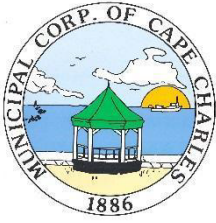


Planning Commission
Regular Session Agenda
Cape Charles Civic Center – 500 Tazewell Avenue
January 11, 2024, at 6:00 P.M.

1. Call to Order
 1. Roll call and establish a quorum.
2. Invocation and Pledge of Allegiance
3. Consent Agenda
 - A. Approval of agenda format
 - B. Approval of Minutes:
 1. October 24, 2023 - Planning Commission & Town Council Joint Work Session
 2. November 2, 2023 - Town Council & Planning Commission Joint Work Session
 3. November 20, 2023 - Planning Commission Public Hearing & Regular Meeting
 4. December 5, 2023 - Planning Commission Regular Meeting
4. Public Hearings: NONE
5. Citizen Comment Period, for any item not subject to an advertised public hearing
6. Unfinished Business: NONE
7. New Business:
 - A. Review Bylaws
 1. Planning Commission Bylaws - Adopted October 5, 2021
 2. Addition of Remote Participation Policy
8. Report of Officers and Committees
 - A. Sign Subcommittee: Continue with the Review and Discussion of Proposed Sign Ordinance, Section 5 - Prohibited Signs (page 7)
9. Standing Staff Reports - Planning & Zoning Director
10. Announcements - Next Meetings:
 - Regular Session: Tuesday, February 6, 2024
11. Adjourn



PLANNING COMMISSION & TOWN COUNCIL

Joint Work Session
Cape Charles Civic Center
October 24, 2023
6:00 PM

At 6:00 p.m. Vice-Mayor Bennet, having established a quorum, called to order the Work Session of the Town Council. In addition to Vice-Mayor Steve Bennett present were Councilmen Ken Butta, Andy Buchholz, Paul Grossman, and Councilwoman Tammy Holloway. Councilman Follmer was not in attendance. Mayor Adam Charney arrived around 6:24p.m.

In the absence of Chairman Stramm and Vice-Chairman McCoy, Ms. Nunez, having established a quorum, called to order the Work Session of the Planning Commission. Present were Commissioners Bill Ashworth, Paul Grossman, Jim Holloway, Shannon Smith, and Michael Strub.

Staff in attendance were Town Manager John Hozey, Town Clerk Libby Hume, Director of Planning/Zoning Administrator Katie Nunez, Planning Administrative Assistant Maureen Tamares-Meditz. There were no members of the public in attendance.

APPROVAL OF AGENDA

The agenda format was approved by unanimous consent.

ORDER OF BUSINESS

- A. *Continue with the review of all proposed Zoning Ordinance Amendments starting at Article III, Page 64, Section 3.14 General Business/Light Industrial H-1 (GBI-H1).*

Discussion about the review were as follows:

Article III

§3.14 General Business/Light Industrial H1 (GBI-H1)

- Ms. Nunez stated that as she mentioned last meeting she will combine all the industrial Districts into new format and will have it for the next meeting. Mr. Hozey asked if it were Heavy and Light Industrial. Ms. Nunez confirmed yes.

§3.15 Open Space District

- Update Internal Section Reference once the ordinance is finalized.
- Permitted Uses
 - Commissioner Ashworth asked the difference between non-recreational uses and court sports. Mr. Hozey replied one is a field sports (i.e., soccer, football) the other one is a court sport (i.e., volleyball or tennis).
 - (sub-paragraph B) Combine Items 1&3. That would read: Non-commercial recreational uses which could either be court or field sports.

§3.16 Bay Crossing Planned Unit Development (Bay Crossing PUD)

- *Conditional Uses*
 - Commissioner Ashworth asked why in this new section it read: commercial or professional use wherein compared to the one in PUD District on page 58 it read: commercial offices granted one is permitted and one is consistency Conditional. Ms. Nunez replied that when this PUD was created it was specifically put for by the property owner indicating what elements in the other Zoning District he

would like to carry forward, as he applied for the Conditional Use with this District that went to public hearing. Ms. Katie continued to say that she does not want to tamper with the property owner requested PUD that went to public hearing recently so she left exactly how it was adopted by the town. Commissioner Stramm asked if all the languages has to line up. Ms. Nunez replied each is unique to its own property. After much discussion it was decided to leave this section as is.

Article IV

§4.0 Home-Based Occupation

- (sub-paragraph B) Line 5 change small to smell
- (sub-paragraph C) Commissioner Ashworth asked why it should be permissive and not mandatory if the applicant meets all the criteria. He reads: zoning clearance MAY be granted. Ms. Nunez replied she wanted people to come to the Planning Department to obtain zoning clearance and to confirm to make sure that they were complying. After much discussion about this, it was decided to change: zoning clearance MAY be granted to: zoning clearance SHALL be granted. All agreed.

