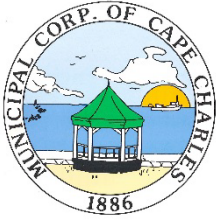


TOWN COUNCIL
Regular Meeting
January 20, 2022
Cape Charles Civic Center
6:30 PM

1. Call to Order
 - A. Roll Call
 - B. Establish quorum
2. Moment of Silence and Pledge of Allegiance
3. Recognition of Visitors / Presentations / Recognitions
 - A. None
4. Public Comments (3 minutes per speaker)
5. *Consent Agenda
 - A. Approval of Agenda Format
 - B. [Approval of Minutes](#)
 - C. [Approval of November 30, 2021 Financial Report](#)
 - D. Set Public Hearings on February 17, 2022 for Conditional Use Permits:
 - i. [520 Randolph Avenue for Accessory Dwelling Unit](#)
 - ii. [630 Tazewell Avenue for Accessory Dwelling Unit](#)
6. Unfinished Business: None
7. New Business:
 - *A. [Town of Cape Charles Employee Personnel Manual Update](#)
 - *B. [Appointment of Historic District Review Board Member](#)
8. Town Manager Comments
9. Mayor & Council Comments (5 minutes per speaker)
10. Announcements
 - January 27, 2022 – Town Council Town Hall Meeting re: Historic District Design Guidelines, 6:30 PM
 - February 2, 2022 – Town Council & Planning Commission Joint Work Session re: Comprehensive Plan Kick-Off, 6:00 PM
 - February 3, 2022 – Town Council Work Session, 6:30 PM
 - February 16, 2022 – Town Council Town Hall Meeting re: PPEA, 6:30 PM
 - February 17, 2022 – Town Council Public Hearing & Regular Meeting, 6:30 PM
 - February 19, 2022 – Town Council Town Hall Meeting re: PPEA, 2:00 PM
 - February 21, 2022 – Town Offices closed for Presidents' Day
 - February 24, 2022 – Town Council Special Meeting (tentative), 6:30 PM
 - March 3, 2022 – Town Council Work Session, 6:30 PM
 - March 17, 2022 – Town Council Regular Meeting & Executive Session, 6:30 PM
 - March 31, 2022 – Town Council Work Session, 6:30 PM
11. Adjournment of Regular Meeting



**TOWN COUNCIL
Executive Session
Cape Charles Civic Center
December 2, 2021
6:30 PM**

At approximately 6:30 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Executive Session of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Also, in attendance were Town Manager John Hozey, Project Manager Bob Panek, Town Clerk Libby Hume, and representatives from NewGen Strategies & Solutions, the Town's PPEA utility consultants. There were no members of the public physically in attendance and 6 viewers on Facebook during the open portions of the meeting.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, and unanimously approved to go into Executive Session in accordance with Section 2.2-3711-A of the Code of Virginia for the purpose of: Paragraph 28: Discussion or consideration of information subject to exclusion in subdivision 11.b. of Section 2.2-3705.6 – Information provided by a private entity to a responsible public entity pursuant to the provisions of the Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest of bargaining position of the public or private entity would be adversely affected.

Specifically: PPEA proposal interviews:

- Virginia American Water
- Aqua Virginia, Inc.

Mayor Dize asked the members of the public in attendance to leave the room and advised them that they would be invited back into the room at the conclusion of the executive session.

Council went into executive session at 6:33 p.m.

At 10:58 Bob Panek went outside to notify the members of the public of the end of the closed portion of the meeting. There were no members of the public waiting to return to the meeting.

Motion made by Councilman Buchholz, seconded by Councilman Grossman, to return to open session. The motion was approved by unanimous vote.

The open portion of the meeting resumed at 10:59 p.m.

Certification, to the best of each member's knowledge, that (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the meeting by the public body. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

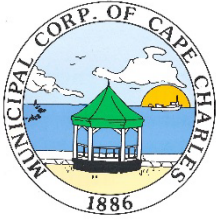
Motion made by Councilman Buchholz, seconded by Councilwoman Holloway, to adjourn the Town Council Executive Session. The motion was approved by unanimous vote.

The Executive Session adjourned at 11:01 p.m.

Mayor Dize

Town Clerk

DRAFT



DRAFT
TOWN COUNCIL
Public Hearing & Regular Meeting
Cape Charles Civic Center
December 16, 2021
6:30 PM

At approximately 6:30 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Public Hearing & Regular Meeting of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Vice Mayor Bennett arrived at 6:52 p.m. Also, in attendance were Town Manager John Hozey, Zoning Administrator/Interim Planner Katie Nunez, Police Chief Jim Pruitt, Assistant to the Town Manager Julie Pruitt, and Town Clerk Libby Hume. There were 10 members of the public physically in attendance, and 18 viewers on Facebook.

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

PUBLIC HEARING:

Mayor Dize opened the public hearing for comments relating to conditional use permit applications for 602 Tazewell Avenue, 206A Jefferson Avenue, 325 Madison Avenue, 654 Monroe Avenue, 410 Harbor Avenue/100 Madison Avenue, 4 Lots on Randolph Avenue, and 219 Mason Avenue.

Jean Snyder, representative from Riverside Cape Charles Medical Center

Ms. Snyder addressed Council stated that the medical center was across the street from 219 Mason and expressed their concerns regarding parking for the five proposed residential units.

There were no other comments to be heard nor any received in writing prior to the hearing.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to close the public hearing. The motion was approved by unanimous vote.

The public hearing portion of the meeting closed at 6:32 p.m.

RECOGNITION OF VISITORS / PRESENTATIONS:

A. *Board of Zoning Appeals Semi-Annual Report, Katie Nunez, Zoning Administrator*

Katie Nunez provided an update of the Board of Zoning Appeals activity for calendar years 2019, 2020 and 2021.

PUBLIC COMMENTS: (3 MINUTES PER SPEAKER)

Anna Lee

Ms. Lee addressed Council regarding the flat tax on short term rentals. (Please see attached.)

There were no other comments to be heard nor any received in writing prior to the meeting.

CONSENT AGENDA

- A. Approval of Agenda Format
- B. Approval of Minutes:
 - i. November 18, 2021 Town Council Public Hearing & Regular Meeting
 - ii. November 18, 2021 Town Council Work Session
- C. Approval of October 31, 2021 Financial Report

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to approve the Consent Agenda as presented. The motion was approved by unanimous vote.

UNFINISHED BUSINESS:

There was no unfinished business for review.

NEW BUSINESS:

A. 602 Tazewell Avenue – Conditional Use Permit – Accessory Dwelling Unit:

Zoning Administrator Katie Nunez stated that a conditional use permit (CUP) application was received to construct a two-story accessory structure at 602 Tazewell Avenue. The first floor would be used as a garage and the second floor would be an accessory dwelling unit (ADU). The Planning Commission held their public hearing on October 5, 2021 with no comments received. The applicants were currently living abroad and intended to utilize the ADU as their residence when in Cape Charles. Upon retirement, they would move into the main house and use the ADU as a long-term rental property. The Planning Commission, by majority vote, recommended approval of the CUP with the following conditions: i) The applicant needed to apply and obtain approval from the Historic District Review Board for all exterior improvements in accordance with the Historic District Overlay and Guidance documents; and ii) The applicant needed to obtain all required permits and approvals from the building and planning departments.

There was much discussion regarding the main residence currently being used as a short-term rental. Although this use did not meet the intent of the ordinance, it met the letter of the law as currently written. The Planning Commission would be addressing the ordinance language related to short-term rentals in January. Katie Nunez outlined future plans for monitoring inspections and conditions for conditional use permits.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to approve the conditional use permit for 602 Tazewell Avenue with the conditions as recommended by the Planning Commission. The motion was approved by majority vote, with Councilwomen Holloway and O'Brien opposed.

B. 206A Jefferson Avenue – Conditional Use Permit – Accessory Dwelling Unit:

Katie Nunez stated that a CUP application was received for an after-the-fact approval to utilize a 576 square foot accessory structure as an ADU at 206A Jefferson Avenue. The current owners purchased the property on May 3, 2021 and inherited this situation. After a complaint was received, staff investigated and confirmed an illegal apartment on this property. Once notified, the new owners acted swiftly to remedy the violation and filed the CUP application on August 12, 2021. Zoning review found the application to be in compliance with all requirements of the zoning ordinance, since the accessory structure was an existing structure. The Planning Commission held their public hearing on October 5, 2021 with no comments received. The applicants were living in the main house and wanted to utilize the ADU for long-term rental. The unit had been used as a rental for the last 25 years. The Planning Commission recommended after-the-fact approval of the CUP for an ADU pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) with the following condition: i) The applicant needed to obtain a certificate of occupancy for the ADU from the building department.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to approve the conditional use permit for 206A Jefferson Avenue with the condition as recommended by the Planning Commission. The motion was approved by unanimous vote.

C. 325 Madison Avenue – Conditional Use Permit – Accessory Dwelling Unit:

Katie Nunez stated that a CUP application was received for an after-the-fact approval to utilize a 360 square foot accessory structure as an ADU at 325 Madison Avenue. After a complaint was

received, staff investigated and confirmed the existence and utilization of an ADU on the property. The accessory structure was built in the mid-to-late 2010s when the ordinance did not specify the requirements for an ADU, nor did it give authority for an ADU as a by-right use. The Town did not amend the zoning ordinance regarding ADUs until 2017. Zoning review found the application to be in compliance with all requirements of the zoning ordinance, since the accessory structure was an existing structure. The Planning Commission held their public hearing on October 5, 2021 with four comments received in support of the application. The Planning Commission, by majority vote, recommended after-the-fact approval of the CUP for an ADU pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) with the following condition: i) The applicant needed to obtain a certificate of occupancy for the ADU from the building department.

Councilman Grossman noted that the main house was currently used as a short-term vacation rental.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to approve the conditional use permit for 325 Madison Avenue with the condition as recommended by the Planning Commission. The motion was approved by majority vote, with Councilwoman Holloway opposed.

D. 654 Monroe Avenue – Conditional Use Permit – Accessory Dwelling Unit:

Katie Nunez stated that a CUP application was received to convert an existing 576 square foot accessory structure into an ADU. The second floor would be used for living quarters and the first floor would be for recreation purposes with no parking of vehicles within the structure. The applicants had indicated that when they purchased the property their realtor indicated that there was a rental space included as part of the property. As soon as the applicants were informed that the structure had not been approved for dwelling purposes and rentals, they took the proper steps ending the rental of the space until the property was in full compliance. The Planning Commission held their public hearing on October 5, 2021 with no comments received. The Planning Commission, by majority vote, recommended approval of the CUP for an ADU pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) with the following condition: i) The applicant needed to obtain a certificate of occupancy for the ADU from the building department.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to approve the conditional use permit for 654 Monroe Avenue with the condition as recommended by the Planning Commission. The motion was approved by majority vote, with Councilwomen Holloway and O'Brien opposed.

E. 410 Harbor Avenue/100 Madison Avenue – Conditional Use Permit – Accessory Dwelling Unit:

Katie Nunez stated that a CUP application was received to remove an existing shed and replace it with a new accessory structure, sized 13' x 30', with the first floor to be used as a garage with storage space and the second story to be used as an ADU. At their April 20, 2021 meeting, the Historic District Review Board (HDRB) approved a Certificate of Appropriateness for work on the main house and removal of the shed. The HDRB informed the applicant that after approval of a CUP for the ADU, they would have to come back before the HDRB for review of a Certificate of Appropriateness for the new accessory structure. The Planning Commission held their public hearing on November 2, 2021 with no comments received. The Planning Commission recommended approval of the CUP for an ADU pursuant to Cape Charles Zoning Ordinance Section 4.2 (J) and Section 3.2 (C)(7) with the following condition: i) The applicant needed to obtain HDRB approval for all exterior improvements in accordance with the Historic District Overlay and Guidance documents; and ii) The applicant needed to obtain all required permits and approvals from the building and planning departments.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to approve the conditional use permit for 410 Harbor Avenue/100 Madison Avenue with the conditions as recommended by the Planning Commission. The motion was approved by majority vote, with Councilwomen Holloway and O'Brien opposed.

F. 4 Lots on Randolph Avenue – Conditional Use Permit – Mini Golf:

Katie Nunez stated that a CUP application was received to construct a mini-golf course on four lots on Randolph Avenue (tax map #83A4-1-B-26, 27, 28 and 29) which were located across the entrance from the Myrtle Landing Apartments (formerly known as Heritage Acres). The lots were zoned as Commercial-3 and the proposed use for mini-golf was a permitted use under Section 3-8 (B)(2) of the zoning ordinance. The proposed use was brought to the Planning Commission in February 2021 and the Commission stated that this use would be compatible with other uses allowed in the Commercial-1, -2 and -3 zoning districts but indicated that a CUP was necessary for adequate review of parking, lighting, landscaping, setbacks and visual aesthetics of the proposed project in relation to the other development occurring on this stretch of Randolph/Stone Road.

During the Planning Commission meeting, the applicants stated the following: i) They would like to offer some light food fare, beer, wine and canned cocktails on the premises; ii) They would close at 9:00 p.m. during the summer season and have reduced hours during the shoulder season; iii) Each hole, along with the width of the path between holes, would be ADA compliant; iv) Two speakers would be installed for ambient music, no live music; v) It would be a low-key place for families to play; vi) Black aluminum fencing, similar to the fence in Central Park. Would be installed around the property; vii) A small dumpster would be located on the southeast corner of the course, with trash cans placed throughout the course; ix) A landscape plan was provided to improve the look of the property along Randolph Avenue and to help provide a noise buffer; x) Lighting would be a historic type pole seen throughout the town and would have a baffle on top to direct the light down to keep with the Town's lighting ordinance; xi) There would be landscape lighting on the course which would allow for mini-golfing in the evening hours; xii) The applicants were working on the sign, which would be 4' x 6', and would submit the plan for a sign permit; xiii) The site plan, including the stormwater plan, were being finalized for submission to the state and VDOT for approval; and xiv) The course design and layout would mimic the feel of the Town – historic, nautical aspects, old trains, and other elements of the Eastern Shore.

The Planning Commission held their public hearing on November 2, 2021 with one comment received in support of the application. The Planning Commission recommended approval of the CUP for a mini-golf course on Randolph Avenue (tax map #83A4-1-B-26, 83A4-1-B-27, 83A4-1-B-28, 83A4-1-B-29) pursuant to Cape Charles Zoning Ordinance Section 3.8 (B)(2) with the following conditions: i) All signage shall comply with the sign requirements in Cape Charles Zoning Ordinance section 4.1 – Sign Regulations and a sign permit application would be filed and approved by the Town prior to any signage being installed; ii) At least 20 parking spaces to be provided as required by zoning ordinance section 4.5 (B)(g)(3); iii) A full lighting plan submitted as part of the final site plan that fully complied with zoning ordinance section 4.4(E) – Exterior Lighting; iv) The final site plan was conditional upon affirmative third party reviews from DEQ, VDOT, the Town's third-party reviewer Enviro-Management, LLC and all comments from said reviewers must be incorporated into a revised final site plan; v) The final site plan would incorporate the requirements of zoning ordinance section 4.5 (M) which detailed the placement and screening for dumpsters; vi) HDRB Certificate of Appropriateness, and Certificate of Occupancy from the building department needed to be obtained; and vii) Admission of new players must be stopped at 9:00 p.m.

Councilman Buchholz questioned why the applicants were required to apply for a CUP if the intended use was by-right. Katie Nunez responded that the Planning Commission did not see this

as a by-right use and required a CUP so the lighting, aesthetics, etc. could be evaluated. Councilman Grossman added that the Commission wanted to protect the residents living across the street.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to approve the conditional use permit for the four parcels on Randolph Avenue (tax map #83A4-1-B-26, 83A4-1-B-27, 83A4-1-B-28, 83A4-1-B-29) with the conditions as recommended by the Planning Commission. The motion was approved by unanimous vote.

G. 219 Mason Avenue – Conditional Use Permit – 5 Residential Units above First Floor Commercial:

Katie Nunez stated that a CUP application was received for five residential units above first floor commercial at 219 Mason Avenue. The property was zoned Commercial District C-1 which allowed for a dual use of Commercial/Residential. A floor plan was submitted for five residential units on the second floor of this building. Three of the units would be one-bedroom apartments or lofts and two of the units would be two-bedroom apartments. The requirement of six parking spaces had been met. The Planning Commission held their public hearing on November 2, 2021 with no comments received. The Planning Commission recommended approval of the CUP for five residential units on the second floor above commercial at 219 Mason Avenue with the following conditions: i) Final site plan was conditional upon affirmative third party reviews from DEQ, VDOT and the Town's third party reviewer Enviro-Management, LLC, and incorporation of all comments from said reviews into a revised final site plan; and ii) HDRB Certificate of Appropriateness, and Certificate of Occupancy from the building department needed to be obtained.

There was some discussion regarding the ongoing parking issues along Mason Avenue.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to approve the conditional use permit for five residential units on the second floor above commercial at 219 Mason Avenue with the conditions as recommended by the Planning Commission. The motion was approved by unanimous vote.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to take a five-minute break. The motion was approved by unanimous vote.

Council took a break from 7:33 p.m. until 7:37 p.m.

Motion made by Vice Mayor Bennett, seconded by Councilman Grossman, to call the meeting back to order. The motion was approved by unanimous vote.

H. Harbor Area Review Board Member Reappointment:

John Hozey stated that the Harbor Area Review Board oversaw the Historic Harbor Area Overlay District and reviewed applications for Certificates of Appropriateness (COA) for construction, reconstruction, substantial exterior alternation, razing or relocation within the Historic Harbor Area Overlay District, and made recommendations to the Town Council for approval or denial of a COA. The Board met as needed and consisted of three citizen members each service five-year terms, along with representatives from the Town Council, Planning Commission and Historic District Review Board. Mr. Stuart Smith currently served on the Harbor Area Review Board and his term would expire on December 20, 2021. Mr. Smith expressed his interest in continuing his service on the Board for another term.

Motion made by Vice Mayor Bennett, seconded by Councilman Buchholz, to reappoint Mr. Stuart Smith to the Harbor Area Review Board for another term. The motion was approved by unanimous vote.

I. *Architectural Services Contract Amendment:*

John Hozey stated that, at the September 16, 2021 meeting, Council authorized a contract with HBA initially in the amount of \$41,509 for Phase 1 architectural services for future office space, and up to \$45K to accommodate addition of a wetlands delineation and Phase 1 Environmental Site Assessment for the potential construction site on Cassatt Parkway. Additionally, Council requested that a fee proposal be obtained from HBA to add the library function into the analysis. The fiscal year 2022 budget included \$130K for the project with \$45K earmarked for the analysis of alternatives. Staff was working with HBA, and their proposed sub-consultant MSA. MSA recommended soil and water sampling to determine if there was any significant contamination from the adjacent former dump site. The total cost for the environmental assessment was \$5,040 and would bring the contract value to \$46,549, or \$1,549 over the \$45K authorized. Additionally, HBA proposed a fee of \$1,948 to add the library function to the Phase 1 scope of work. The total of the additional work would exceed the authorized \$45K by \$3,497. There was sufficient funding budgeted for the project to accommodate this.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to authorize amendments to the HBA contract for i) \$5,040 for an environmental assessment of the potential construction site; and ii) \$1,948 to add the library function to Phase 1. The motion was approved by unanimous vote.

J. *Civil War Trail Interactive Signage:*

John Hozey informed Council that Civic War Trails® had been working with communities since 1994 to share their stories and connect visitors with small towns and big stories across a network that now spanned six states. Travelers looked to Trails to put them in the footsteps of the generals, soldiers, citizens and the enslaved who found themselves in the midst of the Civil War. The Town was recently contacted about joining the Civil War Trail by approving placement of an interpretive sign depicting the life and contributions of Peter Jacob Carter who was enslaved in Northampton County before self-emancipating and then service with the 10th "United States Colored Troops" during the war. After the war, he went on to serve the County as their Delegate to the House of Delegates, as well as being the keeper for the old Cherrystone lighthouse, which was what would provide the nexus for installing the sign in Cape Charles. It was likely that some of Peter Jacob Carter's descendants might still be in the County. All of these signs must be located at historically significant sites, or at a location where such sites could be viewed. This sign must be placed in an area where the original Cherrystone lighthouse site could be viewed, limiting the location to somewhere in the area of Bay and Washington Avenues. The current plan was to install the sign along the boardwalk on Bay Avenue as far north as practicable. There was no cost to the Town for either the initial installation of the sign or ongoing maintenance. All costs would be covered by the Civil War Trails organization and associated donors/sponsors. If the Town were ever to renovate that area of the boardwalk/beach, the Civil War Trails organization would move the sign to a new location chosen by the Town as long as the Cherrystone lighthouse site could still be viewed.

Councilman Grossman suggested execution of a memorandum of agreement with the Civil War Trails organization outlining all details.

There was some discussion as follows: i) Vice Mayor Bennett expressed his concern regarding this issue, adding that a Civil War monument was just torn down in Eastville and this signage would be another reminder of slavery, regardless of the side. The website for this organization was poorly done without much information of their purpose. He had difficulty putting up a monument referencing the Civil War when monuments were being torn down; ii) Councilman Follmer expressed his opinion stating that no one was trying to forget the Civil War and the monument in Eastville honored someone who had slaves and promoted slavery. He did not think

this issue was the same situation, and the fact that the organization would cover the cost of installation, maintenance, removal, etc. was great.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to authorize the town manager to execute a memorandum of agreement with the Civil War Trails organization for the placement of a Civil War Trails interpretive sign in the area of Bay and Washington Avenues. The motion was approved by majority vote with Vice Mayor Bennett opposed.

K. *Comprehensive Plan Consultant:*

John Hozey stated that a request for proposals was issued on October 8, 2021 to solicit consultant help for a two-phased project. Phase 1 of the project was to assist with completion of work on the Comprehensive Plan update which had already been started by the Planning Commission. Phase II would be to use the new Comprehensive Plan to conduct a complete review and update of the Town's Zoning Ordinance. Three proposals were received and an evaluation team was formed consisting of Planning Commission Chair Bill Stramm, Zoning Administrator Katie Nunez, and John Hozey. The team members unanimously chose Summit Design and Engineering Services for this project. While the other two proposals represented qualified companies, the team felt that Summit did the best job of understanding the work already done and how to carry that forward in an efficient way. The project was anticipated to take approximately 12 months to complete the full scope of work. There was sufficient funding budgeted for this project to cover the work for the balance of this fiscal year. Work performed next fiscal year would be reappropriated or added to the FY 2023 budget and authorized for this contract by Council at that time.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to authorize the town manager to sign an agreement for professional services with Summit Design and Engineering Services in the amount of \$61,275 for the Comprehensive Plan and Zoning Ordinance updates. The motion was approved by unanimous vote.

TOWN MANAGER COMMENTS

John Hozey commented as follows: i) As of the time he left the office this evening, there were 349 responses to the strategic plan community survey. There were almost equal numbers of paper and electronic responses. Many residents completed the two-page survey that was included with the utility bills. Julie Pruitt was inputting the paper responses into Survey Monkey, which was a good tool and easy to track. He was looking forward to presenting the information to the Council. The survey would close tomorrow, December 17, at 2:00 p.m. A reminder was placed on Facebook on Monday. Cape Charles Main Street sent an email blast on Tuesday, and a Nixle community message went out today. The cost for Survey Monkey for all the analysis tools was about \$600; ii) He was able to set up a meeting for next week with the Mayor, Delegate Bloxom and himself regarding legislative priorities. He hoped to set up a similar meeting with Senator Lewis; and iii) He wished everyone a Merry Christmas and a great New Year.

MAYOR AND COUNCIL COMMENTS

Councilman Follmer commented as follows: i) He thanked the Public Works crew for cleaning all the leaves out of the gutter on Mason Avenue; ii) After the new year, he requested a work session for discussion regarding committees, consisting of several members of Council, staff and members of the community, to accomplish some of the necessary work. Tonight's discussion showed the need to leverage efforts in a strict regulatory framework; iii) He asked for an inventory of Town-owned real estate. John Hozey responded that he would get a list compiled; iv) He expressed his concern with members of the Town's Boards and Commission advocating against the Town's policies or Council's plans. He felt it was a problem when a member of the Planning Commission stated their disagreement with Town policy and vote against an item. There were members of staff and a Council

representative present at Planning Commission meetings, and it was their role to remind the Commissioners what was or was not in their purview; and v) He wished everyone a Merry Christmas.

Councilman Grossman stated is agreement with Councilman Follmer regarding committees, adding that work regarding parking, including boats and RVs, and short-term rentals could be split up and tackled.

Councilwoman O'Brien and Vice Mayor Bennett wished everyone happy holidays.

Councilwoman Holloway commented on the following: i) She also concurred regarding committee work. It was a good formula to have committees with members of Council, Planning Commission, staff and community members; ii) She congratulated Julie Pruitt on her first official Town event. The Grand Illumination was wonderful, along with the lighted golf cart parade, lighted boat parade, etc. It was a happy night in Cape Charles and felt like Mayberry; and iii) Tomorrow would be the last Festive Friday. They have been very well attended. The businesses and residents were happy to be able to enjoy the town again.

Councilman Buchholz commented on the following: i) He would be serving beverages during Festive Fridays tomorrow; ii) He told Katie Nunez that she was doing a fantastic job and that he meant no ill will during discussion earlier this evening. He sometimes got overzealous; and iii) He wished a Merry Christmas to all.

Mayor Dize commented as follows: i) He stressed the importance of all residents and business owners to complete the survey tonight if they had not already done so. He wanted over 400 responses by the time the survey closed tomorrow; and ii) He expressed his appreciation to everyone involved in the efforts put into Festive Fridays – Cape Charles Main Street, shop owners and other business owners. So many people contacted him to tell him that it made them feel like it was the old times again. Councilwoman Holloway added a shout out to Katy Sabo who was the coordinator for Cape Charles Main Street, and to Debbie Pocock for running the snow machine.

Mayor Dize read the announcements.

Motion made by Councilman Buchholz, seconded by Vice Mayor Bennett, to adjourn the Town Council Public Hearing & Regular Meeting. The motion was approved by unanimous vote.

The Public Hearing & Regular Meeting adjourned at 8:02 p.m.

Mayor Dize

Town Clerk

Comments & Information Provided in Writing December 16, 2021 Town Council Public Hearing & Regular Meeting

#5 – Public Comments

Anna Lee

Dear Mayor, Town Council & Town Staff:

My name is Anna Lee and my husband and I have owned a duplex at 107-109 Tazewell Avenue for 7.5 years. We live full time in 107 Tazewell and host 109 Tazewell as a vacation rental on AirBnb. We also own Barrier Islands Salt Co.

During the annual budget process, the Town Manager recommended and Town Council approved a new, \$4 per night flat tax on short term home rentals but only a \$1 per night flat tax on short term hotel, B&B and Inn rentals. The Town Manager and Town Council justified the higher tax by saying that it was needed to cover the cost to Town of managing short term home rental 'grievances and issues.'

On June 17th I submitted a letter opposing this recommendation based on the lack of information provided to support it and requested reporting to substantiate it. I never received a response.

On August 26th I submitted a FOIA request to the Town Manager, formally asking again to see the details regarding the 'grievances and issues' cited and the associated expenses described. After several emails with Town staff, I was told that no documentation existed in support of this budget recommendation. I was told that it would cost \$200 to generate reporting to show any complaints to Town and any associated expenses, so I paid it.

While \$4 per night might sound like a small additional tax, when you factor in the 230 short term home rentals in Cape Charles and apply our average annual occupancy rate of 87%, **this new tax totals \$292,146 annually in addition to the 3.7% tax we already pay.**

Based on the Town's response to my FOIA request, short term home rentals have actually only increased Town expenses by \$4,278 annually - this is the cost of the additional administrative work involved in collecting and recording the tax checks from short term rental owners which total roughly \$172,000 annually, more than covering the additional administrative expense to process them. The FOIA response also showed that Town spent \$0 managing the five complaints received related to rentals during the 15 month period from June 2020 to September 2021, all of which were related to parking and trash, and none of which received a response.

Based on these findings, I'm asking that Town cancel the arbitrary \$4 per night flat tax on short term rentals.

I have no objection to paying more in taxes to cover covid related budget shortfalls or much needed capital improvements to town buildings - I just ask that these taxes be fairly applied across all categories of small business or perhaps across all property owners.

Along with my comments, I'm submitting my FOIA request and FOIA response received from Town into the public record. My contact information is also provided below and I'm happy to discuss my submission with anyone who has questions or comments.

Sincerely,
Anna Lee
vitaleea@gmail.com
410-490-9778 cell

FOIA Request Email Chain

----- Forwarded message -----

From: **Anna Lee** <vitaleea@gmail.com>
Date: Thu, Sep 16, 2021 at 11:53 AM
Subject: Re: FOIA Response
To: Libby Hume <clerk@capecharles.org>

Thanks, Libby. I'm all set and appreciate your time and assistance, as well as everyone else involved.
Anna

----- Forwarded message -----

From: **Libby Hume** <clerk@capecharles.org>
Date: Thu, Sep 16, 2021 at 11:48 AM
Subject: RE: FOIA Response
To: Anna Lee <vitaleea@gmail.com>

Good morning, Ms. Lee.

Yes, you caught a typo! I'm so sorry for that! The hours provided by the Code and Building department were an average. Connie told me that some applications take her a lot longer to process than others. This was the best she and Jeb could provide.

Regarding the Report a Concern issues, we have not been keeping records on staff time to resolve any issues generated from those reports.

Thanks. Please let me know if you need anything else.

Libby

Libby Hume, MMC
Town Clerk
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
(757) 331-3259, ext. 10
www.capecharles.org
VMCA President 2021-2022

----- Forwarded message -----

From: **Anna Lee** <vitaleea@gmail.com>
Date: Thu, Sep 16, 2021 at 10:39 AM
Subject: Re: FOIA Response
To: Libby Hume <clerk@capecharles.org>

Hi Libby -

I've reviewed all of the info provided and it's very helpful. I just have a few follow up comments/questions:

- I'm assuming \$0 labor costs related to the 5 'report a concern' issues submitted from June 2020 until Sep 10 2021 because none were provided.

- Can you clarify what the totals and time period are on page 2 Code Enforcement/Building Dept.? This shows \$20,975 in labor costs per rental property (\$6,391 + \$14,584). I assume this is a typo because assuming Connie's rate of \$17.28 per hour would have her working 30 weeks to process one property. She'd have to work 69 years to complete all 120 properties one time.

But then the second page, last bullet of Connie's rental inspection process document shows a total of \$99.41 per rental property per year in labor costs (1 hour of the Code Official + 4 hours Permit Tech). This sounds much more reasonable. I assume this is the correct number?

Thank you!
Anna

On Wed, Sep 15, 2021 at 11:32 AM Anna Lee <vitaleea@gmail.com> wrote:

Thank you, Libby! I'll drop the check for the balance off today. Once I review everything I may get back to you if I have any questions.

Please thank all involved in putting this together.

Have a good week,
Anna

On Tue, Sep 14, 2021 at 5:28 PM Libby Hume <clerk@capecharles.org> wrote:

Good afternoon, Ms. Lee.

Please see the attached file in response to your FOIA request relating to short-term rentals and associated costs to the Town.

Please let me know if you have any problems opening the file.

Thank you,
Libby

Libby Hume, MMC
Town Clerk
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
(757) 331-3259, ext. 10
www.capecharles.org
VMCA President 2021-2022

On Mon, Aug 30, 2021 at 2:26 PM Libby Hume <clerk@capecharles.org> wrote:

Thanks, Ms. Lee. I passed this additional request along.
Libby

Libby Hume, MMC
Town Clerk
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
(757) 331-3259, ext. 10
www.capecharles.org
VMCA President 2021-2022

From: Anna Lee <vitaleea@gmail.com>
Sent: Monday, August 30, 2021 2:21 PM
To: Libby Hume <clerk@capecharles.org>
Cc: John Hozey <john.hozey@capecharles.org>
Subject: Re: FOIA Request re: Short Term Rentals

One additional revision - I need to know the total number of rooms for vacation rentals, hotels, B&Bs and inns during the time period in question. Please see this addition below:

I'm now making a FOIA request, in hopes of getting my request prioritized, for reporting that includes all in person, phone, email, text and website submissions that contained a comment or concern about any short term rental for the period 6/1/20 thru today. Each should include the name of the individual contacting the town, the specific comment/concern and be broken out by category for vacation rental, hotel, B&B and inn. Each contact should have a date, the follow up that occurred by the town office and the associated labor cost. Each should also include detail on when contact was made with the owner or management company of the short term rental in question and what action was taken. Please also provide the total number of rooms for each of the following - vacation rentals, hotels, B&Bs and inns - during the time period in question.

On Mon, Aug 30, 2021 at 2:03 PM Anna Lee <vitaleea@gmail.com> wrote:

I have revised my FOIA request to also include the name of the person submitting the comment or concern - please see revision below.

I'm now making a FOIA request, in hopes of getting my request prioritized, for reporting that includes all in person, phone, email, text and website submissions that contained a comment or concern about any short term rental for the period 6/1/20 thru today. Each should include the name of the individual contacting the town, the specific comment/concern and be broken out by category for vacation rental, hotel, B&B and inn. Each contact should have a date, the follow up that occurred by the town office and the associated labor cost. Each should also include detail on when contact was made with the owner or management company of the short term rental in question and what action was taken.

On Mon, Aug 30, 2021 at 1:27 PM Anna Lee <vitaleea@gmail.com> wrote:

No problem - I understand. I'll drop the \$200 check off today.

Thanks,
Anna

On Mon, Aug 30, 2021 at 1:17 PM Libby Hume <clerk@capecharles.org> wrote:

Hi, Ms. Lee.

