within six months after final approval thereof or such longer period as may be approved by the governing body such approval shall be withdrawn and the plat marked void and returned to the approving official;
8. For the administration and enforcement of such ordinance, not inconsistent with provisions contained in this act, and specifically for the imposition of reasonable fees and charges for the review of plats and plans, and for the inspection of facilities required by this ordinance; and
9. For payment by a sub-divider or developer of land of his pro rata share of the cost of providing reasonable and necessary sewerage and drainage facilities, located outside the property limits of the land owned or
controlled by him but necessitated or required, at least in part, by the
construction or improvement of his subdivision or development provided,
however, that no such payment shall be required until such time as the
governing body or a designated department or agency thereof shall have
established a general sewer and drainage improvement program.

Therefore, be it ordained by the Town Council of Cape Charles, Virginia, that the
following regulations are hereby adopted for the subdivision of land within the
jurisdiction of the Town of Cape Charles from and after the effective date of this
ordinance. Every owner or proprietor of any tract of land to which these regulations
apply who subdivides such tract as provided in these regulations shall cause a plat of
such subdivision developed and prepared in accordance with these regulations, with
reference to known or permanent monuments, to be made and recorded in the office of
the clerk of the court wherein deeds conveying such land are required by law to be
recorded.

Section 1 Purpose, Title, and Interpretation

A. Purpose. The purpose of this ordinance is to establish subdivision standards and
   procedures for the Town of Cape Charles, Virginia, as provided for by the 1950
   Code of Virginia, as amended. These are part of a long-range plan to guide and
   facilitate the orderly beneficial growth of the community and to promote the
   public health, safety, convenience, comfort, prosperity, and general welfare.
   More specifically, the purposes of these standards and procedures are to provide
   a guide for the change that occurs when lands and acreage become urban in
   character as a result of development for residential, business, or industrial
   purposes; to provide assurance that the purchasers of lots are buying a
   commodity that is suitable for development and use; and to make possible the
   provision of public services in a safe, adequate, and efficient manner.
   Subdivided land sooner or later becomes a public responsibility in that roads and
   streets must be maintained and numerous public services customary to urban
   areas must be provided. This ordinance assists the community in meeting these
   responsibilities.

B. Title. This ordinance is known and may be cited as the “Subdivision Ordinance
   of the Town of Cape Charles, Virginia.”

C. Interpretation

   1. The standards and procedures contained herein are declared to be the
      minimum requirements for the promotion of the public safety, health,
      convenience, comfort, prosperity, and general welfare.

   2. This ordinance is not intended to interfere with, abrogate, or annul any
      easement, covenant, restriction, or any other agreement between parties
      provided, however, that where this ordinance imposes a greater
      restriction upon the use of buildings or land or imposes additional
      standards or requires additional improvements or larger open spaces than
      are imposed or required by other restrictions, ordinances, rules,
regulation, or by easements, covenants or agreements, the provisions of this ordinance shall govern.

3. Nothing in this ordinance to the contrary withstanding, where there is or appears to be conflict between the provisions of this ordinance and the zoning ordinance of the Town of Cape Charles, then the provisions of the zoning ordinance shall govern.

Section 2 Definitions

A. Words and Terms. For the purpose of this ordinance, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future, words in the singular number include the plural, and the plural the singular, unless the natural construction of the word indicates otherwise; the word LOT includes the word PARCEL; the word SHALL is mandatory and not directly; the word APPROVED shall be considered to be followed by the words OR DISAPPROVED; any reference to this ordinance includes all ordinance amending or supplementing the same; all distances and areas refer to measurement in a horizontal plane.

ADMINISTRATOR is the representative of the Town Council who has been appointed to serve as the agent of the Council in approving the subdivision plats.

BUILDING SETBACK LINE means a line showing the minimum distance by which any structure (exclusive of signs) must be separated from the front lot line of a lot or from the center line of the surveyed right-of-way on which the lot fronts.

COMMISSION means the Planning Commission of Cape Charles, Virginia.

CUL-DE-SAC means a street with only one outlet and having an appropriate turn-around for a safe and convenient reverse traffic movement.

DEVELOPER is an owner of property being subdivided whether or not represented by an agent.

EASEMENT means a grant running with the land by a property owner of the use of land for a specific purpose or purposes.

ENGINEER is an engineer licensed by the Commonwealth of Virginia.

GOVERNING BODY means the Town Council of the Town of Cape Charles, Virginia.

