

Town Council & Planning Commission

Joint Work Session Agenda

Cape Charles Civic Center – 500 Tazewell Avenue

September 28, 2023

6:00 p.m.

1. Call to Order - Town Council
 - a. Roll call and establish a quorum.
2. Call to Order - Planning Commission
 - a. Roll call and establish a quorum
3. Consent Agenda
 - a. Approval of agenda format
4. Order of Business
 - a. Continue with the review of all proposed Zoning Ordinance Amendments.
Starting at Article III, Page 23, Section 3.7 Commercial District C-2
5. Planning Commission Adjournment
6. Town Council Adjournment

XV. Example Floodplain Management Ordinance

This is an example of an ordinance that could be used by municipalities to comply with the requirements of the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) regulations. Your municipal attorney and engineer should be consulted to make this fit the needs of your community.

In using these provisions, certain things must be understood and kept in mind:

- These provisions should be modified to reflect the kinds of flooding hazards in your community as well as the community's circumstances, objectives, or policies.
- These provisions have been prepared only with the intention of meeting the **minimum** requirements of the FEMA NFIP regulations and the Virginia Uniform State Building Code (USBC).
- The Department of Conservation and Recreation (DCR) suggests that in some cases the minimum standards provide insufficient protection, create a risk of higher than necessary insurance rates, or create a more complex program. In these cases we have recommended specific higher standards or excluded additional complex options. We do this with *italics* and try to explain why the change is recommended or a provision might require additional attention in a footnote. Local requirements (higher standards) are encouraged, such as those under the Community Rating System (CRS) for example, and are supported by the Federal Emergency Management Agency and DCR. The more restrictive local regulations are recognized as taking precedence over the federal minimum guidelines.
- The needs, circumstances, and objectives of communities are diverse and the development of a single model ordinance or set of provisions for use by all is unrealistic to produce and what is provided may be subject to community revisions to meet individualized needs.
- This document is a template highlighting minimum requirements a community must have in their ordinance pursuant to federal requirements. You must make certain changes in order for this template to act as a document that meets 44 CFR requirements for your community. Changes required are as follows:
 - Add the date of the community's effective Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) to the first paragraph of Article III, Section 3.1.A as indicated.
 - Adopt, sign and date the ordinance as described in Article VII.

If there are any questions concerning these suggested provisions or concerning the National Flood Insurance Program, please contact DCR's Division of Dam Safety and Floodplain Management at (804) 371-6095 or the FEMA Region 3 Office at (215) 931-5500.

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ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. _____, THE ZONING ORDINANCE OF CAPE CHARLES, VIRGINIA, BY ESTABLISHING FLOODPLAIN DISTRICTS, BY REQUIRING THE ISSUANCE OF PERMITS FOR DEVELOPMENT, AND BY PROVIDING FACTORS AND CONDITIONS FOR VARIANCES TO THE TERMS OF THE ORDINANCES.

BE IT ENACTED AND ORDAINED BY THE CAPE CHARLES, Virginia, as follows:

ARTICLE I - GENERAL PROVISIONS

Section 1.1 – Statutory Authorization and Purpose [44 CFR 59.22(a)(2)]

Va. Code § 15.2-2283 specifies that zoning ordinances shall be for the general purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of § 15.2-2200 which encourages localities to improve the public health, safety, convenience, and welfare of their citizens. To these ends, flood ordinances shall be designed to provide for safety from flood, to facilitate the provision of flood protection, and to protect against loss of life, health, or property from flood.

In accordance with these directed provisions, this ordinance is specifically adopted pursuant to the authority granted to localities by Va. Code § 15.2 - 2280.

The purpose of these provisions is to prevent: the loss of life, health, or property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- B. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or floodproofed against flooding and flood damage; and,
- D. Protecting individuals from ^{buying} land and structures which are unsuited for intended purposes because of flood hazards.

Section 1.2 – Applicability

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of Cape Charles and identified as areas of special flood hazard *identified by the community*¹ or shown on the flood insurance rate map (FIRM) or included in the flood insurance study (FIS) that are provided to the Cape Charles by FEMA.

Section 1.3 - Compliance and Liability

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.
- C. This ordinance shall not create liability on the part of Cape Charles or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 1.4 – Records [44 CFR 59.22(a)(9)(iii)]

Records of actions associated with administering this ordinance shall be kept on file and maintained by or under the direction of the Floodplain Administrator in perpetuity².

Section 1.5 - Abrogation and Greater Restrictions [44 CFR 60.1(b)]

To the extent that the provisions are more restrictive, this ordinance supersedes any ordinance currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict it shall remain in full force and effect.

These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances, or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

Section 1.6 - Severability

¹ Communities have the authority and are encouraged to regulate areas known to flood that do not appear in the FIRM or FIS. Even if you have not identified areas of flood risk that are not included in FEMA's products you might want to adopt this higher standard to reserve the option to identify and regulate locally known risk areas.

² This is a requirement to participate in the NFIP and is more restrictive than the Library of Virginia policy. If these records are not available, there is no way to show that a structure was built in compliance with the regulations at the time. Maintaining these records is the only way the community can show that it has been fairly administering the program.

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If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

Section 1.7 - Penalty for Violations [44 CFR 60.2(e)]

Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of planning or any authorized employee of the Cape Charles shall be guilty of the appropriate violation and subject to the penalties thereof.

The VA USBC addresses building code violations and the associated penalties in Section 104 and Section 115. Violations and associated penalties of the Zoning Ordinance of Cape Charles are addressed in Section 2.4.3 of the Zoning Ordinance.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the Cape Charles to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.³

³ If this is not a part of the zoning ordinance specific fines and penalties will need to be adopted instead.

ARTICLE II - ADMINISTRATION

Section 2.1 - Designation of the Floodplain Administrator [44 CFR 59.22(b)]

The Cape Charles Building Official is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- A. Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the Cape Charles chief executive officer.
- B. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- C. Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

Section 2.2 - Duties and Responsibilities of the Floodplain Administrator [44 CFR 60.3]

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- A. Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- B. Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- C. Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- D. Review applications to determine whether all necessary permits have been obtained from the Federal, State, or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
- E. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE), and have submitted copies of such notifications to FEMA.
- F. Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas

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subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).

- G. Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- H. Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
- I. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- J. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the Cape Charles, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- K. Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - 1. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps), and Letters of Map Change; and
 - 2. Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- L. Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- M. Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- N. Administer the requirements related to proposed work on existing buildings:
 - 1. Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
 - 2. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- O. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press

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releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.

- P. Notify the Federal Emergency Management Agency when the corporate boundaries of the Cape Charles have been modified and:
 - 1. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - 2. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
- Q. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
- R. It is the duty of the Community Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

Section 2.3 - Use and Interpretation of FIRMs [44 CFR 60.3]

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

- A. Where field surveyed topography indicates that adjacent ground elevations:
 - 1. Are below the base flood elevation in riverine SFHAs, or below the 1% storm surge elevation in coastal SFHAs, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;
 - 2. Are above the base flood elevation and the area is labelled as a SFHA on the FIRM, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.

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- B. In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
- C. Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
- D. Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
- E. If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
 - 1. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - 2. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Article III, Section 3.1.A.3 and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
 - 3. Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Section 2.4 - Jurisdictional Boundary Changes [44 CFR 59.22, 65.3]

The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, the governing body shall prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22(a)(9)(v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community

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have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

Section 2.5 - District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by the Cape Charles where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency. A completed LOMR is a record of this approval.

Section 2.6 - Interpretation of District Boundaries

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

Section 2.7 – Submitting Model Backed Technical Data [44 CFR 65.3]

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The community may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

Section 2.8 – Letters of Map Revision

When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision and then a Letter of Map Revision.

Example cases:

- Any development that causes a rise in the base flood elevations within the floodway.
- Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.

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- Alteration or relocation of a stream (including but not limited to installing culverts and bridges) *44 Code of Federal Regulations §65.3 and §65.6(a)(12).*

ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS

Section 3.1 - Description of Special Flood Hazard Districts [44 CFR 59.1, 60.3]

A. Basis of Districts

The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for Cape Charles prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated March 2nd, 2015 and any subsequent revisions or amendments thereto.

The Cape Charles may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high water marks, or approximate study methodologies.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the Cape Charles offices.

1. The **Floodway District** is in an **AE Zone** and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table ____ of the above-referenced FIS and shown on the accompanying FIRM.

The following provisions shall apply within the Floodway District of an AE zone [44 CFR 60.3(d)]:

- a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the Cape Charles’ endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

If Article III, Section 3.1.A.1.a is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 4.

- b. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.
2. The **AE, or AH Zones** on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has **not** been delineated. The following provisions shall apply within an AE or AH zone [44 CFR 60.3(c)] where FEMA has provided base flood elevations⁴:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30, AE, or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the Cape Charles.

Development activities in Zones A1-30, AE, or AH on the Cape Charles' FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the Cape Charles' endorsement – for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

3. The **A Zone** on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply [44 CFR 60.3(b)]:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one percent annual chance floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from Federal, State, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted practices, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

⁴ The requirement in 60.3(c)(10) only applies along rivers, streams, and other watercourses where FEMA has provided base flood elevations. The requirement does not apply along lakes, bays and estuaries, and the ocean coast.

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The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above **the base flood level plus eighteen (18) inches⁵**.

During the permitting process, the Floodplain Administrator shall obtain:

- a. The elevation of the lowest floor (in relation to mean sea level), including the basement, of all new and substantially improved structures; and,
- b. If the structure has been floodproofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been floodproofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser⁶.

4. The **AO Zone** on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply [44 CFR 60.3(c)]:
 - a. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than **two feet above the highest adjacent grade**.
 - b. All new construction and substantial improvements of non-residential structures shall
 - (1) Have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or,
 - (2) Together with attendant utility and sanitary facilities be completely floodproofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

⁵ The flood maps anticipate one foot of rise in BFE due to fill in the floodplain, so while building to BFE is all that is required; it will result in flooding if all assumptions made in mapping are correct. Flood insurance rounds up for freeboard so an 18 inch requirement offers the best “bang for the buck” in reducing flood insurance rates and allows for an additional margin of safety in case the models have an error or are based on incomplete data.

⁶ The recommended standard here is 5 lots instead of 50. Fifty lots is the breakpoint suggested in the federal regulations but the 5/5 rule is less confusing and captures more commercial development.

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- c. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.
- 5. The **Coastal A Zone**⁷ is labelled as AE on the FIRM; it is those areas that are seaward of the limit of moderate wave action (LiMWA) line. As defined by the VA USBC, these areas are subject to wave heights between 1.5 feet and 3 feet. For these areas, the following provisions shall apply:

Buildings and structures within this zone shall have the lowest floor elevated to or above the base flood elevation plus one foot⁸ of freeboard, and must comply with the provisions in Article III, Section 3.1.A.2 and Article IV, Sections 4.2 and 4.3.

- 6. The **VE or V Zones** on FIRMs accompanying the FIS shall be those areas that are known as Coastal High Hazard areas, extending from offshore to the inland limit of a primary frontal dune along an open coast or other areas subject to high velocity waves. For these areas, the following provisions shall apply [44 CFR 60.3(e)]:
 - a. All new construction and substantial improvements in Zones V and VE, including manufactured homes, shall be elevated on pilings or columns so that:
 - (1) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level *plus eighteen (18) inches*.⁹ if the lowest horizontal structural member is parallel to the direction of wave approach or elevated at least two feet above the base flood level if the lowest horizontal structural member is perpendicular to the direction of wave approach; and,
 - (2) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (one-percent annual chance).
 - b. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of Article III, Section A.6.a.
 - c. The Floodplain Administrator shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor

⁷ Instead of having a coastal A zone a community can include this area in the V zone, adopting these standards for Coastal A areas provides a higher degree of protection, reflects the level of surge risk seen in actual events, and helps ensure that buildings built now receive favorable insurance rates if FEMA does change their program requirements to include coastal A limitations. Right now the only provisions effecting this zone are found in the Virginia Building Code and are reflected in the language here.

⁸ If your community has adopted a higher freeboard (as is recommended) this one foot requirement might need to be changed for consistency with the freeboard required in A or V zones. Consider changing the one foot to 18" of freeboard.

⁹ . Flood insurance rounds up for freeboard so an 18 inch requirement offers the best "bang for the buck" in reducing flood insurance rates and allows for an additional margin of safety in case the models have an error or are based on incomplete data.

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(excluding pilings and columns) of all new and substantially improved structures in Zones V and VE. The Floodplain Management Administrator shall maintain a record of all such information.

- d. All new construction shall be located landward of the reach of mean high tide.
 - e. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction¹⁰ or constructed with non-supporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this Section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - (1) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
 - (2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year.
 - f. The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation. The enclosed space shall be less than 300 square feet.¹¹
 - g. The use of fill for structural support of buildings is prohibited. When non-structural fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a permit.
 - h. The man-made alteration of sand dunes, which would increase potential flood damage, is prohibited.
7. The mapped floodplain includes all of the above regions and also the regions designated as having a 0.2 percent annual chance of flooding on any flood map or flood insurance study. In this area no emergency service, medical service, or governmental records

¹⁰ An optional higher standard is to simply require that all areas below the lowest floor be free from obstructions that cannot be seen through. This makes it much easier to be sure that these areas are not converted to living spaces and means that breakaway walls do not need technical inspections.

¹¹ Spaces that are 300 square feet or more trigger very high insurance rates, so limiting the size of these spaces to less than 300 square feet is a higher standard that can make the structure more affordable to insure.

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storage shall be allowed except by special exception using the variance process.¹²

Section 3.2 - Overlay Concept

The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

¹² This limitation on the use of the 0.2 percent floodplain is not required by NFIP regulations but is an accepted standard for critical facilities in emergency management. Critical facilities that are built in mapped floodplain might not be eligible for rebuilding assistance after a disaster, therefore DCR recommends this provision to ensure that any decision made to build in these circumstances is carefully considered.