§4.2 Exceptions to the Regulations

- (sub-paragraph E) Item 12 Commissioner Grossman asked why this was dropped. Ms. Nunez replied because RE District was dropped.
- (sub-paragraph F) Projection Allowed in Required Setbacks. "Additional uses may project into setbacks, as interpreted and determined by the Zoning Administrator". After some discussion, the majority agreed to leave this sentence as proposed to provide flexibility to the Zoning Administrator when reviewing site plans and possible encroachments not detailed in the current zoning list.
- (sub-paragraph J) Accessory Dwellings add R3 after R2 for consistency as pointed out by Councilman/Commissioner Grossman.

§4.3 Conditional Use Permits

- (sub-paragraph E) Since one (1) year was changed to six (6) months, the extension should also be changed from one (1) year to six (6) months. As suggested by Vice-mayor Bennett.
 - Councilman/commissioner Grossman pointed out that sub-paragraph E was changed, and it should still be part of sub-paragraph D. Ms. Nunez said she will fix formatting and numbering.
- (sub-paragraph F) should be changed to D as pointed out by Commissioner Holloway. Ms. Nunez said the formatting will be changed accordingly.

§4.4 Landscaping and Screening Regulation

- Exterior Lighting (sub-paragraph E) Item 3 Ms. Nunez said she will have more definition of what a Drak Sky consideration mean within the light consideration. She has a product coming that will be for consideration. It will not be a definition but will be a whole concept.

§4.5 Off Street Parking and Loading Standards

- Commissioner Stramm Proposed add Duplex on the R1. Add 1a or 1b.

§4.6 Stormwater Management

- (Sub-paragraph B) delete the first sentence, except as provided in Section 4.7.C, as it does not reference to anything as pointed out by Councilman/Commissioner Grossman).
- Ms. Nunes mentioned that she will be back in this section next year

§4.7 Swimming Pool Regulations

- (sub-paragraph E) Fencing. Ms. Nunez said that she talked with the building official, and he agreed to require a fence thru a zoning ordinance and not just an electric pool covering which is now acceptable standard in lieu of a fence in the Building Code. Bay Creek Homeowners Association and the ARC have agreed they support this zoning change to require a fence. All agreed.

§4.8 Satellite Dish

- Commissioner Smith suggested to change Satellite Dish to Communications Equipment
- (sub-paragraph A) Commissioner Smith suggested to delete: Dish type; it should just read: Satellite or other ground...
- (sub-paragraph A) item 1 Large satellite (should have a size limitation of not more than 2 ft. or 24 inches for large, as suggested by Commissioner smith)
- Mr. Hozey suggested for it to be more technical §4.8 Satellite Dish should read: §4.8 Communication/Data Equipment

§4.9 Demolition Policy Guidelines

- After some discussion and concerns about this it was agreed that the Zoning Administrator and Building Code Official will discuss further and align this section between state codes and Building Code. Ms. Nunez said she will work with Mr. Brady and bring the revision back at the future meeting.

§4.11 Wind Turbines

- Ms. Nunez mentioned the town does not mention telecommunication towers in the ordinance at all. She mentioned that Solar panels are allowed in the Historic District.
- Vice-Mayor Bennett, after discussion on Article 4.14 came back to this. At first the majority wanted to delete this. Ms. Hume stated that in the past when wind turbines was just being popular and there was a concern about micro units being on the roofs and they did not want anyone in the historic district having one of those. Mr. Hozey said that if it will be removed we have to be careful on unintended consequences of allowing it or not regulating it. Ms. Nunez stated that she will verify the Code of Virginia and will get back on this.
- It was suggested that there could be a section about Solar Panels too.

§4.13 Development Standards for Residential Zoning District

- *As Article II will be moved in here Councilman/Commissioner Grossman suggested to add Sidewalks in this section as well.*

§4.14 Development/Redevelopment Standards for Commercial Districts

- *Mr. Hozey suggested to put a placeholder in here so when embark The Harbor Master Plan is out in place we will know what can be put it here and amend it again.*
- *Harbor District does not have a standard for now so the Town really need to have a Harbor master Plan*

ADA COMPLIANCE: MS. Nunez will bring something back

ARTICLE VI. Floodplain Ordinance

§3.1 Description of Special Flood hazard District

- (sub-paragraph A) Item 3 Ms. Nunez explained why they added the base level plus eighteen (18) inches for any new construction.
- (sub-paragraph A) Item 4 "if no flood depth number is specified, the lowest floor including basement, shall be elevated no less than two feet above the highest adjacent grade". Vice-

Mayor Bennett asked if the word “basement” could be taken out. Ms. Nunez replied she will check and concur with Mr. Brady the Floodplain Administrator.