In talking to the various departments, they do not have the records in a report. The information will have to be researched. Your request involves the Building/Code Enforcement department regarding applications, permitting, inspections, etc. – Jeb Brady and Connie Drummond. The Police department regarding comments/complaints they may have received. The Public Works department regarding comments/ complaints they may have received. The Finance department for business licenses and transient occupancy tax. John Hozey will also have to look through his files. You also have my time to review everything once it's received and compile it to provide to you. We are a very small locality so do not have admin assistants in each department who can do the research. The hours add up. Six or seven hours combined will exceed \$200. If the time it takes to research, compile and respond to the request turns out to be less, we will refund you any difference.

Thanks,
Libby

Libby Hume, MMC
Town Clerk
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
(757) 331-3259, ext. 10
www.capecharles.org
VMCA President 2021-2022

From: Anna Lee <vitaleea@gmail.com>
Sent: Monday, August 30, 2021 1:03 PM
To: Libby Hume <clerk@capecharles.org>
Cc: John Hozey <john.hozey@capecharles.org>
Subject: Re: FOIA Request re: Short Term Rentals

Thanks, Libby. I'm not trying to be difficult but I'm not clear on the cost. This information has to exist because it was used to make a recommendation for the budget - I assumed it would be a matter of emailing me an existing file. I've seen other FOIA requests for existing info cost around \$30 - why is this one \$200? Not trying to be difficult - it just feels like an inflated price for my request. How many hours are you assuming this will take?

Can you tell me a yes or no as to whether any data currently exists on this topic?

And I do understand that the clock starts once I make a deposit.

Thanks,
Anna

On Mon, Aug 30, 2021 at 12:54 PM Libby Hume <clerk@capecharles.org> wrote:

Good morning, Ms. Lee.

We currently do not have reports readily available. The various departments are currently working to compile the information requested.

Please note that in our letter invoking Code of Virginia § 2.2-3704. B.4 for additional time to respond, we also invoked § 2.2-3704.H requesting a deposit payment. I just wanted to point out to you that, as stated in the letter, the timeframe for the Town's response does not begin until receipt of the deposit payment.

Thank you,
Libby

Libby Hume, MMC
Town Clerk
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
(757) 331-3259, ext. 10
www.capecharles.org
VMCA President 2021-2022

From: Anna Lee <vitaleea@gmail.com>
Sent: Friday, August 27, 2021 2:35 PM
To: Libby Hume <clerk@capecharles.org>
Cc: John Hozey <john.hozey@capecharles.org>
Subject: Re: FOIA Request re: Short Term Rentals

Thank you, Libby! No problem on the additional time.

Given that the information I've requested was cited as an input in the budget process that led to the decision to tax Airbnbs at a rate of 4x higher than other short term rentals, my assumption is that this reporting already exists in some form. I'm flexible as to the format of the information and am happy to accept it in it's current format to see if it satisfies my request. I assume that this could be provided for a smaller fee.

Thanks,
Anna

On Fri, Aug 27, 2021 at 2:19 PM Libby Hume <clerk@capecharles.org> wrote:

Good afternoon, Ms. Lee.

Town Manager John Hozey forwarded your request to me, and I've contacted the various departments and staff asking them to search their records regarding your requested information.

Please see the attached letter invoking subsection B.4 of § 2.2-3704 of the Code of Virginia to provide us with additional time to research and respond to your request.

Respectfully,
Libby Hume

Libby Hume, MMC
Town Clerk
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310

(757) 331-3259, ext. 10
www.capecharles.org
VMCA President 2021-2022

----- Forwarded message -----

From: **Anna Lee** vitaleea@gmail.com
Date: Thu, Aug 26, 2021 at 9:18 AM
Subject: FOIA request - short term rentals
To: John Hozey john.hozey@capecharles.org

Hi John -I hope you're doing well. Just following up on a prior request....Back during the budget process, town leadership cited 'issues and grievances' specific to vacation rentals that were driving up town labor costs as the justification for imposing a \$4 per night flat rate tax on vacation rentals but only a \$1 per night flat rate tax for hotels, B&B s and inns. I submitted a letter opposing this and asking for reporting that detailed these costs but never received a response.

I'm now making a FOIA request, in hopes of getting my request prioritized, for reporting that includes all in person, phone, email, text and website submissions that contained a comment or concern about any short term rental for the period 6/1/20 thru today. Each should include the specific comment/concern and be broken out by category for vacation rental, hotel, B&B and inn. Each contact should have a date, the follow up that occurred by the town office and the associated labor cost. Each should also include detail on when contact was made with the owner or management company of the short term rental in question and what action was taken.

I assume this report is available since this data was used in the budget process. If it exists in another slightly different format I'm happy to discuss what's available.

Thanks for your help,
Anna Lee
107-109 Tazewell Ave
410-490-9778 cell



*Municipal Corp. of
Cape Charles*

September 14, 2021

Ms. Anna Lee
107-109 Tazewell Avenue
Cape Charles, VA 23310

via email: vitaleea@gmail.com

Re: Freedom of Information Act Request

Dear Ms. Lee:

This office is in receipt of your request for records made in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) requesting "all in person, phone, email, text and website submissions that contained a comment or concern about any short-term rental for the period June 1, 2020 through August 26, 2021. Each should include the name of the individual contacting the town, the specific comment/concern and be broken out by category for vacation rental, hotel, B&B and inn. Each contact should have a date, the follow up that occurred by the town office and the associated labor cost. Each should also include detail on when contact was made with the owner or management company of the short-term rental in question and what action was taken. Please also include the total

number of rooms for each of the following – vacation rentals, hotels, B&Bs and inns – during the time period in question.”

After researching our records, attached are the following:

- A file outlining the costs to the Town for the short-term rental program as a whole
- Copies of Report a Concern emails
- A document detailing the Building Department’s procedures related to the rental inspection process

The Town does not capture the number of rooms for each short-term rental property, nor does the Town separate the information by category.

Also, enclosed is our invoice for the staff time taken to research and compile the requested information.

Thank you for contacting this office.

Sincerely,

Libby Hume
Libby Hume
Town Clerk

Enclosures

Municipal Building · 2 Plum Street · Cape Charles, Virginia 23310
(757) 331-3259 Fax (757) 331-4820

Finance Dept:

Costs are ongoing. The figures provided are through September 10, 2021.

Collections cost for BPOL and TOT for vacation rentals for the summer collections audit time 2021 only:

B&Bs = \$0

Rental Homes = \$4,278*

* All staff and a summer intern participated in this effort to audit BPOL and TOT accounts, mail letters and applications, and seeking out those not in compliance – Approx. 158 hours at an average rate of \$21.20/hour = \$3,350

Treasurer’s hours researching, typing letters, emailing, calling, educations and helping complete forms (July-August 2021 only) = \$828

Mailing supplies and postage for certified letters and delinquent notices = \$100

Code Enforcement/Building Dept:

Please see attached document from the Permit Technician detailing the rental inspection process.

Approximate time and costs per rental property:

Inspections = \$6,391

Paperwork & processing = \$14,584

Report a Concern:

The online Report a Concern emails go to the town manager for review, and he forwards them to the appropriate department head. The staff’s contact with the individual and resolution have not been documented.

Total costs to the Town: \$25,253

Response ID: 1415854

Form Name: Report a Concern

Date Submitted: Jun 21 2020 11:29AM

IP Address: 168.149.145.120

Name: Lori Smith

Email: lpgawnab@msn.com

Address: 526 Strawberry Street

Phone: 804-339-3497

Area of Concern: Safety Issues

Brief Description of Problem: 522 Strawberry St. is a rental unit...2 of their cars have been parked on the wrong side of the street since yesterday...someone is going to get hit head on if they are not paying attention when they pull out. (the cars are facing north on the west side of the street) Thank you!

Location of Problem: 522 Strawberry St.

Response Requested: None

John Hozey

From: John Hozey
Sent: Sunday, June 21, 2020 11:53 AM
To: Jim Pruitt
Subject: Fwd: Report a Concern

FYI

Begin forwarded message:

From: "formbuilder@municipalnotices.com" <formbuilder@municipalnotices.com>
Date: June 21, 2020 at 11:29:57 AM EDT
To: John Hozey <john.hozey@capecharles.org>
Subject: Report a Concern

Form Name:
Report a Concern

Form Text:

Please provide the information requested below to report a problem or concern to the Town. If you would like to speak directly with a staff member, you may call the Town Hall at 757-331-3259, Monday – Friday between the hours of 8:00 a.m. and 4:30 p.m.

Please understand that this service is not to be used to report an emergency situation. **In the event of an emergency please dial 9-1-1.**

Name
Lori Smith

Email
lpgawnab@msn.com

Address
526 Strawberry Street

Phone
804-339-3497

Area of Concern

Safety Issues

Brief Description of Problem

522 Strawberry St. is a rental unit...2 of their cars have been parked on the wrong side of the street since yesterday...someone is going to get hit head on if they are not paying attention when they pull out. (the cars are facing north on the west side of the street) Thank you!

Location of Problem

522 Strawberry St.

1

Response Requested

None

Sent from IP Address: 168.149.145.120

Response ID: 1415991
Form Name: Report a Concern
Date Submitted: Jun 21 2020 12:26PM
IP Address: 162.217.52.192
Name: Jo Bawiec
Email: Jobawiec@gmail.com
Address: Strawberry st
Phone: 434-547-3082

Area of Concern: Safety Issues

Brief Description of Problem: 500 block of strawberry st. Cars/ golf carts parked in wrong direction. Safety issue. This has been a consistent issue on this block (rental house). 3 vehicles have been parked illegally for 2 days

Location of Problem: 522 strawberry st

Response Requested: None

John Hozey

From: John Hozey
Sent: Sunday, June 21, 2020 12:57 PM
To: Jim Pruitt
Subject: FW: Report a Concern

FYI

John
John Hozey
Town Manager
Cape Charles, VA

From: formbuilder@municipalnotices.com <formbuilder@municipalnotices.com>
Sent: Sunday, June 21, 2020 12:27 PM
To: John Hozey <john.hozey@capecharles.org>
Subject: Report a Concern

Form Text:

Please provide the information requested below to report a problem or concern to the Town. If you would like to speak directly with a staff member, you may call the Town Hall at 757-331-3259, Monday – Friday between the hours of 8:00 a.m. and 4:30 p.m.

Please understand that this service is not to be used to report an emergency situation. **In the event of an emergency please dial 9-1-1.**

Name

Jo Bawiec

Email

Jobawiec@gmail.com

Address

Strawberry st

Phone

434-547-3082

Area of Concern

Safety Issues

Brief Description of Problem

500 block of strawberry st. Cars/ golf carts parked in wrong direction. Safety issue. This has been a consistent issue on this block (rental house). 3 vehicles have been parked illegally for 2 days

1

Location of Problem

522 strawberry st

Response Requested

None

Sent from IP Address: 162.217.52.192

Response ID: 1418457

Form Name: Report a Concern

Date Submitted: Jul 27 2020 6:29PM

IP Address: 38.124.147.131

Name: Etta K Pruitt

Email: Epruitt1@verizon.net

Address: 3 Tazewell, CC

Phone: 757-331-3675

Area of Concern: Debris, Litter

Brief Description of Problem: My concern is with rental properties that do not have enough trash receptacles. A minimum of two should be required. Some large places should have three. When renters move out on Saturday and leave trash overflowing or filled plastic bags on the ground, they are quickly found by cats or other "at large" animals. Folks coming in on Saturday have nowhere to put their trash. There are six rentals on my block and it can be a real mess in the neighborhood. Can you do something Thanks to all!

Location of Problem: My block of 3 Tazewell

Response Requested: None

John Hozey

From: John Hozey
Sent: Tuesday, July 28, 2020 7:59 AM
To: John Lockwood
Subject: FW: Report a Concern

John, any ideas here?

John
John Hozey
Town Manager
Cape Charles, VA

From: formbuilder@municipalnotices.com <formbuilder@municipalnotices.com>
Sent: Monday, July 27, 2020 6:29 PM
To: John Hozey <john.hozey@capecharles.org>
Subject: Report a Concern

Form Name:
Report a Concern

Form Text:

Please provide the information requested below to report a problem or concern to the Town. If you would like to speak directly with a staff member, you may call the Town Hall at 757-331-3259, Monday – Friday between the hours of 8:00 a.m. and 4:30 p.m.

Please understand that this service is not to be used to report an emergency situation. **In the event of an emergency please dial 9-1-1.**

Name
Etta K Pruitt

Email
Epruitt1@verizon.net

Address
3 Tazewell, CC

Phone
757-331-3675

Area of Concern
Debris, Litter

Brief Description of Problem

My concern is with rental properties that do not have enough trash receptacles. A minimum of two should be required. Some large places should have three. When renters move out on Saturday and leave trash overflowing or filled plastic bags on the ground, they are quickly found by cats or other "at large" animals. Folks coming in on Saturday have

1

nowhere to put their trash. There are six rentals on my block and it can be a real mess in the neighborhood. Can you do something Thanks to all!

Location of Problem
My block of 3 Tazewell

Response Requested
None

Sent from IP Address: 38.124.147.131

Response ID: 1433938

Form Name: Report a Concern

Date Submitted: Jun 5 2021 4:08PM

IP Address: 162.217.52.192

Area of Concern: Other

Brief Description of Problem: 420 Randolph has been using orange cones in street to reserve parking spaces in the front of the short term rental (for rental golf cart?). Witnessed most recently Saturday afternoon. Not appropriate. Street parking is open to all. Neighboring two houses are currently vacant which allows ample parking on the south side of street.

Location of Problem: 420 Randolph Ave

Name: Paul Grossman

Email: Grossman51@aol.com

Address: 506 Randolph Ave

Phone: 804-499-0118

Response Requested: Email

John Hozey

From: John Hozey
Sent: Saturday, June 5, 2021 4:12 PM
To: Jim Pruitt
Subject: Fwd: Report a Concern

Can you send someone to check this out.

Begin forwarded message:

From: formbuilder@municipalnotices.com
Date: June 5, 2021 at 4:08:46 PM EDT
To: John Hozey <john.hozey@capecharles.org>
Subject: Report a Concern

Form Name:
Report a Concern

Form Text:

Please provide the information requested below to report a problem or concern to the Town. If you would like to speak directly with a staff member, you may call the Town Hall at 757-331-3259, Monday – Friday between the hours of 8:30 a.m. and 4:30 p.m.

Please understand that this service is not monitored during non-business hours and should not be used to report an emergency situation. **In the event of an emergency please dial 9-1-1.** To report urgent but Non-Emergency incidents or for Non-Emergency police assistance, please call police dispatch at 757-678-0458.

Area of Concern
Other

Brief Description of Problem

420 Randolph has been using orange cones in street to reserve parking spaces in the front of the short term rental (for rental golf cart?). Witnessed most recently Saturday afternoon. Not appropriate. Street parking is open to all. Neighboring two houses are currently vacant which allows ample parking on the south side of street.

Location of Problem
420 Randolph Ave

Name
Paul Grossman

Email
Grossman51@aol.com

Address
506 Randolph Ave

Phone

1

804-499-0118

Response Requested
Email

Sent from IP Address: 162.217.52.192

Response ID: 1437363

Form Name: Report a Concern

Date Submitted: Jul 18 2021 6:37PM

IP Address: 47.133.248.203

Area of Concern: Other

Brief Description of Problem: Parking in Historic District With the increase in vacation rentals, the parking in our residential areas is becoming bothersome. Reading the Zoning Ordinance on Parking, I found the following: 3. Hotels, motels and similar businesses or institutions providing overnight accommodations: 1 space per unit plus 1 space per 5 units for visitors. If I read this correctly, each home has a space for two vehicles unless they are able to park in another designated area. Can we make the visitors adhere to this? Perhaps it should be noted in the rules and regulations of each vacation rental. Maybe I am off base. But the 200 block of Tazewell has as many rentals as full time residents. Often times as many as 4 vehicles are parked in front of one rental making it impossible for the full time resident to park near their own home. Thank you for any reply.

Location of Problem:

Name: Judi A. "Joy" Pelletier

Email: joyncc@verizon.net

Address: 218 Tazewell Ave, Cape Charles, VA 23310

Phone: 804-382-4169

Response Requested: Email

The Cape Charles Building Department Rental Inspection Process

In 2020 and 2021, a total of 211 rental inspection applications were processed by the Cape Charles Building Department Permit Technician. The rental inspection process from receipt of application to issuance of the Rental Certificate of Occupancy is a very time-consuming undertaking. Late winter, spring and early summer months are the busiest times of the year for receiving rental inspection applications. Most vacation rental property owners want the safety inspection completed before the spring/summer rental season gets underway.

In 2020, 91 rental inspection applications were processed before, during and after the start of the Covid 19 Pandemic. The typical rental inspection process between Building Department staff and owners/agents was interrupted. Covid caused some rental property owners to postpone or stop renting their vacation rental units during 2021 due to safety concerns. Safety measures were put into place for all property inspections. That information was disseminated to all property owners and agents before inspections were scheduled. Of the 91 inspection applications

received in 2020, all paperwork was processed, and all but four property inspections were completed. Those four rental units became long term rentals during the pandemic.

In 2021, 120 rental inspection applications were processed by the Permit Technician. This year the Building/Code Enforcement office was overwhelmed with a barrage of rental inspection applications and building applications in a short period of time. Rental inspection application processing, documentation, inspection scheduling and inspections were handled in a timely manner. All 120 rental inspection applications received in 2021 have been processed, and all properties have been inspected. To maintain the fast pace and keep the inspection appointments moving forward, the decision was made to send out the certificates as time allowed. The safety inspections of the rental units took priority.

As mentioned above, the vacation rental inspection process is a very time-consuming operation. The rental inspection steps are listed below:

- Rental property owners or property management agents contact the Permit Technician in person, by phone or by email to request information related to the rental property inspection process. Rental inspection applications are also mailed to the office.
- Rental property owners/agents are assisted in person when they visit the Town office.
- Telephone calls are an opportunity to assist the owner/agent by answering specific rental inspection related questions. Together, we determine what forms and other information are needed by the caller. This is also an opportunity to educate the caller on navigating the Cape Charles website so that the caller can more easily locate the required forms and information for this department and for all other departments in the Cape Charles Town Office.
- Email requests for rental inspection applications and other information are handled by emailing the requested forms and information to the rental property owner/agent.
- Receive and review the application for accuracy and completeness.
- Enter the application information in the Cape Charles Building Department permit system.
- Take payment by check, credit card or cash.
- Print out and/or scan receipts.
- Email, mail, or hand deliver the Cape Charles receipt and the credit card receipt to the applicant or agent.
- Enter information and payment amount onto a daily report for the Finance Department.
- Deliver the daily report to Finance Department staff.
- Add the rental property to the rental inspection excel spreadsheet.
- Coordinate with Code Official regarding availability for possible inspection dates and times.
- Coordinate rental inspection dates and times with property owner or agent via phone calls and/or emails. Often it takes many calls and emails to agree on the best time for the rental inspection.
- Add the agreed upon inspection date and time to the rental inspection spreadsheet.
- Send out memo to owner or agent confirming the inspection date and time.
- Add inspection to office calendar
- Add inspection to The Code Official's daily list
- The Code Official visits the rental property to conduct a safety inspection of the property.
- The Code Official completes documentation of the rental inspection including the need for reinspection.
- Rental inspection results are entered into the permit system and on the excel spreadsheet.
- If the property passes inspection, print out the Rental Certificate of Occupancy, scan it, email it, mail it or hand deliver it to the owner or agent of the property.
- Finalize rental property information on the excel spreadsheet for the record.
- If the rental does not pass inspection, continue to call and/or email the property owner or agent to ask for photographic proof of inspection corrections.
- If reinspection is necessary, assist rental owner or agent with information related to correction notice items.
- Coordinate reinspection date and time with Code Official and rental owner or agent.
- Code Official reinspects property for items noted on the correction notice.
- All corrections are entered into the permit system and spreadsheet.
- The Rental Certificate of Occupancy is scanned, emailed, mailed or hand deliver to the owner or agent of the property.
- On average, the Building Department Code Official and Permit Technician spend approximately five hours per rental unit each year. The Code Official spends one hour on each rental unit at \$30.29 per hour. The Permit Technician devotes approximately four hours per rental unit at \$17.28 per hour.

Respectfully submitted,
Connie Drummond

Permit Technician
Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310



Town of Cape Charles

ATTN: Town Treasurer
2 Plum Street
Cape Charles, Virginia 23310
757/331-3259 fax 757/331-4820

Invoice No. CC2021-0914

INVOICE

Customer

Name Anna Lee
Address 107-109 Tazewell Avenue
City Cape Charles State VA ZIP 23310
Phone

Date 9/14/2021
Order No.
Rep
FOB

Qty	Description	Unit Price	TOTAL
4	Staff Time - Connie Drummond	\$17.28	\$69.12
0.5	Staff Time - John Hozey	\$50.48	\$25.24
2.5	Staff Time - Libby Hume	\$29.90	\$74.75
1.50	Staff Time - Deborah Pocock	\$31.00	\$46.50
-1.00	Less deposit received	\$200.00	(\$200.00)
Staff time to research and compile requested information for the August 26, 2021 FOIA request regarding short term rental information from June 1, 2020 through August 26, 2021.			

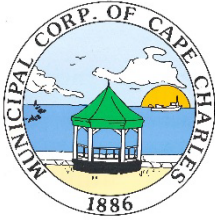
Payment Details

- ☐ Cash
☐ Check
☐ Credit Card

SubTotal	\$15.61
Shipping & Handling	\$0.00
Taxes	
TOTAL	\$15.61

Office Use Only

Please make check payable
to: "Town of Cape Charles"



DRAFT
TOWN COUNCIL
Work Session
Cape Charles Civic Center
December 16, 2021

Immediately Following the Public Hearing & Regular Meeting

At 8:14 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Work Session of the Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Also, in attendance were Town Manager John Hozey, Treasurer Deborah Pocock and Town Clerk Libby Hume. There were no members of the public in attendance.

WORK SESSION DISCUSSION:

FY 2022 Mid-Year Budget Review

Town Manager John Hozey began by stating that the revenue came in above budget, especially meals tax, transient occupancy tax, building & zoning fees and charges based on data through November 2021. The increased revenue could be appropriated up to the amount needed to balance the anticipated changes in the departmental expenditure budgets. He went on to summarize the proposed changes:

- Restructuring two departments and pay brackets
 - The most serious was the police department. One officer recently resigned mostly due to the pay. Pay bands were created for Officer 1, Officer 2 or sergeant, and Officer 3 or lieutenant. The current officers were being placed on the scale based on years of service, using a multiplier of 2.5 per year of service.
 - The other critical area was public works. Minimum wage would be increasing in a few weeks. The Town could not compete with McDonald's, etc. He was working to revamp the department to include succession planning. Ralph Bowen was currently in the utility department but would be moving to public works. He was incredibly talented, was getting offers from other entities, but wanted to stay with the town. He would become the public works foreman and would be trained to take over for John Lockwood when John retired in about two years. The pay bands would be 1 for a Maintenance Specialist, 2 for Maintenance Specialist II to work under the foreman. Similar to the police department, employees would be placed on the scale based on years of service with the same multiplier. The plan was to add needed structure to the department.
 - A new regular part-time position was being created in the public works department. The seasonal employee, Joe Gittinger, would be moved to a regular part-time employee. Joe had an incredible spirit and was a hard worker. This would be a good change for him and the town. He would receive a pay increase in January due to the increase in the minimum wage.
 - The total annual cost for the proposed changes including benefits would be about \$93K.
 - The changes would be effective upon Council approval of the budget amendment. A public hearing was required and would be scheduled for January 6, 2022 with a special meeting following.
 - Councilman Grossman asked when the other departments would be updated. John Hozey responded that he would work on it but did not currently have the time to do so.
- Additional funding was needed in the Planning Department to cover the historic district design guidelines update. \$60K was budgeted for the comprehensive plan update, but nothing for the historic district guidelines. We were estimating that \$41K of the budgeted

amount would be spent this fiscal year. The remaining \$19K plus an additional \$35K should cover the historic guidelines. Funding was also included for the increased need for public hearing advertising. The comprehensive plan update was originally approved in the Town Manager budget but was being moved to the Planning budget.

- The Community Trail Phase 3 had a long history. The initial bids came in too high. The project was amended, and we were hopeful to go back out for bids. With the current environment of supply chains, he expressed his concern that the bids would come in over budget again. John Hozey stated his preference for a capital project fund contingency reserve. When a project was closed out, any remaining budgeted funds would be moved to the contingency reserve for use by another project if needed. There was \$25K in the fund now and he proposed adding an additional \$50K to be transferred from the General Fund to the Capital Projects Fund under contingency reserve.
- Code Enforcement. We have received numerous complaints regarding a number of properties in Town in deteriorating conditions. It would cost an average of \$10K per property to shore up the structures. The issues could not be addressed since funding was not budgeted. \$50K was being added to the Code Enforcement budget for this purpose. The most problematic property was the blue structure on Randolph Avenue by Town Hall which was close to becoming a demolition by neglect. The cost for this one property was estimated to be about \$150K and no funding was added to the budget at this time. A strongly worded letter was sent to the property owner but per the Code of Virginia, the property owner has 90 days to take corrective action. In the meantime, staff would be meeting with our state representatives to assist the Town with legislative changes which would provide us with greater enforcement ability. There was some additional discussion regarding a number of properties.
- Harbor Fund. An additional \$20K was being added to complete the repairs to the dock which sustained damage after being hit by a vessel, believed to be a barge. The underwater structure was fine but bolts came loose causing the corrugated steel to fall. Unfortunately, the damage was not covered by our insurance policy. The repairs needed to be completed before the winter storms.
- Utility Fund. i) A notice of violation was received for the wastewater treatment plant, but the fine had not yet been assessed; ii) In 2009, the former director of public utilities developed a plan to monitor the water usage and was supposed to have tracked it through the years. Unfortunately, the numbers had not been tracked. Scottie Neville received a notice asking for the report which did not exist. We would provide the information we had available but anticipated potential fines; ii) The phosphorus numbers were exceeded last summer, but no reason could be determined. If the Town was over the limit for the annual average, another find would be assessed; iii) John Hozey recommended not proceeding with the majority of the capital projects for the utility system until a determination was made regarding the potential sale. \$100K was being moved to the utility contingency line, which could be used for any assessed fines; iv) Bay Creek was submitting their projects faster than staff could review it. Each time the zoning administrator signs off on a subdivision plat, she had to attest that the Town had enough water capacity to accommodate the new subdivision. Without a study being performed, we currently could not determine whether there was enough capacity or not. Each connection also affected the annexation agreement. \$25K was being added to both the water and wastewater budgets for a capacity study. Bay Creek also put together a scope of work to hire an engineer for a modeling study. The scope of work was almost identical to the Town's. With Council permission, staff would like to work with Bay Creek to share the costs. Bay Creek would spend \$50K for the modeling and the Town would spend \$50K for analysis. A cooperation agreement would be drafted to outline the work and the joint ownership of the materials. There was a general consensus to move forward with an agreement to cooperate with Bay Creek for this project.

Councilman Follmer recommended an increase to the town manager salary adding that John Hozey had been doing an exceptional job and due to budget restraints last year, the contracted increase was not given. Council expressed their agreement with this recommendation.

Council proceeded to review the budget detail by page and the following was discussed: i) Mayor Dize recommended that a portion of the lease revenue from The Shanty (page 5) be moved to a new budget line for parking lot maintenance. Councilwoman Holloway expressed her agreement. John Hozey stated that parking lot maintenance would be added as a new expenditure line; ii) \$30K was added in the Public Works budget for grounds maintenance. This was due to price increases and more areas/items needing maintenance. Citizens for Central Park wanted to add flower beds in the park which would have to be maintained by the Town. We always had issues with the irrigation system so watering would have to be done manually. A number of projects began with volunteers, but the Town always ended up having to take over the maintenance. John Hozey expressed his concern regarding this issue adding that the contract would be bid out after the first of the year. The public works crew could not continue to mow the grass, weed flower beds, and perform the multitude of other necessary tasks around the town. If we wanted the Town to look good, we would have to include funding to maintain everything. Councilman Follmer suggested obtaining input from the merchants for the request for proposals so they would know what would be included in the contract. There was further discussion regarding items the property/business owners should be responsible for and those the town needed to maintain; iii) The community events budget would be moved into the town manager budget for FY 2023 since it was no longer a department; iv) John Hozey and Deborah Pocock met with representative from the Cape Charles Yacht Center (CCYC) to review the first year under the management agreement. Both the CCYC and the Town made money. The management services expenditure was increased in relation to the increased revenue from dockage fees (page 28); v) A long term capital plan would be developed for the harbor. The current projects came in below budget so the extra funding of about \$21K was being moved to the repair & maintenance supplies budget line for routine repairs and maintenance (page 29); vi) The cost for waste disposal increased about \$7K with the new contract, but the fees to residents could not be increased mid-year. The cost of the contract increases plus additional costs to purchase replacement trash receptacles would be transferred from the sanitation fund balance, reducing the fund balance to approximately \$82K (page 30).

There was some additional discussion regarding the fishing pier repairs, beach access and sand replenishment.

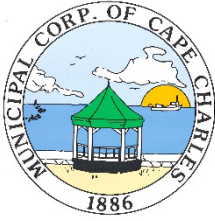
Council was in concurrence to move forward with a public hearing on the FY 2022 budget amendment on January 6, 2022.

Motion made by Councilman Grossman, seconded by Vice Mayor Bennett, to adjourn the Town Council Work Session. The motion was approved by unanimous vote.

The meeting adjourned at 9:36 p.m.

Mayor Dize

Town Clerk



DRAFT
TOWN COUNCIL
Executive Session
Cape Charles Civic Center
December 16, 2021
Immediately Following the Work Session

At approximately 9:40 p.m. Mayor William "Smitty" Dize, having established a quorum, called to order the Executive Session of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz, Follmer and Grossman, and Councilwomen Holloway and O'Brien. Also, in attendance were Town Manager John Hozey, and Town Clerk Libby Hume. There were no members of the public physically in attendance and 3 viewers on Facebook during the open portions of the meeting.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, and unanimously approved to go into Executive Session in accordance with Section 2.2-3711 of the Code of Virginia for the purpose of: Paragraph 28: Discussion or consideration of information subject to exclusion in subdivision 11.b. of Section 2.2-3705.6 – Information provided by a private entity to a responsible public entity pursuant to the provisions of the Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest of bargaining position of the public or private entity would be adversely affected.

Specifically: PPEA Proposal Review and Process:

- Aqua Virginia, Inc.
- Virginia American Water

Mayor Dize asked the members of the public in attendance to leave the room and advised them that they would be invited back into the room at the conclusion of the executive session.

Council went into executive session at 9:42 p.m.

At 10:33 p.m. Libby Hume went outside to notify the members of the public of the end of the closed portion of the meeting. There were no members of the public waiting to return to the meeting.

Motion made by Councilman Grossman, seconded by Councilman Buchholz, to return to open session. The motion was approved by unanimous vote.

The open portion of the meeting resumed at 10:34 p.m.

Certification, to the best of each member's knowledge, that (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the meeting by the public body. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

The upcoming schedule for winter 2022 were reviewed. The following meetings/activities were discussed and scheduled:

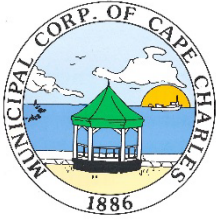
- A Special Edition Gazette would be published the first week of January
- January 6, 2022: Public Hearing and Special Meeting regarding the FY 2022 budget amendment; Work Session regarding the personnel manual update
- January 8, 2022: Town Hall Meeting regarding the strategic plan
- January 12, 2022: Executive Session for board interviews. This meeting would begin at 5:00 p.m.
- January 13, 2022: Special Meeting regarding the PPEA process; If the special meeting did not last too long, a work session would be held regarding the strategic plan and to review the comments from the January 6 Town Hall Meeting.
- January 20, 2022: Regular Meeting. The strategic plan would be on the agenda for approval.
- February 3, 2022: Work Session regarding employee benefits
- February 16 & 19, 2022: Town Hall Meetings re: PPEA process
- February 17, 2022: Regular Meeting
- March 3, 2022: Work Session regarding the FY 2023 budget

Motion made by Councilman Buchholz, seconded by Councilman Grossman, to adjourn the Town Council Executive Session. The motion was approved by unanimous vote.

The Executive Session adjourned at 10:44 p.m.

Mayor Dize

Town Clerk



DRAFT
TOWN COUNCIL
Public Hearing & Special Meeting
Cape Charles Civic Center
January 6, 2022
6:30 PM

At approximately 6:30 p.m. Councilman Andy Buchholz, having established a quorum, called to order the Public Hearing & Special Meeting of the Cape Charles Town Council. In addition to Councilman Buchholz, in attendance physically were Councilmen Follmer and Grossman, and Councilwomen Holloway and O'Brien. Mayor Dize and Vice Mayor Bennett participated via teleconference from their homes due to illness. Also, in attendance were Town Manager John Hozey, Assistant to the Town Manager Julie Pruitt, Officer Michael Charlton and Town Clerk Libby Hume. There were no members of the public physically in attendance, and nine viewers on Facebook.

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

PUBLIC HEARING:

Councilman Buchholz opened the public hearing for comments relating to the proposed FY 2021/2022 Budget Amendment.

There were no comments to be heard nor any received in writing prior to the hearing.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to close the public hearing. The motion was approved by unanimous vote.

The public hearing portion of the meeting closed at 6:31 p.m.