ARTICLE IV - DISTRICT PROVISIONS [44 CFR 59.22, 60.2, 60.3]

Section 4.1 – Permit and Application Requirements

A. Permit Requirement

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Cape Charles Subdivision Ordinance. Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable State and Federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

B. Site Plans and Permit Applications

All applications for development within any floodplain district and all permits issued for the floodplain shall incorporate the following information:

1. The elevation of the Base Flood at the site.
2. For structures to be elevated, the elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.
3. For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
4. Topographic information showing existing and proposed ground elevations.

Section 4.2 - General Standards

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be built according to this ordinance and the VA USBC, and anchored to prevent flotation, collapse, or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

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- E. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions A – H above, in all special flood hazard areas, the additional provisions shall apply:

- I. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Management Agency.
- J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

Section 4.3 - Elevation and Construction Standards [44 CFR 60.3]

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with Article III, Section 3.1.A.3 the following provisions shall apply:

A. For all properties required to comply with the freeboard elevation, the height allowance or restriction identified in Article 3 may be exceeded equal to the freeboard requirement.

B. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A1-30, AE, AH, and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood level plus eighteen(18) inches¹³. See Article III, Section 3.1.A.5 and Article III, Section 3.1.A.6 for requirements in the Coastal A, VE, and V zones.

¹³ The flood maps anticipate one foot of rise in BFE due to fill in the floodplain, so while building to BFE is all that is required; it will result in flooding if all assumptions made in mapping are correct. Flood insurance rounds up for freeboard so an 18 inch requirement offers the best “bang for the buck” in reducing flood insurance rates and allows for an additional margin of safety in case the models have an error or are based on incomplete data

C. Non-Residential Construction

1. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the base flood level plus eighteen (18) inches¹⁴. See Article III, Section 3.1.A.5 and Article III, Section 3.1.A.6 for requirements in the Coastal A, VE, and V zones.
2. Non-residential buildings located in all A1-30, AE, and AH zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus two feet¹⁵ are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by (title of community administrator).

D. Space Below the Lowest Floor

In zones A, AE, AH, AO, and A1-A30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. Not be designed or used for human habitation, but shall be used solely for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
2. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

¹⁴ The flood maps anticipate one foot of rise in BFE due to fill in the floodplain, so while building to BFE is all that is required; it will result in flooding if all assumptions made in mapping are correct. Flood insurance rounds up for freeboard so an 18 inch requirement offers the best “bang for the buck” in reducing flood insurance rates and allows for an additional margin of safety in case the models have an error or are based on incomplete data

¹⁵ If your community has adopted the recommended freeboard you might need to change this provision to be consistent or higher than the freeboard otherwise required. Please note that the minimum requirements are BFE plus one foot – two feet of freeboard is the recommended minimum.

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- b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
- c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
- d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
- e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
- f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

D. Accessory Structures

- 1. Accessory structures in the SFHA shall comply with the elevation requirements and other requirements of Article IV, Section 4.3.B or, if not elevated or dry floodproofed, shall:
 - a. Not be used for human habitation;
 - b. Be limited to no more than *600 square feet*¹⁶ in total floor area;
 - c. Be useable only for parking of vehicles or limited storage;
 - d. Be constructed with flood damage-resistant materials below the base flood elevation;
 - e. Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
 - f. Be anchored to prevent flotation;
 - g. Have electrical service and mechanical equipment elevated to or above the base flood elevation;
 - h. Shall be provided with flood openings which shall meet the following criteria:
 - (1) There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor,

¹⁶ This is the minimum size restriction set by FEMA Region III, but a community could choose a higher standard and limit accessory structures to a size less than 600 square feet. However, a variance could be issued for larger accessory structures, not to exceed 600 square feet. If a smaller size limit is chosen, additional language would be required in Article VI: Variances - see Footnote 23. The chosen size restriction should also be reflected in Article IV, Section 4.3.D.2.b, Article VI, Section M, and Article VIII-Glossary in the definition of "Appurtenant or accessory structure".

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each such enclosure shall have flood openings on exterior walls.

- (2) The total net area of all flood openings shall be at least 1 square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.
- (3) The bottom of each flood opening shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
- (4) Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

E. Standards for Manufactured Homes and Recreational Vehicles

1. In zones A, AE, AH, and AO, all manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in Article III, Section 3.1.A.6 and Article IV, Sections 4.2 and 4.3.
2. All recreational vehicles placed on sites must either:
 - a. Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
 - b. Meet all the requirements for manufactured homes in Article IV, Section 4.3.E.1.

Section 4.4 - Standards for Subdivision Proposals

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- D. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other proposed development

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proposals (including manufactured home parks and subdivisions) that exceed fifty¹⁷ lots or
five acres, whichever is the lesser.

¹⁷ The recommended standard here is 5 lots instead of 50. Fifty lots is the breakpoint suggested in the federal regulations, but the 5/5 rule is less confusing and captures more commercial development.

ARTICLE V – EXISTING STRUCTURES IN FLOODPLAIN AREAS

Any structure or use of a structure or premises must be brought into conformity with these provisions when it is changed, repaired, or improved¹⁸ unless one of the following exceptions is established before the change is made:

- A. The floodplain manager has determined that:
 - 1. Change is not a substantial repair or substantial improvement AND
 - 2. No new square footage is being built in the floodplain that is not complaint AND
 - 3. No new square footage is being built in the floodway AND
 - 4. The change complies with this ordinance and the VA USBC AND
 - 5. The change, when added to all the changes made during a rolling 5-year period does not constitute 50% of the structure's value.¹⁹
- B. The changes are required to comply with a citation for a health or safety violation.
- C. The structure is a historic structure and the change required would impair the historic nature of the structure.

¹⁸ The assumption that all buildings will be brought in to compliance unless an exception is found is not required by the federal regulations, it is a recommended change for the sake of administrative efficiency and improved compliance.

¹⁹ This cumulative change requirement is a recommended higher standard. DCR has found that not having a time period for cumulative change can lead to people trying to split work up to avoid hitting the 50% limit which puts the community in a difficult place with enforcement and increases administrative burdens.

ARTICLE VI - VARIANCES: FACTORS TO BE CONSIDERED [44 CFR 60.6]

Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this Section.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this Section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one percent (1%) chance flood elevation.
- B. The danger that materials may be swept on to other lands or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain

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management program for the area.

- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. No variance shall be granted for an accessory structure exceeding 600 square feet. (*Note: See Article IV, Section 4.3.D.2.*)²⁰
- N. Such other factors which are relevant to the purposes of this Ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the one percent (1%) chance flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

²⁰ If a size restriction for accessory structures that is less than 600 square feet is chosen, variances could be issued for structures larger than that size restriction, not to exceed 600 square feet. In this case, additional language is required under Article VI, Section M. Suggested language:

“Accessory structures within the SFHA that are greater than {insert size restriction} square feet, do not exceed 600 square feet, and do not meet all requirements for elevating or dry floodproofing, as set out in Article IV, Section 4.3.B, must secure a variance in accordance with the floodplain ordinance before a permit is issued. The structure must comply with accessory structure criteria in Article IV, Section 4.3.D.2. No variance shall be granted for an accessory structure exceeding 600 square feet. (*Note: See Article IV, Section 4.3.D.2.*)”

ARTICLE VII - GLOSSARY [44 CFR 59.1]

- A. Appurtenant or accessory structure - A non-residential structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures are not to exceed *600 square feet*²¹.
- B. Base flood - The flood having a one percent chance of being equalled or exceeded in any given year.
- C. Base flood elevation - The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the 1% annual chance flood.
- D. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- E. Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- F. Coastal A Zone - Flood hazard areas that have been delineated as subject to wave heights between 1.5 feet and 3 feet.
- G. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, temporary structures, mining, dredging, filling, grading, paving, excavation, drilling or other land-disturbing activities or permanent or temporary storage of equipment or materials.
- H. Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).
- I. Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- J. Existing construction - For the purposes of the insurance program, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures" and "pre-FIRM."
- K. Flood or flooding -
 - 1. A general or temporary condition of partial or complete inundation of normally dry

²¹ This is the size restriction set by FEMA Region III, but a community could choose a higher standard and limit accessory structures to a size less than 600 square feet. However, a variance could be issued for larger accessory structures, not to exceed 600 square feet. If a smaller size limit is chosen, additional language would be required in Article VI: Variances - see Footnote 23. The chosen size restriction should also be reflected in Article IV, Section 4.3.D.2.b, Article VI, Section M, and Article VIII-Glossary in the definition of "Appurtenant or accessory structure".

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land areas from:

- a. The overflow of inland or tidal waters; or,
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
 - c. Mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.

- L. Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- M. Flood Insurance Study (FIS) - a report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.
- N. Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.
- O. Floodproofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- P. Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point within the community.
- Q. Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.
- R. Functionally dependent use - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- S. Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

- T. Historic structure - Any structure that is:
1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
 4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or,
 - b. Directly by the Secretary of the Interior in states without approved programs.
- U. Hydrologic and Hydraulic Engineering Analysis - Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.
- V. Letters of Map Change (LOMC) - A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:
- Letter of Map Amendment (LOMA) - An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a land as defined by meets and bounds or structure is not located in a special flood hazard area.
- Letter of Map Revision (LOMR) - A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- Conditional Letter of Map Revision (CLOMR) - A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.
- W. Lowest adjacent grade - the lowest natural elevation of the ground surface next to the walls of a structure.
- X. Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest

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floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

- Y. Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
- Z. Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- AA. Mean Sea Level – for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988 to which base flood elevations shown on a community’s FIRM are referenced.
- BB. New construction - For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after _____ {insert the effective date of the community’s initial Flood Insurance Rate Map} [or “after December 31, 1974”, choose whichever is later], and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- CC. Post-FIRM structures - A structure for which construction or substantial improvement occurred on or after _____ {insert the effective date of the community’s initial Flood Insurance Rate Map} [or “after December 31, 1974”, choose whichever is later].
- DD. Pre-FIRM structures - A structure for which construction or substantial improvement occurred before _____ {insert the effective date of the community’s initial Flood Insurance Rate Map} [or “on or before December 31, 1974”, choose whichever is later].
- EE. Primary frontal dune - a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms.
- FF. Recreational vehicle - A vehicle which is:
1. Built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projection;
 3. Designed to be self-propelled or permanently towable by a light duty truck; and,
 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- GG. Repetitive Loss Structure - A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a 10-year period, in which the cost of

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the repair, on the average, equalled or exceeded 25 percent of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

- HH. Severe repetitive loss structure - a structure that: (a) Is covered under a contract for flood insurance made available under the NFIP; and (b) Has incurred flood related damage - (i) For which 4 or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or (ii) For which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.
- II. Shallow flooding area - A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- JJ. Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section 3.1 of this ordinance.
- KK. Start of construction - For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- LL. Structure - for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- MM. Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. *It also means flood-related damages sustained by a structure on two occasions in a 10-year period, in which the cost of the repair, on the average, equals or exceeds 25 percent of the market value of the structure at the time of each such flood event.*
- NN. Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term does

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not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
3. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

OO. Violation - the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

PP. Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

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ARTICLE VIII – ENACTMENT²²

Enacted and ordained this _____ day of _____, 20 _____. This ordinance, number _____ of Cape Charles, Virginia, shall become effective upon passage.

Signature

Title

Attested

²² This section can be customized based upon a community's preferences. The model ordinance contains this section as FEMA requires an ordinance to have signatures from the community, either elected officials or administrators, showing that the ordinance has been officially adopted. FEMA also requires a date of adoption and an ordinance number.

Definitions (put in around page 378, pick up at page 234)

ABANDONMENT means the relinquishment of property, or a cessation of the use of the property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

ABATTOIR means slaughterhouse, a place where livestock is killed and prepared for distribution to butcher shops and food markets.

ACCESS means a way or means of approach to provide vehicular or pedestrian physical entrance to a property.

ACCESSORY USE, except as otherwise provided in the zoning district regulations, an accessory use is:

1. A use which is conducted on the same zoning lot as the principal use to which it is related, whether located within the same building or as an accessory structure, or as an accessory use of land, or which is conducted on a contiguous lot in the same ownership, and
2. Clearly incidental to, and customarily found in connection with, such principal use, and
3. Operated and maintained substantially for the benefit or convenience of the owners, occupants, employees, customers, or visitors of the zoning lot with the principal use.

ACRE is a measure of land area containing 43,560 square feet.

ACREAGE means a parcel of land, regardless of area, described by metes and bounds which respectively are ascribed to them by this section.

ADAPTIVE REUSE means the development of a new use for an older building or for a building originally designed for a special or specific purpose.

ADDITION means a structure added to the original structure at some time after the completion of the original structure or an extension or increase in floor area or height of a building or structure.

ADJACENT includes the term contiguous.

ADJACENT GROUND ELEVATION means the elevation of the surface of the ground between a point touching the exterior wall of a building and a point three feet in distance from such wall measured perpendicularly therefrom.

ADMINISTRATOR, THE ZONING ADMINISTRATOR, means the official charged with the enforcement of the zoning ordinance. The Administrator may be any appointed or elected official who is designated to the position by the Town Council. The Administrator may serve with or without compensation as determined by the Council.

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.

ADULT BOOK STORE means any establishment having as a substantial portion of its stock in trade, books, pictures, magazines, and other periodicals which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities or specified anatomical areas, or an establishment trading in such books, pictures, magazines, and other periodicals which limits its customers to persons over eighteen years of age.

ADULT CARE means the provision of health care including retirement homes, congregate living, and acute care facilities, or a mixture thereof.

ADULT MOVIE THEATER means any establishment used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein, or an establishment used for presenting such material which limits its customers to persons over eighteen years of age.

~~**AFFORDABLE HOUSING** means housing that is affordable to households with incomes at or below 120% of the area median income, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities."~~

Affordable housing" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities. For the purpose of administering affordable dwelling unit ordinances authorized by this chapter, local governments may establish individual definitions of affordable housing and affordable dwelling units including determination of the appropriate percent of area median income and percent of gross income.

