



HISTORIC DISTRICT REVIEW BOARD

Special Meeting and Work Session

Cape Charles Civic Center

December 1, 2020

3:00 p.m.

At 3:00 p.m., Chairman Kerry Shackelford, having established a quorum, called to order the Special Meeting and Work Session of the Historic District Review Board (HDRB). In addition to Kerry Shackelford, present were Martin Mayer, Herb Thom, and Edward Wells. Michael Strub attended via telephone. Also, in attendance were Town Planner Allyson Finchum, Planning Technician Tracy Outten, and the applicants. There was one member of the public in attendance.

PUBLIC COMMENT (AGENDA ITEMS ONLY):

There were no public comments to be heard nor any written comments submitted prior to the meeting.

ORDER OF BUSINESS:

- A. *Pre-Application for a Certificate of Appropriateness at 526 Strawberry Street – to construct an addition on a single-family detached dwelling.*

William Manning, contractor, described the proposed addition to the side of the home. He said all materials and windows would match the existing home.

Kerry Shackelford asked if the window grills were on the interior or exterior. William Manning answered interior.

Motion made by Herb Thom, seconded by Michael Strub, to approve the application for the Certificate of Appropriateness at 526 Strawberry Street to construct an addition on the single-family dwelling as presented. The motion was approved by unanimous vote.

- B. *Pre-Application for a Certificate of Appropriateness at 212 Randolph Avenue – to demo and reconstruct a rear addition on a single-family detached dwelling.*

Leon Parham, architect, said the owners do not want to restore the existing addition.

Questions and discussion were as follows: (i) Herb Thom asked if the roof was original; yes. He would like it to be restored. Leon Parham said the owners wanted a stand and seam roof. Kerry Shackelford had an issue with the roof being changed; (ii) Michael Strub asked if the three chimneys would be affected; no; and (iii) Kerry Shackelford wanted to know if the windows were original. Leon Parham said the windows were vinyl.

Motion made by Kerry Shackelford, seconded by Michael Strub, to approve the application for the Certificate of Appropriateness at 212 Randolph Avenue to demolish and reconstruct a rear addition on the single-family dwelling with the condition that the existing roof material state be determined and reported to the Historic District Review Board. The motion was approved by unanimous vote.

- C. *Pre-Application for a Certificate of Appropriateness at 642 Randolph Avenue – to demo and reconstruct a rear addition on a single-family detached dwelling.*

Leon Parham, architect, said the original siding condition would be discovered during demolition.

Motion made by Edward Wells, seconded by Michael Strub, to approve the application for the Certificate of Appropriateness at 642 Randolph Avenue to demolish and reconstruct a rear addition on the single-family dwelling with the condition that the siding material needed to be

approved by the Historic District Review Board. The motion was approved by unanimous vote.

- D. *Pre-Application for a Certificate of Appropriateness at 722 Randolph Avenue – to demolish the front façade wall on a commercial building.*

Leon Parham, architect, asked if the board had any questions.

There was some discussion on painting the brick. Kerry Shackelford read the guidelines on masonry.

Motion made by Kerry Shackelford, seconded by Edward Wells, to approve the application for the Certificate of Appropriateness at 722 Randolph Avenue to demolish and rebuild the front façade on the commercial building with the conditions as follows: (i) the brick will not be painted; and (ii) a sample of the brick be provided and approved by the Historic District Review Board. The motion was approved by unanimous vote.

- E. *Pre-Application for a Certificate of Appropriateness at 419/421/423/425 Tazewell Avenue – to repair or replace windows on the duplex.*

Jeb Johnson, contractor, said the existing replacement windows were incorrectly installed mismatched and he was trying to correct the mistakes of others.

There was much discussion on allowing the replacement of the original wood windows. Edward Wells said that this was a duplex and not all the windows were original.

Motion made by Herb Thom, seconded by Michael Strub, to approve the application for the Certificate of Appropriateness at 419/421/423/425 Tazewell Avenue to repair and replace the windows on the duplexes as presented. The motion was approved by majority vote with Kerry Shackelford abstaining.