§4.3 Elevation and Construction Standards

- Ms. Nunez read and explained the reason for adding additional languages here. She also mentioned that this would apply only to new constructions.
- (sub-paragraph D) Accessory Structures. Ms. Nunez said that none at the Town of Cape Charles is in the FEMA map zone, but he said that, when the FEMA Map changes, this ordinance will be prepared for that. Only for new construction. Mayor Charney suggested and agreed to what Councilman Butta pointed earlier to add 18 inches as well to all electrical, heating and ventilation. All agreed.

§7 Glossary

- (Sub-paragraph MM) Substantial damage. Added second sentence “It also means flood-related damages sustained by a structure on two occasions in a 10-year period, in which cost of repair, on the average, equals or exceeds 25 percent of the market value of the structure at the time of each flood event”. All agreed.

ARTICLE IX Historic Harbor Area Overlay District

- Councilman/Commissioner Grosman asked about the significance of Historic Harbor Overlay. After some discussion it was suggested to delete the word Historic. All agreed.

Appendix A: Subdivision Ordinance

- §3.4 Additional authority. Ms. Nunez discussed this and mentioned that this is used especially in the Bay Creek Area.

Appendix F

- §1.3 will update the reference and come back to the board after VA Department of Forestry does an initial review of our current ordinance.

The evening’s review stopped at Appendix F, page 13. Next discussion would start with definitions.

Ms. Nunez requested to hold off the next Zoning Ordinance Joint Work Session to allow for the next Joint Work Session to be devoted to discussion of the work proposal on Short Term Rentals.

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

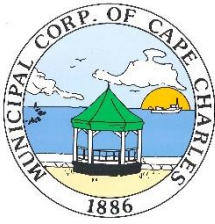
Motion made by Commissioner Grossman, seconded by Commissioner John Holloway, to adjourn the Planning Commission Work Session. The motion was approved by unanimous vote.

The joint work session was adjourned at 8:03 p.m.

Vice-Mayor Bennett

Katie Nunez

Planning & Zoning Administrative Assistant



TOWN COUNCIL & PLANNING COMMISSION
Joint Work Session
Cape Charles Civic Center
November 2, 2023
Immediately following the Town Council Special Meeting

At approximately 6:10 p.m., Mayor Adam Charney, having established a quorum, called to order the Work Session of the Town Council. In addition to Mayor Charney, present were Vice-Mayor Bennett, Councilmen Buchholz, Butta, Follmer and Grossman, and Councilwoman Holloway.

Chairman Bill Stramm, having established a quorum, called to order the Work Session of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Bill Ashworth, Paul Grossman, Jim Holloway, Shannon Smith. Commissioners Dennis McCoy and Michael Strub were not in attendance.

Members of the Short-Term Rental Ad Hoc Committee in attendance were Maggie Deuel representing Bay Creek, Sam Jones representing the Cape Charles Historic District Civic League, and Jeff Palmor representing the Vacation Rental Homeowners Association.

Staff in attendance were Town Manager John Hozey, Planner/Zoning Administrator Katie Nunez, Planning Administrative Assistant Maureen Meditz, and Town Clerk Libby Hume.

There were 35 members of the public in attendance.

The purpose of the joint work session was to review and discuss the recommendations from the short-term rental ad hoc committee.

Mayor Charney announced that this was a work session. He welcomed the members of the public in attendance but reminded them that they were here to observe and that no comments would be received.

Mayor Charney and Councilman Butta disclosed that they owned short-term rentals in the Town.

John Hozey introduced the short-term rental (STR) committee members, adding that Councilman Grossman served on the committee representing the Town Council and Planning Commission, and he and Katie Nunez were the staff representatives on the committee.

John Hozey stated that in last year's community survey, the top priorities of respondents were: 1) development of short-term rental regulations; 2) development of a beachfront master plan; 3) development of a master plan for the harbor and railroad property; and 4) development of an overall parking strategy.

John Hozey gave an overview as follows: i) As a group, the members of the STR committee looked at the issues from different perspectives and discussed potential resolutions. They focused on the best way to protect and preserve the Town's sense of community while recognizing the STRs and their economic benefits; ii) One of the concerns was the stress on the Town's infrastructure – the water and sewer capacity; space on the beach; parking on the streets, etc.; iii) A list of ideas and initial concepts was developed but no significant work was done on implementation of these thoughts or ideas. The committee wanted to wait until they heard from the Town Council before moving forward with drafting any regulations.