HEALTH OFFICIAL is the health director serving the Town of Cape Charles, Virginia, or his deputy.

HIGHWAY ENGINEER is the resident engineer serving the Town of Cape Charles of the Department of Highways and Transportation or his deputy.
**JURISDICTION** means the area or territory subject to the legislative control of the governing body.

**LOT** means a numbered and recorded portion of a subdivision intended for transfer of ownership or for building development for a single building and its accessory building.

**LOT, CORNER** means a lot abutting upon two or more streets at their intersection; the shortest side fronting upon a street shall be considered the front of the lot, and the longest side fronting upon a street shall be considered the side of the lot.

**LOT, DEPTH OF** is the mean horizontal distance between the front and rear lot lines.

**LOT, DOUBLE FRONTAGE** is an interior lot having frontage on two streets.

**LOT, FLAG** means a lot having the same area as other lots but with a reduced frontage on an existing street with such frontage being not less than twenty feet to allow for driveway and utilities lines.

**LOT, INTERIOR** is a lot other than a corner lot.

**LOT OF RECORD** is a lot which has been recorded in the office of the clerk of the appropriate court.

**LOT, WIDTH OF** is the mean horizontal distance between the side lot lines.

**PERSON** means an individual, a partnership, a corporation, or any other legal entity by whatever term customarily known.

**PLAT** includes the terms map, plan, plot, re-plat, or re-plot; a map or plan of a tract or parcel of land which is to be or which has been subdivided. When used as a verb, PLAT is synonymous with SUBDIVIDE.

**RESUBDIVIDE** means to make any change in any dimension of any lot as shown on a recorded plat except in the case of a plat recorded for the purpose of a security release to a lending agency.

**PROPERTY** is any tract, lot, parcel, or several of the same collected together for the purpose of subdividing.

**STREET** is the publicly owned, principal means of access to abutting properties. The term STREET shall include road, lane, drive, place, avenue, highway, boulevard, or any other thoroughfare for a similar purpose.

**STREET, PUBLIC USE OF** means the unrestricted use of a specified area or right-of-way for ingress and egress to two or more abutting properties.
STREET, MAJOR means any existing or future street or any heavily traveled thoroughfare or highway that carries a large volume of through traffic or anticipated traffic exceeding 500 vehicles per day.

STREET, MINOR means a street that is used primarily as a means of public access to the abutting properties with anticipated traffic of less than 500 vehicles per day.

STREET, SERVICE DRIVE is a public right-of-way generally parallel and contiguous to a major highway, primarily designated to promote safety by eliminating promiscuous ingress and egress to the right-of-way by providing safe and orderly points of access to the highway.

STREET WIDTH is the total width of the strip of land dedicated or reserved for public travel including roadway, curbs, gutters, sidewalks, and planting strips.

SUBDIVIDE means to divide any tract, parcel, or lot of land into two or more lots or parcels for the purpose of transfer of ownership or building development or, if a new street is involved in such division, any division of a parcel of land. The term includes re-subdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided; except that the following division of the land shall not be deemed a subdivision:

1. The sale and exchange of parcels between adjoining landowners where such separation does not create additional building sites and where all new sites are compliant with the ordinance.
2. The release of a portion of the security of any mortgage or deed of trust which would otherwise constitute a subdivision of land shall be subject to the provisions of this ordinance.
3. The division of any parcel occasioned by an exercise of eminent domain by a public agency.
4. The division of land made solely for bona fide natural resource conservation purposes.

The word SUBDIVIDE and any derivative thereof shall have reference to the term SUBDIVIDER as defined for SUBDIVIDER.

SUBDIVIDER is an individual, corporation, or registered partnership owning any tract, lot, or parcel of land to be subdivided or a group of two or more persons owning any tract, lot, or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for in representing, or executing the legal requirements of the subdivision.

SURVEYOR means a certified land surveyor as licensed by the State of Virginia.
ZONING ORDINANCE is the Zoning Ordinance of the Town of Cape Charles, Virginia.

Section 3 Administration

Section 3.1 Administrator

The agent appointed by the governing body is hereby delegated to administer this ordinance. In so doing, the agent shall be considered the agent of the governing body, and approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the governing body. The agent may also consult with the Planning Commission on matters contained herein.

Section 3.2 Duties

The agent shall perform his duties regarding subdivisions and subdividing in accordance with this ordinance and the Land Subdivision and Development Act.