SPECIAL MEETING ORDER OF BUSINESS:

A. FY 2021/2022 Budget Amendment

Councilman Grossman commented as follows: i) On page 21, the notation for the rock-climbing wall under Special Activities Revenue needed to be moved to the Grant Parks/Rec Facilities & Equipment – CCP; ii) On page 28 the Harbor Revenue was decreased, and the Harbor Management Fee was increased under Expenditures. John Hozey stated that Treasurer Deborah Pocock was unable to attend this evening but was watching on Facebook and texted that it was a small adjustment made to balance the Fund.

There were no other comments or questions from Council.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to adopt Ordinance 20220106 Approving a Budget Amendment and Associated Appropriations for Fiscal Year 2021/2022. The motion was approved by unanimous vote. Roll call vote: Bennett, yes; Buchholz, yes; Follmer, yes; Grossman, yes; Holloway, yes; O'Brien, yes.

TOWN MANAGER COMMENTS

John Hozey commented as follows: i) He and Mayor Dize met with Delegate Rob Bloxom regarding the Town's legislative priorities. It was unfortunate that Senator Lynwood Lewis had to cancel. He received word from Delegate Bloxom's office that the Town's request strengthening our enforcement authority was submitted as drafted. The issue did not seem to be controversial. Some additional language was being added to an existing code section; ii) Although it wasn't advertised, Council had discussed holding a Town Hall Meeting this Saturday, January 8. He was not prepared to hold the meeting as the data analyses from the survey responses had not yet been completed. The Town Hall meeting would be rescheduled; and iii) At the last meeting, Council approved entering into an agreement with the Civil War Trails organization. The organization had a property owner agreement

that covered most of the items requested by Council. Only a minor change was needed before the agreement would be executed. He also received an email from Bill Neville, from the Cape Charles Historical Society, providing information and photograph showing that the Cherrystone lighthouse was not visible from the north end of the beach, the proposed location of the signage, but it was visible from the south end. This information was provided to the Civil War Trails organization so the location of the signage most likely would be changed.

Councilman Grossman asked whether any feedback had been received from the Special Gazette that went out earlier this week. John Hozey had only heard positive feedback.

MAYOR AND COUNCIL COMMENTS

Councilwoman Holloway stated that the train had been placed at its permanent location today. She added that if anyone took a video of the relocation, Cape Charles Main Street would like to have a copy. The asbestos removal will be done by Canonie followed by the metal repair.

Councilman Grossman stated that another accessory dwelling unit went through the Planning Commission. The Commission would be holding a work session in two weeks to begin their review of potential changes to the ordinance relating to accessory dwelling units.

Councilman Follmer commented as follows: i) He asked for an update on the VDOT sidewalk project. John Hozey stated that the grinding project was completed. There were several places left unattended. He contacted VDOT and was told that those areas were not suited for grinding and needed replacement. It was not official yet, but VDOT was working on a second contract to replace the sidewalks in those particular areas. Staff was awaiting word from VDOT; ii) He received questions about the beach accesses that seemed to all be blocked by sand or other barriers. He asked whether there was a way for the future to keep some of the beach accesses open for walkers. John Hozey stated that he noticed it as well and meant to talk to John Lockwood about it; iii) He thought that new signage prohibiting bicycles and skateboards on the sidewalks were supposed to have been installed along Mason Avenue prior to the tourist season, but nothing had been done to date. He had received complaints from merchants and hoped that the signage could be installed prior to this upcoming season; and iv) He asked constituents for feedback on the message in the Special Gazette regarding the Public-Private Educational Infrastructure Act (PPEA) process, and the response was largely positive. It was clear, that many people who had posted comments on Facebook did not read nor understand the issue. A frequently asked questions (FAQ) paper and talking points needed to be developed to help provide answers.

Councilwoman O'Brien, Vice Mayor Bennett, and Councilman Buchholz did not have any additional comments.

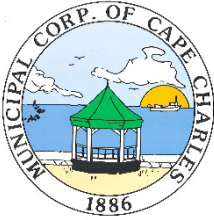
Mayor Dize thanked staff, Deborah Pocock and John Hozey in particular, for the work put into the budget amendment. It was well put together.

Motion made by Councilwoman Holloway, seconded by Councilman Grossman, to adjourn the Town Council Public Hearing & Special Meeting. The motion was approved by unanimous vote.

The Public Hearing & Special Meeting adjourned at 6:46 p.m.

Councilman Andy Buchholz

Town Clerk



DRAFT TOWN COUNCIL

**Work Session
Cape Charles Civic Center
January 6, 2022**

Immediately Following the Public Hearing & Special Meeting

At 6:48 p.m. Councilman Andy Buchholz, having established a quorum, called to order the Work Session of the Town Council. In addition to Councilman Buchholz, in attendance physically were Councilmen Follmer and Grossman, and Councilwomen Holloway and O'Brien. Mayor Dize and Vice Mayor Bennett participated via teleconference from their homes due to illness. Also, in attendance were Town Manager John Hozey, Human Resources Manager Jodi Outland, and Town Clerk Libby Hume. There were no members of the public in attendance.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to add discussion item 4 to the agenda for a briefing on the small business recovery grant status. The motion was approved by unanimous vote.

WORK SESSION DISCUSSION:

2. *Town of Cape Charles Personnel Manual Update:*

Town Manager John Hozey began by stating that he appreciated the thought that went into the Council's review of the proposed personnel manual. It had been a while since the last update and Human Resources Manager Jodi Outland put in a lot of work in the update. Any comments that were received regarding a grammatical or formatting change would be corrected. Many of the updates were self-explanatory.

Vice Mayor Bennett suggested that a date be established to update the police department manual. It was not a high priority, but he wanted to see it added to the list of projects, so it did not get forgotten. There was discussion as follows: i) John Hozey responded that he and Jodi Outland would discuss this offline and provide a report back to Council; ii) Mayor Dize asked that he and each Council member get a copy of the current police department manual; iii) Jodi Outland explained that she would need input from Chief Pruitt and assistance would be needed from an outside consultant since police matters were different than normal human resources.

Council proceeded to review the Personnel Manual Responses to Council Comments document by page. (Please see attached.) John Hozey stated that the draft personnel manual would be updated as discussed and presented at the January 20 Town Council Regular Meeting for Council approval.

3. *Organizing Schedule of Public Meetings:*

John Hozey stated that there were a number of outstanding things that needed to be addressed.

- The Strategic Planning Town Hall meeting was initially scheduled for January 8 and ideally, the strategic plan could be completed before preparations began for the fiscal year 2023 budget. In past years, the budget work session began in March, but he felt that they could begin in April and still be finalized by the June 30 deadline.
- On January 12, an executive session was scheduled for board interviews. Before the Christmas holiday, staff advertised for the upcoming vacancy on the Historic District Review Board and to date, only one application had been received. Unfortunately, the applicant was not available to interview with the Council on January 12th but would be available to meet with Council via teleconference on January 20th at 6:00 p.m. prior to the regular meeting, if

this was agreeable to Council. There was consensus to meet with the applicant via teleconference on January 20 as discussed. Councilman Follmer would be out of town and Councilwoman Holloway might be a little late.

- On January 13, a special meeting was scheduled for Council to make a decision regarding the Public-Private Education Facilities and Infrastructure Act (PPEA) proposal moving forward to the next step. A work session was scheduled following the special meeting regarding the strategic plan and review of the community survey responses.
- On January 27, a Town Hall meeting was scheduled for the Historic District Design Guidelines, which was built into the scope of work for the consultant. He stated that it would be best if a Council quorum could be present at the Town Hall meeting. Mayor Dize, Vice Mayor Bennett, Councilman Buchholz, and Councilwomen Holloway and O'Brien stated they would be in attendance.
- A joint work session needed to be scheduled with the Planning Commission regarding the comprehensive plan and zoning review in February. The contract with the consultant was signed over the holidays. The consultant was available on February 1, 2, and 4, and February 7 through 10. Individual schedules were discussed, and Council agreed on February 2 beginning at 6:00 p.m. for the joint work session.
- On February 3, a work session was scheduled for the annual review of employee benefits. This needed to be done prior to budget preparations.
- Town Hall meetings regarding the PPEA process were scheduled for February 16 and 19, with the regular meeting on February 17.
- John Hozey stated that the strategic plan work session had yet to be scheduled, but a Town Hall meeting was needed first. With all the other Town Hall meetings scheduled, he did not want to overload the public.

Councilman Follmer stated the following: i) He thought we ran out of time last year when working on the budget, and there had been no time for focus groups, etc. It would be nice to have at least one more week; ii) In the near term, the top priority was the PPEA process; iii) He suggested that the strategic plan be updated on a two-year cycle, especially this time, due to the other priorities. Other topics needing to be prioritized were accessory dwelling units (ADU), short-term vacation rentals, and parking. Although it was important to keep the strategic plan as a living document, he believed most residents felt that the issues related to ADUs, parking and short-term rentals as more important. John Hozey agreed with Councilman Follmer, adding that the survey results showed that the majority of respondents who had read the strategic plan, overwhelmingly approved of it. Having a two-year cycle for the strategic plan would help considerably. Councilwomen Holloway and O'Brien expressed their agreement with the two-year cycle for the strategic plan. Councilwoman Holloway added that a public meeting was still necessary to present the survey responses; iv) Councilman Follmer reiterated his thoughts regarding forming committees to help address some of the issues to help leverage John Hozey's time. Committees could do the work behind the scenes for an item already on the plate. John Hozey commented that if it was on a topic that he was already working on, Council committees could help, but if it was not a topic that he was working on, committee work would add to his workload.

There was further discussion regarding committees: i) Councilman Follmer did not think much work would be necessary regarding ADUs. Councilman Grossman added that the Planning Commission would be reviewing ADUs and he had been looking at what other communities were doing and would be presenting his findings to the Planning Commission; ii) Councilwoman Holloway felt that work was needed regarding boat and trailer parking but did not know if it would be feasible to start working on it until the Town had an alternate solution for boat and

trailer storage; iii) John Hozey stated that if he had a voice regarding the next project, it would be short-term rentals. Councilman Follmer commented that it was a bigger issue and would love to see it be the next item to tackle. Councilwoman Holloway added that the issue of short-term rentals came up quite often in the recent Cape Charles Main Street survey. John Hozey stated that Julie Pruitt was working on the survey comments and short-term rentals came up more often as affecting the small-town feel, more so than the concrete plant.

John Hozey went on to state that there was an extraordinary amount of work involved regarding the PPEA proposals over the next could of months and this issue would dominate most of his time. He did not want to commit to anything else until we got past the PPEA items. He hoped that by April or May, we would be far enough along in the budget process that the issue of short-term rentals could be addressed.

4. *Briefing on Small Business Recovery Grant Status:*

John Hozey stated that the program was a great success and a lot of people were helped. The grant was coming to a close and the group was trying to finalize all the paperwork and the audit was being performed. One of the items in the audit was to address perceived conflicts of interest. John Hozey went on to explain the issue of perceived conflicts of interest and the process involved. Although it was not deemed to be an issue during the grant process, it was determined that the Town had five cases of perceived conflicts of interest - three with members of the Town Council who were also business owners and two with town employees with family members who were business owners. The Town Council set up the grant program and delegated control to a program management team. None of the cited individuals were directly involved in the approval of the five grant applications. The process to resolve this situation was explained and the grant process for the five applications would be restarted, beginning with public disclosures which would be posted on the Town's website.

It was noted that Department of Housing and Community Development (DHCD) put together the COVID relief grant program very quickly and when the grant first became available, much of the documentation still referred to the Community Development Block Grant. There was much confusion at the beginning since the process was still under development and it had been modified throughout the grant term.

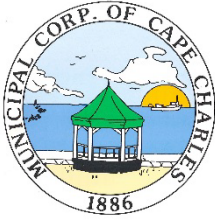
John Hozey informed Council that he had requested another extension as there were still a number of applications needing review. The current expiration was January 21, 2022, but the Town was awaiting additional funding from DHCD to complete the current applications so the grant could not be closed out by that date.

Motion made by Councilman Grossman, seconded by Councilwoman Holloway, to adjourn the Town Council Work Session. The motion was approved by unanimous vote.

The meeting adjourned at 8:52 p.m.

Councilman Andy Buchholz

Town Clerk



DRAFT
TOWN COUNCIL
Executive Session
Cape Charles Civic Center
January 12, 2022
5:00 PM

At approximately 5:00 p.m. Mayor William “Smitty” Dize, having established a quorum, called to order the Executive Session of the Cape Charles Town Council. In addition to Mayor Dize, in attendance were Vice Mayor Bennett, Councilmen Buchholz and Grossman, and Councilwoman Holloway. Also, in attendance was Town Clerk Libby Hume. Town Manager John Hozey arrived at 5:52 p.m. There were no members of the public physically in attendance and four viewers on Facebook during the open portions of the meeting.

Motion made by Councilman Buchholz, seconded by Councilman Grossman, and unanimously approved to go into Executive Session in accordance with Section 2.2-3711.A of the Code of Virginia for the purpose of: Paragraph 1: Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body.

Specifically: Interviews to fill vacancies on the Harbor Area Review Board, Library Board, and potentially the Historic District Review Board, Board of Zoning Appeals and Building Code Board of Appeals.

Mayor Dize asked the members of the public in attendance to leave the room and advised them that they would be invited back into the room at the conclusion of the executive session.

Council went into executive session at 5:02 p.m.

At 7:37 p.m. Libby Hume went outside to notify the members of the public of the end of the closed portion of the meeting. There were no members of the public waiting to return to the meeting.

Motion made by Councilman Buchholz, seconded by Councilwoman Holloway, to return to open session. The motion was approved by unanimous vote.

The open portion of the meeting resumed at 7:38 p.m.

Certification, to the best of each member’s knowledge, that (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the meeting by the public body. Roll call vote: Bennett, yes; Buchholz, yes; Grossman, yes; Holloway, yes.

Motion made by Vice Mayor Bennett, seconded by Councilman Buchholz, to appoint Benjamin Lewis and Rob Harris to the Harbor Area Review Board. The motion was approved by unanimous vote.

Motion made by Vice Mayor Bennett, seconded by Councilman Buchholz, to appoint Cathy Fox to the Library Board. The motion was approved by unanimous vote.

Motion made by Vice Mayor Bennett, seconded by Councilman Buchholz, to appoint Laura Weigand to the Board of Zoning Appeals. The motion was approved by unanimous vote.

There were no applicants interested in serving on the Building Code Board of Appeals.

Motion made by Councilman Buchholz, seconded by Councilwoman Holloway, to adjourn the Town Council Executive Session. The motion was approved by unanimous vote.

The Executive Session adjourned at 7:41 p.m.

Mayor Dize

Town Clerk

November 2021 Treasurer's Report

Page 1 – Cash Position

- A large Surety Bond Escrow refund payment was made
- Tax revenue is coming in at a good rate compared to last year at the same time.

Page 2 – Revenue vs. Expenditures

- No comments.

Page 3 – Capital Projects

- An invoice for rebidding services for the Multi-Use Trail Project was paid.

Page 4 – Tax Collection Rate

- Tax collection is going well.

Page 5 – Tax Revenue Trends

- Business license due date was extended in FY 2021, which may cause collections for July 2021-March 2022 to be lower the previous year.

MUNICIPAL CORPORATION OF CAPE CHARLES
TREASURER'S REPORT
November 30, 2021

<u>Cash on Hand</u>	<u>10/31/2021</u>	<u>11/30/2021</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account	\$672,385	\$1,595,396	\$923,011
Atlantic Union Bank Money Market Account	\$2,021,475	\$2,521,530	\$500,056
LGIP Account 1 - Unrestricted	\$104,246	\$104,252	\$6
LGIP Account 2 - Unrestricted	\$295,537	\$295,554	\$18
Total Cash On Hand	\$3,093,642	\$4,516,732	\$1,423,090

<u>Restricted and Reserved Cash Balances</u>	<u>10/31/2021</u>	<u>11/30/2021</u>	<u>Increase/ (Decrease)</u>
Atlantic Union Bank Checking Account - Police Funds	\$431	\$431	\$0
LGIP Account 2 - Restricted for USDA loan covenant	\$35,810	\$35,810	\$0
Atlantic Union checking Acct Library CD converted to cash	\$11,131	\$11,131	\$0
Atlantic Union Bank Checking Acct - E-Summons Revenue Rsrvd	\$6,651	\$6,661	\$10
US Bank - Reserved per VRA Interest Free Loan Requirements	\$257,588	\$257,590	\$2
Wells Fargo 2010 Debt Service pass through account #300	\$2,898	\$2,898	\$0
Wells Fargo 2010 Debt Service pass through account #308	\$761	\$761	\$0
Atlantic Union Money Market # ARPA CRF #5847	\$528,647	\$528,660	\$13
Virginia Investment Pool Liquidity Acct#1 Facility Fees Rsrvd (Utilities)	\$1,736,079	\$1,736,186	\$107
Virginia Investment Pool Liquidity Acct#2, Surety Bond Escrow Rsrvd	\$1,798,279	\$1,252,121	-\$546,158
Total Cash Held in Reserve	\$4,378,275	\$3,832,250	-\$546,026
Total Cash - All Accounts	\$7,471,918	\$8,348,982	\$877,064

DEBT SERVICE

Net Debt as of Current Reporting Month End (Excludes USDA vehicle and equipment loans)	\$6,419,908
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MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

November 30, 2021

REVENUE VS. EXPENDITURES

<u>FUND</u>	<u>CURRENT MONTH</u>	<u>PRIOR YEAR-TO-DATE</u>	<u>CURRENT YEAR-TO-DATE</u>	<u>INCREASE/ (DECREASE) YTD</u>	<u>ANNUAL BUDGET</u>	<u>% REALIZED/ EXPENDED FY22</u>
GENERAL Operations						
REVENUE	\$1,363,062	\$2,194,414	\$2,244,180	\$49,766	\$3,536,507	63.46%
EXPENDITURES	\$184,959	\$1,128,122	\$1,200,409	\$72,287	\$3,536,507	33.94%
NET	\$1,178,103	1,066,292	\$1,043,770	(\$22,521)	\$0	
GENERAL Capital						
REVENUE	\$5,299	\$6,110	\$38,461	\$32,350	\$1,197,762	3.21%
EXPENDITURES	\$4,263	\$6,110	\$5,111	-\$1,000	\$1,197,762	0.43%
NET	\$1,036	\$0	\$33,350	\$33,350	\$0	
GENERAL Debt Service						
REVENUE	\$0	\$33,924	\$104,166	\$70,242	\$258,614	40.28%
EXPENDITURES	\$0	\$33,924	\$104,166	\$70,242	\$258,614	40.28%
NET	\$0	\$0	\$0	\$0	\$0	
GENERAL Special Activities						
REVENUE	\$25,033	\$0	\$127,161	\$127,161	\$948,115	13.41%
EXPENDITURES	\$36,190	\$0	\$232,623	\$232,623	\$948,115	24.54%
NET	(\$11,157)	\$0	(\$105,461)	(\$105,461)	\$0	

MUNICIPAL CORPORATION OF CAPE CHARLES

TREASURER'S REPORT

November 30, 2021

REVENUE VS. EXPENDITURES

<u>FUND</u>	<u>CURRENT MONTH</u>	<u>PRIOR YEAR-TO-DATE</u>	<u>CURRENT YEAR-TO-DATE</u>	<u>INCREASE/ (DECREASE) YTD</u>	<u>ANNUAL BUDGET</u>	<u>% REALIZED/ EXPENDED FY22</u>
PUBLIC UTILITIES						
REVENUE - Operating	\$161,666	\$764,904	\$647,984	-\$116,920	\$1,825,021	35.51%
EXPENDITURES - Operating	\$82,638	\$281,232	\$276,340	-\$4,892	\$993,224	27.82%
NET	\$79,027	\$483,672	\$371,645	(\$112,028)	\$831,797	
REVENUE - CAPITAL GRANTS, LOANS, DEBT SVC	\$0	\$134,364	\$163,100	\$28,736	\$104,751	155.70%
REVENUE - FACILITY FEES	\$93,152	\$134,364	\$220,352	\$85,988	\$254,400	86.62%
EXPENDED - CAPITAL PROJECTS, DEBT SVC, TOWN CONTRIB. & PENDING GRANTS	\$0 \$93,152	\$164,921 (\$164,921)	\$383,453 \$0	\$218,532 \$164,921	\$936,548 (\$831,797)	40.94%
HARBOR						
REVENUE - Operating	\$38,245	\$587,244	\$420,095	-\$167,149	\$833,500	50.40%
EXPENDITURES - Operating	\$27,426	\$408,106	\$332,263	-\$75,843	\$772,500	43.01%
NET	\$10,818	\$179,138	\$87,832	(\$91,306)	\$61,000	
REVENUE - GRANTS & LOANS	\$0	\$0	\$30,754	\$30,754	\$0	#DIV/0!
TRANSFERRED FM GEN FUND FOR DEBT SERVICE	\$0	\$0	\$33,094	\$33,094	\$102,657	32.24%
EXPENDED - Capital Projects, Debt Svc	\$0	\$96,734	\$33,094	-\$63,640	\$163,657	20.22%
TOWN CONTRIB. & PENDING GRANTS	\$0	(\$96,734)	\$30,754	\$127,487	(\$61,000)	
SANITATION						
REVENUE	\$20,703	\$84,805	\$102,655	\$17,850	\$390,595	26.28%
EXPENDITURES	\$18,582	\$82,692	\$91,348	\$8,656	\$390,595	23.39%
NET	\$2,121	\$2,113	\$11,308	\$9,194	\$0	

FY 2021 Capital Improvement Project Tracking Report

As of:
11/30/2021

	FY22 Status or Start Date	Percent of Completion	FY22 Budgeted	QTR 1 Expended	QTR 2 Expended	QTR 3 Expended	QTR 4 Expended	FY22 YTD Expended	(Over)/Under Budget
General Capital Fund									
Multi-Use Trails, Phase 3 Construction	Pending	0%	\$ 929,922	\$ -	\$ 4,263	\$ -	\$ -	\$ 4,263	\$ 925,660
Mason Avenue Parking, Planning & Construction	<u>Suspended</u>	2%	\$ 34,240	\$ 848	\$ -	\$ -	\$ -	\$ 848	\$ 33,392
Storm Sewer Video-Mapping, Phase 2	<u>Suspended</u>	100%	\$ 30,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 30,000
Municipal Center Replacement	<u>In process</u>	100%	\$ 130,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 130,000
Central Park Gazebo Upgrades	<u>Pending</u>	0%	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,000
Central Park Fountain	<u>Pending</u>	0%	\$ 36,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 36,000
Public Trash Cans	<u>Pending</u>	0%	\$ 25,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 25,000
Final Installation of Zipline	<u>Complete</u>	42%	\$ 2,600	\$ 1,100	\$ -	\$ -	\$ -	\$ 1,100	\$ 1,500
subtotal	\$ -		\$ 1,197,762	\$ 1,948	\$ 4,263	\$ -	\$ -	\$ 6,211	\$ 1,191,552
Utility Fund -Water									
Water Tank Mixer/Power Vent (FY2021 carryover)	<u>Suspended</u>	0%	\$ 55,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 55,000
Remote Read Water Meters - starter setup carryover	<u>Suspended</u>	0%	\$ 51,985	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 51,985
(AMI)/AMR Auto Read Water Meters - Phase 2	<u>Suspended</u>	0%	\$ 20,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,000
Utility Fund - Wastewater									
Washington Avenue Pump Station Rehab Phase	<u>Suspended</u>	0%	\$ 39,151	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 39,151
Sewer Pod Controller Upgrades Phase 1 of 5	<u>In process</u>	0%	\$ 14,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 14,500
subtotal	\$ -		\$ 180,636	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 180,636
Harbor Fund									
Harbor Capital Evaluation Plan	Pending	0%	\$ 20,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 20,000
Structural Piling Repair	Quotes Obtained	0%	\$ 36,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 36,000
East Inner Harbor Rehabilitation	Pending	0%	\$ 5,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,000
subtotal	\$ -		\$ 61,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 61,000
TOTAL	\$ -		\$ 1,439,398	\$ 1,948	\$ 4,263	\$ -	\$ -	\$ 6,211	\$ 1,433,187

*ITEMS WITH CURRENT MONTH ACTIVITY ARE IN BOLD PRINT

MUNICIPAL CORPORATION OF CAPE CHARLES
November 30, 2021

YTD 2021 Real Estate Tax Collections

Total Taxable Land Value	179,657,188	
Total Improvement Value	306,863,500	
Exemptions	(4,196,393)	
Additional Assessments (SCC Utility)	2,660,911	
Total Real Estate Value (taxable)	484,985,206	
Total Budgeted	1,484,511	
Total Tax Billed	1,515,946	
Total Adjustments	3,143	
Total Collected YTD (percent of billed)	<u>1,075,713</u>	71%
Amount Due per Accounts Receivable	443,376	

**YTD 2021 Personal Property Tax, Machinery and Tools Tax
& 2021 License Tax Collections**

Total Personal Property Value	23,415,700
2021 Initial Assesement Exonerations & Proration	(424,083)
Personal Property Value, billed	22,991,617

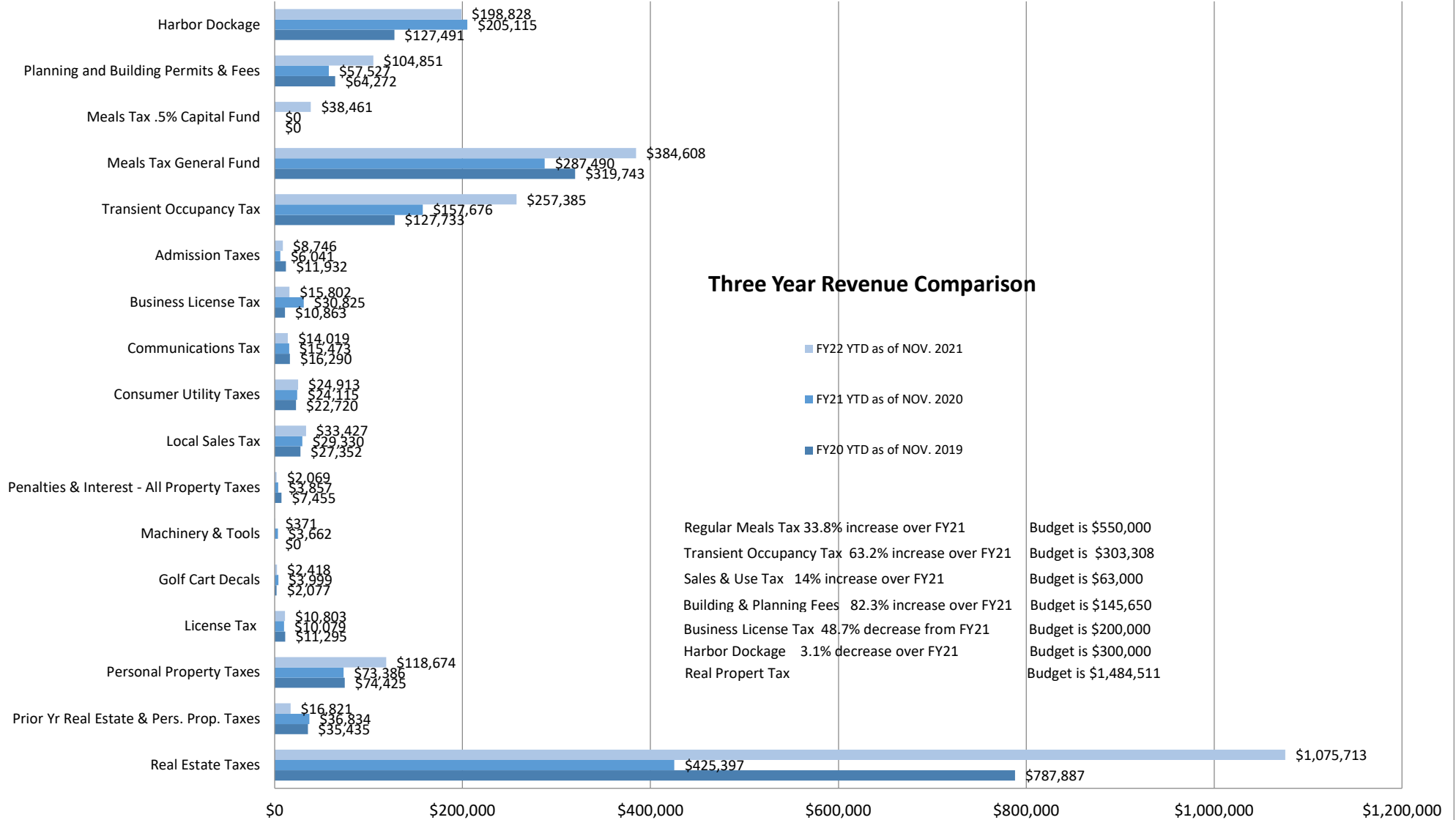
Total Value for 2021 and 2021 supplemental	22,991,617
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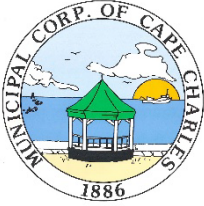
Total Budgeted	153,000	
Total Tax Billed less PPTRA	303,178	
2021 Supplemental Tax Billing	-	
Total Adjustments & Additional Exonerations	(2,748)	
Total Collected YTD (percent of billed)	<u>129,848</u>	43%
Amount Due per Accounts Receivable	170,583	

YTD Prior Year Real Estate Tax, Personal Property Tax, Interest and Penalty Collections

Total Budgeted	86,150	
Total Collected (percent of budget)	<u>18,890</u>	22%
Amount Due Per Budget	67,260	

Three Year Revenue Comparison



 TOWN OF CAPE CHARLES	AGENDA TITLE: Set Public Hearing for Conditional Use Permit at 520 Randolph Avenue for Accessory Dwelling Unit		AGENDA DATE January 20, 2022
	SUBJECT/PROPOSAL/REQUEST: Consider scheduling Public Hearing on Conditional Use Permit at 520 Randolph Avenue for Accessory Dwelling Unit (ADU)		ITEM NUMBER: 5D.i
	ATTACHMENTS: Planning Commission January Agenda Packet for Conditional Use Permit: Staff Report and Application		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Director	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Town is in receipt of a Conditional Use Permit application from Kathleen and Todd Glaser at 520 Randolph Avenue to renovate and convert a portion of an existing 38 ft. x 20 ft. (767 sq. ft) accessory structure for an accessory dwelling unit; specifically, the ADU will comprise 520 sq. ft of the structure with the remaining square footage to be used as storage.

The proposed conversion of a portion of the accessory structure to an accessory dwelling unit requires a Conditional Use Permit.

Additionally, the applicant also owns 530 Randolph Avenue, the adjacent property, which is the recipient of a Conditional Use Permit issued by Town Council on July 18, 2016 to operate a Bed-n-Breakfast and a swimming pool. One of the required conditions contained in the Cape Charles Zoning Ordinance Section 3.2 (C) (3) (a) states that the owner must reside on the premises of the bed-n-breakfast. I have spoken with the applicant, and she has indicated that she intends on relinquishing the bed-n-breakfast Conditional Use Permit and would retain the Conditional Use Permit for the swimming pool (also approved on July 18, 2016) and that she is looking to close the bed-n-breakfast and utilize this residence as a weekly rental property.

Said relinquishment of the Bed-n-Breakfast Conditional Use Permit would be predicated upon favorable consideration by the Town of this request for a Conditional Use Permit for the Accessory Dwelling Unit at 520 Randolph Avenue.

The Planning Commission will hold a public hearing at their February 1, 2022 meeting and a full staff report containing the Planning Commission recommendation will be provided to the Town Council following February 1, 2022.

ITEM SPECIFICS:

A Conditional Use Permit application requires both the Planning Commission hold a public hearing and provide a recommendation to Town Council and then Town Council is required to hold a public hearing to take final action on the disposition of the rezoning application.

Therefore, staff is seeking advance authorization from the Town Council, prior to the Planning Commission holding their public hearing, to schedule a public hearing for Town Council on the Conditional Use Permit application for 520 Randolph Avenue for the February 17, 2022 meeting. This advance authorization will allow staff to combine the advertising notices for both the Planning Commission and Town Council public hearings and help alleviate the costs of the legal notices.

RECOMMENDATION:

Authorize a public hearing be scheduled for Thursday, February 17, 2022 and staff will move forward with placing all required legal notices and property owner notifications.



PLANNING COMMISSION PRELIMINARY STAFF REPORT

Meeting Date: January 4, 2022

Item #: 7A

Prepared by: Katie H. Nunez, Interim Planning/Zoning Administrator

Date: December 28, 2021

APPLICANT: Kathleen & Todd Glaser
SITE ADDRESS: 520 Randolph Avenue

TAX MAP: 83A3-1-580
LOT SIZE: 5,600 sq. ft.

TYPE OF APPLICATION: Conditional Use Permit
SPECIFIC REQUEST: Renovate to locate an accessory dwelling unit within an existing accessory structure
ZONING ORDINANCE: Section 4.2 (J)
CURRENT ZONING: Residential (R-1)

DATE RECEIVED: December 15, 2021

DATE DEEMED COMPLETE:

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory):

NARRATIVE OF PROPOSAL

The applicant is seeking to renovate an existing, 38 ft. x 20 ft. (767 sq. ft.) accessory structure to house an accessory dwelling unit which will only comprise 520 sq. ft. of the structure with the remaining square footage to be used as storage. The proposed use of a portion of an accessory structure as an accessory dwelling unit requires a Conditional Use Permit.

AERIAL MAP: *Property outlined in blue*



The applicant has recently applied for and was approved for a Certificate of Appropriateness to renovate the main house at 520 Randolph Avenue. As part of that project, she has indicated that she would like to move forward and renovate the accessory structure to create an accessory dwelling unit that she can reside in while the renovation work occurs on the main structure at 520 Randolph Avenue. When the renovation work is completed on the main structure at 520 Randolph Avenue, this property will then serve as her principal residence.