AGRICULTURE means the tilling of soil, the raising of crops, forestry, the keeping and raising of livestock and fowl, and including the process of any products produced on the premises, such as milk, eggs, and the like.

AGRICULTURAL LANDS means those lands used for the planting and harvesting of crops or plant growth of any kind in the open; pasture; horticulture; dairying; floriculture; or raising of poultry and/or livestock.

AFFORDABLE HOUSING means housing that is affordable to **households** with incomes typically at or below **120% of the area median income**, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities.

ALLEY means the minor way used primarily for vehicular access to the rear or side of properties otherwise abutting a street. For an alley way to be recognized as such by the Town, it must have previously been officially adopted by the Town.

ALTERATION means any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any exterior change such as in doors, windows, roof, siding, porches, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically,

or the moving of a building or structure from one location to another.

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

AMERICANS WITH DISABILITIES ACT (ADA) is a 1990 federal law designed to bring disabled Americans into the economic mainstream by providing them equal access to jobs, transportation, public facilities, and services.

ANEMOMETER. Measures the wind speed and may transmit wind speed data to the controller.

APARTMENT HOUSE means a building used or intended to be used as the residence of three or more families living independently of each other.

APARTMENT BUILDING means a building used or intended to be used as the residence of three or more households/families living independently of each other.

APARTMENT UNIT is considered one or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing three or more dwelling units.

AREA MEDIAN INCOME means the midpoint of Northampton County's income distribution for a family of four and is calculated on an annual basis by the Department of Housing and Urban Development as median family income (MFI).

AREA OF SPECIAL FLOOD PLAIN means the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. This area is designated on the Flood Insurance Rate Map (hereinafter as FIRM) as AE and VE.

APPLICANT is the person submitting an application.

ARCHITECTURAL PROJECTION. Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein. See also "Awning;" "Backlit awning;" and "Canopy, Attached and Free-standing."

ATTIC is space between ceiling framing of the top story and the underside of the roof.

AUTOMOBILE GRAVEYARD means any lot or place which is exposed to weather upon which three or more motor vehicles of any kind, incapable of being operated, are placed.

AVERAGE SETBACK shall be the mean setback from a street right-of-way of buildings on both sides of a lot.

AWNING. An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or nonrigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures

that are internally illuminated by fluorescent or other light sources.

AWNING, BACKLIT. An awning with a translucent covering material and a source of illumination contained within its framework.

BASE FLOOD ELEVATION means the highest height, expressed in feet above sea level, of the level of flood waters occurring in the regulatory base flood.

BANNER. A flexible substrate on which copy, or graphics may be displayed.

BASEMENT means that portion of a building that is partly or completely below grade. A basement is a level within a building that has its floor surface below the adjoining ground level. A basement shall be counted as a story if over 50 percent of its height is above finished grade.

BASE FLOOD/100-YEAR FLOOD means a flood that on the average is likely to occur once every 100 years (i.e., that has a 1 percent chance of occurring each year, although the flood may occur in any year).

BATHROOM means a room or area that includes a sink and toilet. It may also include a bathtub, shower, or bidet.

BED AND BREAKFAST means a single-family dwelling containing sleeping and/or breakfast accommodations as an accessory use to the principal use. Such lodging shall have room accommodations for transient persons and wherein a charge is normally paid for such accommodations. Owner or manager is a permanent dweller residing on site.

BEDROOM is a room or space within a structure intended for sleeping. Requirements include:

- A minimum size of 70 sq. ft; if more than one person occupies the room, there must be 50 sq. ft. per occupant.
- Access to a bathroom without crossing another bedroom.
- Every bedroom must have access to natural ventilation and have a permanent heat source.
- Two means of egress: one that leads to the rest of the home without going through another bedroom and one that leads directly to the outside. If the outside egress is a window, it must be at least 5.7 sq. ft and can be no more than 44 inches from the room floor, unless there is a permanent step installed. It shall be illegal to have locking bars or grates covering an egress window.
- Ceiling height must be no less than 7 feet.

BEST MANAGEMENT PRACTICES or BMP means a practice, or a combination of practices, that is determined by a state or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by non-point sources to a level compatible with water quality goals.

BIKEWAY means a pathway often paved and separated from streets and sidewalks designed to be used by bicycles.

BILLBOARD means a sign as defined in this ordinance including the supporting sign structure which advertises or directs attention of the general public to an establishment, business, or

~~service and which is located on a separate site from the establishment, business, or service which the billboard advertises.~~

BILLBOARD. Any large sign/panel including supporting structure used as an outdoor display for the purpose of displaying advertisements; the product, business, or service so advertised or displayed being remote from the site of the sign. This sign is typically seen alongside roadways or on the sides of buildings. (Sometimes referred to as "Off-premise sign" or "Outdoor advertising sign.")

BLIGHTED AREA is an area characterized by deteriorating and/or abandoned buildings, inadequate or missing public or community services, and vacant land with debris, litter, lack of sanitation facilities, trash and junk accumulation and impacted by adverse environmental nuisances, such as noise, heavy traffic, and odors.

BOARDING HOUSE or **ROOMING HOUSE** means a dwelling unit or part thereof in which, for compensation, lodging and meals are provided; personal and financial services may be offered as well.

BOARD OF ZONING APPEALS means the board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator or Floodplain Manager in the interpretation of this ordinance.

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

BUFFER YARD means an area or areas located within districts or land use classifications which extend along adjacent property lines abutting other districts.

BUILDING means any structure having a roof supported by walls which is solidly enclosed, including any area which is solidly enclosed with glass or any other rigid material which will not allow for the passage of air.

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

BUILDING, ACCESSORY means a subordinate and separate building located upon the same lot occupied by the main structure or where a main structure was previously located. Accessory buildings shall not be used as dwelling units, unless a zoning permit is issued in compliance with **Section 4.2(J)**.

BUILDING ELEVATION. The entire side of a building, from ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

BUILDING FOOTPRINT is the land area on which a proposed building is located.

BUILDING, HEIGHT OF means the vertical distance measured from the finished grade to the top of the highest roof beams on a flat or shed roof, to the top of a parapet, the deck level on a

mansard roof, and the average distance between eaves and the ridge level for gable, hip, and gambrel roofs. 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.

BUILDING INSPECTOR/OFFICIAL is the individual designated by the appointing authority to enforce the provisions of the building code.

BUILDING, MAIN means the principal structure or the principal building on a lot or the building or the principal building housing the principal use on a lot.

BUILDING, PARCEL means a fraction of a tract of land containing one or more building lots.

~~**BUILDING PERMIT** means written permission issued by proper authority for the construction, repair, alteration, addition, restoration, demolition, or razing of all or a part of any building or structure.~~

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.

CANOPY, ATTACHED. A multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffit of an attached canopy may be illuminated by means of internal or external sources of light. See also "Marquee."

CANOPY, FREE-STANDING. A multisided overhead structure supported by columns, but not enclosed by walls. The surface(s) and/or soffit of a free-standing canopy may be illuminated by means of internal or external sources of light.

CAREGIVER is an adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring.

CARRY-OUT RESTAURANT means an establishment that by design of the physical facilities, service, or packaging sells prepared ready-to-eat foods intended primarily to be consumed off the premises.

CEMETERY means property used for interring of the dead.

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

CERTIFICATE OF APPROPRIATENESS is a certificate or other statement indicating approval by the Administrator or the Harbor Area 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.

CHESAPEAKE BAY PRESERVATION AREAS (CBPA) means any land designated as such on the Chesapeake Bay Preservation Area Map. A CBPA shall consist of both a Resource Protection Area (RPA) and a Resource Management Area (RMA) and shall also include any area designated as an Intensely Developed Area (IDA).

CHESAPEAKE BAY PRESERVATION AREA or CBPA means any land designated by the Town Council pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9VAC25-830-10 et seq., § 62.1-44.15:68 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area.

CHILD CARE CENTER means any facility, other than a family home, established for providing childcare, supervision, and protection of children.

CHILD AND PERSONAL CARE USES shall mean any care, activity, and supervision (with or without academic instruction) for five or more children.

CHURCH means a building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

CLUB means a group of people organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and by-laws.

COASTAL HIGH HAZARD AREA means an area subject to high velocity waters including but not limited to hurricane wave wash. The area is designated on the FIRM as VE.

COMMERCIAL USE is an activity involving the sale of goods or services carried out for profit.

COMMERCIAL VEHICLE shall mean limousine, flatbed truck, dump truck, tow truck, bus, school bus, transport wrecker, cab-on-chassis truck, tractor trailer, wheeled attachment, earth-moving machinery, semi-trailer, and any vehicle over 20 feet in length, eight feet in height, or seven feet in width.

COMMISSION shall mean the Cape Charles Planning Commission.

COMPREHENSIVE PLAN is a master plan, long-range plan, intended to guide the growth and development of a community or region that typically includes inventory and analytic sections leading to recommendations for the community's future economic development, housing, recreation and open space, transportation, community facilities, and land use, all related to the community's goals and objectives for these elements.

CONDITIONAL USE means a use permitted in a particular zoning district upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in the zoning ordinance and authorized by the approving agency.

CONDITIONAL USE PERMIT is a permit recommended by the Planning Commission and issued by the Town Council stating that the conditional use meets all conditions set forth in local ordinances.

CONSTRUCTION FOOTPRINT means the area of all impervious surface including but not limited to buildings, roads and drives, parking areas, and sidewalks and the area necessary for construction of such improvements.

CONTINUING CARE RETIREMENT COMMUNITY, sometimes known as a life plan community, is a type of retirement community where a continuum of aging care needs from independent living, assisted living, and skilled nursing care can all be met within the community.

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

COOPERATIVE means real estate owned by an association, each of the members of which is entitled, by virtue of his ownership interest in the association, to exclusive possession of a unit. (See § 55.1-2100 et seq. Of the Code of Virginia)

CONSTRUCTION shall mean any site or building preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

CONTRIBUTING STRUCTURE OR PROPERTY means a structure, building, or place constructed on or before 1964 OR which has special significance because of notable architectural or historic features relating to the cultural or artistic heritage of the community and whose authentic look and character should be retained. The National Register of Historic Places (amended 2019) provides the listing of contributing structures and properties. Should a building or structure within the boundaries of the historic district not be listed in the national register, the building or structure will be classified as noncontributing.

COPY. Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

COUNTRY CLUB is land area and buildings containing golf courses, recreational facilities, a clubhouse, and customary accessory uses open to members and their guests.

CRAWL SPACE is an under floor space that is not a basement which usually contains pipes, ducts, wiring and lighting fixtures, and permits access but is too low for standing.

CROP is a harvestable product planted, grown, and cultivated in the soil.

DECK is an uncovered platform, constructed of wood or wood substitute.

DEMOLITION is the dismantling or tearing down of all or part of any building and all operations

incidental thereto.

DEMOLITION PERMIT means the official authorization in writing to remove part or all of a building or structure.

DENSITY means the total number of families, individuals, dwelling units, households, or housing structures per unit of land.

DESIGN GUIDELINES are those set of recommendations adopted pursuant to §8.20 and §9.20 of this Code.

~~**DESIGN GUIDELINES** are those set of guidelines, standards, and regulations adopted pursuant to §9.20 of this Code.~~

DEVELOPER means the owner or any person with written authorization for the owner who intends to improve or to construct improvements upon any given property.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" shall not be construed to include any tract of land which will be principally devoted to agricultural production.

~~**DEVELOPMENT** means the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; any use or extension of the use of land.~~

~~**DEVELOPMENT** means any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, or storage of equipment or materials.~~

~~**DEVELOPMENT** means the construction or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.~~

DIAMETER AT BREAST HEIGHT or **DBH** means the diameter of a tree measured outside the bark at a point 4.5 feet above ground.

DISTRICT is a part, zone, or geographical area within the municipality within which certain zoning or development regulations apply.

DOG PEN means any structure used to enclose and confine domestic canines outside of the principal building or structure on a lot. Pens shall be located only in the rear yard and in accordance with the Town's zoning regulations. Pens shall be designed to provide the canines with shelter from the elements of nature and constructed in such a manner as not to cause injury to the animal or interfere with movement, vision or respiration. Pens shall be in a clean, dry, and sanitary condition at all times. Animal waste shall not be allowed to accumulate.

DRIPLINE means a vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

DRIVE-THROUGH ESTABLISHMENT/RESTAURANT shall mean 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.

DRIVEWAY shall mean a vehicular connection between the right-of-way of a street and to a vehicle parking, loading, or maneuvering facility, lots, building sites, uses, or other divisions of land and not intended to be public ingress and egress. A driveway is not considered a street.

DWELLING means a structure or portion thereof that is used exclusively for human habitation.

DWELLING, ACCESSORY is a dwelling unit which is an accessory use to a single- family dwelling or commercial use in the Commercial – Residential District.

DWELLING, CONDOMINIUM shall mean a single, separately owned dwelling unit in a multi-unit development or structure, with jointly owned and shared areas and facilities.

DWELLING, DUPLEX shall mean a building designed as a single structure, containing two separate dwelling units joined side-by-side, 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, MANUFACTURED HOME or MOBILE HOME means a special form of 'one-family dwellings' with the following characteristics: A structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width, or 40 body feet or more in length, or which when erected onsite is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, and designed and constructed to National Manufactured Housing Construction and Safety Standards Act of 1974. The term does not include any self-propelled recreational vehicle. Calculations used to determine the number of square feet in a structure will include the total of square feet for each transportable section comprising the completed structure and will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected onsite. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows.

DWELLING, MULTI-FAMILY shall mean a building designed for and containing three or more dwelling units.

DWELLING, SEASONAL is a dwelling unit not used as a principal residence that may be occupied weekends and for brief periods during the year.

DWELLING, SINGLE FAMILY DETACHED shall mean a single-family dwelling that is located on an

individual lot of record.