Section 3.3 To Consult

In the performance of his duties the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority of the agent shall have particular reference to the resident highway engineer and the health officer.

Section 3.4 Additional Authority

In addition to the regulations herein contained for the platting of subdivisions, the agent may, from time to time, establish any additional reasonable administrative procedures deemed necessary for the proper administration of this ordinance.

Section 4 Procedure for Making and Recording Plats

Section 4.1 Platting Required

Any owner or developer of any tract of land situated within the Town of Cape Charles who subdivides the same shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the appropriate court. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved, and certified by the agent in accordance with the regulations set forth in this ordinance. No lot shall be sold in any such subdivision before the plat shall have been recorded.

In the event a plan for subdivision is disapproved by the agent, the sub-divider may appeal to the governing body which may then override the recommendation of the agent and approve said plat.

Section 4.2 Draw and Certify

Every such plat shall be prepared by a surveyor or engineer duly licensed by the State of Virginia, who shall endorse upon each plat a certificate signed by him setting forth the source of the title of the land subdivided and the place of record of the last instrument
in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plat within an inset block or by means of a dotted boundary line upon the plat.

Section 4.3 Owner’s Statement

Every such plat, or the deed of dedication to which such plat is attached, shall contain in addition to the surveyor’s or engineer’s certificate a statement to the effect that “the above and foregoing subdivision of (here insert correct description of the land subdivided) as appears in the plat is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any,“ which shall be signed by the owners, proprietors, and trustees, and shall be duly acknowledged before some officer authorized to take acknowledgment of deeds and, when thus executed and approved as herein specified, shall be filed and recorded in the office of the clerk of the appropriate court and indexed under the names of the land owners signing such statements and under the name of the subdivision.

Section 4.4 No One Exempt

No person shall subdivide any tract of land that is located within the Town except in conformity with the provision of this ordinance.

Section 4.5 Necessary Changes

No changes, erasures, or revision shall be made on any preliminary or final plat nor on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets unless authorization for such changes has been granted in writing by the agent.

Section 4.6 Fees

All fees shall be governed as set forth by the Town Council of the Town of Cape Charles.

Section 4.7 Vacating Plat

Any plat of record may be vacated in accordance with the provisions of Section 15.1-481, et seq. of the Code of Virginia (1950), as amended.

Section 5 General Regulations

Section 5.1 Mutual Responsibility

There is a mutual responsibility between the sub-divider and the Town of Cape Charles to divide the land so as to improve the general use pattern of the land being subdivided.

Redevelopment of any office, commercial, industrial, duplex or multi-family site, or single-family site consisting of more than three lots not currently served by water quality or best management practices shall achieve at least a 10 percent reduction in non-point source pollution and run-off compared to the pre-existing run-off load from the site.

Section 5.2 Land Must Be Suitable
The agent shall not approve the subdivision of land if, from adequate investigations conducted by all public agencies concerned, it has been determined that in the best interest of the public the site is not suitable for platting and development purposes of the kind proposed. In this connection the agent may require the sub-divider to furnish topographical maps, elevations, flood profiles, or other relevant data.

Section 5.3 Flooding

Land subject to flooding and land deemed to be topographically unsuitable may be platted for residential occupancy, subject to the approval of the administrator and Town Council. Such land within the subdivision subject to severe flooding shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.

Section 5.4 Improvements

All required improvements shall be installed by the sub-divider at his cost. In cases where specifications have been established either by the Virginia Department of Highways and Transportation for streets, curbs, etc., or by the Virginia Department of Health, or by local ordinances and codes, such specifications shall be followed. The sub-divider’s bond shall not be released until construction has been inspected and approved by the appropriate engineer. All improvements shall be in accordance with the following requirements.

Section 5.4.1 Streets

All streets in the proposed subdivision shall be designed and constructed in accordance with the following minimum requirements by the sub-divider at no cost to the locality.

Section 5.4.1.1 Alignment and Layout

The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Where, in the opinion of the agent, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision may not be permitted. Wherever possible, streets should intersect at right angles. Offset and jogs shall be avoided.

Section 5.4.1.2 Access and Circulation

Streets, drives, parking, and service areas shall provide immediate, safe and convenient access and circulation for dwelling units and project facilities and for service and emergency vehicles including fire fighting equipment and snow removal. Streets shall not be laid out so as to encourage outside traffic to traverse the development on minor streets, or to create unnecessary fragmentation of the development into small blocks. Vehicular access to other streets or portions of streets from off-street parking and service areas shall be so combined, limited, located, designed, and controlled as to channel traffic from and to such areas conveniently, safely, and in a manner which
minimizes marginal traffic friction and promotes free traffic flow on streets without excessive interruption.