Kerry Shackelford said this decision would come back to bite the board.

- F. *Pre-Application for a Certificate of Appropriateness at 501 Tazewell Avenue – to construct a storage shed.*

Jeb Johnson, contractor, said the proposed shed would match the house.

Motion made by Herb Thom, seconded by Michael Strub, to approve the application for the Certificate of Appropriateness at 501 Tazewell Avenue to construct a storage shed as presented. The motion was approved by unanimous vote.

- G. *Pre-Application for a Certificate of Appropriateness at 6 Tazewell Avenue – to construct a rear addition on a single-family detached dwelling.*

Scott Simms, contractor, said there was nothing to add to the application.

Kerry Shackelford asked what the railing material would be; azek. He also did not want the door replacing any windows.

Motion made by Kerry Shackelford, seconded by Herb Thom, to approve the application for the Certificate of Appropriateness at 6 Tazewell Avenue to construct a rear addition on the single-family dwelling with the condition that the door would be placed between the windows rather than removing them. The motion was approved by unanimous vote.

- H. *Application for a Certificate of Appropriateness at 511 Tazewell Avenue – to renovate the exterior and repair the chimney on a single-family detached dwelling.*

Mark Guevarra, applicant, said the chimney would be repaired and the fish scale siding was underneath the existing siding.

Kerry Shackelford said the original porch did not have balusters and adding them would change the façade.

Motion made by Michael Strub, seconded by Herb Thom, to approve the application for the Certificate of Appropriateness at 511 Tazewell Avenue to renovate the exterior and repair the chimney on the single-family dwelling with the condition that there would be no balusters. The motion was approved by unanimous vote.

- I. *Pre-Application for a Certificate of Appropriateness at 505 Monroe Avenue – to renovate the exterior of a shed.*

Anthony Regalbuto, applicant, said the shed was moved from the Blue Ridge Mountains and it needs to be renovated.

There was some discussion on the door type.

Motion made by Kerry Shackelford, seconded by Edward Wells, to approve the application for the Certificate of Appropriateness at 505 Monroe Avenue to renovate the storage shed as presented. The motion was approved by unanimous vote.

OTHER BUSINESS:

There was no other business.

Kerry Shackelford closed the November 4, 2020 Historic District Review Board Special meeting and moved to the Work Session.

WORK SESSION ORDER BUSINESS:

- A. *Cape Charles Zoning Ordinance Article VIII proposed amendments.*

After some discussion on the amendments presented by Paul Grossman, the board members would have any questions or comments ready for the next work session. (Please see attached.)

Kerry Shackelford adjourned the November 4, 2020 Historic District Review Board Special Meeting and Work Session at 4:06 p.m.

Chairman Kerry Shackelford

Planning Technician

**Cape Charles Article VIII
Summary of Changes Made and Reasons
December 1, 2020**

Generic Change

- Changed language away from specific gender.

Section 8.3 Inventory of Landmarks and Contributing Properties Established

- Implemented Guiding Principle #6.
- Changed the period of significance from 1880s-1940 (approximately 50 years before first survey was taken) to 1880s-1964 (opening of the Chesapeake Bridge-Tunnel) that would be in agreement with the amended (2019) National Register's period of significance.
- The national register district boundary map is different (smaller footprint) than the district map adopted by the Town. Therefore, addressed housing and structures not listed in the national register. Housing and structures built before 1965 would be considered 'contributing' unless applicants have additional information that the board could consider otherwise.
- Changes between these national register survey lists are as follows to allow perspective on the degree of change in register inventory;