DWELLING, SINGLE-FAMILY ATTACHED (TOWNHOUSE) shall mean 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 UNIT means one or more rooms, designed, occupied, or intended for occupancy as a separate living quarter with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

EASEMENT is a grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

ENGINEER means a professional engineer licensed by the Commonwealth of Virginia.

ENLARGEMENT means an increase in the size of an existing structure or use, including the physical size of the property, building, parking, and other improvements.

EVENT CENTER shall mean 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.

EXISTING CONSTRUCTION means, for the purpose of determining rates, structures for which the start of construction commenced before the effective date of the FIRM. EXISTING CONSTRUCTION may also be referred to as **EXISTING STRUCTURES**.

EXISTING USE is the use of a lot or structure at the time of the enactment of the zoning ordinance.

~~**EXTENDED-STAY MOTEL/HOTEL** shall mean 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."~~

~~**FAMILY** means a group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.~~

FARM or FARMLAND is a parcel of land used for agricultural activities.

FENCE means an artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

FLOOD or FLOODING means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - A. The overflow of inland or tidal waters.
 - B. The unusual and rapid accumulation or runoff of surface waters from any source.
 - C. Mudslides (i.e., mudflows) which are approximately caused or precipitated by accumulations of water on or under the ground.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in 1.a of this section.

FLOOD INSURANCE RATE MAP (FIRM) means the official map of the community, on which the administrator has delineated both special hazard areas and the risk premium zones applicable to the community. **FLOOD PLAIN** means (1) a relatively flat land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; (2) an area subject to the unusual and rapid accumulation of runoff of surface water from any source.

FLOOD PLAIN means the channel and the relatively flat area adjoining the channel of a natural stream, river, or body of water that has been or may be covered by floodwater.

FLOOD PLAIN MANAGEMENT means the operation of an overall program of corrective and preventive measures for reducing flood damage including but not limited to emergency preparedness plans, flood control works, and flood plain management regulations.

FLOOD PROOFING means any combination of structural and nonstructural additions, changes, or adjustments to structure which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOOR AREA shall mean 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.

FOOT CANDLE means a standard measurement of light intensity, defined as the illuminance on a one-square foot surface from a uniform source of light.

FORESTRY means an establishment primarily engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or in performing forest services.

FRONTAGE is the width in linear feet of each lot where it abuts the right-of-way of any public or private street.

FRONTAGE, BUILDING. The length of an exterior building wall or structure of a single premise orientated

to the public way or other properties that it faces.

FRONTAGE, PROPERTY. The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

FUNCTIONALLY DEPENDENT USE means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

FUNERAL HOME is a building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

GARAGE means a deck, building, or parking structure, or part thereof, used or intended to be used for the parking and storage of vehicles.

GARAGE, PRIVATE RESIDENTIAL is a structure that is an accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof and that is not a separate commercial enterprise available to the general public.

GOLF COURSE means a tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards, and that may include a clubhouse and shelter.

GOVERNING BODY shall mean the Cape Charles Town Council.

GRADE (ADJACENT GROUND LEVEL), generally flat horizontal surfaces, is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building or structure and the property line. When ground level slopes, the reference plane shall be established by the average of elevations at the four corners of the lot and two additional highest points on the lot (i.e., the average of six points).

GRADING is 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.

GROSS FLOOR AREA (GFA) shall mean the total covered floor area inside the building envelope, including exterior walls, and excluding the roof.

GROUND COVER means grasses or other plants and landscaping grown to keep soil from being blown or washed away.

GROUP HOME is a residential facility, licensed by the Department of Behavioral Health and Developmental Services, in which no more than eight individuals with mental illness, mental retardation, or developmental disabilities reside, with one or more residential counselors or other staff persons. For

the purposes of this ordinance, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in [§ 54.1-3401](#) of the Code of Virginia.

~~**GUEST HOUSE** means living quarters on the same premises with the main building for use by temporary guest(s) of the occupant of the premises, such quarters having no separate utility meters and not rented or otherwise as a separate building.~~

~~**GUEST ROOM** shall mean an accommodation combining living, sleeping, sanitary, and storage facilities within a hotel, motel, boarding house or extended stay (extended stay includes kitchen facilities).~~

HARBOR DISTRICT is a zoning district emphasizing the maritime experience of Cape Charles.

HARDSHIP means 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.

HEALTH CARE FACILITY means a facility or institution, whether public or private, principally engaged in providing services for health maintenance and the treatment of mental or physical conditions.

~~**HISTORIC DISTRICT** is an area designated by the town within which buildings, structures, appurtenances, and places are of basic and vital importance because of their association with history; or because of their unique architectural style and scale and detail; or because of their being a part of or related to a square, park, or area or general arrangement of which should be preserved and/or developed according to cultural, historical, or architectural motives or purposes.~~

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.

HISTORIC STRUCTURES means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the national register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in the states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: a. by an approved state program as determined by the Secretary of the Interior, or b. directly by the Secretary of Interior in the

states without approved programs.

HOME OCCUPATION means any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling. Home occupations must be constructed wholly within the building or structure and shall not exceed 50 percent of the total floor area and the residential appearances of the building or structure must be maintained.

HOSPITAL means an institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residents.

HOTEL is 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.

HOUSEHOLD (family) all the people who occupy a housing unit. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household.

HYBRID SYSTEM. An energy system that uses more than one technology to produce energy to work (for example a wind/solar system).

IMPERVIOUS is any paved, hardened or structural surfaces which prevent or impede the infiltration of stormwater into the soil.

IMPERVIOUS COVER means a surface composed of any material that significantly impedes or prevents natural infiltration or water into the soil. Impervious surfaces include but are not limited to roofs, buildings, streets, parking areas, and any concrete, asphalt, compacted gravel, or shell surface.

IMPROVEMENT means any permanent structure that becomes part of, placed upon, or is affixed to real estate.

INDUSTRIAL, LIGHT means industrial uses that meet the performance standards, bulk controls, and other requirements established in an ordinance.

INDUSTRIAL PARK means any tract of land that is planned, developed, and operated as an integrated facility for a number of individual industrial uses, with consideration of transportation facilities, circulations, parking, utility needs, aesthetics, and compatibility.

INDUSTRY means those fields of economic activity including forestry, fishing, hunting, and trapping; mining; construction; manufacturing; transportation; communications; electric, gas, and sanitary services; and wholesale trade.

~~INN means a commercial facility for the housing and feeding of transients.~~

INNOVATOR SPACE shall mean a 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 shall mean 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.

INTENSELY DEVELOPED AREA or **IDA** means a portion of Resource Protection Area or a Resource Management Area designated by the Town Council where development is concentrated and little of the natural environment remains.

JUNKYARD means any area, lot, parcel, building, or structure or part thereof used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk.

KENNEL means a commercial establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee. This includes any building or premises used, designed, or arranged for the boarding or breeding or care of four or more dogs, cats, or other domesticated pets of at least six months of age.

KITCHEN means a space within a structure designated for the cooking and preparation of food that includes a sink and a refrigerator.

KILOWATT (kW). A measure of electric power equivalent to 1,000 watts.

LAND USE means a description of how land is occupied or utilized.

LANDSCAPE means an expanse of natural scenery; lawns, trees, plants, and other natural materials, such as rock and wood chips and decorative features, including sculptures, patterned walks, fountains, and pools.

LANDSCAPE PLAN is a plan indicating the location, size, quantity and species of replacement trees and shrubbery.

LANDSCAPE ZONE is an area reserved for the growing and maintenance of landscape materials, including approved street trees and ground cover.

~~LODGING HOUSE means a facility in which rental sleeping accommodations are provided and in which meals may also be provided as part of the fee.~~

LOT means a parcel of land occupied by a main structure or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open space, and lot areas as are required by this ordinance, and having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

LOT AREA means the total area within the lot lines of a lot, excluding any street right-of-ways.

LOT, CORNER means a lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

LOT COVERAGE is that portion of the lot that is covered by buildings.

LOT DEPTH means the average distance measured from the front of the lot line to the rear of the lot line.

LOT, FLAG means a lot not meeting minimum frontage requirements and where access to the public road is by narrow private right-of-way or driveway.

LOT FRONTAGE means the length of the front lot line measured at the street right-of-way line.

LOT LINE means a line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

LOT LINE, FRONT is the lot line separating a lot from the street right-of-way.

LOT LINE, REAR is the lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

LOT OF RECORD means a lot that exists as shown or described on a plat or deed in the records of the local registry of deeds.

LOT WIDTH is the horizontal distance between the side lot lines measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

~~**LOW INCOME HOUSING** is housing that is economically feasible for families whose income level is categorized as low within the standards promulgated by the U.S. Department of Housing and Urban Development or the appropriate housing agency.~~

MANSARD. An inclined decorative roof-like projection that is attached to an exterior building facade.

MANUFACTURED HOME means a structure subject to Federal regulations, which is transportable in one or more sections, is eight body feet or more in width and forty body feet in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be

used as a single-family dwelling, with or without a permanent foundation when connected to the required facilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

MANUFACTURED HOME PARK/SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or more lots for rent or sale. MAP means the Flood Insurance Rate Map (FIRM) for the community issued by the Federal Insurance Administration.

MANUFACTURED HOUSING means factory built, single-family structures that meet national standards.

MANUFACTURING is an establishment engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or lacquers.

MARINA is a facility for the storing, servicing, fueling, berthing, and securing of boats and that may include eating, sleeping, and retail facilities for owners, crews, and guests.

MARQUEE. See "Canopy (attached)."

MEAN SEA LEVEL means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on the Flood Insurance Rate Map are referenced.

MEGAWATT (MW). A measure of electric power equivalent to 1 million watts.

MENTALLY or PHYSICALLY IMPAIRED PERSON is a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in [§ 63.2-2200](#) of the Code of Virginia, as certified in writing by a physician licensed in the Commonwealth of Virginia.

"Mixed use development" means property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

~~MIXED USE DEVELOPMENT is the development of a tract of land, building, or structure with a variety of complementary and integrated uses, such as but not limited to, residential, office, manufacturing, retail, public, or entertainment in a compact urban form.~~

MOBILE HOME PARK is a site containing space with the required improvements and utilities that are leased for the long-term placement of manufactured houses and that may include services and facilities for the residents.

MODULAR BUILDING, OR HOME OR INDUSTRIALIZED BUILDING means, but is not limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, a combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating, and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified

components, to comprise a finished building. Unlike Manufactured Homes, the design, installation, and construction of modular or Industrialized homes are regulated by the Uniform Statewide Building Code.

MOTEL is one or more buildings in which lodging or board and lodging are provided for transient guests for compensation and supervised by a person in charge at all hours. Ingress and egress to and from all rooms are made primarily directly from an exterior walkaway rather than from an inside lobby.

MUNICIPAL COMMUNITY CENTER. See ‘Neighborhood Community Center.’

NACELLE. The cover housing surrounding a wind turbine, usually at the center of the blades.

NEIGHBORHOOD is an area of the community with characteristics that distinguish it from other areas and that may include distinct ethnic or economic characteristics, housing types, schools, or boundaries defined by physical barriers, such as roads, railroads, or other natural features.

NEIGHBORHOOD COMMUNITY CENTER is a facility within Residential Districts intended for the use of Town citizens for recreational and educational use.

NEW CONSTRUCTION means, for the purpose of determining insurance rates, structures for which the start of construction commenced on or after the effective date of the initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For flood management purposes, NEW CONSTRUCTION means structures for which the start of construction commenced on or after the effective date of a flood plain management regulation adopted by a community and includes any subsequent improvement to such structures.

NON-CONFORMING LOT is a lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

NON-CONFORMING STRUCTURE or BUILDING is a structure or building, the size, dimensions, or location of which was lawful prior to adoption, revision, or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

NON-CONFORMING USE is a use or activity that was lawful prior to the adoption, revision, or amendment of the zoning ordinance but fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

NONCONTRIBUTING STRUCTURE are those that were built after 1964 or have been altered to such a degree that they are no longer representative of the period which they were built or are in such poor physical condition that their retention is difficult. The National Register of Historic Places (amended 2019) provides the listing of non-contributing structures and properties. Should a building or structure within the boundaries of the historic district not to be listed in the national register, the building or structure will be classified as non-contributing.

NONPOINT SOURCE POLLUTION means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

NONTIDAL WETLANDS means those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions such as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act in 33 C.F.R. 328.3b.

NOXIOUS WEEDS means weeds that are difficult to control effectively, such as Johnson Grass, Kudzu, and multiflora rose.

OCCUPANCY PERMIT is a required permit allowing the use of a building or structure after it has been determined that all the requirements of applicable ordinances have been met.

OFFICE means a room or group of rooms for conducting affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communication equipment.

OFF-SITE PARKING means parking provided for a specific use but located on a site other than the one on which the specific use is located.

OPEN SPACE is 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.

OUTDOOR STORAGE means the keeping in an enclosed area of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four hours.

OVERLAY ZONE is an area where additional requirements are superimposed upon a base zoning district or underlying district.

OWNER shall mean 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.

PARAPET. The extension of a building facade above the line of the structural roof.

PARCEL: See **LOT**.

PARK means a tract of land designated and used by the public for active and passive recreation.

PARKING LOT OR PARKING GARAGE shall mean an area or building designated and designed for the temporary storage of vehicles.

PARKING SPACE shall mean a marked or striped usable hard-surfaced area enclosed within a main or accessory building, or unenclosed, permanently reserved for the temporary storage of one vehicle.

PATIO is an uncovered courtyard composed of a paved surface such as concrete, tile, or brick which lies directly on the ground.

PAVERS shall mean preformed paving blocks that are installed on the ground to form patterns while at the same time facilitate pedestrian and vehicular travel.

PEDESTRIAN WALKWAY shall mean a walking surface similar to a sidewalk, which facilitates the safe, unobstructed and convenient flow of pedestrians internally on a private property.

PEN means a small enclosure used for the concentrated confinement and housing of animals, a place for feeding and fattening animals, or a coop. Enclosed pastures or range with an area in excess of one hundred square feet for each animal shall not be regarded as a pen.