**Section 5.4.1.3 Service Drives**

Whenever a proposed subdivision contains or is adjacent to a state primary highway, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway and the proposed subdivision. Such distances shall be determined with due consideration of the minimum distance required for ingress and egress to the main thoroughfare. The right-of-way of any major highway or street projected across any railroad, limited access highway, or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

**Section 5.4.1.4 Approach Angle**

Major streets shall approach major or minor streets at an angle of not less than 80 degrees unless the agent, upon recommendation of the highway engineer, shall approve a lesser angle of approach for reasons of contour, terrain, or matching of existing development patterns.

**Section 5.4.1.5 Minimum Widths**

The minimum width of proposed streets, measured from lot line to lot line, shall be specified by the Virginia Department of Highways and Transportation for acceptance in the State Secondary Road System but not less than 50 feet.

**Section 5.4.1.6 Street Width**

When lots in a subdivision abut on one side of any street which has been included in the State Secondary Road System, the sub-divider shall be required to dedicate enough land so that one-half the width of such street, as measured from the center line to the subdivision property line, shall be 25 feet or one-half the standard width of such highway, whichever is greater, but he shall not be responsible for grading or surfacing said existing street or highway.

**Section 5.4.1.7 Street Construction**

Streets shall be constructed in compliance with the requirements of the Virginia Department of Highways and Transportation.

Where required by the highway engineer, a drainage system shall be provided for by means of culverts, ditches, catch basins, and any other facilities that are necessary to provide adequate drainage and disposal of surface and storm waters from or across all streets and adjoining properties. Curb and gutter and sidewalks shall be required for all new subdivisions in accordance with standard specifications for the Town of Cape Charles.

Street signs shall be installed at all street intersections in any subdivision by the sub-divider. The grades of streets submitted on subdivision plats shall be approved by the agent upon recommendation of the highway engineer prior to final action by the agent.
Section 5.4.1.8  Cul-de-sac

Generally, minor terminal streets (cul-de-sacs), designed to have one end permanently closed, shall be no longer than 400 feet to the beginning of the turn-around. Each cul-de-sac must be terminated by a turn-around of not less than 100 feet in diameter.

Section 5.4.1.9  Private Streets and Reserve Strips

There shall be no private streets platted in any subdivision. Every subdivision property shall be serviced from a publicly dedicated street. There shall be no reserve strip controlling access to streets.

Section 5.4.1.10  Names

Proposed streets which are obviously in alignment with other already existing and named streets shall bear the names of the existing streets. In no case shall the names of proposed streets duplicate existing street names irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane, or court. Street names shall be indicated on the preliminary and final plats and shall be approved by the agent. Names of existing streets shall not be changed except by approval of the governing body.

Section 5.4.1.11  Identification Signs

Street identification signs of a design approved by the agent shall be installed at all intersections readable from either side.

Section 5.4.2  Monuments

As required by this ordinance, all monuments must be installed by the sub-divider and shall meet the minimum specifications. Upon completion of subdivision streets, sewers, and other improvements, the sub-divider shall make certain that all monuments required by the agent are clearly visible for inspection and use. Such monuments shall be inspected and approved by the agent before any improvements are accepted by the governing body.

Section 5.4.2.1  Location - Concrete

Concrete monuments four inches in diameter or square, three feet long, with a flat top, shall be set at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision, and at right angle points, and points of curve in each street. The top of the monument shall have an appropriate mark to identify properly the location and shall be set six inches above finished grade.

Section 5.4.2.2  Location - Iron Pipe

All other lot corners shall be marked with iron pipe not less than 3/4 inch in diameter and 24 inches long and driven so as to be flush with the finished grade.

Section 5.4.3  Water Facilities
Public water connections shall be extended from the designated main to all lots within a subdivision and all fire hydrants by the sub-divider in accordance with the design standards and specifications for water construction and improvement in Cape Charles, Virginia, and meeting the approval of the agent. Individual wells will not be permitted.