Classifications	Contributing homes	% change against initial contributing total (526)	Contributing 'Structure'	Non-contributing homes	Non-contributing 'structures'
National Register (period – 1940)	526		3	38	0
1.Contributing Deleted ' Demolished'	-52	-10%			
2.Contrib. deleted 'Other'	-44	-8%			
3.Non-contrib deleted ' Demolish'				-1	
4.Non-contrib deleted 'other'				-9	
5.Contributing added	42	+8%			
6.Non-contributing added				37	
7.Contributing to non-contributing	-13	-2%		13	
8.Non-contributing to contributing	15	+3%		-15	
9.Contributing structure added			1		
10.Non-contributing structure added					7
11.Contributing structure deleted			-2		
12.Non-contributing structure deleted					0
13.Accessory added to contributing			106		
14.Accessory added to non-contributing				168	
National Register (period – 1964) corrected	474	-10%	108	231	7

Section 8.9 Historic District Review Board Qualifications

- Change made to provide agreement with HDRB by-laws.

Section 8.14, Historic District Review Board: Powers and Duties

Cape Charles Article VIII
Summary of Changes Made and Reasons
December 1, 2020

- Changed ‘adopt standards’ to ‘adopt standards and guidelines’ which is what the Historic District Design Guidelines actually contain (i.e., extraction of the Secretary of the Interior’s rehabilitation standards and additional town guidelines).

Section 8.16, Certain Minor Actions Exempted from Review by the Historic District Review Board.

- Implemented **partial** Guiding Principle #13.
- Added a number of minor actions that can be taken care of by the Zoning Administrator. This is based on a survey taken of other historic districts’ exemptions.
 - ~~Any changes to a structure (contributing and noncontributing) that are not visible from a public street or public place, i.e., alteration that is obscured by fencing, landscaping, non-historic additions, or other impermanent obstructions.~~ [Not accepted by HDRB November 4, 2020] Alternate wording proposed below.
 - Minor additions or deletions to an existing building which are not subject to public view and which will not significantly alter the character of the building. *[Example from Herndon and Smithfield. Many other cities/towns exclude anything not visible.]*
 - ~~Fences in rear and side, new or replacement, and decks in rear,~~ [Determined that HDRB guidelines do have criteria for fences]
 - Covered by other zoning ordinance requirements as administrated by the Zoning Administrator unless altered by the overlay ordinance, or
 - ~~Receiving historic preservation tax credits through state or federal offices,~~ [Not accepted by HDRB November 4, 2020]
 - ~~Demolition of non-contributing buildings or structures~~ [addressed in Section 8.18]
 - Mitigations made to a building or structure for the purpose of temporary emergency stabilization.

Section 8.18, Approval of Historic District Review Board Required

- Included the limitation of the HDRB to review of razing or demolition of contributing buildings and structures only.
- Changed new accessory buildings as substantial work to ‘new accessory building requiring a building permit’. Currently building permits are not required for accessory structures below 256 sq. ft and limited to one story. Per Code Official, technically once a building is anchored down it is considered to be permanent regardless of foundation type. If a permit is not required, then HDRB review is not required.
- Deleted as an example of work constituting ‘substantial alterations’ any alteration of the exterior color scheme of the structure. Although the design guidelines have general criteria for painting and the number of colors suggested to use, the actual color palate has not been a subject of review at board meetings. Therefore, drop this element.

Section 8.19 Certificate of Appropriateness

- Currently, COAs have been issued by Town staff. Added clarification that it is ‘on behalf’ of HDRB.

Cape Charles Article VIII
Summary of Changes Made and Reasons
December 1, 2020

Section 8.20 Design Guidelines: Standards for Review

- Implemented Guiding Principles 9, 10 and 11.
- Added the requirement and application of criteria for ‘new infill construction’ with the intent to apply in a more flexible manner but not distracting from the character of surrounding historic buildings or the overall historic district.
- Added the requirement and application of criteria for non-contributing structure alterations and additions. Criteria are to be less restrictive than that applied to contributing structure rehabilitation.

Section 8.21, Demolition: Alternative Procedure: Offer to Sell

- Implemented Guiding Principle #12.
- Reinstated previous section that was removed by Town Council for reasons of avoiding duplication of subject material addressing demolition. However, Virginia State Code §15.2-2306 has specific process requirements for demolition of historic buildings and structures that must be adopted.
- Changed Section 8.21.B.5 for Zoning Administrator processing from ‘five (5) days’ to ‘five business days’ allowing for a more reasonable processing time without jeopardizing any required overall timetable.