PERIOD OF SIGNIFICANCE: The National Register of Historic Places recognizes buildings, sites, and districts for their historic significance, and has documented that the significance be associated with a discrete chronological period for the Cape Charles Historic District from 1883 to 1964.

PERMEABILITY is the ease with which air, water, or other fluids can move through soil or rock.

PERMIT is any written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law but not allowed without such authorization.

PERMITTED USE means any allowable use in a zoning district and subject to the restrictions applicable to the zoning district.

PERSON means any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

PERVIOUS is any surface or element through which water can infiltrate directly into the ground.

PERVIOUS PAVING is any paving surface that presents an opportunity for precipitation to infiltrate or percolate directly into the ground.

PHASE or PHASED is 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.

PICNIC AREA means a place equipped with tables, benches, grills, and trash receptacles for people to assemble, cook, eat, and relax.

PLACE OF WORKSHIP shall mean 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.

"Planned unit development" means a form of development characterized by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.

~~**PLANNED UNIT DEVELOPMENT** means an area of minimum contiguous size as specified by this ordinance to be planned, developed, operated, and maintained as a single entity and containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, commercial, or industrial areas in such ranges or ratios of nonresidential uses to residential uses as specified by this ordinance.~~

PLAN OF DEVELOPMENT means the process for site plan or subdivision plat review to ensure compliance with § 62.1-44.15:67 et seq. of the Code of Virginia and this Article prior to any clearing or grading of a site or the issuance of a building permit.

"Plat" or "plat of subdivision" means the schematic representation of land divided or to be divided and information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and 15.2-2264, and other applicable statutes.

~~**PLAT** means a map representing a tract of land showing the boundaries and location of individual properties and streets; or a map of a subdivision or site plan.~~

PLAYGROUND means an active recreational area with a variety of facilities, including equipment for younger children as well as court and field games.

PLOT means a single-family parcel of land or a parcel of land that can be identified and referenced to a recorded plat or map.

PORCH means a roofed area, which may be screened, usually attached to or part of and with direct access to or from a building. A porch becomes a room when the enclosed space is heated or air conditioned, or has water and sewer service, and when the percentage of window area to wall area is less than fifty percent.

PREMISES shall mean any building, lot, parcel of land, or portion of land whether improved, or unimproved including adjacent sidewalks and parking strips.

PRESERVATION is the process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties

functional is appropriate within a preservation project. However, new exterior additions are not within the scope of this treatment.

PRINCIPAL BUILDING shall mean a building in which is conducted the principal permitted use(s) of the lot on which said building is situated.

PRINCIPALLY ABOVE GROUND means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

PRIVATE shall mean property owned by individuals, corporations, and other organizations and not by city, county, state or federal governments.

PROFFER is an offer of restrictions on use of property presented by an applicant for conditional rezoning or a special exception.

PROJECT shall mean the entire proposed development.

PROPERTY means a lot, parcel, or tract of land together with the building and structures located thereon.

PUBLIC, when used as a modifier shall mean "government-owned" or "government-operated."

PUBLIC AREA means any park, playground, trail, path, or other recreational area and open space; scenic and historical sites; schools and other public buildings and structures; and other places where the public is directly or indirectly invited to congregate.

PUBLIC ART is 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.

PUBLIC ROAD means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq. of the Code of Virginia). This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed and maintained, or both, by the Town of Cape Charles in accordance with the standards of the Town of Cape Charles.

PUBLIC UTILITY means a closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare.

PUBLIC UTILITY FACILITY means any building, structure, and facility including generating and switching stations, poles, lines, pumping stations, repeaters, antennas, transmitters, and receivers, valves, and all buildings and structures relating to the furnishing of utility services, such as electric, gas, telephone, water, sewer, and public transit, to the public.

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. It is the process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location. Reconstruction is different from the other historic treatments in that it is undertaken when there are often no visible historic materials extant or only a foundation remains.

~~**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.~~

RECREATION, ACTIVE means leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, or fields.

RECREATION, PASSIVE means activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, card games, checkers, and similar games.

RECREATIONAL VEHICLE means a vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. designated to be self-propelled or permanently towable by a light-duty truck; and
4. designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel, or seasonal use.

REDEVELOPMENT means the process of developing land that is or has been previously developed.

REHABILITATION is the process of making possible a compatible use for a property through repair, alterations, and additions while retaining to the maximum extent practicable those portions or features which convey its historical, cultural, or architectural values.

REGULATION shall mean any rule, development standard, or other requirement adopted by the governing body pursuant to the requirements of this Zoning Ordinance.

~~**REPAIRS** are any or all work involving the return to functionality of existing structures or elements with authentic looking 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.

RESIDENCE means a home or abode or place where an individual is actually living at a specific point in time.

RESIDENTIAL PROPERTY shall mean all property used for single-family detached, single-family attached,

or multifamily residences, or mixed-use development that contains one or more dwelling units.

RESOURCE MANAGEMENT AREA or **RMA** means that component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area. RMAs include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area.

RESOURCE PROTECTION AREA or **RPA** means that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

RESTAURANT means an establishment where food and drink are prepared and served and consumed primarily within the principal building.

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. It is the process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

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.

RETAIL is the selling of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license.

RETAIL SALES mean an establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RETAINING WALL is a structure constructed and erected between lands of different elevations to protect structures and/or to prevent erosion.

RIGHT-OF-WAY means (1) a strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipelines, water line, sanitary storm sewer, and other similar uses; (2) generally the right of one to pass over the property of another.

ROOF LINE. The top edge of a peaked roof or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

SAND DUNES means naturally occurring accumulations of sand in ridges or mounds landward of the

beach.

SATELLITE EARTH STATION ANTENNA means a parabolic or dish-shaped antenna over 24 inches in diameter or any other apparatus or device that is designed for the purpose of receiving radio waves.

SETBACK is the minimum distance allowable between a building or structure and any lot line.

SIGN means any letters, words, numbers, figures, devices, designs, emblems, trademarks, or any parts or combinations thereof, by which anything is made known. The structure, supports, or uprights on which any sign is supported shall be considered a part of the sign.

SIGN. Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from flagpoles or staffs will not be considered to be signs.

SIGN, ANIMATED means A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this code, include the following types:

Electrically activated. Animated signs producing the illusion of movement by means of electronic, electrical or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

1. **Flashing.** Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle.
2. **Patterned illusionary movement.** Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

Environmentally activated. Animated signs or devices motivated by wind, thermal changes or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

Mechanically activated. Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

SIGN AREA means the entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the support structures.

SIGN AREA. The simple geometric measure of the sign material substrate.

SIGN, AWNING. A sign displayed on or attached flat against the surface or surfaces of an awning. See also "Wall or fascia sign."

SIGN, BANNER. A sign utilizing a banner as its display surface.

SIGN, BUSINESS is a sign that directs attention to a business or profession conducted, or to a commodity or service sold, offered, or manufactured, or to an entertainment offered on the premises where the sign is located.

SIGN, CANOPY. A sign affixed to the visible surface(s) of an attached or free-standing canopy. For reference, see Section C.

SIGN, CHANGEABLE. A sign with the capability of content change by means of manual or remote input, including signs which are:

Electrically activated. Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also "Electronic message sign or center."

Manually activated. Changeable sign whose message copy or content can be changed manually.

SIGN, COMBINATION. A sign that is supported partly by a pole and partly by a building structure.

SIGN COPY. Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.

SIGN, DEVELOPMENT COMPLEX. A free-standing sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park, which is controlled by a single owner or landlord, approved in accordance with Section I.2 of this chapter.

SIGN, DIRECTIONAL means signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one way," "entrance," and "exit."

SIGN, DIRECTIONAL. Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

SIGN, DOUBLE-FACED. A sign with two faces, back to back.

SIGN, ELECTRIC. Any sign activated or illuminated by means of electrical energy.

SIGN, ELECTRONIC MESSAGE. An electrically activated changeable sign whose variable message capability can be electronically programmed.

SIGN, EXTERIOR. Any sign placed outside a building.

SIGN FACE. The surface upon, against or through which the sign copy is displayed or illustrated, not

including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border. see Section C.

1. In the case of panel or cabinet type signs, the sign face shall include the entire area of the sign panel, cabinet or face substrate upon which the *sign* copy is displayed or illustrated, but not open space between separate panels or cabinets.
2. In the case of *sign* structures with routed areas of sign copy, the *sign* face shall include the entire area of the surface that is routed, except where interrupted by a reveal, border, or a contrasting surface or color.
3. In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the *sign* face shall comprise the sum of the geometric figures or combination of regular geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the *sign* copy, but not the open space between separate groupings of sign copy on the same building or structure.
4. In the case of *sign* copy enclosed within a painted or illuminated border or displayed on a background contrasting in color with the color of the building or structure, the *sign* face shall comprise the area within the contrasting background, or within the painted or illuminated border.

SIGN, FASCIA. See "Wall or fascia sign."

SIGN, FLASHING. See "Animated sign, electrically activated."

SIGN, FREESTANDING means any non-movable sign not affixed to a building or solid structure.

SIGN, FREE-STANDING. A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground. Maximum size of 10 square feet. For visual reference, see Section C.

SIGN, GROUND. See "Free-standing sign."

SIGN, HOME OCCUPATION means a sign containing only the name of the occupation of a permitted home occupation.

SIGN, ILLUMINATED. A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated). Lighting fixtures must be dark sky compliant.

SIGN, INTERIOR. Any sign placed within a building, but not including "window signs" as defined by this ordinance. Interior signs, with the exception of window signs as defined, are not regulated by this chapter.

SIGN, MARQUEE. See "Canopy sign."

SIGN, MENU BOARD. A free-standing sign orientated to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window, and which has no more than 20 percent of the total area for such a sign utilized for business identification. Maximum size of 10 square feet.

SIGN, MULTIPLE-FACED. A sign containing three or more faces.

SIGN, OFF-PREMISE. See "Billboard."

SIGN, ON-PREMISE. A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

SIGN, OUTDOOR ADVERTISING. See "Billboard."

SIGN, POLE. See "Free-standing sign."

SIGN, POLITICAL means a temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election.

SIGN, POLITICAL. A temporary sign intended to advance a political statement, cause or candidate for office during an election. A legally permitted outdoor advertising sign shall not be considered to be a political sign.

SIGN, PORTABLE. Any sign not permanently attached to the ground or to a building or building surface. See "Temporary Sign."

SIGN, PROJECTING. A sign other than a wall sign that is attached to or projects more than 18 inches (457 mm) from a building face or wall or from a structure whose primary purpose is other than the support of a sign. For visual reference, see Section C.

SIGN, REAL ESTATE means a sign pertaining to the sale or lease of the premises or a portion of the premises on which the sign is located.

SIGN, REAL ESTATE. A temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

SIGN, REVOLVING. A sign that revolves 360 degrees (6.28 rad) about an axis. See also "Animated sign, mechanically activated."

SIGN, ROOF. A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves and architectural projections such as canopies or marquees shall not be considered to be roof signs. For a visual reference, and a comparison of

differences between roof and fascia signs, see Section C.

SIGN, SANDWICH BOARD. A freestanding temporary sign, constructed of two large boards hinged at the top, held together by a chain or rope, with no other moving parts or lights; displayed outside a business, during business hours, to advertise the business, hours of operation, an event, a promotion, etc. Maximum size of 10 square feet.

SIGN STRUCTURE. Any structure supporting a sign.

SIGN, TEMPORARY means a sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time.

SIGN, TEMPORARY. A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

SIGN, UNDER-CANOPY OR UNDER-MARQUEE. A sign attached to the underside of a canopy or marquee.

SIGN, V. Signs containing two faces of approximately equal size, erected upon common or separate structures, positioned in a "V" shape with an interior angle between faces of not more than 90 (1.57 rad) degrees with the distance between the sign faces not exceeding 5 feet (1524 mm) at their closest point.

SIGN, WALL OR FASCIA. A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches (457 mm) from the building or structure wall, including signs affixed to architectural projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building facade or to the face or faces of the architectural projection to which it is affixed. For a visual reference and a comparison of differences between wall or fascia signs and roof signs, see Section C.

SIGN, WINDOW. A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

SILVICULTURAL ACTIVITIES means forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to § 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under § 58.1-3230 of the Code of Virginia.

"Site plan" means the proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the

subdivision ordinance to which the proposed development or subdivision is subject.

~~**SITE PLAN** means the development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, wetlands, and waterways; landscaping and open spaces; walkways; means of egress and ingress; circulation; utilities; structures and buildings; signs and lighting; berm; buffers and screening devices; surrounding development; and any other information that reasonably may be required in order that an informed decision can be made by the approving authority.~~

SLEEPING AREA is an area in a room or house where a person can sleep and may utilize a bed, bunk beds, daybed, or other furniture identified for sleeping purposes, including and without limitation, a pull-out couch or futon.

SPOT ZONING means the rezoning of a lot or parcel of land to benefit an owner for a use incompatible with the surrounding land uses and that does not further the comprehensive plan.

STANDARDS are Zoning Ordinance requirements that are evaluated by the Zoning Administrator or Code Official and not under the discretion of the Historic District Review Board or the Harbor Area Review Board.

START OF CONSTRUCTION means the date the building permit was issued, provided the actual START OF CONSTRUCTION, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation of property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual START OF CONSTRUCTION means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

STOOP is a small porch (covered or uncovered) and the step(s) to it.

STORY means that portion of a building included between the surface of any floor and the floor next above it or, if there is no floor above it, the space between the floor and the ceiling next above it. A basement shall be counted as a story if over 50 percent of its height is above finished grade.