**Section 5.4.4  Sewerage Facilities**

Public sewer connections shall be extended from the designated main to all lots within a subdivision. Septic tanks will not be permitted. Every subdivision shall be provided by the sub-divider with a satisfactory and sanitary means of sewage collection and disposal in accordance with the design standards and specifications for sewerage construction and improvements in the Town of Cape Charles, Virginia, and meeting the approval of the agent.

**Section 5.4.5  Storm Drainage Facilities**

The sub-divider shall provide all necessary information needed to determine what improvements are necessary to properly develop the subject property including contour intervals, drainage plans, and flood control devices. The sub-divider shall also provide plans for all such improvements together with a properly qualified certified engineer’s or surveyor’s statement that such improvements when properly installed will be adequate for proper development. The highway engineer shall then approve or disapprove the plans. The sub-divider shall also provide any other information required by the highway engineer.

**Section 5.4.6  Street Lights**

Installation of street lights shall be required in accordance with design and specification standards approved by the administrator as deemed appropriate.

**Section 5.4.7  Fire Protection**

Adequate fire hydrants in a subdivision at locations approved by the agent shall be required. The location of the fire hydrants shall meet the National Board of Fire Underwriters specifications.

**Section 5.4.8  Easements**

The agent shall require that easements for drainage through adjoining property be provided by the sub-divider. Easements of not less than 12 feet in width shall be provided for water, sewer, power lines, and other utilities in the subdivision when required by the agent. A larger easement width may be required if determined by the agent.

**Section 5.4.9  Bond**

The sub-divider shall furnish a cash bond or equivalent, a surety bond of a surety company, or a certified check payable to the Treasurer of the Town of Cape Charles in an amount equal to the total cost as determined by the agent of such improvements so as to guarantee they will be installed within a designated reasonable length of time in a manner acceptable to the agent. Said bond or check shall accompany the final plat.
when it is submitted to the agent. In the absence of a performance bond or check, no final plat shall be approved or recorded until the required improvements have been installed and approved by the agent.

**Section 5.4.10 Plans and Specifications**

Five blue or black line prints of the plans and specifications for all required physical improvements to be installed shall be prepared by an engineer and shall be submitted to the agent for approval or disapproval within 45 days. If approved, one copy bearing certification of such approval shall be returned to the sub-divider. If disapproved, all papers shall be returned to the sub-divider with the reason for disapproval in writing. In the event no action is taken in 45 days, such subdivision shall be deemed approved.

**Section 5.5 Lots**

Lots shall be arranged in order that the following considerations are satisfied.

**Section 5.5.1 Shape**

The lot arrangement, design, and shape shall be such that lots will provide satisfactory and desirable sites for buildings, be properly related to topography, and conform to requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable for normal purposes.

**Section 5.5.2 Location**

Each lot shall abut on a street dedicated by the subdivision plat or on an existing publicly dedicated street or on a street which has become public by right of use. If the existing streets are not 50 feet in width, the sub-divider shall make provisions in the deeds to the lots for all buildings to be so constructed as to permit the widening by dedication of such roads or streets to a width of 50 feet.

**Section 5.5.3 Corner Lots**

Corner lots shall have extra width sufficient for maintenance of any required lines on both streets as determined by the agent.

**Section 5.5.4 Side Lines**

Side lines of lots shall be approximately at right angles or radial to the street line.

**Section 5.5.5 Remnants**

All remnants of lots below minimum size left over after subdividing of a tract must be added to adjacent lots or otherwise disposed of rather than allowed to remain as unusable parcels.

**Section 5.5.6 Separate Ownership**
Where the land covered by a subdivision includes two or more parcels in separate ownership and lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership, simultaneously with the recording of the final plat. Said deed is to be deposited with the clerk of the court and held with the final plat until the sub-divider is ready to record same, and they both shall then be recorded together.

**Section 5.5.7 Business or Industrial**

Lots intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities.

**Section 5.6 Blocks**

Where created by the subdivision of land, all new blocks **shall be of modern design** and shall respect viewsheds and shall comply with the following requirements.

**Section 5.6.1 Length**

Generally, the maximum length shall be **1,200 feet**, and the minimum length of blocks upon which lots have frontage shall be **500 feet**. **Block lengths along the south side of Mason Avenue shall align with the blocks on the north side of Mason Avenue.**

**Section 5.6.2 Width**

Blocks shall be wide enough to allow two tiers of lots of minimum depth, except where fronting on major streets, unless prevented by topographical conditions or size of the property, in which case the agent may approve a single tier of lots of minimum depth.