Section 8.22, Maintenance and Repair Required

- This section covers ‘demolition by neglect’. Added a sentence that directs requirements for ‘unsafe’ buildings and structures to Town Code Chapter 18, Article III that falls under Code Official’s jurisdiction on decision making under these conditions in accordance with Building Code.
- Changed the issuance of a certified letter to the owner of a structure appearing to be exhibiting demolition by neglect from HDRB to Zoning Administrator which is where the letter would actually come from.

Section 8.25, Receipt of Application

- Inserted a pre-application meeting Step (A) in order to converse with the applicant, the scope of their project, and set the expectations for material that will be required for application submittal. This allows the applicant to ask questions and provides an opportunity to hear what barriers they may face with certain proposals for the project.
- Added a statement that the ZA required a fully completed application before forwarding to the HDRB for review.
- Revised applicant submittals from 3 copies to 3 hard copies or one electronic version.

Section 8.27 Other Approval Required

- Added sentence structure clarification.

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 ~~a 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. Until such time as it is changed in this ordinance, the period of significance for the Town will be 1880s to 1964 as delineated in the Cape Charles Historic District National Register of Historic Places (amended 2019). As identified in the National Register, s~~ 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. ~~Should a building or structure within the boundaries of the historic district not be listed in the national register, the age of the house or structure will be used to determine classification (i.e., built before 1965 will be considered as contributing). The board may be presented with evidence of extensive changes previously made or other information that may warrant the board in changing a property's classification.~~ 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 citizens, at least three of whom shall be residents of the local historic district.

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 and when possible be a licensed architect or engineer, Planning Commission member, or licensed building contractor.

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 and guidelines 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 windowpanes, 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.

~~Any changes to a structure (contributing and noncontributing) that are not visible from a public street or public place, i.e., alteration that is obscured from view from the street by the original structure and not merely obscured by fencing landscaping, non-historic additions, or other impermanent obstructions. Alleys in this context are not to be considered public places.~~

- ~~H. Minor additions or deletions to an existing building which are not subject to public view and which will not significantly alter the character of the building. Alleys in this context are not to be considered public places.~~

- ~~I. Covered by other zoning ordinance requirements as administered by the Zoning Administrator unless altered by the overlay ordinance.~~

~~Receiving historic preservation tax credits through state or federal offices.~~

~~Demolition of non-contributing buildings or structures.~~

- ~~J. Alterations or repairs-Mitigations made to a building or structure for the purpose of temporary emergency stabilization.~~

~~G.~~

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 contributing 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 permanent accessory building requiring a building permit 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~~ on behalf of 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 – 11/21/19]

- A. The Historic District Review Board shall be guided in its decisions by the design guidelines.
- B. It shall be the duty of the Historic District Review Board to prepare amendments to the design guidelines.
- C. The Town Council shall adopt and amend the design guidelines after conducting at least one public hearing pursuant to §15.22204 Code of Virginia.
- D. Guidelines shall offer general recommendations for all new infill buildings in Cape Charles' historic district. New infill construction building is not to diminish, detract, or distract from the character of surrounding historic buildings or the overall historic district. However, the intent of these infill guidelines is not to be overly specific or to dictate certain designs but to allow for the creation of new buildings that are compatible with their historic settings. The Historic District Review Board may be more flexible in applying these new construction guidelines.

~~C.E.~~ Alterations and additions to non-contributing structures that affect the exterior appearance of the structure or additions should be compatible with the district following separately created guidelines for New (Infill) Construction, and should not aim to replicate historic buildings, nor return the structure to its original form. Criteria for non-contributing structures are to be less restrictive than that applied to contributing structure rehabilitation.

Section 8.21 Demolition: Alternate Procedure: Offer to Sell

A. Prior to approval of any application for demolition, modification, moving, or removal of a contributing structure within the Cape Charles Historic District; the zoning administrator, the Historic District Review Board, or the Town Council, as applicable, shall review the application for its compatibility with each of the following guidelines.