~~**STORY ABOVE GRADE** is any story having its finished floor surface entirely above grade plane, except that a basement shall be considered as a story above grade plan where the finished surface of the floor above the basement is:-~~

- ~~1. More than 6 feet above grade plane; or~~
- ~~2. More than 6 feet above the finished ground level for more than 50% of the total building perimeter; or~~

~~3. More than 12 feet above the finished ground level at any point.~~

STORY, HALF, HABITABLE ATTIC, means a finished or unfinished area, not considered a full story, complying with all of the following requirements:

- The occupiable floor area is at least 70 square feet.
- The occupiable floor area has a ceiling height of not less than 7 feet. For rooms with sloped ceilings, ceiling height shall not be less than 5 feet and not less than 50 percent of the required floor area shall have a ceiling height of not less than 7 feet. A shower or tub equipped with a shower head shall have a ceiling height in accordance with the Virginia Residential Building Code.
- The occupiable space is enclosed by the roof assembly above, knee walls (if applicable) on the sides and the floor-ceiling assembly below.
- Total occupiable space shall not exceed 50 percent of the greatest story floor area.

"Street" means highway, street, avenue, boulevard, road, lane, alley, or any public way.

~~**STREET** means any vehicular way that (1) is an existing state, county, or municipal road; (2) is shown upon a plat approved pursuant to law; (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of the planning commission and the grant to such commission of the power to review plats; includes the land between the street lines, whether improved or unimproved.~~

STREET, ARTERIAL means a street which moves or is designed to move large volumes of traffic from one part of town to another, connecting residential areas with employment centers and centers of commercial activity. Traffic volumes are usually 500 vehicles per day or greater.

STREET, COLLECTOR means a street that collects traffic from local streets and connects with minor and major arterial.

STREET, LOCAL means a street designed to provide vehicular access to abutting property and to discourage through traffic.

STREET SCAPE means a design term referring to all the elements that constitute the physical makeup of a street and that, as a group, define its character, including building frontage, landscaping, street paving, street furniture, trees and other plantings, awnings, and marquee signs and lighting.

STRUCTURAL ALTERATION means any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimension or configuration of the roof or exterior walls.

STRUCTURE means a combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

STRUCTURE means, for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground as well as a manufactured home.

STRUCTURE, APPURTENANT means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

"Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the division of a parcel of land into three or more lots or parcels of less than five acres each 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 resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with § 15.2-2258. Nothing in this definition, section, nor any ordinance adopted pursuant to § 15.2-2240 shall preclude different owners of adjacent parcels from entering into a valid and enforceable boundary line agreement with one another so long as such agreement is only used to resolve a bona fide property line dispute, the boundary adjustment does not move by more than 250 feet from the center of the current platted line or alter either parcel's resultant acreage by more than five percent of the smaller parcel size, and such agreement does not create an additional lot, alter the existing boundary lines of localities, result in greater street frontage, or interfere with a recorded easement, and such agreement shall not result in any nonconformity with local ordinances and health department regulations. Notice shall be provided to the zoning administrator of the locality in which the parcels are located for review. For any property affected by this definition, any division of land subject to a partition suit by virtue of order or decree by a court of competent jurisdiction shall take precedence over the requirements of Article 6 (§ 15.2-2240 et seq.) and the minimum lot area, width, or frontage requirements in the zoning ordinance so long as the lot or parcel resulting from such order or decree does not vary from minimum lot area, width, or frontage requirements by more than 20 percent. A copy of the final decree shall be provided to the zoning administrator of the locality in which the property is located.

~~**SUBDIVISION** means the division of a lot, tract, or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale, development, or lease.~~

SUBSTANTIAL ALTERATION means expansion or modification of a building or development that would result in a disturbance of land exceeding an area of 2,500 square feet in the Resource Management Area only.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENTS means any construction, rehabilitation, addition, or other improvements of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not include either: (1) any project for improvement of a structure to correct existing violations of state or local

health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a historic structure, provided that the alteration will not preclude the structure as continued designation as a historic structure.

TAKING means to take, expropriate, acquire, or seize property without compensation.

TEMPORARY STRUCTURE shall mean 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.

TIDAL SHORE or **SHORE** means land contiguous to a tidal body of water between the mean low water level and the mean high-water level.

TIDAL WETLANDS means the vegetated and non-vegetated wetlands as defined in Section 28.2-1300 of the Code of Virginia.

TOWER (WIND ENERGY). The structure on which the wind system is mounted.

TOWER HEIGHT (WIND ENERGY). The height above grade of the fixed portion of the tower, including the nacelle and excluding the rotor blades.

TRACT is an area, parcel, site, piece of land, or property that is the subject of development applications.

TRAILER means a structure standing on wheels, towed or hauled by another vehicle, and used for short-term human occupancy, carrying materials, goods, or objects or as a temporary office.

TRANSPORTATION FACILITY is 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.

USE means the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

UTILITY INSTALLATION. See Public Utility Facility.

VACANCY means any unoccupied land, structure, or part thereof that is available and suitable for occupancy.

"Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional

zoning.

VARIANCE means 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.

VARIANCE means a grant of relief by the community from the terms of a flood plain management regulation.

VIEWSHEDS are 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 vice-versa.

WATER-DEPENDENT FACILITY means a development of land that cannot exist outside the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include but are not limited to: (1) ports; (2) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (3) marinas and other boat docking structures; (4) beaches and other public water-oriented recreation areas; and (5) fisheries or other marine resources facilities.

WETLANDS means tidal and non-tidal wetlands.

WIND ENERGY FACILITY. An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

WIND ENERGY FACILITY, LARGE SYSTEM. A system which has a rated capacity of not more than 999kW.

WIND ENERGY FACILITY, MICRO SYSTEM. A building mounted wind system that has a manufacturer's rating of 10kW or less and projects no more than 18 feet above the highest point of the roof and shall not be considered a small wind energy system in terms of the area or setback requirements. Only one facility is allowed per dwelling unit.

WIND ENERGY FACILITY, SMALL SYSTEM. A system which has a rated capacity of not more than 25kW and primarily used for onsite consumption.

WIND ENERGY FACILITY, UTILITY SCALE. A wind energy conversion system consisting of one or more wind turbine(s), tower(s), and associated control or conversion electronics, which has a rated capacity of 1mW or greater.

WIND FARM. See "Wind Energy Facility – Utility Scale."

WIND POWER. Electrical Power generated by wind driven turbine blades turning an electrical generator.

WIND PUMP. A type of windmill used for pumping water from a well or pond.

WIND TURBINE. A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, and pad transformer.

WIND TURBINE HEIGHT. The distance measured from the grade to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

WINDMILL. A machine designed to convert the energy of the wind into more useful forms using rotating blades to turn mechanical machinery to do physical work, such as crushing grain or pumping water.

WORKFORCE HOUSING means housing commonly targeted at “essential workers” in a community (e.g., police officers, firefighters, teachers, nurses, medical personnel, service workers). Workforce housing is targeted more generally at income levels from 80% to 120% of Area Median Income (AMI), regardless of type of employment.

YARD is an open space that lies between the principal building or buildings and the nearest lot.

YARD, FRONT means a space extending the full width of the lot between any building and the front lot line and measured perpendicularly to the building at the closest point to the front lot line.

YARD, REAR means a space extending across the full width of the lot between the principal building and the rear of the lot and measured perpendicularly to the building to the closest point of the rear lot line.

YARD, SIDE means a space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicularly from the side lot line to the closest point of the principal building.

ZONING or **TO ZONE** means the process of classifying land within a locality into areas and districts, being generally referred to as “zones,” and the prescribing and application in each of these areas and district regulations concerning buildings and structural designs, building and structure placement, and uses to which the land, buildings, and structures within such designated areas may be put.

TRACKING OF ALL PROPOSED ZONING CHANGES - PREPARED BY KATIE NUNEZ

	A	B	C	D	E
	<u>PAGE #</u>	<u>CHANGE PROPOSED</u>	<u>EXPLANATION</u>	<u>MTG REVIEW DATE</u>	<u>ACTION/DISCUSSION</u>
1					
2	<u>TITLE PAGE, ZONING MAP, ZONING ORDINANCE CERTIFICATION, TABLE OF CONTENTS & ESTABLISHMENT OF REGULATIONS</u>				
3	Title Page	Change date of adoption when that happens			
4	Zoning Map pg 2	1) Change zoning on Town Property (TM 90-19-B) from RE to R-3 -	Recommending the elimination of the RE District (See Article 3, page ____); therefore, any lot with the RE Zoning needs to move to another zoning district. This is the residual larger lot remaining after the Town carved out the Keck wells which will be sold/trasnferred to Virginia American Waters		
5	Zoning Map pg 2	2) Change zoning on Town Property (TM90-19-C?) -the Keck Wells - from RE to ____			
6	Zoning Map pg 2	3) Change zoning on 3 lots in front of the Town Property off of Old Cape Charles Road from RE to R-3			
7	Zoning Map pg 2	4) Correct mistake on 12/15/2022 Zoning Map - all of TM 90-A-6 (Virginia Port Authority) - the burrow pit off Rte 184 should be colored light gray (Industrial M-1)	It appears on the map as if there are two parcels there but it is all one parcel and none of it should zoned RE		
8	ZO Certification Pg. 3	Update date and signatures when we adopt	Update date and signatures when we adopt		
9	TOC Pg. 1 - 8	Will be updated when all changes are acceptect and incorporated into document	All of the Article and Section Headings will be updated once all changes to the text are accepted which will then update the page numbers within each Article/Chapter and then this will all be updated to the Table of Contents documents - FINAL STEP BEFORE FINAL ZONING DOCUMENT IS COMPLETED!		

TRACKING OF ALL PROPOSED ZONING CHANGES - PREPARED BY KATIE NUNEZ

	A	B	C	D	E
	<u>PAGE #</u>	<u>CHANGE PROPOSED</u>	<u>EXPLANATION</u>	<u>MTG REVIEW DATE</u>	<u>ACTION/DISCUSSION</u>
1					
10	I - 2	Will need the Mayor's signature and date when ordinance is adopted.	Will need the Mayor's signature and date when ordinance is adopted.		
11	<u>ARTICLE II - GENERAL PROVISIONS</u>				
12	II-3	Section 2.3 - Districts Generally Update list to reflect Article 3 - zoning	The list of zoning districts needs to mirror all of the districts referenced in Article 3 - Zoning Districts.		
13	II-3	Change date of adoption when that happens Capitalize Conditional Use Permit	Standard formatting and capitalization		
14	II-3	SUGGESTION FROM KATIE - Add Accomack Plantation PUD to the list of districts; if we do this, then we will need to add a section in Article 3 that references the ACCOMACK PUD but say it is detailed as an Appendix to the document			
15	II-3	Section 2.3 .1 - Meaning of District Symbols CHECK THE INTERNAL REFERENCE once all changes are accepted.			
16	II-4	Section 2.3.2 - Zoning Map and Amendments to the Zoning Map - rewrite this so that the map will be entitled "Official Zoning Map, Town Of Cape Charles, Virginia" and inserted as Page 2 of this Zoning Ordinance documents as a whole and dated through the most recent Zoning Map Amendments as adopted by Town			
17	II-4	Section 2.3.2 - Zoning Map and Amendments to the Zoning Map Item B - CHECK THE INTERNAL REFERENCE once all changes are accepted.			
18	II-4	Section 2.3.3 - Determination of District Boundaries Item B - end of sentence add "with" after moving.	Grammar fix		

TRACKING OF ALL PROPOSED ZONING CHANGES - PREPARED BY KATIE NUNEZ

	A	B	C	D	E
	<u>PAGE #</u>	<u>CHANGE PROPOSED</u>	<u>EXPLANATION</u>	<u>MTG REVIEW DATE</u>	<u>ACTION/DISCUSSION</u>
1					
19	II-5	Section 2.4.1 - Enforcement of Ordinance, Guarantees Item A: Update Code of Virginia citation re: Zoning Administrator	Update code citation		
20	II-6	Section 2.4.2 - Permits Item 4 - update code citation	Update code citation		
21	II-6	Section 2.4.2 - Permits Item 4 - remove special exception (not used in Article 3 at all) and capitalize Conditional Use Permit			
22	II-6	Section 2.4.2 - Permits Item B - add new item (ITEM 3) to require "as built" elevation drawings upon completion of project and prior to issuance of a Certificate of Occupancy	Recommendation of Building Official and Zoning Administrator to ensure what was approved for the site plan prior to issuance of building permit was actually built on the site as required. We have rules governing the height of structures as well as fill on the lot which is designed so that storm run off stays on the property that generated it and does not flow to the adjacent lots. We are having issues when additional fill is being added causing issues to neighboring properties.		
23	II-7	Section 2.4.3 - Violation and Penalty Section 3 - Criminal Penalty: Add the Code Citation (15.2-2286 (A) (5) and update fine to max of \$1,000. Added full language in the Code re: failure to abate and separate offense language			
24		Section 2.4.3 - Violation and Penalty Add new section 4 - Civil Penalties as authorized in Code of VA Sec. 15.2-2209. Added three additional clauses from the Code (Items 5 thru 7)			

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25	II-9	Section 2.5.4 - Change of Use Proposing to delete this section.	Zoning Administrator does not believe this language is necessary regarding Non-Conforming building or structure.		
26	II-9	Section 2.5.5 - Occupancy of Vacant Non-Conforming Buildings or Structure Proposing to delete this section.	Zoning Administrator believes this section is no longer valid since the the original Zoning Ordinacne was adopted 7/14/1992 and the time frames referenced in this section are expired or past.		
27	II-10	Section 2.6.1 - Board of Zoning Appeals Made the first paragraph part of the LIST (A, B, C, etc.)	Formatting change,		
28	II-11	Section 2.6.2 - Powers and Duties of the Board of Zoning Appeals Item3 - delete existing criteria for a variance and replace with the criteria from the Code of VA today	Update requirements pursuant to Code of Virginia 15.2-2309		
29	II-12	Section 2.6.2 - Powers and Duties of the Board of Zoning Appeals Old ITEM F & G (now showing up as A & B, due to the proposed formatting changes above) - propose to delete.	Since our ordinance does not propose any special exceptions (also known as Conditional Use Permits) to be the responsbiiltiy of the Board of Zoning Appeals, I am proposing to remove these two sections since they are not relevant to how we have authorized work under the zoning ordinance.		
30	II-12	Section 2.6.3 - Applications for Special Exceptions and Variances Remove the terminology of "Special Exceptions"	Same rationale as the item above.		
31	II-14	Section 2.6.7 - Expiration of Variances Propsoing to add a timeframe of 30 months for performance of the variance; otherwise, it becomes null and void.			