**Section 5.6.3 Orientation**

Where a proposed subdivision will adjoin a major road, the agent may require that the greater dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

**Section 5.7 Dedication of Land**

Where the size of the subdivision warrants, the sub-divider shall dedicate to the Town of Cape Charles such reasonable amount of land for parking lots, parks, and playgrounds as determined necessary to protect the safety (fire and traffic hazards considered) and the general public welfare of the area. The size, location, and character of the land dedicated, if any, shall be determined by the agent after (a) consideration of the purpose of this ordinance, (b) consideration of any related objective approved by the Town Council, and (c) consideration of the Town’s officially adopted Comprehensive Plan.

**Section 6 Approval of Plats**

**Section 6.1 Approval Required Before Sale**

Whenever any subdivision of land is proposed and before any permit for the erection of a structure shall be granted, the sub-divider or his agent shall apply in writing to the
agent for the approval of the subdivision plat. No lot shall be sold until a final plat for
the subdivision shall have been approved and recorded in the following manner.

Section 6.2 Preliminary Sketch
The sub-divider may, if he so chooses, submit to the agent a preliminary sketch of the
proposed subdivision prior to his preparing engineered preliminary and final plats. The
purpose of such preliminary sketch is to permit the agent to advise the sub-divider
whether his plans in general are in accordance with the requirements of this ordinance.
The agent, upon submission of any preliminary sketch, shall study it and advise the sub-
divider wherein it appears that changes would be necessary. The agent may mark the
preliminary sketch indicating necessary changes, and any such marked sketch shall be
returned to the commission with the preliminary plat. The preliminary sketch shall be as
follows.

Section 6.2.1 Specifications, Contents
It shall be drawn on white paper or on a print of a topographic map of the property. It
shall be drawn to a scale of 100 feet to the inch. It shall show the name, location of all
proposed streets, lots, parks, playgrounds, and other proposed uses of the land to be
subdivided and shall include the approximate dimensions.

Section 6.2.2 Part of Tract
Whenever part of a tract is proposed for platting and it is intended to subdivide
additional parts in the future, a sketch plan for the entire tract shall be submitted with
the preliminary plat. This sketch is merely for informational purposes and is not binding
on the sub-divider or the governing body.

Section 6.3 Preliminary Plat
The sub-divider shall present to the agent five prints of a preliminary layout at a scale of
100 feet to the inch as a preliminary plat. The preliminary plat shall include the
following information:

Section 6.3.1
Name of subdivision (the name shall not duplicate nor too closely approximate that of
any existing subdivision in this or neighboring counties), owner, sub-divider, surveyor, or
engineer, date of drawing, number of streets, north point, and scale. If true north is
used, method of determination must be shown.

Section 6.3.2
Location of proposed subdivision by an insert map at a scale of not less than two inches
equal one mile showing adjoining roads, their names and number, towns, subdivisions,
and other landmarks if any within 2,000 feet.

Section 6.3.3
The boundary survey or existing survey on record provided such survey shows a closure
with an accuracy of not less than one in 2,500; total acreage, acreage of subdivided
area, number and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract and adjoining such boundaries.

**Section 6.3.4**
All existing, platted, and proposed streets, their names, numbers, and widths; existing utility or other easements, public areas, and parking spaces; culverts, drains, and water courses, their names and other pertinent data.

**Section 6.3.5**
The complete drainage layout, including all pipe sizes, types, drainage easements, and means of transporting the drainage to a well-defined open stream which is considered natural drainage.

**Section 6.3.6**
A cross section showing the proposed street construction, depth, and type of base, type of surface, etc.

**Section 6.3.7**
A profile or contour map showing the proposed grades for the streets and drainage facilities including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the center line of streets together with proposed grade lines connecting therewith.

**Section 6.3.8** Location of each proposed lot line showing dimensions.

**Section 6.3.9**
The proposed building setback lines shown as dotted lines, to scale with dimensions to front property or street center lines.

**Section 6.3.10**
Proposed block and lot numbers and the area of each lot.

**Section 6.3.11**
Proposed deed covenants, by reference to outlines of same which shall accompany the preliminary plat.

**Section 6.3.12**
A location map tying the subdivision into our present road system either by aerial photographs or topographic maps of the U.S. Department of Interior.

**Section 6.3.13**
Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.
Section 6.3.14
All parcels of land to be dedicated for public use and the condition of such dedication.