The applicant also owns 530 Randolph Avenue, the adjacent property, which is the recipient of a Conditional Use Permit issued by Town Council on July 18, 2016 to operate a Bed-n-Breakfast and a swimming pool. One of the required conditions contained in the Cape Charles Zoning Ordinance Section 3.2 (C) (3) (a) states that the owner must reside on the premises of the bed-n-breakfast. I have spoken with the applicant, and she has indicated that she intends on relinquishing the bed-n-breakfast Conditional Use Permit and would retain the Conditional Use Permit for the swimming pool (also approved on July 18, 2016) and that she is looking to close the bed-n-breakfast and utilize this residence as a weekly rental property.

Said relinquishment of the Bed-n-Breakfast Conditional Use Permit would be predicated upon favorable consideration by the Town of this request for a Conditional Use Permit for the Accessory Dwelling Unit at 520 Randolph Avenue.

The Cape Charles Zoning Ordinance Section 4.2 (J) states that:

Accessory Dwellings. One accessory dwelling may be maintained on a property in the R-E, R-1, R-2 and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3, and subject to the following:

1. Physical characteristics.

- a. Accessory dwellings shall be located in an accessory building.*
- b. Accessory dwellings shall not have a floor area exceeding forty-five (45) percent of the floor area of the main building.*
- c. Accessory dwellings shall have one kitchen and one bathroom.*
- d. Accessory buildings and shall not have the appearance of a single-family dwelling.*

2. Occupancy characteristics.

- a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.*
- b. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.*

3. *Other requirements.*

- a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.*
- b. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.*
- c. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6. (Table of Parking Standards) using both on and off-street parking areas.*
- d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.*

Staff is requesting the Planning Commission to review the application submitted and provide input and direction to the staff regarding any items of potential concern or clarification and authorize staff to schedule a public hearing on this application for your February 1, 2022 meeting; said public hearing would be held jointly with the Town Council.

Staff will prepare a comprehensive staff report for that public hearing which evaluates the application in compliance with the requirements of the Cape Charles Zoning Ordinance and any other matters identified by the Planning Commission.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission schedule a public hearing on February 1, 2022, for a Conditional Use Permit for an Accessory Dwelling Unit at 520 Randolph Avenue on an application filed by Kathleen & Todd Glaser, pursuant to Cape Charles Zoning Ordinance Section 4.2 (J).

Attachments:

Attachment 1 – CUP Application Packet

Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
757-331-2036 Fax: 757-331-4820
planner@capecharles.org

CONDITIONAL USE PERMIT CHECKLIST - all documents can be emailed to the above email

- ☒ Completed application (if applicable, attach accessory dwelling checklist and documents)
- ☒ Letter of intent clearly explaining project
- ☒ Existing site plan or survey
- ☐ Proposed site plan or survey (if applicable)
- ☒ Names and addresses of adjacent property owners
- ☒ Payment of Fees (single-family detached residential \$600; all other \$800)

PROJECT INFORMATION

Name of Project: Glaser residence
Property Address: 520 Randolph Ave
Brief Description of Project: renovate accessory building into small apartment
Zoning District: r-1 Current Use: r-1 Proposed Use: _____

OWNER INFORMATION

Name and Company: Kathleen and Todd Glaser
Mailing Address: 530 Randolph Ave
Phone Number: 757-274-1589 Email: kathyglaser@hotmail.com

APPLICANT INFORMATION

☒ check here if applicant is owner

Name: _____
Mailing Address: _____
Phone Number: _____ Email: _____

CERTIFICATION OF APPLICANT

I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed. Furthermore, I certify that the changes to the improvement before or during construction will be provided to the Zoning Administrator and Building Official before such changes are constructed.

Signature of Applicant: _____ Date: _____

Town of Cape Charles Planning & Zoning Department
2 Plum St • Cape Charles, VA 23310 • 757-331-2036 • planner@capecharles.org

Conditional Use Request

I am requesting a conditional use permit for the accessory building in the backyard of my property at 520 Randolph Ave, Cape Charles.

I plan to renovate the building to use as a small apartment for long term use. I am currently renovating the main house which I plan to make my full-time residence, but the work will take longer than anticipated. I would like to finish the accessory building so that I can live there while the work is being done on the main house.

No changes will be made on the exterior except for repairing/recovering the existing roof. I will apply to the HDRB for approval of the roof. The exterior of building will remain as is except for paint to match the color of the finished main house.

The building is 38 ft by 20 ft for a total of 767 sf. I will not be finishing the entire building. I am only finishing an area that is 26 ft by 20 ft (520 sf) and the remainder will be unfinished storage.

Attached is a drawing of the finished plan and site plan.

Neighbors on the east side:

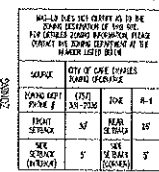
Hannah Baker, 2010 N Upton St, Arlington, VA

West side:

Kathy Glaser 530 Randolph Ave, Cape Charles

South side:

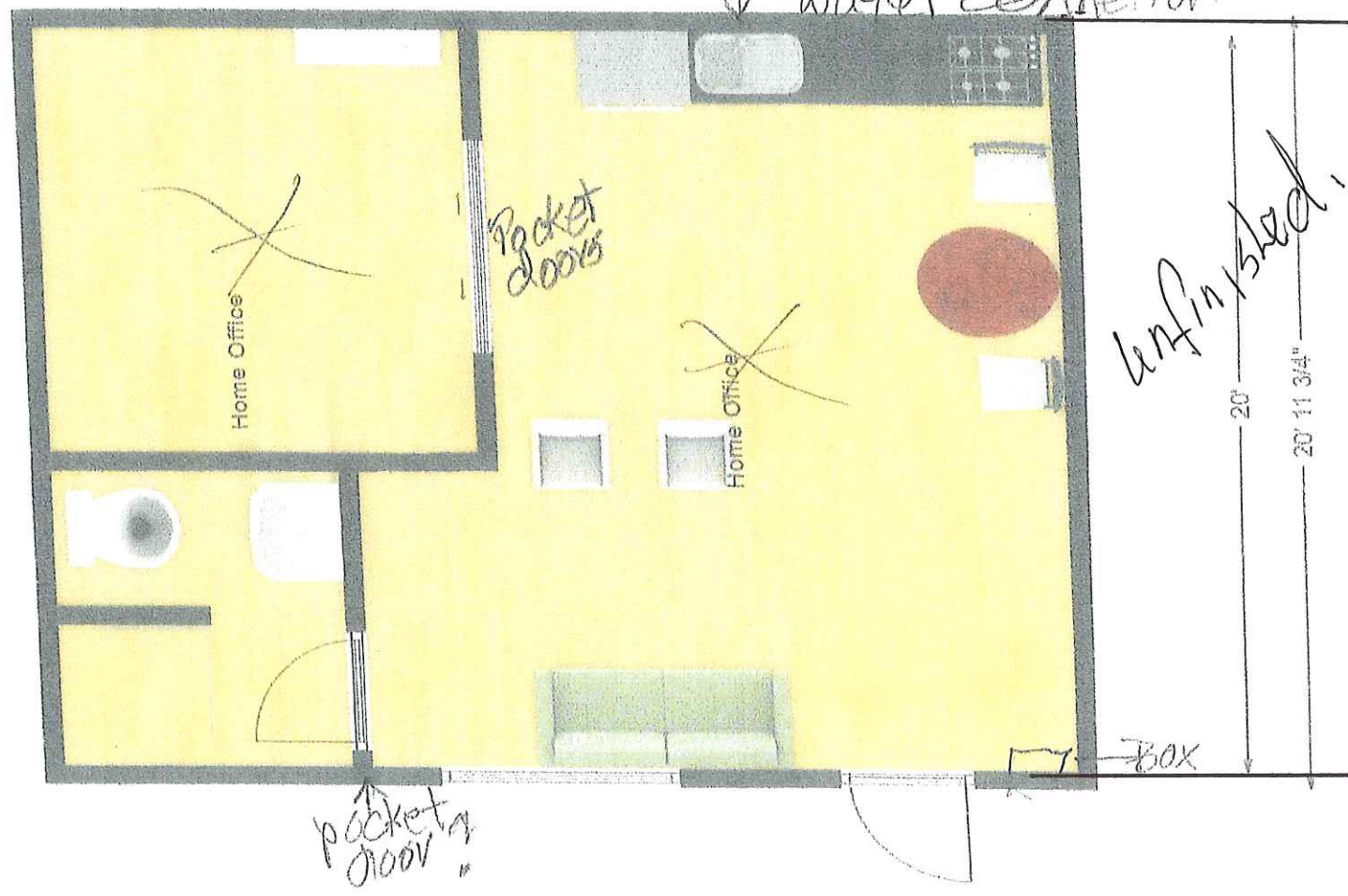
Norman and Margaret Allen



1071

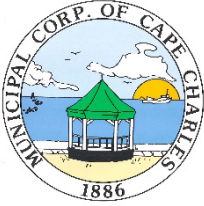
26' 11 3/4" 14' 2 5/8" 11' 3 1/2"

Mini split water connection



5' 5 3/8" 12' 5 5/8" 7' 7"



 TOWN OF CAPE CHARLES	AGENDA TITLE: Set Public Hearing for Conditional Use Permit at 630 Tazewell Avenue for Accessory Dwelling Unit		AGENDA DATE January 20, 2022
	SUBJECT/PROPOSAL/REQUEST: Consider scheduling Public Hearing on Conditional Use Permit at 630 Tazewell Avenue for Accessory Dwelling Unit (ADU)		ITEM NUMBER: 5D.ii
	ATTACHMENTS: Planning Commission December Agenda Packet for Conditional Use Permit: Staff Report, Application and amended Letter of Intent dated December 6, 2021 and letter of comment from Jill Monarch		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Katie H. Nunez, Interim Planning/Zoning Director	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Town is in receipt of a Conditional Use Permit application from Steve and Kate Keeler at 630 Tazewell Avenue to convert the second floor of an existing, 638 sq. ft. accessory structure as an accessory dwelling with the first floor to be utilized as a garage. The proposed conversion of the second floor to an accessory dwelling unit requires a Conditional Use Permit.

The Planning Commission has held a public hearing at their December 7, 2021 meeting and have recommended approval of this Conditional Use Permit Application based upon the submission and acceptance of their revised Letter of Intent dated December 6, 2021 and the testimony of the applicants at the hearing regarding the requirements of an Accessory Dwelling Unit, specifically the Length of Stay requirements, and their acknowledgement of said requirement and intent to adhere to said requirement.

ITEM SPECIFICS:

A Conditional Use Permit application requires both the Planning Commission hold a public hearing and provide a recommendation to Town Council and then Town Council is required to hold a public hearing to take final action on the disposition of the rezoning application.

Therefore, staff is requesting authorization from the Town Council to schedule a public hearing for Town Council on the Conditional Use Permit application for 630 Tazewell Avenue for the February 17, 2022 meeting. This authorization will allow us to place the legal advertisement as required to meet the legal notice deadlines required by the Code of Virginia for a Conditional Use Permit application.

RECOMMENDATION:

Authorize a public hearing be scheduled for Thursday, February 17, 2022 and staff will move forward with placing all required legal notices and property owner notifications.



PLANNING COMMISSION STAFF REPORT

Meeting Date: December 7, 2021

Item #: #4 – 630 Tazewell Avenue

Prepared by: Katie H. Nunez, Interim Planning/Zoning Administrator

Date: November 30, 2021

APPLICANT: Kate & Steve Keeler
SITE ADDRESS: 630 Tazewell Avenue

TAX MAP: 83A3-1-437 & 436
LOT SIZE: 11,200 sq. ft.

TYPE OF APPLICATION: Conditional Use Permit
SPECIFIC REQUEST: An accessory dwelling unit located on second floor of accessory structure
ZONING ORDINANCE: Section 4.2 (J)
CURRENT ZONING: Residential (R-1)

DATE RECEIVED: October 13, 2021

DATE DEEMED COMPLETE: October 25, 2021

LEGAL DEADLINE (90 Days from Complete Application – Directory, not Mandatory): January 24, 2022

NARRATIVE OF PROPOSAL

The applicant has an existing, 638 sq.ft. accessory structure on the property with the first floor used as a garage and a finished second floor that the owners of the property would like to build out and use as an overflow area for family and guests but not as a rental unit. Since the proposed utilization of the second floor of the accessory structure meets the requirement of the Accessory Dwelling definition, I advised the applicant to apply for a Conditional Use Permit to ensure full compliance with the zoning ordinance.

AERIAL MAP: *Property outlined in blue*



ORDINANCE REQUIREMENTS

The Cape Charles Zoning Ordinance Section 4.2 (J) states that:

Accessory Dwellings. One accessory dwelling may be maintained on a property in the R-E, R-1, R-2 and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3, and subject to the following:

1. Physical characteristics.

- a. Accessory dwellings shall be located in an accessory building.*
- b. Accessory dwellings shall not have a floor area exceeding forty-five (45) percent of the floor area of the main building.*
- c. Accessory dwellings shall have one kitchen and one bathroom.*
- d. Accessory buildings shall not have the appearance of a single-family dwelling.*

2. Occupancy characteristics.

- a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.*
- b. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.*

3. Other requirements.

- a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.*
- b. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.*
- c. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6. (Table of Parking Standards) using both on and off-street parking areas.*
- d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.*

Cape Charles Zoning Ordinance Section 4.3 states that “conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provision of this ordinance in the specific districts provided that the Town Council, upon recommendation by the Planning Commission, shall find that after duly advertised public hearing the use will not:

- 1. Adversely affect the health, safety, or welfare of the persons residing or working in the neighborhood of the proposed use or adversely affect other land uses within the particular surrounding neighborhood.

2. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
3. Be in conflict with the purpose of the comprehensive plan of the town.

In granting any conditional use permit, the Town Council shall designate such conditions as it determines necessary to carry out the intent of this ordinance.

Additionally, approval of a conditional use permit shall be valid for only the specific use it covers in the specific location designated for a period of one year after approval by the Town Council and the completion of the additional permit process as requested in the application. Applicant shall apply or have applied for all additional permits as provided to the Planning Commission and as required by the Zoning Administrator within one (1) month of the approval by the Town Council. If Applicant fails to apply for any such permit within this time period, the conditional use permit shall be effective as of this date, thirty (30) days after the Town Council approval, unless the Town Council allows for additional time for such application or applications. If not acted upon within one (1) year, the conditional use permit shall become null and void, unless an extension of time is approved by the Town Council for good cause shown before the expiration of the Conditional Use Permit.

STAFF ANALYSIS:

The application for the second story use of an existing, 638 sq. ft. accessory structure as an accessory dwelling unit and the first floor for continued garage parking meets the requirements of the Cape Charles Zoning Ordinance Section 4.2 (J) with the exception that the applicant has indicated that the accessory dwelling would be used as overflow for the family and has signed the Accessory Dwelling Unit Checklist which includes the statement regarding the length of stay requirement but the narrative submitted does not seem to comport with the length of stay requirement.

The Cape Charles Comprehensive Plan Section III.A.5.2. identifies a goal to “Promote compatible infill development and renovation within established neighborhoods” and to specifically “Promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options”.

I have spoken further with the applicant about the conversation that the Planning Commission had at the November meeting that this application did not seem to meet the definition of the Accessory Dwelling Unit and its requirements as it pertains to length of stay. I did indicate in that conversation that, based upon the information supplied to the office which indicated that the space was fully outfitted with a kitchen and bathroom and the intent to utilize the space for dwelling, that I am the one who encouraged them to submit a Conditional Use Permit to ensure compliance with the ordinance for an accessory dwelling since the length of stay could be achieved and wanted to ensure the structure would be legal.

I learned during the conversation with the Planning Commission at the November meeting the intent and history of the adoption of the Accessory Dwelling Unit section of the Zoning Ordinance and now realize that I may have provided poor guidance to the applicant about submitting an application; however, my understanding of the ordinance allows for a minimum 30 day stay of any person or persons and does not distinguish between any familial relationship or friendship to the property owner vs a stranger; it does not indicate that the 30-day stay must be done by the same people; and it also indicates that the 30-day

length of stay does not have to be for a fee; therefore, I do find the application in conformance with the ordinance but will withhold a full zoning clearance declaration to allow the applicant to speak about their intent for the structure and address the length of stay requirement more fully at the public hearing.

I discussed this with the applicant and also indicated that using the accessory structure for any sort of dwelling by the family does not appear to be allowed by some Planning Commissioner's consideration of the zoning ordinance if the 30-day stay component is not met.

The applicant indicated that they would like to consider all of this and would discuss this further with the Planning Commission at the public hearing and would still like to proceed with the public hearing even though it appears the Planning Commission may not recommend favorable consideration of this application based upon the length of stay requirement in the ordinance for Accessory Dwelling Units.

RECOMMENDATION TO PLANNING COMMISSION

I am recommending that the Planning Commission convene and hold the public hearing and receive any public comment and discuss the components of the application for 630 Tazewell Avenue with the property owners. I am prepared to assist the Planning Commission in the development of a motion based upon any information that is forthcoming at the public hearing.

Attachments:

Attachment 1 – CUP Application



CONDITIONAL USE PERMIT APPLICATION

Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
757-331-2036 Fax: 757-331-4820
planner@capecharles.org

CONDITIONAL USE PERMIT CHECKLIST - all documents can be emailed to the above email

- ☒ Completed application (if applicable, attach accessory dwelling checklist and documents)
- ☒ Letter of intent clearly explaining project
- ☒ Existing site plan or survey
- ☐ Proposed site plan or survey (if applicable)
- ☒ Names and addresses of adjacent property owners
- ☒ Payment of Fees (single-family detached residential \$600; all other \$800)

PROJECT INFORMATION

Name of Project: Keddey Carriage House
Property Address: 630 Tazewell Ave
Brief Description of Project: Build out of second floor of Ex. Two story Garage
Zoning District: R-1 Current Use: Accessory bldg Proposed Use: Accessory dwelling unit

OWNER INFORMATION

Name and Company: Kate and Steve Keddey
Mailing Address: 630 Tazewell Ave, Cape Charles Va 23310
Phone Number: 540-931-4281 Email: Kate.obenshain@gmail.com

APPLICANT INFORMATION

☐ check here if applicant is owner

Name: Claudine Pierce Peacock Cottage LLC
Mailing Address: 10 Tazewell Ave, Cape Charles Va 23310
Phone Number: 703-609-5818 Email: mypeacockcottage@gmail.com

CERTIFICATION OF APPLICANT

I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed. Furthermore, I certify that the changes to the improvement before or during construction will be provided to the Zoning Administrator and Building Official before such changes are constructed.

Signature of Applicant: Claudine A Pierce Date: 10/13/21

Town of Cape Charles Planning & Zoning Department
2 Plum St. • Cape Charles, VA 23310 • 757-331-2036 • capecharles.org

Conditional Use Permit - Accessory Dwelling Unit Checklist

Date: Address: 630 Tarzwell Ave The following criteria are required for one accessory dwelling to be maintained on a property in the R-E, R-1, R-2, and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3:

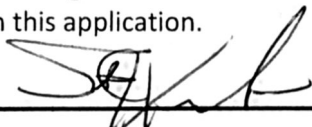
1. Is the accessory dwelling unit located in an accessory building? YES ☒ NO ☐
2. Does the accessory dwelling floor area exceed of forty-five (45) percent of the floor area of the main building? YES ☐ NO ☒ Accessory Dwelling Unit square footage 638 sq.ft.
3. Does the accessory dwelling have one kitchen and one bathroom? YES ☐ NO ☐
4. Does the accessory building/dwelling differentiate from the single-family dwelling? YES ☒ NO ☐

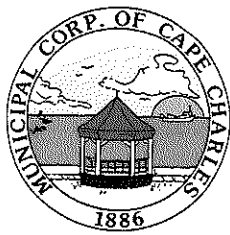
The following conditions must be maintained for an accessory dwelling unit on a property in the R-E, R-1, R-2, and CR zoning districts, contingent upon approval as a conditional use in accordance with Section 4.3: 1. Occupancy characteristics.

- a. Length of stay – No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days. Upon request from any building, zoning, finance, or public safety official acting on behalf of the Town of Cape Charles the owner of the subject lot of record upon which the accessory dwelling unit sits shall provide occupancy documentation and/or information as requested, either verbally or in writing. Failure to do so may result in the revocation by the Cape Charles Town Council of the conditional use status for the accessory dwelling unit according to Section 4.3.F.
 - b. Inspections – All accessory dwelling units shall be inspected annually not later than fifteen (15) days from the anniversary date of the conditional use permit being approved by Town Council.
2. Other requirements.
- a. Accessory dwellings located in accessory buildings may have a separate water meter from the principal dwelling.
 - b. The lot on which an accessory dwelling is located shall have the required minimum lot area for the district in which it is located.
 - c. Parking shall be considered on a case-by-case basis as part of the conditional use permit application process, ensuring adherence to Section 4.5.1.C.6. (Table of Parking Standards) using both on and off-street parking areas.
 - d. Exterior elevations shall also be approved by the Historic District Review Board when required by Article VIII, Historic Overlay.

CERTIFICATION OF APPLICANT

I hereby certify that I have the authority to make the foregoing application, that the information given is true and correct, and that the construction or improvements will conform to the regulations in the Virginia Statewide Building Code, all pertinent Town Ordinances, including fire, sewer and water ordinances, and private building restrictions, if any, which may be imposed on the property by deed. Furthermore, I certify that the changes to the improvement before or during construction will be provided to the Zoning Administrator and Building Official before such changes are constructed. I am providing authorization to the town authorities to enter my properties to confirm accuracy of information contained in this application.

Signature of Owner: 



OWNER PERMISSION AFFIDAVIT

Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
757-331-2036 Fax: 757-331-4820
planningtech@capecharles.org

PROPERTY INFORMATION

Subject Property Street Address: 630 Tazewell Ave
Subject Property Tax ID Number: _____

OWNER INFORMATION

Name (Person, Firm, Corporation, or Agency): Kate Keeler
Mailing Address: 630 Tazewell Ave, Cape Charles, VA 23310
Phone Number: 540-931-4281 Email: kate.obenshain@gmail.com

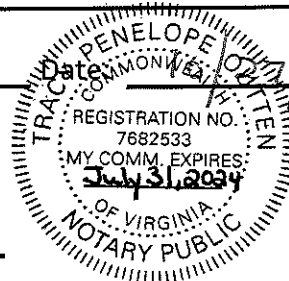
APPLICANT INFORMATION (If applicable)

Name: Peacock Cottage LLC - Claudine Pierce
Mailing Address: 10 Tazewell Ave
Phone Number: 703 609 5818 Email: mypeacockcottage@gmail.com

I am applying for, or I hereby give authority to the applicant to file an application for:

Steven and Kate Keeler

Signature of Owner: Kate Keeler



Commonwealth of Virginia

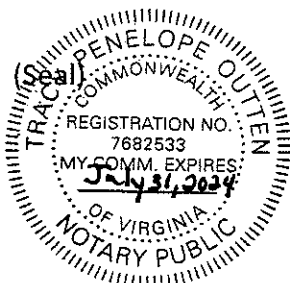
County of Northampton

The foregoing instrument was acknowledged before me this 27 day of October,
2021, by Kate Keeler (name of person acknowledged).

Signature of Notarial Officer: Traci Outten

Notary Registration Number: 7682533

My Commission Expires: July 31, 2024



Town of Cape Charles Planning & Zoning Department
2 Plum St. • Cape Charles, VA 23310 • 757-331-2036 • capecharles.org

PEACOCK COTTAGE LLC

10 Tazewell Ave.
Cape Charles, VA 23310
mypeacockcottage@gmail.com

October 13th, 2021

To: Zoning Administrator
Town of Cape Charles

Re: Letter of Intent
Conditional Use Permit for an Accessory Dwelling Unit
630 Tazewell Avenue

Dear Katie

The owner's of 630 Tazewell have an existing two story carriage house located on the rear east side of their property that currently houses a two car garage on the first floor and an open finished space on the second floor. The existing accessory building was permitted and built by a previous owner and is not considered a historic contributing structure.

The new owners, Kate and Steve Keeler, would like to maintain the garage space on the first floor and build out the second floor to provide a family overflow area for the main house. The proposed second floor layout would contain a bathroom and a kitchenette area. The Keelers do not intend to use this building now or in the future as a rental unit or for profit of any sort.

The exterior renovations associated with the proposed new build out were approved by the Historic District Review Board on 7/21/21. There is also off street parking for at least five cars provided in the existing driveway.

The proposed accessory dwelling unit meets all "physical characteristics" as per Article IV Section J.1 and "other requirements" per Article IV Section J.3 including off street parking.

We have attached an existing site plan, drawings of the carriage house as approved by the Historic District Review and the Certificate of Appropriateness.

Please let us know if you need any additional information to complete this application.

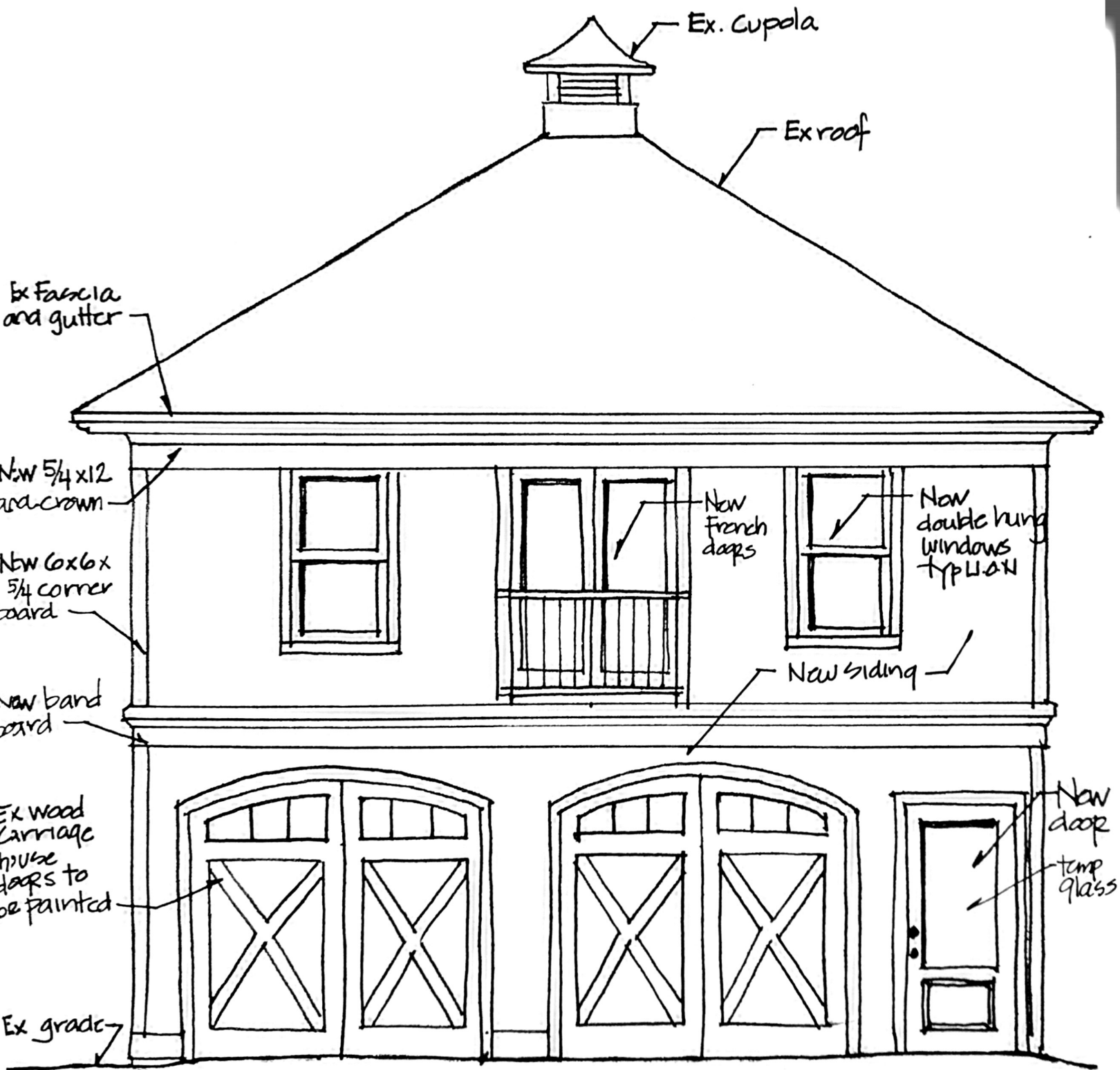
Best,



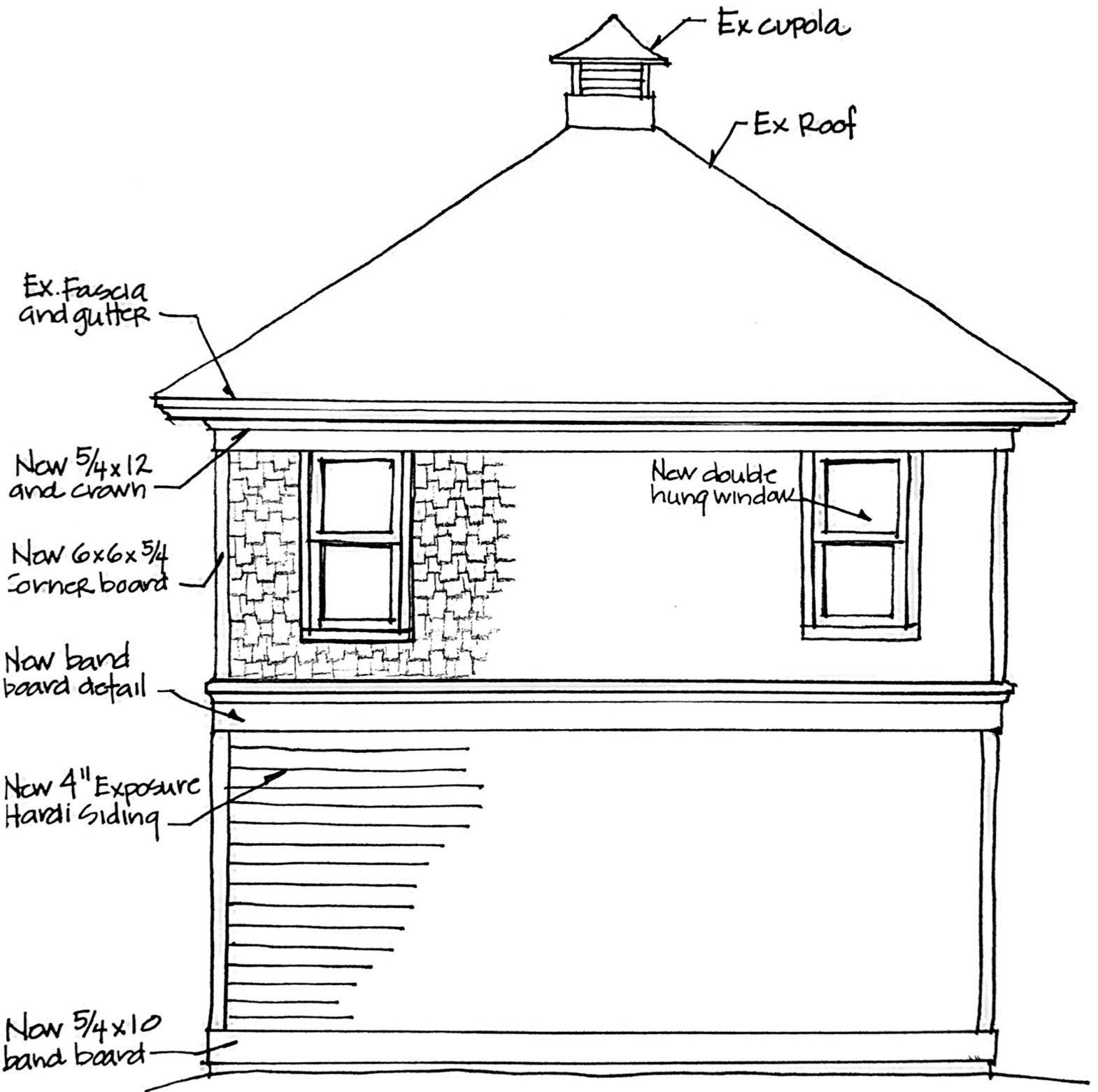
Claudine Pierce
703-609-5818

Seal of the Commonwealth of Virginia, Land Surveyor, Craig P. Crockett, No. 2568, Commission Expires 07-23-2029.