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32	II-14	Section 2.6.8 - Tax Payments Required Remove all reference to special exception. Added the phrase "and any fees".	Remove all reference to special exception since this term is not used in Article 3 at all. Code of VA Sec. 15.2-2286 (B) allows the following: B. Prior to the initiation of an application by the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent, for a special exception, special use permit, variance, rezoning or other land disturbing permit, including building permits and erosion and sediment control permits, or prior to the issuance of final approval, the authorizing body may require the applicant to produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the locality and have been properly assessed against the subject property, have been paid, unless otherwise authorized by the treasurer.		
33	II-17 see also TAB in BINDER re DEFINITIONS	Section 2.9 - Definitions Moved to its own APPENDIX	Now sitting as it own "chapter" or section of the ordinance - Appendix A.		
34	ARTICLE III - DISTRICT REGULATIONS				
35	II-18	Section 3.1 - Residential Estate District (R-E) Delete whole section.	There are only four lots with this zoning designation on Old Cape Charles Road. I am proposing that those lots get rezoned to R-3.		

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36	II-19	Section 3.2 - Single Family Residential District R-1 In the Section Heading, eliminate Single			
37	II-19	Section 3.2 (B) - Permitted Uses Add 4 Housing Uses to this district (duplex dwellings, condominium dwellings, cooperative dwellings, manufactured home dwellings. Delete Accessory buildings, Home Occupations, Accessory Dwellings from this list. Delete Dog Pens.	PC Housing Committee is recommending adding some limited multi-family housing choices following review of the Berkeley Group report. Recommend in all districts adding an "Accessory Uses" section and move all of these items there. Recommend deleting dog pens - not sure why this was called out in the current ordinance as a use by right.	8/21/2023	After Duplex Dwellings, add "provided off-street parking is provided"
38	II-19	Section 3.2 - Add new section called "Accessory Uses" - add three items which had been previously listed as permitted uses. Add new item " Up to two single electric charing stations" & provide general accessory use category "Uses which are customarily accessory and clearly incidental and subordinate to the prinicpal use and	Accessory uses should be listed separate from the by-right permitted uses since you need one of those first before you can have an accessory use. Have expanded this list by adding in EV charging station and a general category for Zoning Administrator authority.		

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39	II-19	Section 3.2 (D) - Conditional Uses Delete "Libraries, etc", "Public Utilities, etc.", "Neighborhood community center", and "Adaptive Reuse". Under Bed & Breakfasts, strike Tourist Home and size of signage for this use. Delete "swimming pools, etc" and replace with "Outdoor recreation facilities"	Did not feel any more of these uses should be placed in the R-1 District. Did not think that Adaptive Reuse was applicable anymore in this district. Had renamed Tourist Home to Short Term Rental to bring terminology to today's usage. Use a more generic and appropriate term for what we are intending. I do not believe that we should be requiring a CUP for a swimming pool at someone's home - that would be viewed as an accessory use.	8/21/2023	Strike "Short Term Rental" at this point until the subcommittee concludes its work on this particular matter.

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40	II- 22	Section 3.2 - MOVE these 2 items together under new Section F and call it "Other Regulation": 1. Subdivision of dwelling units not permitted 2. Decks & patios may not be constructed may not e constructed in the front yard area. Decaks and patios constructed in the back-yard area may be enclosed. Front porches may be enclosed by insect screening, preferably placed on the inside (house side) of architectural elements such as railings and columns. No permanent enclosure of front porches are allowed except for insect screening. From the current Development Standards section (Section I, Item 7) regarding utilities be installed underground, move this item to	Rearrangement of R-1 and re-grouping of items.		
41	II-20 thru 22	Section 3.2 (E) & (F) - Height and Area Regulations Put into a chart format - do this for all zoning districts.	Charting this is easier for the public to follow and know the requirements. Added a row in the chart regarding Lot Coverage and indicated where this can be found in Section 4.2 which also addresses Accessory Structures which is a component of determining lot coverage based on all structures on the property.	8/21/2023	Fix chart to reflect the Non-conforming lot requirements.
42	II-22 thru24 (see new section on	old Section I - Development Standards DELETE from here and move to its own section 4.13			

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43	III-24 - 25	Section 3.3 - Residential Mixed District R-2 Item B - Permitted Uses: Expanded list for additional housing types and added in churches & places of worship as well as schools, community centers, public facilities, parks & playgrounds	The intent of this district is more aligned for the full range of complementary uses such as parks, schools, churches, etc. & lot size is slightly larger.	8/21/2023	After Duplex Dwellings, add "provided off-street parking is provided"
44	III-25	Section 3.3 Accessory Uses - reworked list for more accurate listing of these items.			
45	III-25 & 26	Section 3.3 Conditional Uses - reworked list - proposed moving some of these to By-Right Uses or Accessory Uses.			
46	III-26 & 27	Section 3.3 - Area and Height Regulations Standardize the Dimensional Use Charts across zoning districts Need to look at chart and see if we want any changes, esp re Max Dwelling Unit Size.			
47	III -27	Section 3.4 - Residential Multi-Family District R-3 Permitted Uses - expanded list with additional housing choices			
48	III-27	Section 3.4 - Residential Multi-Family District R-3 Accessory Uses - move it to section right after Permitted Uses, then amended the list to just have general accessory uses/categories.			
49	III-28	Section 3.4 - Residential Multi-Family District R-3 Conditional Uses - have reduced this list to only churches and places of worship and childcare facilities and nursing homes.			

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50	III-28 thru 30	Section 3.4 Residential Multi-Family District R-3 Lot, Yard, Height, Coverage and Density Requirements Put all of the requirements in a table format so it is consistent with the other zoning district. In Item F - Additional Development Requirements, kept the sentence regarding placement of drives and parking areas and moved the "OFF-Street Parking requirement"	Clean up look and formatting - reorganization of section.		
51	III - 30	Section 3.5 - Commercial Residential (CR) Permitted Uses Added additionanl residential uses and streamlined the business uses to more generic categories			
52	III-31	Section 3.5 - Commercial Residential (CR) Accessory Uses - added this as a category			
53	III-32	Section 3.5 - Commercial Residential (CR) Conditional Uses - moved most of these uses to Permitted Uses with exception of "Restaurants and Bars"			
54	III-32	Section 3.5 - Commercial Residential (CR) Area Regulations - move to a table format, like the other zoning districts			
55	III-32	Section 3.5 - Commercial Residential (CR) Development Standards - deleted and moved to Section 4.13			

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56	III-32 thru 33	Section 3.6 - Commercial District C-1 Permitted Uses: Streamlined list and created categories of similar use types (went from a list of 36 uses to 11)			
57	III-33	Section 3.6 - Commercial District C-1 Accessory Uses - moved this category from Section (H) to come right after Permitted			
58	III-33	Section 3.6 - Commercial District C-1 Conditional Uses - deleted Single Family			
59	III-33	Section 3.6 - Commercial District C-1 Height and Area Regulations - move to chart like the other zoning districts; have deleted setbacks re: Route 184 since there is no lot zoned C-1 that is adjacent to Rte. 184			
60	III - 33 & 37	Section 3.6 - Commercial District C-1 (F) Development/Redevelopment Standards, Item 1 - move to Section 4.13 where all Development Standards for commercial	KATIE - need to review the Development Standards section relative to Article VIII - what is needed? Make sure no conflicts with Article VIII and no repeats.		
61	III - 37 & 38	Section 3.6 - Commercial District C-1 (F) Development/Redevelopment Standards, Item 2 thru 4 - DEMOLITION, DEMOLITION BY NEGLECT and PENALTIES FOR NONCOMPLIANCE - delete from this section of the ordinance.	This is fully contained in Section 4.9 - Demolition Policy Guidelines & does not need to appear twice in this ordinance.		
62	III-38 & 39	Section 3.6 - Commercial District (C-1) Item (F) - Additional Requirements - retain here.			
63	III-39	Section 3.7 - Commercial District (C-2) Permitted Uses - deleted nursing /retirement homes; added gas stations , vehicle sales and vehicle repairs/service			

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64	III-39	Section 3.7 - Commercial District (C-2) Accessory Uses - add new section			
65	III-39	Section 3.7 - Commercial District (C-2) Conditional Uses- delete single family dwellings from this caetegory; add charging stations for electric vehicles			
66	III-40	Section 3.7 - Commercial District (C-2) Lot, Yard, Height, Coverage and Density Requirements Move this to a chart for consistency with other zoning districts			
67	III-40	Section 3.7 - Commercial District (C-2) Development /Redevelopment Standards - delete here - it is part of Section 4.14			
68	III-40	Section 3.7 - Commercial District (C-2) Relabel the last section so that it is "Additional Requirements" but still reads "Sign design shall relate to the architectural character of the building and, if ground mounted, shall be appropriately landscaped."			
69	III-41	Section 3.8 - Commercial District (C-3) Permitted Uses: Stated Single Family & Duplex dwellings, schools/community cetners/public facilities,			
70	III-41	Section 3.8 - Commercial District (C-3) Add new section for Accessory Uses			
71	III-41	Section 3.8 - Commercial District (C-3) Add new section for Conditional Uses			

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72	III-41	Section 3.8 - Commercial District (C-3) Lot, Yard, Height & Coverage & Density Requirements - move this to a chart like the other zoning districts There is no minimum lot size in the C-3 district - do we want to provide one?			
73	III-41	Section 3.8 - Commercial District (C-3) Development Standards - delete from here, include in Section 4.14			
74	III-42	Section 3.8 - Commercial District (C-3) Add label "Additional Requirements" and place former Items G and H under that new			
75	III-42 & 43	Section 3.9 - Harbor District Item B - Mainstreet Mixed Use Area - Need to confirm distance referenced in #1 to the map changes made in December affirming this zoning. The Maximum FAR provision - DELETE.	Discussion with Consultant and Planning Commission and agreed that FAR is not needed regarding building height and lot coverage and density development within the Harbor District.		
76	III-43 & 44	Section 3.9 - Harbor District Permitted Uses - restructured list and consolidated categories to broader categories, where applicable.			
77	III-44	Section 3.9 Harbor District Added Accessory Uses category.			

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78	III-44 & 45	Section 3.9 - Harbor District Conditional Uses - restructured and created broader categories. Some uses were assigned to the Permitted Uses above			
79	III- 45 thru 50	Section 3.9 - Harbor District Lot and Height Requirements - want to bring everything to standard table being used in the other districts but there is additional language that is in the current ordinance that we need to discuss and additional development requirements. I did not really touch this Section since we intend on bringing on a consultant to assist with the Harbor area as a whole and this section should be picked up as part of that			
80	III-51	Section 3.10 - General Business/Light Industrial GBI Permitted Uses - streamlined the list of uses			
81	III-51	Section 3.10 General Business/Light Industrial GBI Retained Accessory Uses category			
82	III-51	Section 3.10 General Business/Light Industrial GBI Conditional Uses - retained as is.			
83	III-51 & 52	Section 3.10 - General Business/Light Industrial GBI Height and Area Regulations - put in chart format.			
84	III-53&54	Section 3.11 - Industrial District M-1 Permitted Use - consolidated categories, etc.			

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85	III-54	Section 3.11 - Industrial District M-1 Added Accessory Uses category			
86	III-54	Section 3.11 - Industrial District M-1 Conditional Uses - stayed the same.			
87	III-54	Section 3.11 - Industrial District M-1 Height & Area Requirements - move to a chart like the other zoning districts			
88	III-55	Section 3.13 - Industrial District M-2 Permitted Uses - some consolidation and general categorizing of the uses.			
89	III-55	Section 3.13 - Industrial District M-2 Accessory Uses - retained the category			
90	III-55 & 56	Section 3.13 - Industrial District M-2 Conditional Uses - retained all uses as is.			
91	III-56 & 57	Section 3.13 - Industrial District M-2 Lot, Yard, Height & Density Requirements - put in chart format. Move Buffer Yards Section (Item 5) to #1 in the Additional Developmetn Requirements section			
92	III-58	Section 3.12 Planned Unit Developments (PUD) Permitted - streamlined the uses and added a few.	THIS IS OUT OF ORDER AND WILL BE CORRECTED WHEN WE FINALIZE ALL OF THE CHANGES		

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93	III-58	Section 3.12 - Planned Unit Developments (PUD) Accessory uses - pulled out and listed as a distinct category. Do you want to add the flexibility language of "Only those that are customarily accessory and clearly incidental and subordinate to the principal uses and structures"?			
94	III-58	Section 3.12 - Planned Unit Developemtns (PUD) Conditional Uses - left as is.			
95	III-58 & 59	Section 3.12 - Planned Unit Developments (PUD) Area Regulations and Density Regulations - this did not translate into a chart so I left this whole section alone beyond re-ordering so that when you read it it tracks better.			
96	III-60 - 65	Section 3.12 - Planned Unit Developments (PUD) Left all of the rest of this zoning district section alone except added Capitalization to certain terminology			
97	III-66	Section3.14 - General Business/Light Industrial H-1 (GBI H-1) Lot, Yard, Height and Density Requirements - put into chart like other zoning districts			

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98	III-66 thru 68	Section 3.14 - General Business/Light Industrial H-1 (GBI H-1) Move Buffer Yards (Item #5) as first item under Additional Development Requirements Section			
99	III-70	Section 3.15 - Open Space District - left as is. WILL NEED TO UPDATE INTERNAL SECTION REFERENCES once ordinance is finalized.			
100	III-71 thru 73	Section 3.16 - Bay Crossing Planned Unit Development (Bay Crossing PUD) - no changes made.			
101	ARTICLE IV - GENERAL REGULATIONS APPLICABLE TO ALL DISTRICTS				
102	IV-74	Section 4 - Home-Based Occupation Formatting change only - change from questions to statements	Formatting change.		
103	IV - 75 thru 91	Section 4.1 - Sign Regulations: PASS OVER FOR NOW - this section is still be worked on by the Planning Commission's Sign Sub-committee. This whole section is proposed for deletion and a whole new section will be proposed by PC.			
104	IV-91	Section 4.2 - Exceptions to the Regulations Item (E) (12): Delete this item.	If the Residential Estate is being deleted from Article III, then this item is not needed also.		
105	IV-92	Section 4.2 (F) - Projections Allowed in Required Setback Add sentence in middle of section: "Additional uses may project into setbacks, as interpreted and determined by the Zoning Administrator."	This would provide some flexibility to the Zoning Administrator when reviewing site plans and dealing with possible encroachments into the side setbacks that may not be detailed in the list in the ordinance currently.		
106	IV-92 thru 94	Section 4.2 (G) - Fences and Walls Item 2 - capitalize Conditonal Use Permit	Capitalization of terminology.		