Section 6.4 Items to Accompany Preliminary Plat

Section 6.4.1
Items as described in the following paragraphs of this section shall accompany the preliminary plat at the time the latter is submitted to the agent or, in any event, no later than 12 days thereafter.

Section 6.4.2
Statement by the Health Official that the sub-divider has consulted with him with respect to the certificate which will be required before the final plat can be approved. State Health Department’s Subdivision Evaluation Procedures must be followed in order to receive Health Department approval.

Section 6.4.3
Statement by the sub-divider acknowledging that any percolation tests, topographic studies, or other requirements of the health official will be carried out at the expense of the sub-divider.

Section 6.4.4
If streets or parking areas are included in the subdivision, a statement by the highway engineer that the sub-divider has consulted with him as to the plans, specifications, and any special treatment which will be required in their construction, together with the drainage system which will be required.

Section 6.4.5
If it is proposed to dedicate or reserve land (other than for streets) for public use or for the common use of future property owners in the subdivision, a statement by the sub-divider to that effect, giving an outline of the terms proposed and the acreage involved.

Section 6.4.6
If town water or sewerage is to be provided, a certificate from the town officer. Said certificate may require that certain specifications be met as a condition to furnishing or operating town water or sewerage. (The agent shall transfer this certificate to the final plat when this is filed.)

Section 6.4.7
Statement by the sub-divider as to whether any part of the proposed subdivision lies within the area of applicability of any other effective subdivision ordinance.
Section 6.4.8
Outline of deed covenants, if any, pertaining to the subdivision.

Section 6.4.9
Check payable to the Town Treasurer to cover fees required.

Section 6.5 Procedure
The agent or his appointed representative shall discuss the preliminary plat with the sub-divider in order to determine whether or not his preliminary plat generally conforms to the requirements of the subdivision ordinance and of the zoning ordinance. The sub-divider shall then be advised in writing within 60 days, which may be by formal letter or by legible markings on his copy of the preliminary plat, concerning any additional data that may be required, the character and extent of public improvements that will have to be made, an estimate of the cost of construction of improvements, and the amount of the performance bond which will be required as a prerequisite to approval of the final subdivision plat.

In determining the cost of required improvements and the amount of the performance bond, the agent may consult with a duly licensed engineer who shall prepare this data for the agent or preferably may require a bona fide estimate of the cost of improvements to be furnished by the sub-divider.

Section 6.6 No Guarantee
Approval by the agent of the preliminary plat does not constitute a guarantee of approval of the final plat.

Section 6.7 Six Months’ Limit
The sub-divider shall have not more than six months after receiving official notification concerning the preliminary plat to file with the agent a final subdivision plat in accordance with this ordinance. Failure to do so shall make preliminary approval null and void. The agent may, on written request by the sub-divider, grant an extension of the time limit.

Section 6.8 Final Plat
The subdivision plat submitted for final approval by the governing body and subsequent recording shall be clearly and legibly drawn in ink upon tracing cloth at a scale of 100 feet to the inch on sheets having a size of 15 inches by 20 inches or size of plat book. In addition to the requirements of the preliminary plat, the final plat shall include the following:

Section 6.8.1
A blank oblong space three inches by five inches shall be reserved for the use of the approving authority.
Section 6.8.2
Certificates signed by surveyor or engineer setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.

Section 6.8.3
A statement to the effect that the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors, and trustees, if any, which shall be signed by the owners, proprietors, and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgments of deeds.

Section 6.8.4
When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dash-lines, and identification of the respective tracts shall be placed on the plat.

Section 6.8.5
The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines and center lines of streets; boundaries of all proposed or existing easements, parks, school sites; all existing public and private streets, their names, numbers and widths; existing utilities and those to be provided such as sanitary sewers, storm drains, water mains, manholes and underground conduits including their size and type; water courses and their names; names of owners and their property lines both within the boundary of the subdivision and adjoining said boundaries.

Section 6.8.6
Distances and bearings must balance and close with an accuracy of not less than one in 10,000.

Section 6.8.7
The data of all curves along the street frontage shall be shown in detail on the curve data table containing the following: delta, radius, arc, tangent, chord, and chord bearings.