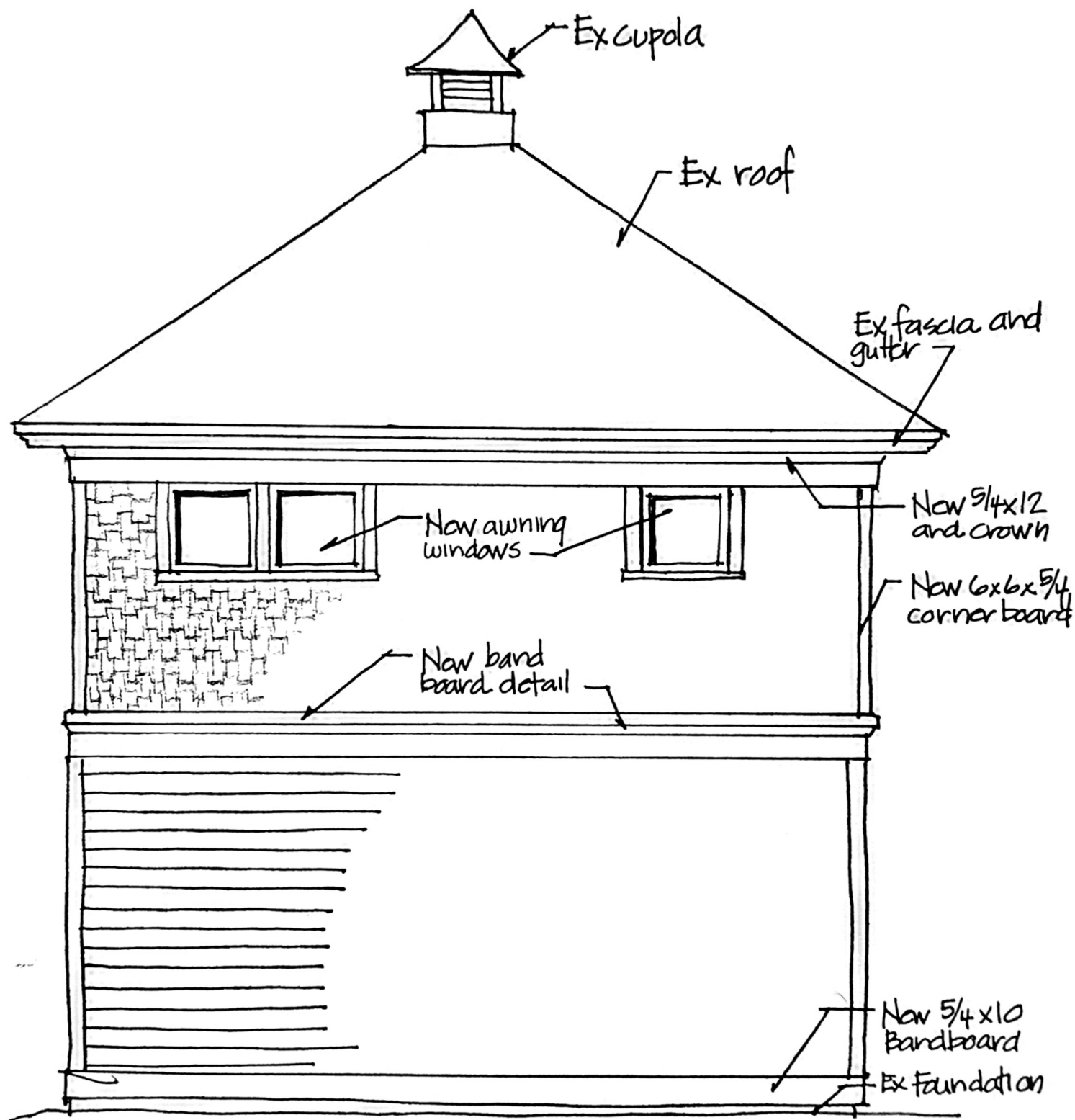
FIELD BOOK: FILE COPY
PROJ. NO: 21125



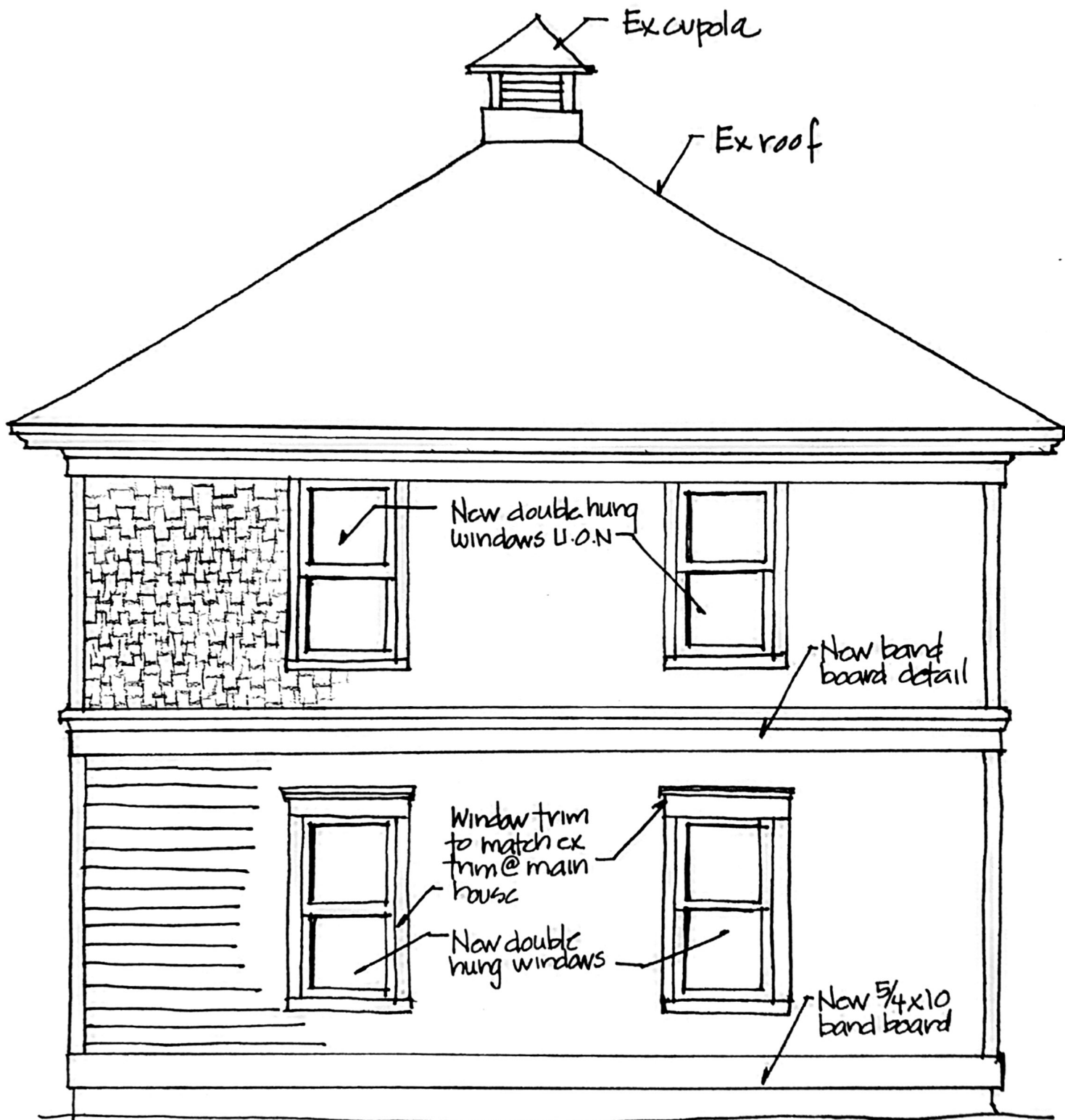
North Elevation - Tazewell Side



West Side Elevation

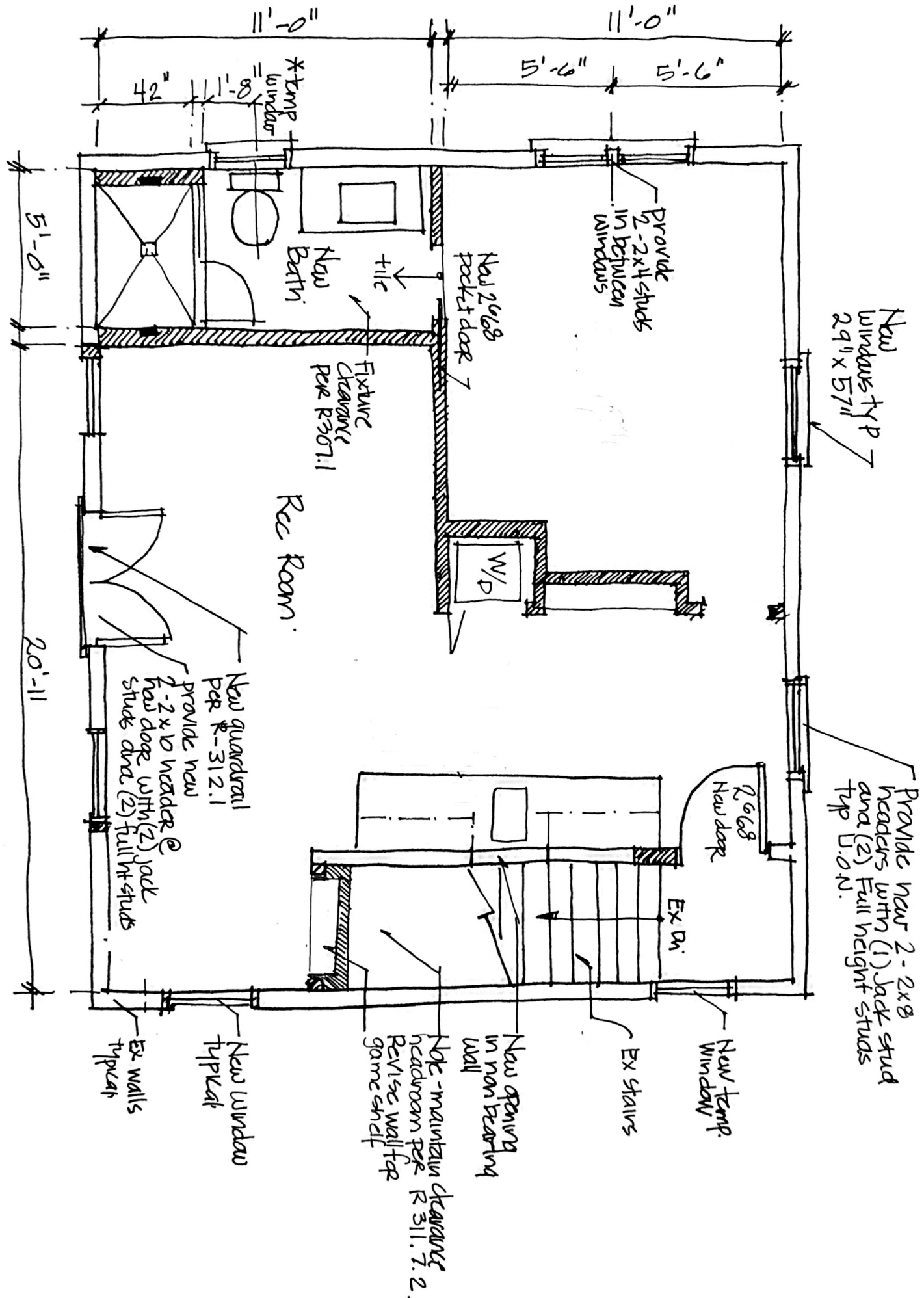


East Side Elevation



South Side Elevation

Proposed Floor Plan





**MUNICIPAL CORPORATION OF
CAPE CHARLES
HISTORIC DISTRICT REVIEW BOARD**

Date Issued: 7/21/2021

Issued to: Claudine Pierce, Peacock Cottage LLC
10 Tazewell Avenue
Cape Charles, VA 23310

For Property: 630 Tazewell Avenue
Cape Charles, VA 23310

This Certificate of Appropriateness has been issued for the above-noted property for the purpose of:

Renovating the existing two-story garage as follows: (1) replace existing first floor service door with new, painted door with a single glass panel over two double raised wood panels. Will retain the garage doors – just refreshing with paint; (2) replace existing second floor left and right side windows on the north side with new double hung windows in similar size to the house windows; (3) replace the middle window on the second floor with a pair of French doors; (4) add double hung windows on the second floor south and east side where there are currently no windows; (5) replace the existing awning windows on the west side with new double hung windows in a similar size as the existing house windows; and (6) replace the existing vinyl shingle scalloped upper siding with new painted Hardie shingle siding and the lower vinyl siding with new 5" exposure Hardie siding on the lower half and add a mid-point trim band. New windows will be trimmed to match the existing home window trim detail using composite materials. The Historic District Review Board approved the application as presented.

Designated conditions to be met are as follows: N/A

This Certificate of Appropriateness shall be valid for only the specific use described above. It is valid for a period of one year after the date of approval; if not acted upon within one year, or if work is suspended or abandoned for a period of twelve months after work has commenced, this Certificate of Appropriateness shall become null and void.

There is a thirty day right of appeal of this decision by the owner of the property or by any party aggrieved, pursuant to Cape Charles Zoning Ordinance Section 8.32.

Edward Wells

Chair, Historic District Review Board

7/21/2021

Date

Planning Technician

7/21/2021

Date

PEACOCK COTTAGE LLC

10 Tazewell Ave.
Cape Charles, VA 23310
mypeacockcottage@gmail.com

October 13th, 2021

To: Zoning Administrator
Town of Cape Charles

Re: 630 Tazewell Ave
Conditional Use Permit
List of adjacent property owners.

Dear Katie,

Per the Conditional Use Permit Checklist here are the names and addresses of the adjacent property owners.

Properties on either side of 630 Tazewell:

620 Tazewell Ave:
Claudette Lajoie
127 Peach Street.
Cape Charles, VA 23310

638 Tazewell:
Robert and Wendi White
375 Outwater Lane
Saddlebrook, NJ 07662

Properties across the street from 630 Tazewell:

615 Tazewell Ave:
David and Fleur Howgill
215 6th St SE
Washington DC 20003

Lot across the Street from the Keelers - we could not find the information for these owner's but they are currently building a new house there.

629 Tazewell:
Sarah and Jim Severs
113 Buckingham Pl.
Waynesboro, VA 22980

Behind 630 Tazewell:

627 Randolph [empty lot]
Traci Hawthorne
13190 Fawborough Rd
Montpelier, VA 23192

Please let me know if you need anything else.

Best,

Claudine Pierce
Claudine Pierce
703-609-5818

December 6, 2021

To: Zoning Administrator
Town of Cape Charles

Re: Amendment to Letter of Intent
Conditional Use Permit for an Accessory Dwelling Unit
630 Tazewell Avenue

Dear Katie:

Thanks to feedback from you, we understand the “family overflow” comment in our letter of intent has caused concern for members of the Planning Commission. We understand that concern, and are hopeful that the Commission will grant our permit with the understanding that we will abide by the Occupancy Characteristics requirement: “No accessory dwelling unit shall be occupied by any person or persons, whether paying a fee for such occupancy or not, for a period less than thirty (30) consecutive calendar days.”

We have six adult children between the ages of 19 and 25. We also have an 87 year old mother and 86 year old father. We envision this space as being available for the grown children and/or our parents to come and reside for a period of time--perhaps a few months in between jobs--in the case of our children--or for a more extended time for one of our parents, should that become necessary.

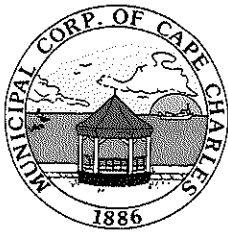
When we submitted this application we did not consider that we would ever rent our space for workforce housing, but after living in Cape Charles for some months now, we realize that need is, indeed, extreme. We would certainly consider renting the space to a teacher or other member of our local workforce; in fact, we would love to make that contribution to the community as we’ve seen the impact of the local housing shortage on local businesses, schools and other organizations.

We respectfully ask that our letter of intent be amended to reflect our understanding of the 30-day occupancy requirement, and our willingness to consider renting our space for longer-term periods toward providing workforce housing. We continue to maintain that we have no intention of using the space for short term rentals.

Thank you for your consideration.

Sincerely,

Steve and Kate Keeler



OWNER PERMISSION AFFIDAVIT

Town of Cape Charles
2 Plum Street
Cape Charles, VA 23310
757-331-2036 Fax: 757-331-4820
planningtech@capecharles.org

PROPERTY INFORMATION

Subject Property Street Address: 630 Tazewell Ave
Subject Property Tax ID Number: _____

OWNER INFORMATION

Name (Person, Firm, Corporation, or Agency): Kate Keeler
Mailing Address: 630 Tazewell Ave, Cape Charles, VA 23310
Phone Number: 540-931-4281 Email: kate.obenshain@gmail.com

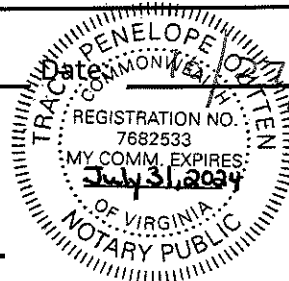
APPLICANT INFORMATION (If applicable)

Name: Peacock Cottage LLC - Claudine Pierce
Mailing Address: 10 Tazewell Ave
Phone Number: 703 609 5818 Email: mypeacockcottage@gmail.com

I am applying for, or I hereby give authority to the applicant to file an application for:

Steven and Kate Keeler

Signature of Owner: Kate Keeler



Commonwealth of Virginia

County of Northampton

The foregoing instrument was acknowledged before me this 27 day of October,
2021, by Kate Keeler (name of person acknowledged).

Signature of Notarial Officer: Traci Outten

Notary Registration Number: 7682533

My Commission Expires: July 31, 2024



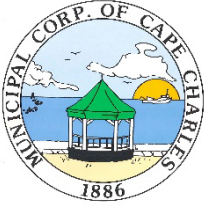
Town of Cape Charles Planning & Zoning Department
2 Plum St. • Cape Charles, VA 23310 • 757-331-2036 • capecharles.org

From: [Jill Monarch](#)
To: [Katie Nunez](#); [Tracy Outten](#)
Subject: Steve and Kate Keeler at 630 Tazewell Ave
Date: Tuesday, December 7, 2021 3:52:06 PM

To the Cape Charles Planning Commission,

Our names are Jill and Ken Monarch. We are building the home at 621 Tazewell across the street from the Keelers. We received a letter regarding the work the Keelers would like to do to their home. We would like the commission to know that we support the Keelers in their endeavor to make their home/garage/property suitable for their family needs. We hope the town is able to find a way to accommodate their request. Thank you.

Jill and Ken Monarch

 TOWN OF CAPE CHARLES	AGENDA TITLE: Employee Personnel Manual approval		AGENDA DATE January 20, 2022
	SUBJECT/PROPOSAL/REQUEST: Approval of Employee Personnel Manual.		ITEM NUMBER: 7A
	ATTACHMENTS: Updated Employee Personnel Manual		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Jodi Outland	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The last time the Town of Cape Charles Employee Personnel Manual was updated was in 2014, with the last revision in 2016. Therefore, a comprehensive update was brought forward last November and reviewed with the Council at a work session on January 6, 2022.

ITEM SPECIFICS:

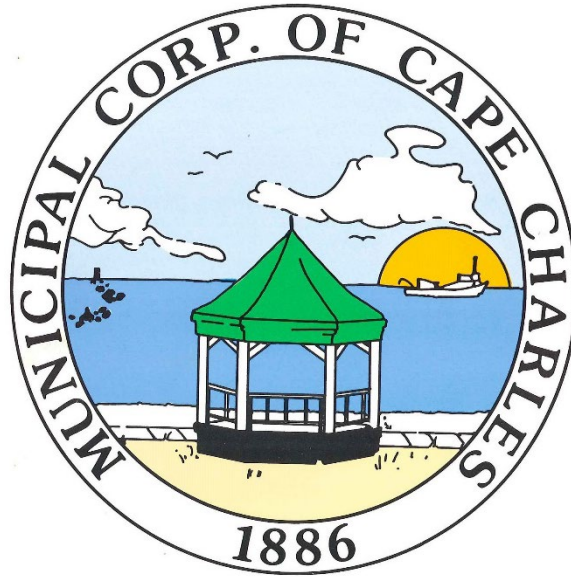
Areas within the attached manual that are highlighted in yellow are specific changes or updates to the November draft manual, as recommended by the Council.

Please note that following the January 6th work session, we sought additional consultation with our Virginia Risk Sharing Association Human Resources consultant, and the following additional revisions were included in this version of the manual based on their recommendation:

- Table of Contents (iv) According to VRSA, after reviewing the **Military Leave Without Pay** (section VI. 7. (b).), it was recommended that the Uniformed Services Employment and Re-Employment Act of 1994 (USERRA) was added as an appendix. (See page 61)
- (VI. B. 7. (b)). The section on **Military Leave Without Pay** was reviewed by VRSA and their recommendation is to use the language from USERRA which has a broader application that includes the National Guard in Virginia Code but also contains the same provisions as federal law. Staff inserted direct language from the USERRA Act as well as adding the Appendix B. (see above #1)
- (XIII. J.) **Retirement.** The second paragraph concerning, “an employee who becomes physically or mentally incapable of performing the duties....” was omitted in its entirety. According to VRSA, an employer should never attempt to determine an employee as disabled, mentally or physically. Their recommendation was to remove the paragraph completely. VRSA reviewed our ADA policy as well and it was approved
- (VI. B. 1. Annual Leave.) Councilman Grossman made a note in his comments about leave being granted in advance of accrual, but this was never addressed at the work session. Staff made the decision to authorize this, on a limited basis, with Town Manager approval

RECOMMENDATION:

Staff recommends approval of the attached updated Town Personnel Manual



TOWN OF CAPE CHARLES PERSONNEL POLICIES

ADOPTED: JANUARY 20, 2022

TOWN OF CAPE CHARLES PERSONNEL POLICIES

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TOWN OF CAPE CHARLES PERSONNEL POLICIES

I. INTRODUCTION

A. Purpose

When you entered employment with the Town of Cape Charles, you began working for the citizens of the Town. A spirit of understanding, courtesy and customer service is essential to those in the public service. The objective of these Personnel Policies (“Policies”) is to provide a uniform system of personnel administration for the staff of the Town of Cape Charles (“Town”), based on merit principles, equitable compensation, open competition in hiring and advancement, and equal employment opportunities.

It is the policy of the Town to establish reasonable rules of employment conduct (i.e., guidelines for management and employees to follow) and to ensure compliance with these rules through a program consistent with the best interests of the Town and its employees.

Additionally, it is the policy of the Town to strive for safety in all activities and operations, and to carry out the commitment of compliance with health and safety laws applicable to the Town by enlisting the help of all employees to ensure that public and work areas are free of hazardous conditions.

This manual is not, and shall not be construed as an explicit or implied contract, shall not modify any existing at-will status of any Town employee, and shall not create any due process requirement in excess of federal or state constitutional or statutory requirements. The term “at-will” means employees can terminate or be terminated at will. Exceptions are employees having written contracts signed by the Town Manager or Town Council.

B. Organization of the Personnel Function

The Town Manager is designated as the chief personnel officer and is responsible for personnel administration within the Town government. The Human Resources Manager (HR Manager) administers these policies under their supervision.

The Personnel/HR function shall be under the direction and supervision of the Town Manager. All official personnel files, including, but not limited to the following: employment applications, letters of appointment, reference checks, performance evaluations, notices of commendations, training documentations and disciplinary actions shall be maintained by the HR Manager. All employee files are confidential and copies of information contained therein may be released only upon written authorization of the employee or by requirement of State and Federal law.

C. Applicability of Rules

The Town of Cape Charles Personnel Policies apply to all Town employees except any employee specifically exempted by action of the Town Council.

Neither the Town Council nor the Town Manager is limited by the strict terms of this policy because it is not possible to include every conceivable circumstance in this document. This policy is intended to serve as a basic framework upon which equal and fair treatment of all employees may be predicated.

In addition to these policies, the Police Department has a separate Policies & Procedures Manual, adopted by the Town Council on November 12, 2009, which supplements the Town’s Personnel Policies.

All personnel matters, including disciplinary actions, are considered to be of a confidential nature by the Town.

TOWN OF CAPE CHARLES PERSONNEL POLICIES

D. Dissemination of Rules

The Town Manager will make public complete copies of the Cape Charles Personnel Policies. Each new employee of Cape Charles will be given a complete copy of these policies and a receipt signed by the employee shall be maintained in the individual's personnel file to document the distribution. Department heads shall be responsible for maintaining a complete, current set of the policies and for bringing these items to the attention of all employees under their supervision. The Town Manager may issue memoranda interpreting situations not covered by this document to be disseminated to all employees for future application and guidance.

E. Modification of Policies

These policies do not constitute a contract of employment. The policies as a whole, or individually by section, may be modified, amended, or rescinded at the sole discretion of the Town Manager or Town Council without notice. Any amendments to the policy made by the Town Manager or Town Council become effective on the date of the amendment unless otherwise specified.

Official changes to this document will be disseminated to all Town employees by memoranda from the Town Manager. It is the responsibility of each employee to maintain their Personnel Policies Manual.

TOWN OF CAPE CHARLES PERSONNEL POLICIES

II. DEFINITIONS

Whenever responsibilities fall to the Town Manager under these Policies, they may designate another to fulfill their responsibilities.

- A. **Exempt Employee** – a salaried employee who performs executive, administrative or professional duties as defined under the Fair Labor Standards Act and its regulations. Full-time, part-time, and temporary employees may be exempt.
- B. **Non-Exempt Employee**—an employee who receives hourly wages; and is subject to wage and hour law, i.e. overtime pay provisions of the Fair Labor Standards Act. Full, part-time, and temporary employees may be non-exempt.
- C. **Full-time Employee** – an individual hired on either a salary or wage basis for an established position for an indefinite term who is expected to work a minimum of 40 hours a week.
- D. **Part-time Employee** – an individual hired on either a salary or wage basis for an established position for an indefinite term who is expected to work an established period of time that is less than 40 hours per week. Part-time employees who work 20 hours or more per week on a regular basis, are given a pro-rated accrual of leave benefits in accordance with their set hours of work (and charged accordingly) consisting of sick leave, annual leave and holiday leave. Employees working less than 40 hours a week on a regular basis are not eligible to participate in the Virginia Retirement System nor are they eligible for Town benefits.
- E. **Introductory or Probationary Employee** – a full-time or part-time employee who has worked for the Town for less than 6 months, or as specified in their offer of employment letter. The Town Manager may extend the probationary period for any employee up to an additional 6 months.
- F. **Seasonal or Temporary Employee** – an individual hired on a term basis, *e.g.*, day, week, period of months or on a project basis. When employment is varying in scheduled hours and is limited in duration to a project or an exceptional need for service, such employment, whether 40 hours per week or less, is regarded as temporary and such employee receives no Town benefits.

The Town Manager may also make use of summer interns, Job Training Partnership Act employees or similar programs as deemed in the best interest of the Town.
- G. **Contract Hourly Worker** – Individuals hired as contract hourly workers are not eligible for Town benefits, or for participation in the Virginia Retirement System and are not eligible to accrue sick leave or vacation days. Contract hourly workers may be hired for short-term special projects or for long-term or recurring tasks.
- H. **Safety Sensitive Positions**—Employees doing field work which inherently can affect the safety or health of either the employee performing the job, others, or both. The Town considers employees working for the Public Works Department, Police Department and Utilities to be Safety Sensitive.

TOWN OF CAPE CHARLES PERSONNEL POLICIES

III. EQUAL EMPLOYMENT OPPORTUNITY

A. Policy Statement

The Town of Cape Charles is an equal opportunity employer. It is the policy of the Town to prohibit discrimination of any type and to afford equal employment opportunities to employees and applicants, without regard to race, color, religion, gender, national origin, age, disability, pregnancy, childbirth, or related medical conditions, marital status, sexual orientation, sexual identity or veteran or active military status. The Town will conform to the spirit as well as the letter of all applicable laws and regulations. The Town will take action to employ, advance in employment and treat **qualified veterans and disabled veterans** without discrimination in all employment practices.

This policy applies to every aspect of employment practices including, but not limited to the following:

1. **Recruiting, hiring, and promoting in all job classifications without regard to race, color, religion, gender, age, gender, gender identity/expression, sexual orientation, national origin, political affiliation, pregnancy, or disability, except where such a factor can be demonstrated as a bona fide occupational qualification.**
2. All decisions for hiring or promotions shall be based solely upon each individual's qualifications for the position to be filled.
3. **Other personnel actions such as compensation, benefits, transfers, layoffs, training, and assignments, will be administered without regard to race, color, religion, national origin, gender, age, gender, gender identity/expression, sexual orientation, political affiliation, pregnancy, or disability.**

B. Accommodating Individuals with Disabilities

The Town provides equal employment opportunities to qualified individuals with disabilities. Reasonable accommodations will be provided to a qualified employee or applicant with a disability when that employee or applicant requests an accommodation. A qualified employee or applicant is one who is able to perform the essential functions of the job with or without accommodation. A request for an accommodation will be denied if the accommodation is not shown to be effective, places an undue burden on the Town, or if the employee poses a direct threat to the health and safety of him or herself or others.

Please see Appendix I, Exhibit A — Virginia Human Rights Act Reasonable Accommodations for Pregnancy on page 59.

Exhibit B — Virginia Human Rights Act Reasonable Accommodations for Discrimination on page 60.

TOWN OF CAPE CHARLES PERSONNEL POLICIES

IV. RECRUITMENT AND SELECTION

A. Employment At Will

Every employee of the Town has the status of “employee-at-will,” meaning that no one has the contractual right, express or implied, to remain in the Town’s employ. The Town may terminate an employee’s employment, or an employee may terminate their employment, without cause, and with or without notice, at any time for any reason. No supervisor or other representative of the Town has the authority to enter into any agreement for employment for any specified period of time, or to make any agreement contrary to the above. Exceptions are employees having written contracts signed by the Town Manager or Town Council.

B. Open Positions

In the event of a job vacancy, the HR Manager ~~may~~ will publicize such vacancy in appropriate newspapers ~~or other sources to include, but not be limited to, the Town Website, Eastern Shore print media, and when applicable, an electronic employment website.~~ Vacancies in appointive officer positions must be publicized at least once a week for two consecutive weeks. The HR Manager shall have the discretion to select the newspapers to be used and/or to use any other forms of solicitation deemed necessary or appropriate for the position involved.

All positions shall be open to all individuals who meet the minimum requirements for the position. The recruitment objective to obtain well-qualified applicants for all vacancies and selection shall be based on the best-qualified person available at the compensation offered for the particular position as specified in the job description.

First consideration will be given to current employees who desire to fill an open position, if the current employee is qualified for the position and if the placement best serves the needs of the Town.

Employment decisions shall be handled in a manner consistent with the Virginia Conflicts of Interest Act. The Town is an equal opportunity employer and values diversity. All employment is decided on the basis of qualifications, merit and business needs.

C. Application

All applicants for Town employment must fill out and furnish complete information on the Town of Cape Charles Employment Application for the position for which they apply. Providing false information on an application may be grounds for dismissal from Town employment.

Except for seasonal student workers, applicants are expected to have a high school diploma or its equivalent. Those persons applying for positions which require the operation of a motor vehicle must present a valid driver’s license at the time of employment. All applicants for Town employment shall be required to meet established standards specified in the job description for the particular position as a condition of employment.

D. Selection

Department heads shall examine applications and interview applicants for employment upon request of the Town Manager and recommend applicants for filling vacancies existing within their departments. The Town Manager has the final approval for filling such vacancies, with the exception of appointive officers who are appointed by the Town Council.

All job offers from the Town are subject to receipt of a satisfactory background check report and drug screening. The background check could include a check of driving record with the State

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Division of Motor Vehicles, a check with references, an investigation of criminal history record, and an investigation into any prior abuse or potential abuse of alcohol and narcotic substances which would impair performance and pose a threat to the public welfare and safety.

E. Hiring Authority

The Town Manager has complete authority for hiring, promoting and discharging employees in accordance with these policies with the exception of appointive officers who are appointed by the Town Council. The Town Manager also has the responsibility and authorization for administering the personnel system established by these policies. Hiring, promoting, demoting and discharging decisions should be reviewed by Human Resources prior to authorization from the Town Manager.

F. Medical Examination

Prior to Town employment, an applicant may be required to complete a medical examination for the purpose of determining fitness for the position. The Town also reserves the right to require such an examination at any time during employment. In addition, all applicants who are tentatively offered positions with the Town will be required to pass a drug analysis test prior to employment. Employees classified as safety sensitive may be subject to random drug testing at any time.

G. Introductory/Probationary Period

All new full-time and part-time employees shall be subject to a 6-month introductory period which shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his position, and for rejecting an employee whose performance does not meet the required standards. The Town Manager shall have the authority to extend this introductory period for any employee up to an additional 6 months in order to further evaluate the employee's ability to meet the required standards for a Town employee. The Town Manager or immediate supervisor shall, prior to the end of the 6-month introductory period, notify the employee in writing of the extension of the introductory period, the reasons for the extension, and the length of the extended introductory period. There is no appeal available for an employee released during the introductory period or extended introductory period except where discrimination is claimed. In establishing an introductory period, the Town does not abrogate or modify in any way the employment-at-will status that applies to its employment relationship with all employees.

Full-time employees will be eligible for participation in the Town's health insurance plans and the Virginia Retirement System on the first of the month following their hire date. Accrual of sick and vacation begins with the first pay period worked by the employee.

H. Special Programs

The Town Manager may make use of summer interns, Job Training Partnership Act employees or similar programs as deemed in the best interest of the Town.

I. Substitutes in Emergency Situations

In order to prevent disruptions to Town services or operations, the Town Manager or his designee may hire a substitute to fill a necessary position on a temporary basis. The Town Manager or his designee may hire individuals from those applications currently on file with the Town or experienced individuals known to the Town Manager or department head who can handle the type of work involved or may make use of commercial employment services providing temporary help. It is the intent of this provision to allow the hiring of individuals on a short-term basis where an individual employee is sick or where an emergency situation has arisen. Where a long-term vacancy exceeding 60 days is anticipated, the position may be advertised.

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J. Maintaining Applications on File

Applications in response to an advertised position shall be maintained in a current file status for **nine months** and shall be considered in the event appropriate positions become available or in the event the Town needs substitutes or part-time employees. In the event that a position had been advertised and the individual who was hired fails to complete the introductory period or in the event that a similar vacancy occurs, the Town Manager shall have the discretion to fill the position from current applications on file or to readvertise the position. It is the intention of this provision that all qualified applicants be considered and that the Town not be required to readvertise a position where there are numerous qualified applications on file and where sufficient publication has recently been completed.