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107	IV-94	Section 4.2 (J) - Accessory Dwellings Item 2(A) - delete "Tourist Home" Item 2 (B) & (C) and Item 3 (G) - capitalize Accessory Dwelling Unit	Delete the phrase "Tourist Home" throughout ordinance. Capitalization of terminology.		
108	IV-95 thru 98	Section 4.3 - Conditional Use Permits Item (E) Change the period for a Conditional Use Permit from one year to six months to act upon the approved Conditional Use Permit and expand the list of items that qualify as "acting upon a Conditional Use Permit".	Looking to align the time frame to ensure action is taken to start implementing the Conditional Use Permit with the same requirement that we have placed on Certificates of Appropriateness under the Historic District Overlay ordinance. This also then aligns with the time frames assigned to a building permit which has an initial life span of six months but naturally extends as progress is made on the building permit when inspections for certain milestones are achieved (such as footer inspection, foundation inspection, framing, etc).		
109	IV - 100 thru 110	Section 4.5 - Off Street Parking and Loading Standards No changes are being proposed as a whole, except under the Golf Cart Parking section.	After extension discussion with the consultant, we are recommending tha thte Town do additonal research regarding the parking availability throughout the Town and then this information should be examined against the current parking regulations to determine if amendments should be considered. The Town should adopt a model template for a shared parking agreement and should set a standard for what would be acceptable distance from the business/use and where the off-site parking would be located as well as a required term or time frame for said agreements, possibly to allow for a review of the agreement by the Planning Commisison/Zoning Administrator/Town in some capacity.		

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110	IV - 106	Section 4.5 (E) Golf Cart Parking Add new section (6) "Golf cart parking spaces may replace up to 6 automobile parking spaces, with approval by Zoning Administrator as part of the site plan review."	This will allow flexibilitiy when developing a parking plan for a new use, especially a commercial, industrial or municipal use, that golf cart parking is part of a larger parking plan requirement.		
111	IV-107	Section 4.5 (G) - Parking in non-single family zoning districts Item 8 - I still need to define more specifically what is meant by "Dark Sky Lighting standards.			
112	IV - 110	Section 4.5 (M) - Dumpsters Item 1 (b) - add wood to the list of materials that a fence can be made of Item 3 - provide greater flexibility about dumpster placement as part of the site plan review. Item 6 - delete "Access to dumpsters shall be provided via a paved, dust free surface".	Want to provide greater options that may also be more cost effective for a property owner and still be generally acceptable throughout the Town. For both Items 3 & 6, these should be considerations as part of the site plan review but not a direct requirement. These will need to be determinations of the Zoning Administrator based upon the project, use and the property composition and what is necessary relative to the neighborhood the project is located in.		
113	IV- 111 thru 112	Section 4.7 - Swimming Pool Regulations Amend Item (E) relative to fencing around the pool to specify an actual, physical fence be reequied.	The Building Code changed in the 2018 addition where electric pool coverings became a viable option in lieu of an actual fence. The Building Code did not require same electric pool covering be supported with a generator and still left safety concerns especially if a child or person falls on top of the cover which may start to submerge partially into the water due to the weight of the person. Both Building Official and Zoning Administrator want a physical fence requirement around swimming pools.		

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114	IV - 115 thru 116	Section 4.12 - Add new section re: CC Building & Planning Fee Schedule - set by Town Council.	Confirming process of fees for the 2 departments is set by Town Council as needed and not set as part of the Zoning Ordinance itself.		
115	IV - 116 thru 122	Section 4.13 & 14 - Add 2 new sections re: Development Standards Pull this out of Article III in the various spots and put it here in its own section and list the districts for which these development standards are applicable.	If agreeable by the Town Council and Planning Commission, I will move all of the graphics, etc. re Development Standards from Article III to here.		
116	ARTICLE V: CORRIDOR OVERLAY DISTRICT WEST AND EAST - this article was deleted from the Ordinance on 5-24-2000.				
117	ARTICLE VI: FLOODPLAIN ORDINANCE - this is in its own separate tab of the binder for the Zoning Ordinance Amendments				
118	Was in VI -124 thru 132; NOW SEE SEPARATE TAB in BINDER	Delete whole ordinance and replace with model Floodplain Ordinance provided by VA Dept of Conservation and Recreation with some tweaks for our community.	The Town last amended the Floodplain Ordinance on February 3, 2015. In 2017, the state released an updated model Floodplain Ordinance for localities to use. I am proposing that we use the model ordinance as our template with a few tweaks.		
119		Section 3.1 - Description of Special Flood Hazard Districts Section A, Item 1 - still need to confirm the info on Floodway District for Cape Charles on the FIRM Map.			

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120		Section 3.1 - Description of Special Flood Hazard Districts Section A, Item 3 for the "A" zone: add the items in red at end of this section.- "Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above <u>the base level plus eighteen (18 inches).</u>" Section A, Item 4 for the "AO" Zone under Item (a) - at the end of this section add the items in red: If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than <u>two feet above the highest adjacent grade.</u>	Jeb Brady (Floodplain Administrator) and I are recommending that we put in place this requirement even though our current Floodplain Maps from FEMA show very little property in Cape Charles in the "A" Zone or above on the Floodplain Map. If and when the Floodplain Maps are redone by Congress, there is a chance that portions of the town may fall back in the "A" zone designation or above and having some increased elevation requirements within these zones would benefit the Town.		
121		Section 4.3 - Elevation and Construction Standards Add a new section "A" as follows: "For all properties required to comply with the freeboard elevation, the height allowance or restriction identified in Article 3 may be exceeded equal to the freeboard requirement."	Jeb Brady and I are recommending that when a property is required to elevate pursuant to the sections above (which could be at 1 foot of freeboard plus 18 inches up to 2 feet of an additional elevation requirement), then this would provide authorization to exceed the CCZO Height requirement in all zoning districts to meet the FLOODPLAIN ORDINANCE requirements.		

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122		Article VII - Glossary Need to research /confirm date of when the Town had its first initial Flood Insurance Rate Map. Worst case, if I can not locate this information, then this defaults to 12/31/1974. SUBSTANTIAL DAMAGE: adding second sentence "It also means flood-related damages sustained by a structre on two occasions in a 10-year period, in whcih the cost of the repair, on the average, equals or exceeds 25 percent of the market value of the structe at the time of each such flood event."	Jeb Brady and I are recommending the inclusion of this sentence so that if storms should repeatedly affect the community, we are not just using a benchmark of a singular, 50% loss but this would allow us to account for repetitive damage of 25% of the value of the structure over a specficied time frame.		
123	ARTICLE VII: CHESAPEAKE BAY PRESERVATION AREA OVERLAY DISTRICT				
124	VII-133 thru 154	CBPA Ordinance as a whole - this law is scheduled for review and possible revisions by the General Assembly, particularly in the regulations overseeing the CBPA, in their upcoming 2023/2024 session. Therefore, we may need to amend this Article, depending upon actions by the General Assembly.			
125	VII- 134 thru 136. Also see new TAB in BINDER for	Section 7.3 - Definitions Delete from this Article and move definitions to new APPENDIX - DEFINITIONS	Put all relatively generic definitons into one place in the ordinance - a new APPENDIX for DEFINITIONS		

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	VII - 138	Section 7.9 - Interpretation of Resource Protection Area Boundaries Item B - delete.	The position of Zoning Administrator is not skilled enough to make the delineation assessments and certification. This position is able to read and affirm the delineation maps for the individual properties but it is not advisable for this position nor the Town to take on this responsibility.		
	VII-150 thru 151	Section 7.13 - Non-Conforming Use and Development Waivers Add new sections 5 & 6 re: ADA and HUD	These sections bring us into compliance with Code of Virginia for this ARTICLE.		
	VII - 154	Section 7.18 - Effective Date update/delete this section once TC adopts whole ordinance.			
	ARTICLE VIII: HISTORIC DISTRICT OVERLAY				
	VIII-158	Section 8.16 - fix capitalize of words			
	VIII-155 thru 167	This whole Article was not reviewed by the consultant except to confirm that Code citations were correct since this article was revamped during the review and adoption of the Historic District Guidelines.			
	ARTICLE IX: HISTORIC HARBOR AREA OVERLAY DISTRICT				
	IX - 169	Section 9.5 - PERMITTED USES (B) & (C) Capitalize Conditional Use Permit & strike "special exception"	Fix capitalizaiton of certain terminology & remove the term "special exception" since we don't use this term in the ordinance.		
	IX - 180 See TAB in BINDER re: DEFINITIONS	Section 9.38 - DEFINITIONS Since these are relatively generic definitions and are applicable across the ordinance, delete definitions from this section and move them all into a new APPENDIX for DEFINITIONS.	Put all generic definitons into one place in the ordinance - a new APPENDIX for DEFINITIONS		

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135	IX - 168 thru 180	This whole Article - I did not propose any substantative changes since we have agreed to bring on consulting services to assist with new guidelines/master plan for the Harbor and this portion of the ordinance should be reviewed and changes proposed as part of that process.			
136	APPENDIX A: SUBDIVISION ORDINANCE				
137	IX - 182-184	Appendix A Opening Section, Item A Bring current to Code of Virignia language re: plats ITEMS B thru M - added or edited to bring into compliance with Code of Virginia	This ensures that the plats are done in accordance with the Public Records Act and the Courts of Records/Clerks Offices - standards regarding plats. This changes brings the Subdivision Ordinance into compliance with Code of Virginia.		
138	IX - 185 thru 188	Section 2 - Definitions Keep these definitions here and do not merge into the APPENDIX for DEFINITIONS	These are very specific terminology and definitions relative to the Subdivision Ordinance - retain these items within this Appendix.		
139	Appendix A Pg 188	Section 3.4 - Additional Authority Add the administrative approval for recombination of four or fewer plats of lands	Seeking to add this authority to the Zoning Administrator to allow for minor tweaking of preliminary plats already approved relative to four lots or fewer to adjust lot lines relative to road installation, etc.		
140	APPENDIX B: SITE PLAN ORDINANCE				
141	APPENDIX B pg 202	Section 3 - Procedures for Preparation Item F: Need only 3 copies of site plan, not six for office use.	Need only 3 copies of site plan, not six for office use.		
142	APPENDIX C: COASTAL PRIMARY SAND DUNE ZONING ORDINANCE				
143	Appendix C, pg. 209 thru 213	COASTAL PRIMARY SAND DUNE ZONING ORDINANCE as a whole	Reviewed this against State Code requirements and we are in compliance.		
144	Appendix C pg. 209	Section 2 - Definitions Keep these definitions here and do not merge into the APPENDIX for DEFINITIONS	These are very specific terminology and definitions relative to the Coastal and Sand Dune Ordinance - retain these items within this Appendix.		

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145	Appendix C pg 211	Section 6 - Public Hearing Requirements The law changed as of 7/1/2023 regarding public notice requirements for this type of permit.	The law changed as of 7/1/2023 regarding public notice requirements for this type of permit.		
146	Appendix C pg 213	Section 13 - Will need to update the ordinance dates for this section.	Will need to update the ordinance dates for this section.		
147	APPENDIX D: EROSION & SEDIMENT CONTROL ORDINANCE				
148	Appendix D pgs. 214 thru 226	EROSION & SEDIMENT CONTROL ORDINANCE as whole	Reviewed this against State Code requirements and we are in compliance.		
149	Appendix D pg 214 thru 218	Section 22.3 - Definitions Keep these definitions here and do not merge into the APPENDIX for DEFINITIONS	These are very specific terminology and definitions relative to the Erosion & Sediment Control Ordinance - retain these items within this Appendix.		
150	APPENDIX E: WETLANDS ORDINANCE				
151	Appendix E pg 1 thru 6	WETLANDS ORDINANCE as whole	Reviewed this against State Code requirements and we are in compliance.		
152	Appendix E pg 1 thru 3	Section 74.20 - Definitions Keep these definitions here and do not merge into the APPENDIX for DEFINITIONS	These are very specific terminology and definitions relative to the Wetlands Ordinance - retain these items within this Appendix.		
153	Appendix E pg. 4 thru 6	Section 74.33 (A) - Public Hearing Requirements The law changed as of 7/1/2023 regarding public notice requirements for this type of permit.	The law changed as of 7/1/2023 regarding public notice requirements for this type of permit.		
154	Appendix E pg. 6	Section 74.38 - Not to Affect Zoning and Land Use Ordinances Will need to update the ordinance dates for this section.	Will need to update the ordinance dates for this section.		
155	APPENDIX F: TREE CONSERVATION and PRESERVATION ORDINANCE				

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156	Appendix F pg 7 thru 13	Section 1.3 - update reference where definitions will be found in the Ordinance. - Check this before Ordinance is finalized.	Staff has reached out to Laura Johnson, Urban and Community Forestry of VA Dept. of Forestry and they will be doing an initial review of this ordinance and provide comments back to us. They also have a grant program that may be of interest to us - looking into the details of that.		