1. Whether or not the contributing structure is of such architectural or historic interest that its removal would be to the detriment of the character and integrity of the Historic District.
2. Whether or not the contributing structure is of such interest or significance that it would qualify as a National, State, or local historic landmark.
3. Whether or not retention of the contributing structure would help to preserve and protect a historic place or area of historic interest in the Town.
4. Whether or not plans for future use of the site after demolition are appropriate, compatible, sympathetic, and complimentary to the character and integrity of the Historic District.

No subsequent application under Section 8.21A regarding the contributing structure may be made until more than one year after a final denial by the Town Council.

B. In addition to the right of appeal herein elsewhere set forth, the owner of a contributing structure in the Cape Charles Historic District shall as a matter of right be entitled to move, remove, modify, raze or demolish all or part of such contributing structure provided that:

1. The owner has applied to the Town Council for such right.
2. The owner has for the applicable period of time set forth in the time schedule in Section 8.21.B.4., and at a price reasonably related to the fair market value of the contributing structure and the land, other improvements and appurtenances pertaining thereto (assuming the buyer will be required to preserve and restore the contributing structure in place on the property) as determined by the average of two (2) real estate appraisals from two (2) different appraisers, made a bona fide, public offer (pursuant to the requirements of this Section 8.21 B.) to sell such contributing structure, and the land, other improvements and appurtenances pertaining thereto (collectively, the "Property"), to the Town and any other person, firm, corporation, government or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the

contributing structure in place. If the two (2) required real estate appraisals submitted by the Owner differ by more than ten percent (10%), the owner must have the Property appraised a third time at his own expense by a third real estate appraiser selected by the Town. The bona fide offer to sell must be at a price not more than the average of the two such appraisals that are closest to one another.

3. No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such Property thereto, prior to the expiration of the applicable time period set forth in the time schedule in Section 8.21.B.4. Any appeal which may be taken to the court from the decision of the Town Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above.

4. The time schedule for offers to sell shall be as follows:

a. Three (3) consecutive months when the offering price is less than twenty-five thousand dollars.

b. Four (4) consecutive months when the offering price is twenty-five thousand or more but less than forty thousand dollars.

c. Five (5) consecutive months when the offering price is forty thousand or more but less than fifty-five thousand dollars.

d. Six (6) consecutive months when the offering price is fifty-five thousand dollars or more but less than seventy-five thousand dollars.

e. Seven (7) consecutive months when the offering price is seventy-five thousand dollars or more but less than ninety thousand dollars.

f. Twelve (12) consecutive months when the offering price is ninety thousand dollars or more.

5. Before making a bona fide offer to sell, the owner shall first file a statement with the Zoning Administrator along with the appraisals required by Section 8.21.B.2. The statement shall identify the Property, state the offering price, the date the offer of sale is to begin, the names and addresses of adjacent property owners, and the names and addresses of listing real estate agents, if any. The owner shall be required to maintain the Property in at least its current condition during the term of the public offer. No time period set forth in the time schedule contained in Section 8.21.B.4. shall begin to run until the statement has been filed. Within five (5) business days after receipt of a statement, copies of the statement shall be delivered by the Zoning Administrator to the Town Manager, the Town Council, and the Historic District Review Board. Within thirty (30) days after the receipt of a statement, the Zoning Administrator: (a) shall place notice of the statement once a week for two successive weeks in a newspaper having general circulation in the Town, (b) post a notice of the statement prominently on

the Property, and (c) send notice of the offer, accompanied by the statement, to the adjacent property owners by certified or registered mail.