K. Internal Promotions

It is the policy of the Town to promote existing employees to positions for which they are qualified when vacancies occur. Where an employee is qualified to be promoted to a vacancy, the Town Manager may fill the position from among current Town employees without the necessity for following the procedures outlined in Section IV of this policy. A qualified Town employee, based upon merit and experience, who seeks the vacancy may be considered as a candidate for promotion by the Town Manager.

L. Exclusion of Employees as Mayor or Members of Council

No Mayor or member of Council shall be an employee of the Town and upon the qualification of any such person for such position, employment shall cease.

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V. EMPLOYEE COMPENSATION

The total compensation of employees consists of the regular salary for full and part-time employees, the employer's contributions to employee benefits, holiday pay, and various forms of leave with pay. Leave policies are found in Section VI.

A. Pay and Classifications – Compensation Plan

1. The compensation plan for employees of the Town shall consist of:
 - a. A classification system for all classified jobs.
 - b. A pay grade that sets a range for each classified position shall be set by the Town Council.
 - c. If the Town were to increase pay bands, current employees who fall below the new band would be adjusted within the band on the day that the new band becomes effective.
2. The normal entrance rate of pay for new employees that is at the lower end of the pay grade for the position with any exceptions to be authorized by the Town Manager.
3. Employees shall be paid following the end of each pay period on a bi-weekly schedule.
4. The compensation plan may be amended by the Town Council.

B. Hours of Work

1. The standard scheduled workweek for all full-time employees consists of 40 hours. This does not preclude the establishment of specified schedules other than 40 hours in a given workweek if approved by the Town Manager. Part-time employee schedules shall be pre-arranged and approved by the department head and Town Manager.

The Chief of Police shall establish the hours of work for all police officers. These positions are established so that a work period is consistent with 160 hours of work for a 28-day work cycle. Additional hours earned during a cycle between 160 and 171 are paid hour for hour. Any hours over 160 require approval by the Chief of Police and any hours over 171 require prior approval by the Chief of Police and the Town Manager. Please refer to the *Cape Charles Police Department Policy & Procedures Manual* for more detailed information.

Both full-time and part-time employees are entitled to one paid 15-minute break for each 4-hour work period. Such breaks, may not be used consecutively, may not accumulate from one day to another nor can they be used to extend a meal break.

2. The work period begins on Tuesday and ends on the following Monday.
3. Flexible work scheduling may be considered within the standard work week so long as the standard hours in a workweek, normally 40 hours, are not altered. Any variation is subject to prior approval by the HR Manager, the department head and Town Manager. Some examples are:
 - a. Arrive earlier in the morning and leave earlier in the afternoon.
 - b. Arrive later in the morning and leave later in the afternoon.

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- c. Add time to meal break and arrive earlier and leave later.

Other temporary or occasional flexible work schedules may include some combination of altered work start and stop times to allow employees to have medical appointments or take care of personal business during work hours without being charged leave. If flexible work schedules are instituted on an ongoing basis, the department head may approve such only after consultation with the HR Manager and the Town Manager. An example of when an ongoing flexible work schedule may be requested could be for the employee to attend continuing education.

- 4. If an employee is unable to report for work or expects to be late, the employee must contact their department head as soon as possible but no later than the beginning of their scheduled work period, giving the reason for the absence or tardiness. Paid leave may or may not be approved. If an employee has difficulty reaching their department head, they should next contact the Human Resources Department. The responsibility to notify a supervisor(s) about absences or about tardiness always rests with the employee.

If a police officer is unable to report for work or expects to be late, they must contact the Chief of Police, giving the reason for the absence or tardiness. The Chief must then notify the Town Manager of the change in schedule(s) or lapse of police coverage. In the event the Chief cannot be reached, police personnel must contact the Town Manager. Paid leave may or may not be approved.

- 5. Employee work schedules may also be adjusted to meet Americans with Disabilities Act (ADA) requirements.

C. Time Clock Guidelines and Policy for Non-Exempt Employees

1. Introduction

The Town employs the use of an electronic time tracking system. The electronic time tracking system enables you to more accurately keep track of your time and allows the Town to more efficiently process your time worked and leave taken for payroll purposes. In order for this system to work to its fullest potential, all non-exempt employees shall follow the guidelines and policy outlined below. Your cooperation and compliance with this policy is required.

2. Official Time of Record

In order to ensure consistency of treatment of non-exempt employees, the electronic time keeping system and associated work records shall be considered as the “official” record of hours worked for non-exempt employees of the Town. Any disputes over actual hours worked or attendance will be resolved by referring to the electronic time keeping system records.

3. Employee Time Reports

The Fair Labor Standards Act (FLSA) requires that employers keep certain records for employees, including detailed records of time and payments. An electronic timekeeping system is used to record all hours worked and leave taken during the reporting period for non-exempt personnel. The automated time reports must reflect all regular and extra duty hours worked for the period and include personal leave, compensatory time, holidays, etc. Adjustments to hours and leave must be reported weekly to avoid errors and omissions that

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may occur if these adjustments are posted toward the end of the payroll period. All time clock adjustments must be sent to the Human Resources Department in writing. A supervisor's signature may be required on time clock adjustments.

4. Daily Clock In/Out Requirements

It is a job requirement that all non-exempt employees must "clock in" at the beginning of their work schedule and "clock out" at the end of the workday. Non-exempt employees shall also "clock in" and "clock out" when beginning their lunch break and upon return.

Under certain conditions, such as training at an off-site location, extracurricular events, etc., the employee should report time worked to their supervisor and then to the HR Manager so that their time worked can be input manually.

Other requirements and guidelines include:

- a. Employees are expected to clock in and out at their scheduled times, not more than 5 minutes before the scheduled work time or 5 minutes after the scheduled work time. If work duties require an employee to work beyond their scheduled time, the supervisor or department head shall be contacted for approval to work beyond schedule.
- b. Clock in and out times are rounded to the nearest quarter hour.
- c. It is prohibited to abuse or take advantage of the time clock rounding, e.g. clocking in at 8:07 a.m. knowing the clock will round back to 8:00 a.m. or clocking out at 4:53 p.m. knowing the clock will round forward to 5:00 p.m. Repeated offenses of this type may be grounds for disciplinary action.
- d. Employees are to clock out and back in for lunch as scheduled.
- e. Employees must submit a time change form or submit in writing for failure to clock in or out at a scheduled time. If an employee fails to clock in or out three (3) times in a pay week, an informal warning will be issued to the employee by the supervisor, department head or Town Manager. If another failure occurs in the following pay period, a formal written warning will be issued to the employee by the department head or Town Manager. (See Personnel Policies, Section XVI.A, for additional information.)

5. Falsification and Tampering

Due to the severity of the infractions below, immediate disciplinary action will be enforced which may include termination of employment.

- a. Any attempt to tamper with timekeeping hardware or software.
- b. Interference with the other employees' use of the electronic time keeping system or "buddy" punching.
- c. "Time theft"; this occurs when an employee purposely and deliberately remains on the clock for a prolonged period of time to conduct personal business or earn double pay by working simultaneously for another organization.

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The department head, HR Manager and Town Manager will review the specific details of such infraction, including but not limited to those listed above, to develop an appropriate response.

6. Clock Problems

If an employee is unable to punch in or out because of a time clock malfunction, interruption at the work site or accidental oversight, it is the employee's responsibility to immediately inform their supervisor and/or the Human Resources Department. All clock adjustments must be submitted in writing to the HR Manager who will review the request and approve or decline the adjustment.

D. Overtime

It is the intention of the Town to comply in all respects with the Fair Labor Standards Act (FLSA or Act) in the payment of overtime pay to those employees who are not exempt from the Act. The Town will pay overtime pay to qualified employees at the rate of one and one-half times the normal hourly rate of the employee for time worked over 40 hours in a workweek. Overtime must be approved in advance by supervisors.

For the purposes of FLSA, the Town workweek extends from Tuesday through Monday. The normal workweek for town employees is 40 hours per week, from 8 a.m. to 5 p.m. Individual departments may vary from this schedule based upon approval of the Town Manager. The public hours for the Municipal Building offices are 8:30 a.m. to 4:30 p.m. Monday through Friday.

E. Compensatory Time

Compensatory time (Comp time) is authorized in lieu of overtime for non-exempt employees, if requested by the employee and approved by their supervisor. Comp time is calculated, like overtime, at one and half times the time worked. Comp time that is earned from July 1st through December 31st must be used by June 30th of that following year; Comp time that is earned from January 1st through June 30th must be used by December 31st of that same year, otherwise the balance will be paid out at time and a half on the next pay period.

F. Termination Pay

Upon termination of employment, an employee is entitled to payment for unused annual leave, up to a maximum of 248 hours, less any deduction for outstanding debts against the Town. Such debts (for example, payments for insurance premiums or unreturned equipment) shall be deducted and withheld from the final paycheck of the employee. Any accrued compensatory time remaining will be paid upon termination of employment in accordance with FLSA and Section V.D. of this Policy. No compensation will be given for accrued sick days. The final paycheck shall be issued at the next regularly scheduled pay date less any amounts owed to the Town.

G. Performance Increases

The Town promotes excellence in its workforce. Pay increases within the pay range and budget constraints may be given to that end. It is the goal of each department that each employee's performance will be reviewed annually. Based on satisfactory performance and contributions to the organization, pay increases may be given. In exceptional circumstances an employee's pay may be increased in less than a year for meritorious service or enhanced responsibilities. Pay increases are not automatic or guaranteed and are subject to budgetary constraints.

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H. Merit Awards

The Town Manager may grant a merit award to an employee to recognize superior service to the Town.

I. Benefits

Full time employees are eligible to participate in the Town's benefit program the first of the month after hire. Information on Town benefits may be obtained from the Human Resources Department.

J. Mileage Reimbursement

Employees will be reimbursed with prior approval of the Town Manager at the mileage rate set annually by the IRS when using their personal cars on Town business trips. Requests for reimbursement for travel expenses incurred on Town business will be made on forms provided by the Town.

K. Reimbursement for Meals

Employees will be reimbursed for meals while on Town business trips according to the per diem rates established by the U.S. General Services Administration for the Commonwealth of Virginia. Please see www.gsa.gov for the reimbursement rates.

Per IRS regulations, the reimbursement amounts may be taxable if not part of an overnight stay for business.

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VI. HOLIDAYS AND LEAVE

A. Holidays

Authorized holidays will be announced at the beginning of the calendar year and will generally follow the guidelines set by the Commonwealth of Virginia and Northampton County. Typically, the holidays are as follows:

New Year's Day	Election Day
Martin Luther King Jr Day	Veterans' Day
President's Day	Day before Thanksgiving (close at noon)
Memorial Day	Thanksgiving Day
Juneteenth Day	Day after Thanksgiving
Independence Day	Christmas Eve
Labor Day	Christmas Day
Columbus Day	

A holiday falling on a scheduled vacation day will not be charged to vacation time but will be recorded as holiday time.

Full time employees are entitled to 8 hours of straight time for each scheduled holiday. If a pay week containing a holiday(s) result in a work week exceeding 40 hours, non-exempt employees will have the choice to take up to 8 hours of straight time pay per holiday, or to "bank" holiday hours not used. If separation occurs with holiday time banked, the employee will receive that time at their regular rate of pay at the time of separation. ~~With department head approval, employees who were performing essential duties during the Holiday period may be given their Holiday in a full 8 hour increment and as long as the employee was required to work on the Holiday or in support of the Holiday.~~ With approval from their supervisor, both exempt and non-exempt employees may "float" the holiday to a day other than the actual scheduled holiday. This needs to be reviewed by the HR Manager as well. *Call-Outs are an exception and will always be paid out as straight time or overtime (OT).

Regular part time employees working between 20 and 31 hours per week earn holiday pay at 50% (4 hours for a full day) and regular part time employees working more 32 hours or more, but less than 40, earn holiday pay at 75% (6 hours).

B. Leave

1. Annual **Vacation** Leave

Full-time employees will accrue paid annual leave for personal purposes at the following rates and may be used on an hour for hour basis. Regular part-time employees working 20 hours or more per week will accrue paid annual leave at a prorated amount of the following rate which is determined by their annualized average work schedule.

Under 5 years of service	3.69 hours per pay period
5-9 years of service	4.62 hours per pay period
10-14 years of service	5.54 hours per pay period
15-19 years of service	6.46 hours per pay period
20+ years of service	7.38 hours per pay period

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Annual Leave is earned each pay period for which work is performed. The HR Manager shall be responsible for tracking the accrual and use of annual leave based upon hours worked per pay period. Employees are encouraged to take their annual leave and keep the accrued amount under 248 hours. Unused annual leave rolls over from one year to the next. However, once 248 hours have been accrued, employees are required to take 40 hours of annual (vacation) leave per year. The first 40 hours of accrual beyond 248 each year will not roll over to the following year (a use or lose amount). Unused hours beyond the first 40 hours in a year will roll over to the following year.

Annual leave shall be approved in advance by the department head and/or Town Manager.

If a reasonable work force cannot be maintained when two members of the same department request vacation for the same time period, the department head and/or Town Manager shall grant vacation approval to the person who applied first.

No employee will be issued pay in lieu of annual leave hours unless leaving the Town's employ.

No leave will be granted in advance of accrual, except as approved by the Town Manager, limited to a maximum of 16 hours, with the understanding that any negative balance remaining at separation will be withheld from the employee's last paycheck.

In cases where employees resign, are dismissed, or go on leave without pay, they will be paid for all of their accumulated annual leave up to a maximum of 248 hours based on the employee's current rate of pay at time of separation. In the event of an employee's death, their estate shall be entitled to payment for any unused balance of annual leave up to the maximum of 248 hours authorized for accrual.

Annual leave is a benefit accrued by an individual employee and shall not be donated, loaned, or traded to another employee.

Employees with an active Virginia Retirement System account for previous service with a Virginia Retirement System covered agency or municipality will be credited with their prior years' service for leave accrual purposes.

2. Sick Leave

a. Sick Leave Accrual and Use

Full-time employees will accrue sick leave at 4 hours per pay period which may be used on an hour for hour basis. Regular part-time employees working 20 hours or more per week will accrue paid sick leave at a prorated amount.

Sick leave is not earned if any employee works less than 15 days within a month for the Town. There is no limit to the amount of sick leave that may be accumulated. Department heads shall have the authority to approve the use of sick leave. Whenever a question arises concerning the legitimacy of the use of sick leave, a certifying statement from the employee's physician may be required. Failure to provide proof of illness shall constitute reason for nonpayment of days taken. Such action shall also be construed as grounds for further disciplinary action. Sick leave may be used, if any is available, for health-related needs such as: medical, dental, mental health and optical appointments, for the emergency care

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of an immediate family member (spouse, father, mother, brother, sister, fathers/mothers in-law, sons or daughters in-laws). If no such sick leave is available, the employee must use compensatory or annual leave in order to avoid loss of pay.

Unless extreme circumstances prevent them from doing so, employees must notify their department head no later than one hour into their normal scheduled workday if they intend to use sick leave. Sick leave is charged on an hour-for-hour basis for all employees and is not considered an entitlement.

In the case of an employee's resignation, dismissal, retirement, death, or leaving Town employment for any reason, no compensation will be paid for unused sick leave.

Employees with an active Virginia Retirement System account for previous service with a Virginia Retirement System covered agency or municipality will be credited with their prior years' service for leave accrual purposes.

b. **Prolonged Illness or Disability**

If it is evident that an employee will be out of work for a prolonged illness, injury or disability, the employee is encouraged to complete a short-term disability claim form which can be obtained from the Human Resources Department. Short term disability requires a 7-day waiting period and pays 80% of the employee's base salary. The Town's insurance provider will validate all claims. The employee is required to use existing sick, comp, or vacation time to make up the remaining 20% of salary.

c. **Sick Leave Donation Bank**

Once an employee has exhausted all sources of leave with pay, an employee memorandum may be sent to all employees from the HR Manager asking whether or not they would like to donate some of their accrued sick leave to a sick leave bank designated to assist the employee confronting the prolonged illness or disability. It is completely voluntary and any time so contributed would then be used by the employee in need. This would allow the employee in need to remain on a leave-with-pay status and still receive full benefits.

Exceptions to this policy may be considered on a case-by-case basis and approved by the Town Manager.

3. **Funeral / Bereavement Leave**

In case of death of a close family member, funeral leave without loss of pay not exceeding 3 days may be used. Close family is defined as an employee's spouse, parent, spouse's parent, son, daughter, sons/daughters in-laws, brother, sister, grandparents, grandchild, stepchildren, stepparents, guardian, and any persons residing in the same household as the employee.

If leave is desired for a death other than family as defined above, the Town Manager may grant additional leave with pay.

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4. Parenting Leave

Employees may use sick leave, annual leave, compensatory leave, or leave without pay for a maximum period of 3 months in the event of a birth or adoption. Additional time may be approved by the Town Manager in extenuating circumstances and upon receipt of a physician's statement. The parenting leave request should be submitted at least 30 days prior to the leave and should include the expected date of return to work. At least 2 weeks before the date of return to work specified in the leave approval, the department head must be advised in writing of the intent to return to work. At the end of the parenting leave period, the employee will be reinstated to the previous job held or to a job of like classification and pay.

5. Family and Medical Leave Act of 1993 (FMLA)

Employees of the Town are not eligible for the FMLA until such time that the Town employs 50 or more FTE (full time equivalent) employees.

6. Civil Leave

An employee will be given time off without charge to leave or loss of pay for performing jury duty; when subpoenaed as a witness to appear before a court, public body or commission; serving as a blood donor; performing emergency civilian duties in connection with national defense or for the purpose of voting in a national, state, or local election. The period of such leave shall be only as necessary for the performance of the activity, plus any necessary travel time.

7. Military Leave

a. Military Leave with Pay

An employee shall be granted a leave of absence without loss of vacation or sick leave for annual active-duty training as a member of the National Guard or any reserve component for the Armed Forces of the United States for a period not exceeding 15 work days. An employee who is absent for emergency duty with the National Guard or military branch under orders of the Governor pursuant to the Code of Virginia will be entitled to leave of absence with pay for the period of ordered absence.

The Town will pay any such employee the difference between their salary and the pay received for the military duty.

b. Military Leave without Pay

An employee who leaves the employ of the Town to join the military forces of the United States during the time of war or other declared national emergency or who is called to service in the Virginia Militia by order of the Governor shall be placed on military leave without pay commencing on the first business day following the last day of active employment with the Town. The employee on such leave is entitled to be restored to the position he or she vacated, provided the employee makes application to the Town as follows: for service of 30 days or less, the service member must report back to work at the beginning of the next regularly scheduled work period on the first full day after release from service. For service of 31 – 180 days, the service member must submit an application for reemployment within 14 days of release

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from service. For service of 181 days or more, an application for reemployment must be submitted within 90 days of release from service. Job restoration is further conditioned on the position still existing and the employee being physically and mentally capable of performing the work of the vacated position.

8. **Leave for Volunteer Firemen**

The Town Manager may authorize any employee who is an active member of the Cape Charles Volunteer Fire Company to respond to alarms during regular hours of employment without loss of pay or benefit right. The employee must coordinate with their supervisor, department head or Town Manager to ensure adequate coverage in the department during the employee's absence.

The Town assumes no liability for injuries to Town employees in their capacity as volunteer firemen.

C. **Workers' Compensation Leave**

When an employee is unable to report to work because of incapacity that is the result of an injury under the Virginia Workers' Compensation Act, the employee will receive for the first 7 days of absence full salary minus normal payroll deductions. The first 7 days of Workers' Compensation leave will be charged against the employee's accrued sick leave balance.

If the absence is longer than 7 days, the employee will receive for the period of absence the full compensation that is provided under the Workers' Compensation Act. If the period of incapacity extends beyond 21 calendar days, the employee will be required to reimburse the Town the amount of compensation awarded to the employee for the employee's first 7 days of absence. This is an obligation owed to the Town and one which, if not reimbursed promptly, will be deducted from future monies (wages, terminal leave pay, etc.) owed to the employee by the Town.

D. **Leave Without Pay**

1. **Special Circumstances**

When special circumstances require an extended leave that exceed the employee's accrued annual leave, the Town Manager may grant an employee leave without pay while maintaining 40 hours of annual leave in the employee's account, provided that the operations of the Town's programs will not be adversely affected.

2. **Unauthorized Absence**

An unauthorized absence from duty during required hours of attendance shall be treated as absence without pay and may be grounds for disciplinary action, up to and including discharge. Where the conditions warrant and adequate reasons for failure to secure authorization prior to the absence are found to exist, the absence may be authorized by a later grant of leave.

E. **Inclement Weather Policy**

When weather conditions are such that it is necessary to close Town offices to protect the health and safety of employees, the following procedures will apply.

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1. The decision to close the offices will be made by the Town Manager or the Mayor. The Town Manager will notify the department heads who will notify the staff. If there is any doubt, an employee should contact their supervisor, who will communicate the emergency plan procedure.

The Town currently uses Nixel to enable electronic notifications to employees via email, text messages, automated phone calls, etc.

If offices must close early due to severe weather conditions, employees will be so notified by their department head at the direction of the Town Manager or the Mayor.

2. If the office is closed due to inclement weather or any unforeseeable event, non-exempt hourly employees may receive a day's **straight time** pay. **As with Holiday pay, the** Weather-related pay will compensate you monetarily to a 40-hour work week. Part time employees receive either their shift time or a half day pay depending on their accrual status. IF AN EMPLOYEE WAS NOT SCHEDULED TO WORK on the office closure date, they do not receive weather pay. If an employee is out on a scheduled vacation or sick day, they also do not receive weather pay. Essential employees (Police, Public Works, Plants) receive the weather pay as well as any required hours they worked on the closure.

3. When inclement weather conditions result in authorized changes in the work schedule, such as late openings or early closings, employees will be paid for such authorized absences. To qualify for payments, employees must work all or part of the work schedule not affected by the authorized change.

When inclement weather conditions create transportation difficulties that result in late arrival of employees to work, such lost time shall be taken off leave balances unless otherwise authorized by the immediate supervisor, department head or Town Manager.

F. Conditional Leave

During times of special circumstance, the Town Manager may establish leave benefits in addition to the standard vacation and sick leave accruals. Such additional benefits will be approved by the Town Council on a case-by-case basis. Authorizations shall not exceed a six-month period, unless extended by the Town Council.

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VII. EMPLOYEE DEVELOPMENT

A. General

It is the policy of the Town to encourage employees to obtain training designed to develop the employee's value to the organization. Leave with partial pay or leave without pay may be available under the Education Leave provisions addressed below.

The cost of training and related expenses undertaken at the direction of the Town Manager or the Town Council shall be paid in full by the Town.

Employees who take advantage of the opportunity to do so will be allowed to apply for and may receive reimbursement for eligible educational expenses such as tuition, fees, etc. as long as prior approval of the Town Manager had been granted.

This program is not designed to support a full-time course of study but is intended to enhance the quality of work that the individual brings to the job.

In order to be eligible for educational expense reimbursement, employees must be past their introductory/probationary period and in good standing. For reimbursement, the education being pursued must be in a field that is related to the needs or the anticipated needs of the Town and is subject to the Town Manager's approval. Employees who voluntarily leave within the first year following any training exceeding \$500.00 including, but not limited to, certifications and licensures, will be responsible for reimbursing the Town 100% for the amount equal to the cost associated with their educational pursuit. During the second year, employees will be responsible for reimbursing the Town 50%, and within the third year, 25%. Any employee who voluntarily quits a program prior to completion of the course will not be reimbursed by the Town, or will be subject to reimbursing the Town if the course was paid in full. Reimbursement is limited to 6 credit hours or equivalent per semester for courses in which at least a "C" grade is achieved. Participants with unacceptable grades in a course will not be reimbursed.

1. Criminal Justice Training Academy

All Cape Charles police officers must obtain certification from the Virginia Department of Criminal Justice Services (DCJS). For officers hired by the Town without DCJS certification, the Town will provide education assistance to attend the Criminal Justice Training Academy (Academy). The Town incurs substantial expense to provide law enforcement training for the new officers. Each officer attending the Academy will be required to sign an Education Assistance / Tenure Agreement agreeing to repay the Town all expenses related to their attendance at the Academy if the officer voluntarily leaves the Town's employment within 3 years. If the officer is terminated due to unsatisfactory performance or disciplinary reasons before the end of the 3 year-period, the officer will repay the Town for each month of the un-served balance, prorated daily.

2. Education Leave – For pursuit of courses of study

Education leave is discretionary and is normally taken with partial pay or without pay. When an employee can demonstrate that the pursuit of the educational program will have an immediate and discernable benefit to the Town, leave with full pay may be granted by the Town Manager. The conditions of such leave shall be subject to a case-by-case determination based on factors which include the nature of the education or training, length of the absence, work record of the employee, work requirements at the time of the request, and value of the education or training to Town.

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The cost of training and related expenses undertaken at the direction of the Town Manager or Town Council may be paid in full by the Town. In such case, the hours of training count as hours worked. If the training was not required by the Town, the hours do not count as hours worked.

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VIII. PERFORMANCE EVALUATIONS

A. Purpose

Employee performance evaluation is designed to encourage positive development of employees within the various classes of positions. A more efficient working organization can be established by the common understanding that employees and supervisors are working together for a common purpose.

B. Frequency

Supervisors shall periodically conduct informal performance evaluations with employees to ensure that goals, objectives, standards and milestones are understood and being met. This will allow corrective action (e.g., training, resources, schedule adjustment, etc.) to be taken in a timely basis.

Supervisors shall prepare annual written performance evaluations for their employees. It is recommended that performance evaluations be reviewed by the HR Manager prior to being presented to the employee. Performance evaluations will be maintained in the employee's permanent personnel file. The Town Manager's performance evaluation will be conducted annually by Town Council and signed by the Mayor.

The Town Manager or an employee's supervisor may request an evaluation of an employee at any time during the year where a change of duty or responsibility occurs or if there is a significant change in performance.

Upon the completion of any evaluation, the supervisor will review the rating with the employee. Employee comments, if any, should be noted and recorded as a permanent part of the evaluation form. The supervisor will ask the employee to acknowledge the evaluation by signing the form. If the employee declines to do so, a notation will be made on the form that the evaluation was discussed and that the employee declined to sign. All evaluations will be reviewed by either the Town Manager or the HR Manager and signed off as the reviewing official. Supervisors are responsible to ensure that Human Resources Department has a copy for the employee's file submitted in a timely fashion.

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IX. HEALTH AND SAFETY

A. Workers' Compensation

Workers' Compensation provides benefits for an employee in the event of certain occupational illnesses, injuries, or death. Any job-related accident or workplace injury, no matter how insignificant, must be reported to the department head, HR Manager or Town Manager as soon as possible, no later than 24 hours, and the appropriate forms completed. The completed forms must be submitted to the Human Resources Department to file the claim.

It is required by the Virginia Risk Sharing Association (VRSA) that all work injuries are reported to a supervisor/department head or the HR Manager prior to seeking medical treatment except in the case of dire emergency.

The Town has selected a panel of physicians to whom employees must go for all work-related injuries. The panel of physicians is updated as needed by VRSA and copies are provided to all employees. In the event an injury requires immediate medical attention, the employee may go directly to the nearest hospital emergency room; follow-up care must be with the panel of physicians.

Depending on the nature of the job-related accident or workplace injury, immediate supervisors or department heads are responsible for recommending employee drug and/or alcohol testing.

B. Occupational Safety and Health

The Town attempts to provide a safe and healthy working environment for all employees by providing the necessary safety education and training. Employees shall follow all prescribed safety procedures when performing their daily activities and shall further exercise all reasonable and prudent judgment to ensure safety.

Each supervisor has the responsibility for ensuring that the various work centers are free from any recognized hazards that might lead to death or injury. Further, it is the responsibility of each employee to perform all work in a safe manner. All hazards, deaths, injuries, and illnesses that occur on Town property must be reported to a department head, HR Manager or the Town Manager within the same day of the discovery or occurrence.

Employees are directed to utilize all applicable safety procedures and to perform all work in a safe manner. Employees are responsible for bringing to their supervisor's attention any potential hazards that might exist within their workstation. Supervisors are responsible for developing and maintaining work safety rules and for providing these rules in writing to their subordinates.

Specifically, employees shall:

1. Report all injuries, regardless of severity, to the supervisor immediately but no later than 24 hours. If the supervisor is not available, the injury must be reported to the HR Manager before medical treatment is sought;
2. Report and, if possible, correct all unsafe conditions or acts;
3. Avoid horseplay and mischief, which could cause injury;
4. Take all standard safety precautions to prevent injury;
5. Follow all safety rules.

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X. HARASSMENT AND VIOLENCE

A. Harassment

The Town is committed to having a diverse workforce with all employees being valued for their individual capabilities and contributions, complying with all federal, state, and local laws on equal employment opportunity, and providing a workplace free from tensions involved in conduct that does not relate to the Town's business. In particular, the hostile atmosphere created by non-work-related conduct including ethnic, racial, sexual, or religious remarks, animosity, unwelcome sexual advances, requests for sexual favors, or other similar conduct is not permitted.

Harassment based on race, race, color, religion, national origin, sex, age, gender, gender identity/expression, sexual orientation, political affiliation, pregnancy, or disability will not be tolerated. Harassment arises from the dynamics of the workplace and can be based on nuances, subtle perceptions, and implicit communications. Conduct that may rise to the level of harassment includes verbal remarks (epithets, derogatory statements, slurs, jokes), physical contact (assaults, physical interference with movement or work, touching), visual displays (displaying of printed or photographic materials, objects), and other actions that are demeaning or hostile.

B. Sexual Harassment

Sexual harassment is unwelcome advances, requests for favors, or other verbal, written or physical conduct of a sexual nature when any of the following occur:

1. Submission to such conduct is either explicitly or implicitly made a term of condition of employment;
2. Submission to or rejection of such conduct is used as a basis for employment decisions;
3. The conduct is severe or pervasive enough to create an intimidating, hostile, or offensive work environment, or has the purpose or effect of unreasonably interfering with an individual's work performance.

Examples of sexual harassment, include but are not limited to:

1. Physical assaults;
2. Subtle or overt pressures or direct requests for sexual favors;
3. Inappropriate displays of sexually suggestive objects or pictures;
4. A pattern of unwelcome conduct of a sexual nature that would be offensive to a reasonable person such as unnecessary touching, abusive or demeaning language or gestures (including remarks about another's clothing, body or body movements, or sexual activities), or teasing or joking.
5. Inappropriate texting, emailing or use of social media aimed at an individual with overt sexual or harassing undertones.

No supervisor or coworker shall intimate either explicitly or implicitly that an employee's submission to or rejection of sexual advances will in any way influence any personnel decision regarding that employee's employment, evaluation, pay, advancement, assigned duties, shifts, or any other conditions of employment.

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C. Workplace Violence

Workplace violence is physical or verbal aggression, as well as oral or written words, gestures, or other forms of expression which communicate a direct or clear potential threat to self or others. Intentional property damage is also considered a form of violent behavior. Employees must understand that there are potential consequences for improper statements, even those intended to be made in jest.

Threats, threatening behavior, or acts of violence against employees, visitors, guests, or other individuals by anyone on Town property or on Town time will not be tolerated. If an employee displays any violence in the workplace or threatens violence in the workplace, the employee is subject to immediate discipline, up to and including discharge, and criminal charges.

1. Procedure for Reporting

All Town personnel are responsible for immediately notifying the HR Manager, Town Manager or department head of any threats or potential acts of violence that they have witnessed, received, or have been told that another person has witnessed or received. Even without an actual threat, employees shall also report any behavior they have witnessed which they regard as threatening or violent, when that behavior is job related, might be carried out on a Town site, or is connected to Town employment.

Any report of violence shall be handled in a confidential manner.

For situations warranting immediate medical or security assistance, employees should contact 911.

D. Violations

An employee who believes that this policy is being violated should (1) inform the offending person(s) that the conduct is unwelcome and (2) should report it immediately to the HR Manager. The report should be made in writing; however, a report will also be accepted by phone or in person.

Charges will be promptly and thoroughly investigated and corrective actions taken if the charge is founded. If it is determined that a violation has occurred, appropriate relief for the employee(s) bringing the complaint and appropriate disciplinary action, up to and including discharge, against the person(s) who violated the policy will follow.

A non-employee who subjects an employee to harassment in the workplace will be informed of the Town's policy and appropriate actions will be taken to protect the employee from future harassing conduct.

In all cases, the Town will make follow-up inquiries to ensure that the harassment has not resumed.

An employee violating this policy will be subject to disciplinary action, including termination. The employee who brought the complaint will be provided information on the outcome of the investigation.

E. Investigation and Confidentiality

It shall be the duty of the Town Manager who has received a written complaint specifying harassment or violence of any kind to investigate such complaint and where warranted, to take such corrective action as is reasonable and necessary.

1. Failure of the Town Manager to investigate the complaint shall be reported to the Mayor

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and Town Council and may result in disciplinary action against the Town Manager.

2. Where a complaint is made against the Town Manager, it shall be submitted to the Mayor and Town Council. The Mayor shall appoint a member(s) of the Council or other individual(s) to investigate the complaint and report to the full Town Council for appropriate action.

The investigation of harassment or violence complaints shall be prompt and thorough. The investigation shall be confidential in nature and shall not be communicated to other parties in connection with seeking information about the investigation.

The written contents and findings of the investigation shall be maintained **with the employee personnel files. in a place of security and limited access.** Such records may be made available to any court or federal agency having jurisdiction over harassment complaints after consultation with the Town Attorney. Breach of confidentiality may result in disciplinary action, including dismissal.

F. Retaliation

Retaliation is illegal and contrary to the policy of the Town. Employees who bring complaints of discrimination or who identify potential violations, witnesses interviewed during the investigation, and others who may have opposed discriminatory conduct are protected from retaliatory acts.

If an employee believes that they are being retaliated against, a written report should be made to the HR Manager and/or Town Manager. Those who are found to be acting in a retaliatory manner will be disciplined for such conduct.