Section 6.9 Conditions
The plat shall not be approved until the sub-divider has complied with the general requirements and minimum standards of design in accordance with this ordinance, and has made satisfactory arrangements for performance bond, cash, or cash bond to cover the cost of necessary improvements, in lieu of construction, to the satisfaction of the agent. Approval of final plat shall be written on the face of the plat by the agent. The sub-divider shall record plat within six months after final approval; otherwise, agent shall mark plat “void” and return same to sub-divider.
Section 6.9.1

Within sixty days after recordation of the approved final plat, the sub-divider shall file a copy thereof in the office of the Northampton County Commissioner of Revenue pursuant to the Virginia Land Subdivision Act.

Section 6.9.2

Recordation of the final plat of a subdivision shall not be deemed to be the acceptance by the Town of any street or road or other public place shown on the plat for maintenance, repair, or operation thereof.

Section 7 Effectual Clauses

Section 7.1 Exception

Where the sub-divider can show that a provision of these standards in cases of unusual situations or when strict adherence to the general regulations would result in substantial injustice or unnecessary hardship, and where, because of topographical or other conditions peculiar to the site, in the opinion of the administrator, a departure may be made without destroying the intent of such provision, the administrator may authorize an exception. Any exception shall be authorized in writing and shall state the reasons why the exception was granted. If an applicant is aggrieved by the administrator’s decision, he may appeal that decision to the Town Council. Appeals of the administrator’s decision for purposes of the Subdivision Ordinance shall be to the Town Council and not the Board of Zoning Appeals (BZA). If an applicant is aggrieved by the decision of the Town Council, he may appeal that decision to the Northampton County Circuit Court as provided by law.
(Ord. of 7-14-92, 7-1)

Section 7.2 Penalties

Any owner or proprietor of any tract of land who subdivides that tract of land and who violates any of the provisions of this ordinance shall be guilty of a misdemeanor, punishable by a fine of not more than $500 for each lot or parcel of land so subdivided or transferred or sold; every day thereafter shall constitute a separate offense; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

The clerk of the Circuit Court of Northampton County shall not file or record a plat of a subdivision, under the penalties provided by Code of Virginia, 17-59, until such plat has been approved as required herein.

Section 7.3 Validity

Should any article, section, subsection or provision of this subdivision (ordinance) be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this subdivision ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.
Section 7.4  Repeal

Subject to Section 7.6 of this ordinance, all ordinances or portions of ordinances in conflict with this ordinance are hereby repealed to the extent of their conflict.  
(Ord. of 7-14-92, 7-4)

Section 7.5  Amendments

This ordinance may be amended in whole or in part by the Town Council of Cape Charles provided that any such amendment shall either originate with or be submitted to the Cape Charles Planning Commission for recommendation; and further provided that no such amendment shall be adopted without a public hearing having been held by the governing body. Notice of the time and place of the hearing shall have been given in accordance with Code of Virginia, 15.1-43.

Section 7.6  Interaction with Other Ordinances

The provisions of this Subdivision Ordinance may be modified by the terms of a PUD rezoning application filed pursuant to the provisions of the Cape Charles PUD Ordinance.  
(Ord. of 7-14-92, 7-6)

Section 8  Effective Date

This ordinance was duly considered following a required public hearing held on January 3, 1977, and was adopted by the Town Council of Cape Charles, Virginia, at its regular meeting held on January 11, 1977, the members voting:

Mary B. Bowen    Aye  
Frank C. Fitzhugh Aye  
Thomas G. Godwin   Aye  
J. Crawley Lewis  Aye  
Clement Pruitt   Aye  
Earl Scott, Jr.    Aye

This ordinance shall be effective on and after 12:01 a.m., January 11, 1977.


Modifications to Section 2-Definitions approved by Town Council on February 9, 2012.
Item Specifics:

All proposed amendments of the zoning ordinance shall be referred by the Town Council to the Town’s Planning Commission for its recommendations after at least one advertised public hearing (Section 2.7.2).

Staff is recommending the addition of two new definitions to Article II, Section 2.9. At the July 2 Board of Zoning Appeals regular meeting, the Board reviewed the proposed definitions. The Board agreed that both definitions were appropriate and accurate, and had no recommended changes.

The two proposed definitions are as follows:

**Hardship:** A restriction on property so unreasonable that it results in an arbitrary and capricious interference with basic property rights, and that which relates to the physical characteristics of the property, not the personal, financial, or self-imposed circumstances of the owner or user.

**Variance:** A modification of the specific provisions of this zoning ordinance granted when strict enforcement of the ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

Recommendation:

Following discussion, set a public hearing date for the September 3 regular meeting for the proposed text amendments to Article II.

Attachments:

None