6. During the time period for the offer to sell, the Town may take steps as it deems necessary to preserve the contributing structure in accordance with the purposes of this article. Such steps may include, but are not limited to, consultation with civic groups, public agencies, and interested citizens, recommendations for acquisition of the Property by public or private bodies or agencies, and exploration of the possibility of moving structures or other features on the Property.
7. The fact that an offer to sell a Property is made at a price reasonably related to fair market value as described previously may be questioned by any party who files with the Zoning Administrator, on or before sixty (60) days after the offer for sale has begun, a petition in writing signed by at least twenty-five (25) persons owning real estate within Cape Charles, questioning such valuation. Upon receipt of such a petition, one (1) disinterested real estate appraiser shall be appointed by the petitioners, and the cost of the appraisal shall be borne by the petitioners. Said appraiser shall forthwith make an appraisal of the Property on the same basis as described in B.2. above, and the Town shall use the average of the lower two appraisals to establish fair market value under Section 8.21.B. In the event such valuation indicates that the price at which the applicant offered to sell the Property was at a price that is higher than the Property's fair market value, the offer to sell shall be void and of no force and effect for purposes of satisfying the requirements set forth in this Section 8.21.B.

Section 8.22~~4~~ 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. Any building or structure which is determined to be in such an unsafe condition that it would endanger life or property are governed by Town Code Chapter 18, Article III, Unsafe Buildings or Structures and under the sole jurisdiction of the Town's Code Official.
- 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 windowpanes;
 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~~ Zoning Administrator 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 8.22-23 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 8.23-24 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 8.24-25 Receipt of Application

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

- A. Pre-application review: Persons considering action that requires a certificate of appropriateness, as set forth in this ordinance, are to request an informal informational meeting with the Zoning Administrator and at least one member of the Historic District Review Board prior to submitting a formal application for a certificate of appropriateness. Requests for such informational meetings can be made to the zoning administrator, who will contact a member of the board. The informational meeting will occur within thirty (30) days of receipt of such a request. The purpose of an informational meeting is to review the design guidelines and standards and the procedures for obtaining a certificate of appropriateness.

Neither the applicant nor the zoning administrator/board member(s) shall be bound by any informational meeting or conceptual review. Zoning administrator can use discretion on the need for a pre-application meeting or the inclusion of a board representative depending on the nature of project proposed.

A.B. ~~Forthwith~~ Pending acceptance of the zoning administrator as a fully completed application, 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.C. Maintain in ~~his~~their office a record of all such applications and of his handling and final disposition of the same;

C.D. Require applicants to submit three (3) hard copies or one electronic version of material required to permit compliance with the foregoing.

Section 8.265 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~~their agent.

Section 8.276 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. In this case, ~~f~~Final action by the Historic District Review Board shall be taken prior to consideration of proposals requiring site plan approval.

Section 8.27-28 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)~~ninety (90) 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)~~ninety (90) 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 ~~they~~he will make

the suggested changes ~~and does so in writing~~, the Historic District Review Board may issue the Certificate of Appropriateness. Agreed to changes will be so indicated on the Certificate of Appropriateness.

The zoning administrator will be responsible for issuance of the Certificate of Appropriateness to the applicant and the Town's Code Official office within five (5) business days. Denials of applications are to be stated in writing to the applicant along with the reasons for such denials by the zoning administrator and issued within five (5) business days.

Section 8.28-29 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 8.29-30 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 8.30-31 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 8.34-32 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 8.32-33 Appeals; Decisions of the Historic District Review Board
[revised – 11/15/18]

An appeal from a decision of the Historic District Review Board may be taken to the Town Council 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; a fee equal in value to the fee paid by the property owner(s) associated with the project under appeal. The person submitting the appeal shall not be allowed to present any evidence that was not presented to the Historic District Review Board, nor are they allowed to contact individual members of the Town Council prior to appeal meeting. The Zoning Administrator ~~shall transmit to the Town Council within five (5) days~~ will prepare a document of 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 from the date the person submitted a request for appeal. 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 8.33-34 Appeals; Decisions of the Zoning Administrator [revised – 11/15/18]

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 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 8.34-35 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 8.35-36 Violations and Penalties

Any violation of this Article and the penalties for all such violations shall be as set forth in §2.4.3 of the Zoning Ordinance.

Section 8.36-37 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 original 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.