I. Rights of Persons Against Whom a Complaint is Made: Notice of Complaint and Right to be Heard.

Persons against whom a complaint is made shall receive written confidential notice from the Town Manager or investigating party within 5 working days that a complaint has in fact been made.

Such notice shall inform such party of the right to be heard and the right to produce witnesses and present evidence asserting that the complaint is without merit. There is no right to have an attorney present in these internal investigations of complaints or to confront and cross-examine witnesses.

The party against whom the complaint is made shall receive written confidential notice within 5 working days of the conclusion of the investigation stating either that there is or is not probable cause to believe that harassment or violent situation may have occurred. Where there is probable cause to believe that harassment or violence may have occurred, appropriate disciplinary measures will be included.

H. Frivolous or Groundless Complaints

Where the results of an investigation reveal that a complaint is wholly frivolous or groundless, the employee having made such complaint may be subject to disciplinary action, including dismissal.

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XI. ALCOHOL AND DRUG FREE WORKPLACE

A. Purpose

This policy is intended to provide guidelines for the detection and deterrence of alcohol and drug abuse. It is the policy of the Town to maintain a safe, healthful, and productive work environment for all employees. To that end, the Town will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs, or any other substance which could impair an employee's ability to safely and effectively perform the functions of the particular job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale, or tends to undermine public confidence in the Town's work force.

It is further the Town's policy that the unlawful manufacture, distribution, possession, or use of a controlled substance by Town employees in the work place is prohibited.

Employees are reminded that if they are aware of a problem with substance abuse, professional help is available through the Town's health care program and Employee Assistance Program (EAP). Contacts with and assistance rendered by the Town staff are kept confidential. Employees with a problem are encouraged to use this avenue to help themselves before their employment is jeopardized.

B. Legalization of Marijuana

On July 1, 2021, the State of Virginia legalized recreational use of marijuana for individuals aged 21 and over and legalized possession of no more than 1 ounce of marijuana without the intent to distribute; public use of this drug is prohibited. At the time of this policy manual's update, the Federal Government had not yet legalized marijuana, therefore the Town maintains a conservative view. The Town also maintains a strict policy against being under the influence of marijuana while on duty. Therefore, all "safety sensitive" employees may be randomly drug tested and may be disciplined or terminated for use of illegal drugs or being under the influence of any substance, including marijuana. Safety sensitive positions include those operating in: Law Enforcement, the Wastewater Treatment Plant, the Water Plant, Code Enforcement, and Public Works.

The Town will not provide a "Reasonable Accommodation" (RA) for safety sensitive employees possessing a medical marijuana card. Employees who are not in safety sensitive positions may ask for an RA when providing a medical marijuana card; however, this must also be accompanied by a physician's statement. As with alcohol, any employee who acts impaired on the job will be subject to drug testing. Exhibiting impairment on the job will constitute reasonable suspicion and trigger appropriate testing. If an employee tests positive for marijuana while appearing to be impaired, disciplinary measures may be taken, up to and including termination.

C. Consent and Testing

All employees are subject to be tested whenever reasonable suspicion of drug and/or alcohol abuse on the job is indicated. All new hire employment with the Town is contingent upon a clean drug screen. ~~Random drug testing for all safety sensitive positions may be performed throughout the year.~~

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1. Testing Upon Reasonable Suspicion.

“Reasonable suspicion” means an articulable belief based on specific facts and reasonable inferences drawn from circumstances that may include but are not limited to:

- a. A pattern of abnormal or erratic behavior (e.g., hyperactivity, unexplained mood swings, paranoia, hallucinations);
- b. Information provided by a reliable and credible source;
- c. A work-related accident;
- d. Direct observation of drug or alcohol use;
- e. Possession of drugs or drug paraphernalia;
- f. Prolonged or frequent sick leave or absenteeism;
- g. Presence of the physical symptoms of drug or alcohol use (e.g., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes, needle marks/scar tracks on arms, etc., unusual perspiration or shakes, unusual drowsiness or sluggishness); or
- h. Other unusual behavior that can reasonably be interpreted to indicate that the employee may be under the influence of drugs, a controlled substance, or alcohol.

Supervisors are responsible for observing and monitoring their employees’ behavior for signs or symptoms of drug or alcohol use and shall promptly report any such observation to the appropriate department head or designee or the Town Manager.

2. Unannounced Random Testing.

All employees in safety sensitive positions will be required to participate in unannounced random drug/alcohol testing through a selection process determined by the Town Manager. An employee may be randomly picked more than once or not picked at all during the 12-month period. Any employee who is subject to random testing must report to the testing site immediately upon notification.

3. Refusal to Consent.

A job applicant who refuses to consent to a drug and/or alcohol test when requested will be denied employment with the Town. An employee who refuses to consent to a drug and alcohol test is subject to disciplinary action up to and including termination. Any refusal or failure to cooperate fully with the administration of a test, any behavior which makes testing more difficult, or prevents administration or completion of the test or in any manner alters or attempts to alter the test result will be treated as a refusal to consent, regardless of whether a consent form is signed.

4. Confidentiality of Test Results.

All information from an employee’s or applicant’s drug and alcohol test is confidential and only those with a need to know are to be informed of test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released until the results are confirmed.

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Disclosures, without an employee's or applicant's consent, may occur when: (1) the information is compelled by law or by judicial or administrative process, (2) the information has been placed at issue in a formal dispute between the employer and employee or applicant, (3) the information is to be used in administering an employee benefit plan, or (4) the information is needed by medical personnel for the diagnosis or treatment of the individual who is unable to authorize disclosure.

5. Consequences of Confirmed Positive Test Results:

- a. Applicants. Job applicants will be denied employment with the Town if their initial drug test results show a positive result for any illegal substances. Applicants shall be informed in writing if they are rejected on the basis of a confirmed positive drug test results. ~~Employees must be able to pass drug screen for all controlled substances if they are in a safety sensitive position.~~
- b. Employees. If an employee has a positive test result for any illegal drug, the employee may be subject to termination.
- c. Reasonable Accommodation (RA). Only non-safety sensitive employees may provide a Medical Marijuana Card and seek an RA. They must also provide a physician's statement clearly stating that the physician has reviewed the duties of the position and believes the employee can safely perform the tasks.

The Town reserves the right to search, without employee consent, all areas of **Town** property in which the Town maintains full control. The Town vehicles are subject to search by appropriate supervisory personnel.

D. Employee Responsibilities

- 1. No employee shall unlawfully manufacture, dispense, possess, use, or distribute any controlled substance, medication, or alcohol.
- 2. Any employee convicted under a federal or state statute regulating controlled substances shall notify their supervisor and the Town Manager within 5 days after the conviction.
- 3. No employee shall consume alcoholic beverages or use marijuana immediately before work, during work hours, or while at work during breaks or lunches.
- 4. No employee shall be impaired by alcoholic beverages, marijuana, or other controlled substances immediately before work, during work hours, or while at work during breaks or lunches.
- 5. No employee shall represent the Town in an official capacity while impaired by any controlled substances.
- 6. No employee using medication that may impair performance shall operate a motor vehicle or engage in safety sensitive functions while on duty for Town.
- 7. Employees may seek an RA with a medical marijuana card as long as they provide a physician's note and are not classified as "safety sensitive" and/or do not drive a Town vehicle on a regular basis.

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8. An employee who has reason to believe that the performance of another employee is impaired by any controlled substance shall immediately notify the supervisor, HR Manager or Town Manager.

DISCIPLINARY ACTION. Because of the serious nature of illegal use or abuse of alcohol, controlled substances, and/or non-prescribed use of medication, appropriate employee disciplinary action will be taken, up to and including termination.

E. Criminal Convictions: Notification

1. It shall be the responsibility of every employee to notify the employee's department head in writing of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction. Any failure of an employee to provide this notification shall be a separate ground for disciplinary action, up to and including termination.
2. Any department head who receives notification of a criminal drug statute conviction for a violation occurring in the workplace shall immediately report the same to the Town Manager in addition to other administrative actions directed by this policy.

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XII. SMOKING – TOWN-OWNED AND CONTROLLED BUILDINGS, WORK PLACES AND VEHICLES

No smoking is permitted inside any Town-owned vehicle or building, or within 30 feet of any entrance of a Town-owned building.

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XIII. EMPLOYEE ETHICS, CONDUCT AND RESPONSIBILITIES

A. Conduct

Town employees are expected to conduct themselves in a professional and courteous manner, as representatives of the Town. Employees are expected to avoid any action, which might result in giving preferential treatment to any organization or person, losing independence or impartiality of action, or adversely affecting the integrity of the Town.

B. Gifts and Gratuities

An employee of the Town shall not accept gifts, gratuities, or loans from organizations, business concerns, or individuals with whom the employee has official relationships related to the business of the Town government. These limitations are not intended to prohibit the acceptance of articles of negligible value that are distributed generally nor to prohibit employees from obtaining loans from regular lending institutions.

C. Town Property

Employees are prohibited from selling town property, unless, it has been explicitly marked for disposal. Employees must get permission from the Town Manager to take any such property for personal use or to sell.

D. Personal Calls

While at work, employees are expected to exercise discretion in using personal cellular phones. Personal calls during the work hours, regardless of the phone used, can interfere with employee productivity, safety and may be distracting to others. Employees are encouraged to make personal calls during breaks and lunch.

E. Personal Appearance and Hygiene

Employees should use common sense when dressing for work or when attending Town functions. With the exception of those positions that conduct maintenance duties, work outdoors, or perform general labor, employees are expected to dress in "casual professional attire". Clothing should be free of holes, frays, and stains. Clothing or buttons containing political logos or messages, or any type of profanity are prohibited. Clothing should fit loosely and not show midriff skin. If shorts are to be worn in summer months by office personnel, they must not be sweat pants or gym shorts, cut-offs, or of a length considered to be "short-shorts".

Employees are expected to maintain good personal hygiene. Employees should groom their hair to present a professional appearance and be free of excessive body odor, bad breath, or other strong odors such as cigarettes, other smoke, perfumes, or cologne; unless caused by or deemed necessary for a physician certified medical condition.

Supervisors of non-office workers may set precedent for the attire at their workplace, which may include uniforms.

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F. **Social Media**

~~The use of social media during work hours will be avoided as it takes away from employee productivity, unless it can be justified as related directly to a work responsibility. The use of social media outside of work hours is an area that is still being developed in this policy.~~

~~Employees represent the Town both on and off duty. Employees must remember that they are Public Servants and what they say and do on social media is often scrutinized by the public. If expressing an opinion regarding any Town business, care must be made to clarify such opinion as personal and not in any way associated with the Town. Inappropriate posts or any comments that are offensive, racial, or discriminatory in nature will be condemned by the Town and will reflect negatively upon the employee. Employees are also asked to be mindful of political posts that can be interpreted as mean spirited, offensive, or harassing. In other words, civility is always highly encouraged. [moved to separate policy]~~

G. **Conflict of Interest**

Town employees are expected to discharge their duties conscientiously and to conduct themselves in a manner, both on and off the job, which will reflect favorably upon the Town government. Each employee shall refrain from any use of their official position that is motivated by the desire for private gain for themselves or other persons. Each employee shall exercise care in their personal financial activities to avoid any appearance of acting on the basis of information obtained in the course of performing their Town activities. ~~The Virginia Comprehensive Conflict of Interest Act is hereby made a part of this Personnel Policy and is applicable to Town employees as stated therein.~~ Town employees are also subject to the provisions of the Town Public Procurement Ordinance. No employee is permitted to purchase or bid on Town equipment, property, or facilities, unless offered to the public as part of a general sale or auction. Failure to comply with this policy is cause for immediate dismissal.

H. **Felony Conviction**

Conviction of a felony is cause for the immediate dismissal of a Town employee.

I. **Change of Address**

All employees are required to notify their department heads, and the Human Resources Department of any change of address or telephone number within 3 working days of such change.

J. **Retirement**

When an employee subject to the provisions under the Virginia Retirement System (VRS) reaches retirement age in accordance with its provisions, and desires to retire from Town employment, the employee shall provide written notification to the department head, Town Manager and Human Resources Department. A representative from the Human Resources Department shall provide such assistance as may be necessary and appropriate to process forms, paperwork, and other information to ensure that the employee's retirement will be accomplished through VRS in a timely manner. It is incumbent upon the employee to advise the Human Resources Department with sufficient advance notice (60 days minimum) so that VRS can be notified in advance and have sufficient time to process all required paperwork in order to commence retirement payment at the time requested by the employee.

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~~When an employee covered under VRS becomes physically or mentally incapable of performing the duties of their position in a satisfactory manner, it shall be the duty of the Town Manager to consider the employee's transfer to a position for which the employee is eligible and the duties of which they could perform in a satisfactory manner, or to consider the employee to apply for disability or retirement if appropriate. Any employee, whether or not covered under VRS, should not be continued in a position when they have become physically or mentally incapable of performing the duties of that position in a satisfactory manner unless a reasonable accommodation can be made.~~

K. Employees' Responsibilities

Each employee is expected to:

1. Obey applicable policies, laws, ordinances, and codes of the Town, County, Commonwealth, and United States;
2. Conduct themselves, both on and off the job, in a manner which will reflect credit on the Town and refrain from any disorderly or embarrassing conduct or other behavior which could reflect poorly on the Town;
3. Fulfill the duties and responsibilities of their position in a dedicated, timely, and professional manner;
4. Render full and efficient service;
5. Exercise courtesy and tact in dealing with fellow employees and the public at large;
6. Treat all citizens equitably, fairly, and politely;
7. Conserve, properly utilize, and protect Town funds, property, equipment, and materials;
8. Protect co-workers and citizens from potential and real hazards; and
9. Safeguard confidential information.

L. Supervisors' and Department Heads' Responsibilities

In addition to the responsibilities of an employee, each supervisor and department head is expected to:

1. Treat employees in a fair and equitable manner;
2. Enforce these regulations;
3. Inform and educate employees about the Town's expectations, rules, and other guidelines governing conduct, discipline and job performance;
4. Advise employees of any amendments to this manual; and
5. As warranted, investigate apparent employee offenses, obtain facts, make complete reports to the Town Manager and recommend appropriate action.

Department heads are responsible for documenting all personnel actions, both disciplinary and positive, concerning their employees. These documents are open to inspection by the Town Manager and/or designee and copies should be placed in the employees' personnel files.

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Documentation will provide a basis for promotions, formal and informal warnings, reprimands, suspensions, demotions, dismissals, removals or other personnel actions.

M. Safety

Town employees will conform to all safety policies established by the Town which are necessary to safely perform a task. Supervisors will be responsible for seeing that such policies are followed.

N. Personal Firearms

With Town Manager approval, employees may be permitted to carry firearms while on duty or on Town property. A valid and current permit or license to carry must be submitted to the HR Department upon such approval.

O. Care of Town Property & Equipment

Employees are responsible for the proper care of Town property and equipment assigned to them. Damaged or lost property may subject the responsible individual to reimbursement charges and possible disciplinary action.

All equipment and property must be clean, in good working order, and conform to department specifications. Town property and equipment shall be used only for official purposes and in the capacity for which it was designed. All employees shall immediately report to their department head any loss or damage to Town property or equipment assigned to or used by them. Department heads shall also be notified of any defects or hazardous conditions existing in any Town equipment or property. Department heads shall immediately notify the Town Manager of any serious problems concerning Town property or equipment.

Town employees are required to surrender all Town property in their possession upon separation from employment. Failure to return such items will cause the individual to be required to reimburse the Town for the fair market value of the article(s). The value of the article(s) will be deducted from the last paycheck. If the value of the article(s) exceeds the amount of pay, the individual will be required to submit the appropriate payment to the Town.

1. Cell Phone Usage

Some employees will be issued a Town-owned cell phone to be used for work-related communications which shall be used for business purposes only. Internet usage will be monitored.

Employees in possession of a Town-owned cell phone are expected to protect the equipment from loss, damage or theft. Upon resignation or termination of employment, or at any time on request, the employee may be asked to produce the phone for return or inspection. Failure to produce the phone for inspection or return will result in the employee being charged the cost to replace the phone.

Employees who utilize their personal cell phone for work related calls on a regular basis may be eligible for a monthly stipend to help cover data charges. **If applicable, please see Human Resources for the Cell Phone Reimbursement Agreement. For more information, see the HR Manager.**

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It is the employee's responsibility whether they have a Town-issued cell phone, or use a personal cell phone in which they are being reimbursed for, to have their voice mail box set up and that phone calls or texts are returned in a prompt matter. Employees will surrender their phones, whether personal or Town-issued, to obtain Freedom of Information Act (FOIA) data whenever requested.

2. Use of Town Vehicles

Employees driving a Town vehicle must possess a valid driver's license in good standing and have prior approval from their supervisor.

Smoking is not permitted in a Town-owned vehicle. Use of mobile devices, especially texting, are not permitted while driving a Town vehicle. Town vehicles shall be used for official purposes only. Pets are not permitted on a regular basis in a Town vehicle. The use of such vehicles for personal business or pleasure purposes shall be subject to disciplinary action.

Non-employees will be transported in Town vehicles only, when necessary, to accomplish an official purpose and only in such a manner that adheres to accepted safety practices. All occupants of a Town vehicle will obey and abide by all traffic laws. Such transportation will be performed in accordance with departmental policy or at the direction of the Town Manager.

If applicable, please refer to the *Use of Town Vehicle Policy* addendum and sign the agreement page.

P. Inquiries Concerning Town Matters

In the interest of protecting the sensitivity and confidentiality of personnel and other Town-related confidential information, we need to take care in handling outside inquiries regarding the Town. We therefore require you to follow these guidelines in responding to inquiries about Town business from the press, outside attorneys, and other parties outside the Town's administration.

1. Inquiries from the Press

In response to press inquiries, the caller should be referred to the Town Manager. Please notify the Town Manager immediately after making such a referral.

2. Inquiries from Outside Attorneys

In response to oral or written inquiries from outside attorneys regarding individual Town employees or any Town matters, the attorney should be referred to the Town Manager.

3. Inquiries from Other Outside Parties Regarding Individual Employees or Disputes with the Town of Cape Charles

From time to time, inquiries are made by others regarding individual employees or disputes with the Town. Such inquiries should be referred to the Town Manager.

As a matter of general practice, the individual receiving the call or inquiry should not comment upon or discuss any Town employee or Town issue, claim or dispute, but simply refer the matter

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to the Town Manager. In the absence of the Town Manager, all inquiries should be directed to the Mayor.

Q. Inquiries for Documents / Freedom of Information Act

The citizens of the Town have a right to obtain information and documentation as allowed under the Virginia Freedom of Information Act (FOIA). However, citizens are generally not allowed access to information about personnel matters, real property transactions that have not been the subject of a public hearing or open Council meeting, private matters regarding individuals that do not relate to public business, prospective business transactions that are not the subject of open bidding, consultation with legal counsel or certain law enforcement actions.

If a Town employee receives an inquiry for a document, and if there is not a clear directive as to whether the document should be disclosed, the matter should be referred to the Town Clerk/FOIA Officer. Under FOIA regulations, **the Town has 5 working days to respond to requests, unless an extension is granted in accordance with Virginia State Code.** Requests by elected or appointive officials for documents require extra care. Such elected or appointive officials are entitled to the same documents that are available to other citizens. They may also have access to certain other documents to enable them to perform their duties, but such requests should come through the department head, and if there is any question regarding the release of a document to an elected or appointive official, it should be referred to the Town Manager. Documents will not be created in response to FOIA or other requests.

R. Treatment of Citizens

All Town employees are required to act with the utmost respect and to provide assistance to all of our citizens regardless of their race, color, religion, gender, age, financial status, personal preferences, religious preferences, residence, associations or community standing. Any employee not adhering to this standard may be disciplined up to and including discharge.

No citizen, elected or appointive official or Town employee will be given special treatment. Any attempts by such persons to utilize their positions to obtain special treatment on their own behalf or for others, particularly family members or business partners, shall be reported immediately to the Town Manager or Mayor. The Town wants to avoid any appearance of impropriety and to treat all of its citizens fairly. The Town intends to properly comply with the State and Local Government Conflict of Interest Act and the Virginia Public Procurement Act Ethics in Public Contracting requirements.

No Town employee shall engage in malicious gossip about the Town, its employees, elected or appointive officials or citizens.

S. Reporting of Inappropriate Behavior

All Town employees will report suspicions of theft of property or services or inappropriate behavior by anyone associated with the Town to the Town Manager. Inappropriate behavior is considered to be, but not limited to, drug usage, alcohol consumption on the job or worksite, careless or willfully causing destruction of Town property, insubordination, filing false statements, using Town property for personal use or gains, falsifying time sheets or using official authority or position to improperly influence or control or modify the political process of the Town.

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Any allegation or suspicion of malfeasance on the part of any Town employee or other Town public official shall be brought to the attention of the Town Manager or Mayor for appropriate action.

Failure to abide by any of the regulations in this section may lead to disciplinary action up to and including termination.

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XIV. COMPUTER USE AND MONITORING OF E-MAIL AND INTERNET ACCESS

A. Purpose and Scope

The Town provides electronic mail (e-mail), internet access, and other types of electronic communications systems and hardware (e.g., cell phones, smart phones, personal digital assistants, smart devices, etc.), to employees for their use in performing their duties for the Town. This policy explains the Town's rules and expectations for the proper use of electronic information devices and systems, in whatever form. This document also sets forth the Town's policy with respect to when e-mail messages, internet access, or other electronic communications may be monitored by other people within the Town, as well as the circumstances under which such information may be disclosed to persons outside the Town administration. For example, access to e-mail may be granted to external users, such as other towns' employees, special task-force members, or pursuant to a lawful subpoena.

All electronic mail is a local government record and may be considered a "public record" for the purposes of the Commonwealth of Virginia Public Records Act. Under the Public Records Act, certain e-mail communications may be open to public access and inspection. In addition, such communications may be subject to discovery under the Virginia or Federal Rules of Civil Procedure.

B. Background

The Town finds that e-mail and internet access provides many benefits to the Town and its employees. E-mail often improves communication between different departments, eliminates unnecessary paperwork, allows communication with many other governmental offices almost instantaneously, and generally facilitates the smooth operation of Town services. Internet access provides improved research capabilities that enhance the different departments' delivery of services to the public.

C. Ownership

All electronic systems, computers, and other hardware, software, temporary or permanent files, and any related systems or devices used in the transmission, receipt, or storage of electronic information are the property of the Town. E-mail messages are considered to be Town property. Also, they may be retrieved from storage even after they have been deleted by the sender and the recipient.

D. Statement of Policy and Overview of Usage Policy.

It is Town policy that the e-mail system, internet access, and other electronic information systems, like other Town assets, is used only for the benefit of the Town. Use of e-mail, internet access, or other electronic information systems, that violates Town policies or state and/or federal law is prohibited and may lead to disciplinary action up to and including termination. All employees who use e-mail and/or internet access will certify that they have read and fully understand the contents of this policy by signing the attached acknowledgment. Any and all statements and opinions made by individuals using e-mail, whether implied or expressed, are those of the individual and not necessarily the opinions of the Town or its management.

1. **Privacy.** Employees should be aware that e-mail messages may be read by others for a variety of valid reasons. Although this statement applies to many other types of Town correspondence, the informal nature of e-mail may lead one to forget or ignore the fact that e-mail is not considered to be the private property of the sender or the recipient, even if passwords or encryption codes are used for security reasons. In short, employees should

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have no expectation of privacy with respect to their use of the Town's computer, email, or other electronic communication systems, whether their use was incidental "personal" use or job-related use.

2. **Monitoring.** The Town reserves the right to monitor messages and internet access under certain circumstances, as enumerated in this document. Supervisors have the authority to inspect the contents of any equipment, files, calendars, or electronic mail of their subordinates in the normal course of their supervisory responsibilities and without the express permission from the user(s). An individual qualified in data management shall extract stored e-mail messages or internet access records when requested to do so by ~~authorized~~ supervisory personnel.

No employee of the Town will indiscriminately monitor another employee's or Town official's email or electronic files without their permission. Doing so will result in being subject to disciplinary action.

Reasons for monitoring or retrieving e-mail messages or internet access records include the following:

- During the course of an investigation that has been triggered by indications of impropriety,
- When it is necessary to locate substantive information relevant to a breach of security of the email system,
- At any time there may be system hardware or software problems,
- For regular system maintenance,
- Any messages relevant to a lawsuit or other legal action involving the Town,
- A suspicion of a crime or a violation of this policy
- To comply with authorized FOIA requests,
- To retrieve data necessary for Town processes or operations as directed by the Town Manager.

The Town will disclose any e-mail message or internet access records to law enforcement officials if legally required to do so. In addition, e-mail messages may be retrieved if there is a need to perform work or provide a service when the user-employee is unavailable.

3. **Personal Use.** E-Mail, Newsgroups and Internet are intended to be used for business purposes. Personal use of these facilities, except for incidental purposes, is prohibited without prior consent of the department head. Incidental use includes confirming plans with a family member, making a doctor's appointment, checking on a child or similar uses. In the event that personal use occurs, that usage must not interfere with business activities, must not involve solicitation, must not be associated with any "for personal profit" outside business activity, must not be associated with any political activity or opinion and must not potentially embarrass the Town or its employees. Should employees make incidental use of e-mail to transmit personal messages, those messages will be treated no differently than other messages and may be accessed, reviewed, copied, deleted, or disclosed. You should not expect that a message will never be disclosed to or read by others beyond its original intended recipient(s).
4. **Authorized Uses.** Supervisors or department heads may authorize the use of e-mail and internet access to send and receive messages and to subscribe to list-servers from recognized professional organizations and entities relating to the official duties of the

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Town. All employees are authorized to use e-mail and internet access as they would any other official Town communication tool. Communication by e-mail and internet is encouraged when it results in the most efficient or effective means of communication.

5. Uses Subject to Approval. The following uses require the written approval of the employee's department head or Town Manager:

- Using hardware, related computer equipment, and software not owned or purchased by the Town for e-mail or internet access related to Town business.
- Reading electronic mail of another employee without prior written approval. However, an employee's supervisor may inspect the contents of e-mail pursuant to the section entitled "Ownership" in this policy.
- Encrypting any e-mail message unless specifically authorized to do so and without depositing the encryption key with the computer administrator or your immediate supervisor prior to encrypting any messages. If an employee is allowed to encrypt e-mail, this does not mean that e-mail is intended for personal communication nor does it suggest that encrypted e-mail messages are the private property of the employee.
- The downloading of any software or programs.
- Remote access to the Town's computer network.

6. Prohibited Uses. The following actions are prohibited:

- Forwarding chain letters or other non-work-related information or images;
- Adopting the identity of another person on any e-mail message, attempting to send electronic mail anonymously, or using another person's password;
- Misrepresenting yourself or your affiliation with the Town in any e-mail message;
- Composing e-mail for any personal commercial or promotional purpose, including personal messages offering to buy or sell goods or services;
- Using e-mail to conduct employee organization, association, or union business;
- Using or viewing obscene, racist or sexist language, pornographic images, or sexually explicit images or language;
- **Political activity;**
- Interfering with or disrupt any Town network or internet users, services, programs or equipment. Disruptions include but are not limited to propagation of computer viruses or other debilitation programs, and using the Town network to make unauthorized entry to any other machine accessible via the network or internet; and sending or receiving any software in violation of copyright law.

7. Open Meeting Requirements. When using email or other forms of electronic communication, Town employees should keep in mind the open meeting requirements under state law, and should not use such communications to circumvent such requirements. Simultaneous or near simultaneous electronic communications may be construed as a meeting that requires public notice and participation. If in doubt, contact the Town Clerk/FOIA Officer.

E. Confidential Information

Employees must exercise a greater degree of caution in transmitting confidential information via e-mail than with other forms of communications. Why? Because it paves the way for another person to redistribute such information almost effortlessly. Confidential information should never be transmitted or forwarded to other employees inside or outside the Town who do not have a "need

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to know”. To reduce the chance that confidential information inadvertently may be sent to the wrong person, avoid misuse of distribution lists and make sure that any lists used are current.

If you are unsure whether certain information is confidential, consult your supervisor. Examples of information that either are or may be considered confidential include but are not limited to:

- Certain personal information from a person’s personnel file, including medical records about employees and personal employee information, such as home address, telephone numbers, identities of family members, and Social Security numbers;
- Information that, if released, would give a competitive advantage to one prospective bidder over another for Town contracts;
- Private correspondence of elected officials;
- Trade secrets or commercial or financial information of outside businesses;
- Information related to the regulation of financial institutions or securities;
- Information regarding an ongoing criminal investigation; and taxpayer information.

E-mail messages that contain confidential information should have a confidentiality declaration printed at the top of the message in a form similar to the following:

**“THIS MESSAGE CONTAINS CONFIDENTIAL INFORMATION OF
THE TOWN OF CAPE CHARLES.
UNAUTHORIZED USE OR DISCLOSURE IS PROHIBITED.”**

Since copies of e-mail may be backed up or sent to other systems, they can easily be retrieved later by information system personnel who should not know the content of the message. Therefore, employees should keep in mind that e-mail may **not** be the best form of communication with respect to certain types of confidential information.

1. **Messages to Legal Counsel.** All messages to and from legal counsel seeking or giving legal advice should be marked with the following legend in all capital letters at the top of the page:

“CONFIDENTIAL ATTORNEY/CLIENT PRIVILEGED INFORMATION”.

In addition, to preserve the attorney/client privilege, messages to and from legal counsel should never be sent to distribution lists or forwarded to anyone else. It is best if such messages are not retained on a network e-mail system. If a copy of an attorney/client privileged communication needs to be retained, it should be printed and filed in an appropriate place **approved by the Town Manager.**

F. Copyright Infringement

The ability to attach a document to an e-mail message or transfer a file through the internet for distribution may increase the risk of copyright infringement as prohibited by federal law. A user can be liable for the unauthorized copying and distribution of copyrighted material through email systems or the internet. Accordingly, you should not copy and distribute by e-mail or internet any copyrighted material of a third party, such as software, database files, documentation, articles, graphics files, and down loaded information, unless you confirm in advance from appropriate sources that the Town has the right to copy or distribute such material. Any questions concerning these rights should be directed to appropriate legal counsel.

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G. Retention of E-mail

The Town strongly discourages the local storage of large numbers of e-mail messages because of the large amount of storage space needed; however, emails are considered as public records. The Library of Virginia's Records Retainment Schedule should be reviewed prior to the deletion or destruction of a public record.

H. Policy Violations

Violations of this policy will be reviewed on a case-by-case basis and may result in disciplinary action up to and including termination. All e-mail messages and internet access usages are subject to all state and federal laws that may apply to the use of e-mail or the internet. In addition, violations of this policy or misuse of the Town's e-mail system or internet access could result in civil or criminal prosecution.

Please complete the "Acknowledgement Regarding Computer and Monitoring of E-mail and Internet Access" located at the end of this Personnel Policy Manual.

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XV. POLITICAL ACTIVITY

A. Expectations

Employees will meet the following expectations regarding any involvement with political activity.

1. An employee shall not be coerced to support a political activity, whether funds or time are involved.
2. An employee shall not engage in political activity on work premises or during work hours.
3. An employee shall not use Town-owned equipment, supplies or resources, and other attendant material (electronic storage devices, paper, computer online and access charges, etc.) when engaged in political activities.
4. An employee shall not discriminate in favor of or against, any person or applicant for employment based on political activities.
5. An employee shall not use the employee's title or position while engaging in political activity.

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XVI. DISCIPLINE AND GRIEVANCES

A. Disciplinary Actions

If an employee's work performance or behavior is deemed unsatisfactory, disciplinary actions may involve one or more of the following actions depending on the gravity of the situation and the previous history of employment with the Town. The Town reserves the right to take any of these actions at any time without taking previous actions.

1. **Informal Warning.** An immediate supervisor, department head, or the Town Manager or designee will counsel with an employee concerning matters which are of a minor nature but which require corrective action. This type of action is designed to assist the employee in proper conduct and is in the nature of constructive criticism and is not punitive in nature. Although this is not a written warning, documentation will be retained in the employee's personnel file.
2. **Formal Warning.** For either continued improper activity after one or more informal warnings or for situations that are deemed more serious, an immediate supervisor, department head, or the Town Manager or designee will issue a formal warning in writing to the employee. A copy of the letter will be retained in the employee's personnel file.
3. **Reprimand.** The Town Manager or designee may issue a reprimand to an employee who persists in improper behavior or activities or whose violation of a rule or policy requires formal discipline in the judgment of the Town Manager. The reprimand shall be in writing and shall be made a part of the employee's personnel file. The employee shall be given the opportunity to respond in writing to the reprimand, which shall also be included in the personnel file.
4. **Suspension.** In the event that dismissal of an employee is being considered or if in the Town Manager's opinion, the employee needs to be suspended and removed from the work place pending investigation of the matter, the Town Manager may suspend an employee with or without pay.
5. **Demotion.** The Town Manager may demote an employee whose work is unsatisfactory, inefficient, or below the level of competence necessary for the position involved if it appears that the employee has the potential to perform less responsible, less difficult, or less demanding work and if a position is available at that time which is suited to the employee's capabilities. An employee may also be demoted for disciplinary reasons.
6. **Dismissal or Removal.** The Town Manager may dismiss any employee for inefficiency, incompetence, insubordination, misconduct, any of the items listed as causes for disciplinary action in these Policies, or for other just cause. Prior to dismissal, the employee will be given written notice stating the causes for dismissal and advising of the employee's right to file a grievance, if applicable.

Prior to imposing disciplinary action, including termination, the supervisor shall inform the employee of the reason for the discipline and the employee shall have the right to comment on the discipline as described above. However, the supervisor, department head, or Town Manager or designee may have the employee removed from the workplace prior to giving an opportunity to comment if the employee's continued presence poses a safety danger, operational concern or is disruptive to the workplace. The supervisor/department head shall document all conversations and actions for the employee's personnel file.

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The following are examples of misconduct that may result in discipline. The list is not inclusive and other misconduct, including those previously covered in these policies, may be subject to disciplinary action up to and including termination:

1. Willfully giving false statements to Town officials or to the public; falsifying Town records (including time records, leave records, job applications, or pay or reimbursement vouchers); negligence with Town property, or misuse of Town property.
2. Violating any lawful official regulation or order or willfully failing to obey a proper direction of the supervisor or Town Manager.
3. Misrepresenting authority (e.g., indicating approval of something that is not in one's authority to approve).
4. Revealing confidential or proprietary information.
5. Taking property of the Town for one's personal use, for sale to another or for a gift to another.
6. Inducing, or attempting to induce, an officer or employee in the service of the Town to commit an unlawful act or to act in violation of any lawful or official regulation or order.
7. Unsatisfactory attendance, excessive absences, excessive tardiness or absence without prior notice.
8. Insubordination; inability or unwillingness to render satisfactory service.
9. Unsatisfactory performance, incompetence or inefficiency.
10. Any behavior that disrupts the orderly transaction of Town business or disrupts other Town employees in the performance of their duties.
11. Making any private and/or unauthorized promise of any kind binding upon either the duties of the position to which assigned or upon the Town itself.
12. Gambling on Town property.
13. Using or seeking to use, directly or indirectly, one's official position, authority, or influence to control or modify the political process of any person unless such action is part of one's official duties.
14. Any violation of the responsibilities listed throughout the entirety of the Personnel Policies.

B. Grievance

The purpose of this procedure is to provide a prompt, fair, and orderly method for the resolution of employee grievances initiated by eligible employees of the Town.

1. Definition of Grievance

- a. A grievance is a complaint or dispute by an employee relating to their employment, including but not necessarily limited to:

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- i. Disciplinary actions, including disciplinary demotions, suspensions, and dismissals provided that such dismissals result from formal discipline or unsatisfactory job performance.
- ii. The application of personnel policies, procedures, rules, and regulations, and the application of ordinances and statutes.
- iii. Acts of retaliation as the result of the use of or the participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth of Virginia, has reported any violation of such law to a governmental authority, has sought any change in law before the United States Congress or the General Assembly of Virginia, or has reported an incident of fraud, abuse, or gross mismanagement.
- iv. Discrimination on the basis of race, color, religion, gender, age, gender, gender identity/expression, sexual orientation, national origin, political affiliation, pregnancy, or disability.

b. Management Rights and Prerogatives

The Town reserves to itself the exclusive right to manage the affairs and operations of Town government. Accordingly, complaints involving the following management rights and prerogatives are not grievable:

- i. Establishment and revision of wages or salaries, position classification, salary scales or general benefits.
- ii. Work activity accepted by the employee as a condition of employment, or work activity which may reasonably be expected to be a part of the job content.
- iii. The contents of ordinances, statutes, budgets, or established personnel policies, procedures, rules, and regulations.
- iv. The methods, means, and personnel by which work activities are to be carried on, including but not necessarily limited to:
 - (a) The provision of equipment, tools, and facilities necessary to accomplish tasks.
 - (b) The scheduling and distribution of manpower/personnel resources.
 - (c) Training and career development.
- v. The hiring, promotion, transfer, assignment, and retention of employees in positions within the Town's service.
- vi. Failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly.
- vii. The relief of employees from duties, or taking action as may be necessary to carry out the duties, of the Town in emergencies.
- viii. Direction and evaluation of the work of Town employees.

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- ix. Termination, layoff, transfer, demotion, or suspension from duties because of lack of work, reduction in force, reorganization, or job abolition, except where such action affects an employee who has been reinstated within the previous 6 months as the result of the final determination of a grievance. In any grievance brought under the exception to this paragraph, the action shall be upheld upon a showing by the Town that:
 - (a) There was a valid business reason for the action, and
 - (b) The employee was notified of the reason in writing prior to the effective date of the action.

2. Coverage of Personnel

- a. Except as noted below, all non-probationary/introductory full-time and part-time employees are eligible to file grievances under this procedure. The following are the exceptions:
 - i. Key officials of the Town. For purposes of this procedure, a key official is defined as the head of any separate Town department.
 - ii. Members of boards and commissions.
 - iii. Employees whose terms of employment are limited by law.
 - iv. Officials and employees who serve at the will or pleasure of the Town Council.
 - v. Appointees of elected individuals or elected groups.
 - vi. Probationary/introductory employees in matters concerning their dismissal. Probationary/introductory employees may, however, use this procedure for complaints or disputes other than dismissals that are determined to be grievable.
 - vii. Temporary, limited term, and seasonal employees.
 - viii. Law enforcement officers as defined in Chapter 10.1 (§2.1-116.1, et seq.) of Title 2.1 of the Code of Virginia whose grievance is subject to the provisions of Chapter 10.1 and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of his grievance.

3. Operation of the Grievance Procedure

- a. Step 1. An employee who believes they have a grievance and wishes to utilize this procedure shall discuss the grievance informally with their immediate supervisor within 20 calendar days of the occurrence of the incident giving rise to the grievance or within 20 calendar days following the time when the employee reasonably should have gained knowledge of its occurrence. A response to the grievance shall be communicated, either orally or in writing, to the grievant within 10 calendar days.

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Note: If the complaint is alleging discrimination or retaliation by the immediate supervisor the grievance may be presented at Step 1 to the department head or, if there is no department head above the immediate supervisor to the Town Manager. If Step 1 is with the Town Manager, Step 2 is omitted and the written grievance is presented to the Town Manager. The grievance proceeds immediately to Step 3.

- b. Step 2. If the grievant is not satisfied with and does not accept the Step 1 response, or if a response is not provided within the required time frame, the grievant may proceed by putting the grievance in writing on the Grievance Form which is attached to this procedure. The Grievance Form shall be delivered, by mail or in person, to the department head within 10 business days of receipt of the supervisor's response or the deadline for that response, whichever occurs first. If the immediate supervisor is the department head, the written grievance should be presented to the Town Manager and it will proceed as if it were at Step 3.

The grievant shall specify the relief that expected to be gained through the use of this procedure. The department head shall promptly meet with the grievant. Normally, the only persons who may be present at the meeting or hearing shall be the department head, the grievant, and the appropriate witnesses. The department head shall render a written response to the grievance within 10 business days following receipt of the completed request form with a copy of the response being sent to the Town Manager. By mutual consent of the grievant and the department head, the grievant may skip Step 2 and proceed directly to Step 3.

- c. Step 3. If the grievant does not accept the response at Step 2, or if the department head fails to respond within the required time frame, the grievant shall indicate their desire to advance the grievance to Step 3 on the Grievance Form. The Grievance Form shall be delivered by mail or in person, directly to the Town Manager within 10 business days following receipt of the Step 2 response or immediately after the deadline for that response, whichever occurs first. If the Town Manager determines (or has previously determined) that the complaint is grievable, a meeting with the grievant, the grievant's representative if there is one, a representative of the affected department and the Town Manager will be held within 5 business days. Appropriate witnesses for each side and such other persons as the Town Manager or the grievant may want to call, may be present to offer testimony only. The Town Manager shall render a written response to the grievance within 10 business days following receipt of the completed request form.

In the event that the Town Manager determines that the complaint, or a portion of the complaint, is not grievable, the grievant may appeal that decision to the Circuit Court as set out in Section 4.b. of this procedure.

- d. Step 4. If the grievant does not accept the Step 3 written response, or if the Town Manager fails to respond within the required time frame, and the grievant wishes to advance to a grievance panel hearing, the grievant shall complete step 4 of the Grievance Form.

The Grievance Form shall be delivered, by mail or in person, directly to the Town Manager within 10 business days following receipt of the Step 3 response or the deadline for that response, whichever occurs first. The Grievance Form shall contain the name of the person whom the grievant desires to serve on the grievance

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panel. The grievant shall not name a person to serve on the grievance panel unless and until the grievant has received that person's consent to do so. The grievance shall be heard by an impartial grievance panel as set out in Section 6 of this procedure.

4. Grievability and Access

- a. Grievability and access are determined by the Town Manager generally when the grievance reaches Step 3. Only after the Town Manager has determined that a complaint is grievable and/or the grievant has access to the procedure may a grievance be advanced through Steps 3 and 4. Should the question of grievability or access arise at Step 2 the grievant or the department head may request a ruling on grievability and/or on access by the Town Manager. The Town Manager shall render a decision within 10 business days of receipt of the ruling request and shall send a copy of the decision to the grievant and the department head.
- b. The Town Manager's decision on grievability and/or access may be appealed to the Circuit Court of the County. Such appeals shall be instituted by the grievant by filing a notice of appeal with the Town Manager within 10 business days from the date the grievant received the decision. Within 10 business days after the filing of the notice of appeal, the Town Manager or his designee shall transmit to the Clerk of the Circuit Court a copy of the Town Manager's decision on grievability or access to the procedure, a copy of the notice of appeal, a copy of the grievance record, and copies of all exhibits. A list of the evidence furnished to the Court shall also be furnished to the grievant. The appeal will be heard by the Court as provided by law. The decision of the Court is final and is not appealable.

5. General Terms

Except as otherwise noted, the following rules apply to all levels of grievance hearings.

- a. Time intervals specified in Steps 1 through 4 may be extended by mutual consent of the parties.
- b. All grievance meeting and hearings shall be held during normal Town working hours unless both the grievant and the Town Manager should mutually agree otherwise.
- c. Town employees who are necessary participants at grievance hearings shall not lose pay for time necessarily lost from their jobs and will not be charged leave because of their attendance at the grievance proceedings.
- d. At the Step 3 meeting, the grievant, at their option, may have present, a representative of their choice. If the grievant is represented by legal counsel the grievant will notify the Town Manager of same, no later than 5 days before any meeting; the Town likewise has the option of being represented by counsel.
- e. The use of recording devices or a court reporter is not permitted at Step 1, 2, and 3 meetings. Only Step 4 hearings may be recorded.
- f. Hearings are not intended to be conducted like proceedings in court and the rules of evidence do not necessarily apply.

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- g. At Step 4, the grievance panel shall have the discretion to limit the attendance at the hearing of persons not having a direct interest in the hearing.
- h. At the request of either party, Step 4 hearings shall be private.
- i. Except in grievances involving discipline or in cases where the grievance panel determines otherwise, the grievant shall present their evidence first.
- j. The grievance panel shall determine the propriety of and the weight to be given the evidence submitted.
- k. Both the grievant and the Town may call appropriate witnesses. All witnesses, including the grievant, shall be subject to examination and cross-examination.
- l. Witnesses shall be present only while actually giving testimony and shall otherwise be excluded from the room.
- m. The grievant shall not be entitled to financially recover more than that the grievant lost; the grievant's costs are not to be assessed against the Town.
- n. Where a grievant has obtained partial relief at one level of this grievance procedure but decides to appeal to the next higher level, the filing of a request form to the next higher level shall constitute rejection of, and relinquishment of any claim to, any and all relief granted at the previous level.
- o. Each party shall bear the costs and expenses, if any, of their legal counsel or representative.

6. Rules Concerning Grievance Panels and Panel Hearings

- a. Selection of Grievance Panel.
 - i. Within 5 calendar days of receipt of the Step 4 request form, the Town Manager shall appoint a member to serve on a grievance panel. The member selected by the grievant and the member selected by the Town Manager shall then select a third member.
 - ii. If the panel member appointed by the grievant and the panel member appointed by the Town Manager or designee cannot agree upon a third panel member within 20 calendar days of the Town's receipt of the selection of the first 2 panel members, then the chief judge of the Circuit Court shall choose an impartial, third panel member. The third panel member shall act as chair of the panel.
- b. Eligibility to Serve on Grievance Panel.

The panel shall not be composed of any persons having direct involvement with the grievance being heard by the panel, or with the complaint or dispute, giving rise to the grievance. Managers who are in a direct line of supervision of a grievant, persons residing in the same household as the grievant, and the following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew, and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee, or co-employee of the attorney shall serve as a panel member.

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The following rules apply to Step 4 grievance panels and the conduct of Step 4 grievance panel hearings:

- i. The grievant shall bear the reasonable costs and expenses, if any, of their panel member.
- ii. The Town shall bear the reasonable costs and expenses, if any, of its panel member and those of the third panel member unless the grievant objects. Upon objection, the reasonable costs and expenses of the third panel member shall be shared equally between the Town and the grievant.
- iii. No person shall receive any compensation, whether monetary or otherwise, for their time in serving as a member of a grievance panel. Notwithstanding this prohibition, a Town employee serving as a member of a grievance panel may receive their usual Town salary for the period served on such a panel.
- iv. The panel shall promptly set the date, time, and location for hearing the grievance and shall notify the parties.
- v. The Town shall provide the panel with copies of the grievance record prior to the hearing, and shall provide the grievant with a list of the documents furnished to the panel.
- vi. Each party shall furnish to the other with copies of all documents, exhibits, and a list of witnesses it intends to use at the panel hearing 7 calendar days in advance of the hearing.
- vii. Both the grievant and the Town may be represented by legal counsel or other representative at the panel hearing. Such representatives may examine, cross-examine, question, and present evidence on behalf of the grievant or the Town before the panel without being in violation of the provisions of Virginia Code §54.1-3904.
- viii. The panel shall have the authority to determine the admissibility of evidence without regard to the burden of proof so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence. The Town shall present its evidence first in grievances challenging a disciplinary action and shall have the burden of persuasion on such issue.
- ix. All evidence shall be presented in the presence of the panel and the parties except by mutual consent of the parties.
- x. The decision of the panel should be rendered as soon as possible, but, in any case, not later than 5 business days following the conclusion of the hearing.
- xi. The panel shall have the authority, if it finds (based on the greater weight of the evidence) that the grievant has been denied a benefit or wrongly disciplined without just cause (where such cause is required) to reverse, reduce, or otherwise modify such action and, where appropriate, to order the reinstatement of such employee to their former position with back pay.

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- (a) Back pay shall not exceed pay for time actually lost or paid leave required to be taken due to such suspension or discharge, in an amount the panel believes equitable up to the amount of actual loss.
 - (b) Any award of back pay shall be offset by interim earnings the grievant earned during the period of separation.
 - (c) The panel also has the power to sustain, modify, or reverse the Town's action.
- xii. The panel shall not have authority to do any of the following:
 - (a) Formulate policies or procedures.
 - (b) Alter existing policies or procedures.
 - (c) Circumscribe or modify the rights afforded the parties in this procedure.
 - (d) Grant relief greater than that which the grievant has requested in the request form.
- xiii. The majority decision of the panel, acting within the scope of its authority, shall be final and binding, subject to existing policies, procedures, and law.
- xiv. The question of whether the relief granted by a panel is consistent with written policy shall be determined by the Town Manager or designee, unless the Town Manager or designee has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the Attorney for the Commonwealth for the County.
- xv. Either party may petition the Circuit Court for an order requiring implementation of the panel decision.

7. Compliance

- a. Except as noted in paragraph 7.b., after the initial submission of the grievance to the immediate supervisor, the failure of either party to comply with all substantial procedural requirements of this procedure without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within 5 business days of receipt of written notification by the other party of the noncompliance. Such written notification by the grievant shall be made directly to the Town Manager.
- b. If one of the management respondents in Steps 1, 2, or 3 does not respond to the grievance, the grievant at their option may move the grievance to the next level by submitting it without the response to the next Step or the grievant can provide the Town Manager notice of the non-compliance as set forth in paragraph 7.a.

The Town Manager shall determine compliance issues. Compliance determinations made by the Town Manager or designee shall be subject to judicial review, which shall be initiated by the grievant filing a petition with the Circuit Court of the County within 20 business days of the compliance determination.

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The following is included pursuant to the Law Enforcement Officer's Procedural Guarantees Act (LEOPGA) - §§ 9.1-500 through 9.1-507 of the Code of Virginia, 1950 as amended.

Conduct of Investigation

The LEOPGA specifies that whenever a law-enforcement officer is the subject of an investigation by an agency, and the focus of the investigation concerns matters, which could lead to the dismissal, demotion, suspension or transfer for punitive reasons:

- The officer shall be questioned at a reasonable time and place as designated by the investigating officer, preferably when the officer under investigation is on duty and at one of the following locations: office of the command of the investigating officer; or the office of the local precinct or unit of the officer being investigated, unless the matters being investigated are of such a nature that requires immediate action.
- Prior to the officer being questioned, the officer shall be informed of (i) the name and rank of the investigating officer and of any individual to be present during the questioning and (ii) the nature of the investigation.
- If a blood or urine specimen is taken from a law-enforcement officer for the purpose of determining whether the officer has used drugs or alcohol, the specimen shall be divided and placed into two separate containers. One container shall be tested while the other is held in a proper manner, to preserve the specimen, by the facility collecting or testing the specimen. Should the first specimen test positive, the law-enforcement officer shall have the right to have the second specimen tested by an independent laboratory of their choice (pursuant to §§18.2-268.1 through 18.2-268.1); the laboratory chosen by the officer must be accredited or certified by one or more of the following bodies: the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB), the College of American Pathologists (CAP), the United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA), or the American Board of Forensic Toxicology (ABFT). The officer shall notify the chief of the agency in writing of the request within 10 days of being notified of positive specimen results.

Notice of charges; response; election to proceed under grievance procedure of local governing body

Prior to dismissing, demoting, suspending without pay, or transferring for punitive reasons, the following rights shall be afforded the law-enforcement officer:

- Notified in writing of all charges, the basis therefore, and the action which may be taken;
- Given an opportunity, within a reasonable time limit after the date of the written notice provided above, respond orally and in writing to the charges. The time limit shall be determined by the agency, but in no event shall it be less than 5 calendar days unless agreed to by the law-enforcement officer;
- The law-enforcement officer may be assisted by counsel at the officer's own expense; and
- Given written notification of their right to initiate a grievance under the grievance procedure established by the local governing body pursuant to §§15.2-1506 and 15.2-1507. A copy of this grievance procedure must be provided upon request.
- A law-enforcement officer may proceed under either the local governing body's grievance procedure or the LEOPGA, but not both.

TOWN OF CAPE CHARLES PERSONNEL POLICIES

Personal assets of officers

No law-enforcement officer shall be required or requested to disclose any item of their property, income, assets, source of income, debts, or personal or domestic expenditures, including those of any member of their family or household, unless (i) such information is necessary in investigating a possible conflict of interest with respect to the performance of their official duties (ii) such disclosure is required by law, or (iii) such information is related to an investigation. Nothing in this section shall preclude an agency from requiring the law-enforcement officer to disclose any place of off-duty employment where they may be contacted.

Hearing; hearing panel recommendations

Whenever a law-enforcement officer is dismissed, demoted, suspended or transferred for punitive reasons, the officer may, within a reasonable amount of time (as set by the agency) following such action, request a hearing. If the law-enforcement officer makes a timely request, a hearing shall be held within a reasonable amount of time (as set by the agency). This hearing shall not be set later than 14 calendar days following the date of the request unless agreed upon by the law-enforcement officer. The law-enforcement officer and the agency will have the opportunity to present evidence, examine, and cross-examine witnesses. The law-enforcement officer can be represented by counsel unless the officer and agency are afforded, by regulation, the right to counsel in a subsequent de novo (new) hearing.

The Grievant and the Agency head are both allowed to pick one panel member from within the agency. These two panel members will select a third member from within the Agency. If the two appointed members cannot agree upon a third member, then the Chief Judge of the judicial circuit wherein the grievant's duty station lies, will choose the third member.

The hearing panel may, and on the request of either the law-enforcement officer or their agency shall, issue subpoenas requiring the testimony of witnesses who have refused or failed to appear at the hearing. The hearing panel shall rule on the admissibility of the evidence. A record shall be made of the hearing.

At the discretion of the agency, it may, in lieu of complying with §9.1-502 give the law-enforcement officer a statement, in writing, of the charges, the basis therefore, the action which may be taken, and provide a hearing as provided for in this section prior to dismissing, demoting, suspending or transferring for punitive reasons the law-enforcement officer. Any recommendations of the hearing panel and the reasons therefore, shall be in writing and transmitted promptly to the law-enforcement officer or the officer's attorney and the agency head. Such recommendations shall be advisory only, but shall be given significant weight.

Immediate suspension

Nothing in this chapter shall prevent the immediate suspension without pay of any law-enforcement officer whose continued presence on the job is deemed to be a substantial and immediate threat to the welfare of the agency or the public, nor shall anything in this chapter prevent the suspension of a law-enforcement officer for refusing to obey a direct order issued in conformance with the agency's written and disseminated regulations. In such a case, the law-enforcement officer shall, upon request, be afforded the rights provided for under this chapter within a reasonable amount of time set by the agency.

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Grievance Hearing Form
(Please type or print)

Name of Grievant Job Title
Department Telephone Number(s)

Step 2 – Department Head Meeting: To be completed by the grievant at Step 2 only and filed with the grievant’s department with a copy sent to the Town Manager.

- 1. Date of the incident-giving rise to this grievance.
- 2. Date of the grievant’s first awareness of the incident.
- 3. Have you had a Step 1 informal hearing with your immediate supervisor? Yes / No (check one)
If yes, when?
- 5. Person(s) against whom this grievance is directed.
- 6. Specify the incident that resulted in this grievance. (Use separate sheets if necessary)
- 7. Specify the policy(ies), rule(s), or regulation(s) at issue. (Use separate sheets if necessary)
- 8. Specify why the action taken was not proper. (Use separate sheets if necessary)
- 9. Specify the relief sought. (Use separate sheets if necessary)

Signature of Grievant Date Submitted

Department Head Response (Use separate sheets if necessary):

Signature of Departmental Head and Date Date Grievance Was Received

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Request for Step 3 –Town Manager Meeting: To be completed by the Grievant at Step 3 only and filed directly with the Town Manager’s office.

I wish to have my grievance heard at the Step 3 (Town Manager) level. I understand that, by requesting to have my grievance heard at Step 3, I am giving up the relief, if any, that was awarded to me at Step 2.

Signature of Grievant Date Submitted

Town Manager Response (Use separate sheets if necessary):

Signature of Town Manager and Date Date Grievance Was Received

Request for Step 4 – Grievance Panel Hearing: To be completed by the grievant at Step 4 only and filed directly with the Town Manager.

- 1. I wish to have my grievance heard at the Step 4 (grievance panel) level. I understand that, by requesting to have my grievance heard at Step 4, I am giving up the relief, if any, that was awarded to me at Step 3.
- 2. Name of grievant’s panel member: Address: Telephone Number(s): (Home) (Work)

Signature of Grievant Date Submitted

Town Panel Member

Name of Town’s panel member: Address: Telephone Number(s): (Home) (Work)

Signature of Grievant Date Submitted

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XVII. TERMINATION OF EMPLOYMENT

A. Resignation

To resign in good standing, an employee must give at least 2 weeks advance notice. If special circumstances exist, the notice requirement may be waived by the Town Manager. Failure to give the required advance notice will result in forfeiture of compensation for up to 2 weeks accrued leave. Failure to return to work at the expiration of an approved leave of absence shall be interpreted as a resignation.

B. Lay-off

The Town reserves the right to dismiss employees for lack of available work or funds. In such cases the employees affected will be given a minimum of 2 weeks advance notice.

C. Termination for Inability to Perform

An employee may be terminated if the employee becomes physically or mentally unable to perform the duties of the position. However, any such action shall be taken in a manner that complies with the requirements of the Americans with Disabilities Act.

D. Exit Interview

The HR Manager or designee will perform an exit interview with the employee upon notice of termination. The purpose of the exit interview is to complete necessary forms and discuss employment experiences.

A. Collection of Equipment and Keys

When an employee terminates, whether voluntary or involuntarily, the department head must collect any and all equipment (laptops, cell phones, safety equipment, etc) as well as keys on the last day of work. The correct paperwork must be completed with Human Resources. Failure to turn in any items owned by the Town will result in deductions from the employee's final pay check.

XVIII. MODIFICATION OF POLICIES

These policies do not constitute a contract of employment. The policies as a whole, or individually by section, may be modified, amended, or rescinded at the sole discretion of the Town without notice.

XIX. SEVERABILITY

The provisions of the Town of Cape Charles Personnel Policies are severable and, if any court of competent jurisdiction shall hold any of its provisions unconstitutional or otherwise invalid, the decision of such court shall not affect or impair any of the remaining provisions.

TOWN OF CAPE CHARLES PERSONNEL POLICIES

ACKNOWLEDGMENT REGARDING COMPUTER AND MONITORING OF E-MAIL AND INTERNET ACCESS

I hereby acknowledge that I have received and read a copy of the Town of Cape Charles's Policy for the Use and Monitoring of E-mail and Internet Access as well as the Acceptable Usage Policy Addendum. I understand that all e-mail communications systems, internet access, and other electronic devices and systems are the property of the Town, as is the information received from, transmitted by, or stored in these systems. I understand that I have no expectation of privacy in connection with any e-mail messages, the use of Town equipment, or the transmission, receipt, or storage of information in this equipment, or any Town electronic information system.

I acknowledge and consent to the Town's monitoring my use of Internet usage, e-mail, and other electronic devices and systems, at any time the Town deems it necessary in accordance with its policy. Monitoring may include reading and printing out all electronic mail entering, stored in, or disseminated by the Town of Cape Charles's system and equipment. I agree not to use code, access a file, or retrieve any stored information unless authorized to do so. I understand that this consent is a condition of my employment and/or continued association with the Town. I understand all the provisions specified in this policy. Further, I recognize that a violation of this policy may result in disciplinary action, including possible termination.

Employee: _____

Supervisor: _____

Date: _____

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PERSONNEL POLICIES RECEIPT ACKNOWLEDGMENT

I hereby certify that I have received a copy of Town of Cape Charles Personnel Policies (Policies).

I understand it is my responsibility to read, familiarize myself with the policies, and understand the matters set forth in these Policies.

These Policies supersede all prior policies as to subjects addressed and all representations, oral or written. In the event of a contradiction between these Policies and the representation of a supervisor or management staff, the terms of these Policies will govern.

I understand that no statement contained in these Policies create any guarantee of continued employment or create any obligation, contractual or otherwise, on the part of the Town of Cape Charles.

I understand and acknowledge that the Town of Cape Charles has the right, without prior notice, to modify, amend, or terminate policies, practices, benefit plans, and other institutional programs within the limits and requirements imposed by law.

I further understand that compliance with these Policies is a specific condition of my continued employment and will be a condition of my employment throughout my service with the Town of Cape Charles. I understand that any violation of these Policies will subject me to disciplinary action, including termination.

Employee Signature: _____ Date: _____

Employee Name (printed): _____

TOWN OF CAPE CHARLES PERSONNEL POLICIES

A. Appendix A: WHISTLE BLOWER'S POLICY

POLICY: Whistleblower Policy Town of Cape Charles

Effective Date: TBD upon approval by Council of Employee Personnel Manual

A whistleblower as defined by this policy is an employee of the Town of Cape Charles who reports an activity that they consider to be illegal, dishonest, or a gross mismanagement of public funds or resources. The whistleblower is not responsible for investigating the activity, or for determining fault or corrective measures; appropriate management officials are charged with these responsibilities.

If an employee has knowledge of or a concern of illegal, dishonest, or mismanagement activities, the employee is to contact their immediate supervisor, the Human Resources Manager, or the Town Manager. If the concern is with the Town Manager, the report should be made to the Mayor. The employee must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing will be subject to discipline up to and including termination.

Insofar as possible, the confidentiality of the whistleblower will be maintained. However, identity may have to be disclosed to conduct a thorough investigation, to comply with the law, and/or to provide accused individuals their legal rights of defense.

The Town will not retaliate against a whistleblower. This includes, but is not limited to, protection from retaliation in the form of an adverse employment action such as termination, compensation decreases, poor work assignments, or threats of physical harm. Any whistleblower who believes they are being retaliated against must contact the Human Resources Manager immediately. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing or poor work performance that may be alleged and investigated.

Employees with any questions regarding this policy should contact the Human Resources Manager.

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B. Appendix B: UNIFORMED SERVICES EMPLOYMENT AND RE-EMPLOYMENT RIGHTS ACT OF 1994

The Uniformed Services Employment and Re-Employment Rights Act of 1994 USERRA applies to all employers in the public and private sectors, including Federal employers. The Act protects all members of the uniformed services from discrimination in employment regardless of whether their uniformed service was in the past, present, or future (intent to join). The discrimination provisions of USERRA, set forth in section 4311, address problems regarding initial employment, reemployment, retention in employment, promotion, or any other benefit of employment.

Any person re-employed after military service is entitled to all seniority and other rights and benefits, including medical insurance coverage, which would have been available if the employment had not been interrupted by military service. The veteran re-employment rights are effective unless the cumulative length of the current absence plus any previous absences exceed five (5) years.

USERRA requires that service members provide advance written or verbal notice to their employers for all military duty unless giving notice is impossible, unreasonable, or precluded by military necessity. Upon return from military duty, the period an individual has to make application for reemployment or report back to work is based on the time spent on military duty. For service of 30 days or less, the service member must report back to work at the beginning of the next regularly scheduled work period on the first full day after release from service. For service of 31 – 180 days, the service member must submit an application for reemployment within 14 days of release from service. For service of 181 days or more, an application for reemployment must be submitted within 90 days of release from service.

Reemployment of a person is excused if an employer's circumstances have changed so much that reemployment of the person would be impossible or unreasonable. Employers are excused from making efforts to qualify returning service members, or from accommodating those with disabilities incurred during service, when doing so would be of such difficulty or expense as to cause "undue hardship." Reemployment is not required where the position left to enter the service was for a brief and non-recurrent period and which could not reasonably be expected to continue indefinitely or for a significant period. The employer has the burden of proving (not simply asserting) the impossibility or unreasonableness, undue hardship, or the brief, non-recurrent nature of the employment.

An employer may not use the lack of documentation at the time the individual requests return as a basis for delaying or denying reinstatement. If the documentation received later shows that the individual is not eligible for protection under USERRA, the person may be terminated at that point. An employer has the right to require a person who is absent for a period of service of 31 days or more to provide documentation showing that: 1) the application was timely, 2) the 5-year service limit was not exceeded, and 3) the separation from service was not under circumstances specified in section 4304 of USERRA.

The following are some of the major requirements of USERRA, but is not meant to be all inclusive:

Health Benefit Coverage - on return from service, health insurance coverage must be reinstated without any waiting period or exclusions for preexisting conditions, other than waiting periods or exclusions that would have applied even if there had been no absence for uniformed service.

TOWN OF CAPE CHARLES PERSONNEL POLICIES

Pay - a person reemployed is entitled to the rate of pay he or she would have attained, with reasonable certainty, if continuously employed during the period of service. The term “pay” is not limited to the wages received. It includes all elements of compensation such as drawing accounts, bonuses, and shift premiums. It includes hourly rate, piece rate, salaries, and commissions. USERRA does not require an employer to pay an employee while performing uniformed service; however, an employer is free to do so if desired.

Promotions - unless it is impossible or unreasonable, an employer is generally required to allow a returning service member to make up a test for promotion that was missed while he or she was absent. If the reemployed employee is successful on the makeup exam, and there is a reasonable certainty that, given the results of the exam, that reemployed employee would have been promoted during the time he or she was in military service, then the reemployed employee’s promotion must be made effective as of the date it would have occurred had the employment not been interrupted by military service. If it is reasonably certain that an employee would have received a promotion during his or her absence for service and the employee requires further qualification for the position as a result of the military leave, the employer must make reasonable efforts to qualify the person. USERRA provides that returning service members are reemployed in the job that they would have attained had they not been absent for military service (a.k.a. “escalator position”) with the same seniority, status and pay, as well as other rights and benefits determined by seniority.

Raises - a returning service member is entitled to all general pay raises that he or she would have received with reasonable certainty but for the absence for service in the uniformed services.

Vacation - USERRA requires an employer to allow an individual to use earned vacation credits while absent for service, providing that usage is at the employee’s request. An employer may not require the use of vacation for a service absence, unless the absence coincides with a period, such as a plant shutdown, when ALL employees are required to take vacation.

 TOWN OF CAPE CHARLES	AGENDA TITLE: Appointment of Historic District Review Board Member		AGENDA DATE: January 20, 2022
	SUBJECT/PROPOSAL/REQUEST: Appointment of a new member to the Historic District Review Board		ITEM NUMBER: 7B
	ATTACHMENTS: None		FOR COUNCIL: Action (X) Information ()
	STAFF CONTACT (s): Libby Hume	REVIEWED BY: John Hozey, Town Manager	

BACKGROUND:

The Historic District Review Board (HDRB) oversees the Town's Historic District and reviews applications for Certificates of Appropriateness for construction, reconstruction, or substantial exterior alternation within the Historic District. The Board meets monthly and consists of four citizen members each serving five-year terms and one Planning Commission representative.

DISCUSSION:

At the end of his term, Edward Wells opted not to seek reappointment. This created a vacancy on the HDRB effective January 8, 2022.

The pending vacancy was advertised on the Town's website and on Facebook on December 22, 2021 and applications were received from two individuals expressing their interest in serving on the HDRB.

The Town Council interviewed Mr. Adam Charney on January 12th, and Mr. David Howgill on January 20th.

In the past, when multiple applications were received for a board, Council has taken the opportunity to name alternates to the board to fill any future vacancies.

RECOMMENDATION:

Staff requests Council discussion and appointment of a new member to the Historic District Review Board for a five-year term to expire on January 8, 2027. Staff also requests, if deemed appropriate, Council consideration to name an alternate to the board to fill any future vacancy.