John Hozey went on to review the STR committee's recommendations (please see attached), and there was some discussion as follows:

Establishment of caps (items #2, 3, 4): i) Councilman Buchholz advised caution since a house permitted as an STR would potentially sell at a higher rate than one that was not permitted; ii) Councilman Grossman stated that the committee discussed setting a cap by percentage versus a set number, since new houses were being added to the inventory due to new construction. The more houses in the total inventory, the percentage of STRs would be reduced over time if using a set cap; iii) Commissioner Ashworth asked if any studies were done regarding the effect of a cap on the overall rental costs or the impact to the Town and businesses. By reducing the supply of potential STR properties, the cost of rentals could increase; iv) Councilman Buchholz stated that many people were looking to retire in Cape Charles. They purchased second homes here and rented them out as vacation rentals until they could retire and move here permanently. Capping the number of STRs would stop this practice. John Hozey asked the attendees their thoughts to gain a consensus regarding caps, adding that a lot of the recommendations would still work even if it was decided to allow the number of STRs to grow; v) Councilman Follmer did not think there was enough information provided to answer the question regarding caps. According to the survey responses, the specific complaints regarding parking were the most common, but there were others also. The specific issues that we were trying to solve needed to be spelled out so they could be assessed. Cape Charles was not the only community dealing with the issue of STRs. He would like to know the experiences of other communities, the impact on home prices, and other proven alternatives that might be used elsewhere. We did not have to reinvent the wheel; vi) Councilman Grossman stated that the Town was in a peculiar situation in that the boat had left the dock regarding the number of STRs. Only two other localities in Virginia had established caps. Wachapreague had a cap of 6 and Irvington had a cap of 21. In Richmond, an STR owner had to be a permanent resident for 180 days per year. The committee searched across Virginia and did not find many other options. Councilman Follmer suggested expanding the research outside of Virginia as this was a nationwide issue and there had to be more information out there; vii) Councilman Butta noted that there were several localities whose regulations were being challenged in court. He was concerned that we were putting ourselves at risk with whatever regulations we chose and suggested that we closely watch the legal process to see how it played out as he did not want to have to spend any legal fees defending our regulations; viii) John Hozey added that regardless of what was decided, either side to this issue would likely pursue litigation. Communities instituting regulations were being challenged and it could take 1 to 3 years for the case to go through the court system and we could not put this issue on hold for that long. Our attorney's opinion was that we should not allow fear of litigation to paralyze us, as he would be able to defend the Town's regulations in court if necessary. Was there a sense of urgency?; ix) Councilwoman Holloway stated her agreement with Councilman Follmer in that more collective information was needed before we could move forward. She thanked Councilman Grossman for doing a great job in collecting the data. Lewes, DE just established regulations, and she had been following their process; x) Maggie Deuel stated that she researched localities up and down the east coast, mainly in coastal areas, and most had a percentage cap on STRs with the average percentage of 20%. She referenced the treasurer's report from December 2022 which showed percentages of STRs in Bay Creek (11.22%), the historic district (23.39%) and Cape Charles as a whole at 18.8%, but she felt that number had doubled in the past year, at least in Bay Creek. The numbers would continue to grow unless something was done. If we waited, the numbers would outgrow the capacity of the current infrastructure which was a serious concern; xi) Councilwoman Holloway stated that there were some things that could be done now that would help the impact to the community such as setting community standards for everybody, not just STRs. Some examples were issues related to noise, trash and parking; xii) In the 400-500 blocks on Randolph Avenue, there were only 3 full-time residents, the remainder of the houses were STRs. Was there a neighborhood left on these 2 blocks? No; xiii) Councilman Follmer stated that he was not ready to throw out the idea of a cap, but just wanted more information to explore. He realized there were blocks in town where the vast majority of houses were STRs. He asked whether we cared about the density of STRs, and if we were looking at controlling STRs, did we care where they were?; xiv) Commissioner Ashworth stated that by capping STRs, we were putting a cap on future revenue growth. We were

not addressing the problems of the strain on infrastructure, or affordable housing head on. Did STRs incentivize or de-incentivize new construction?; xv) Commissioner Smith stated that capping STRs would not solve the problem since we had a lot of day visitors, boaters, people visiting their families. We needed to identify the problems we were trying to solve versus doing something drastic; xvi) Councilwoman Holloway added that we needed to look at the reality of the situation. STRs were a big influence to our economy. The businesses that we all loved were able to remain open because of the people coming to Cape Charles. The full-time residents could not support the local businesses; xvii) Councilman Buchholz cautioned everyone about implementing caps either by percentage or number. This area was turning into an STR mecca. If the Town capped STRs, we would be pushing them into the area just outside of the Town which would still affect us.

Occupancy (item #8): i) Councilman Buchholz asked if any discussion was held regarding reducing the occupancy in one house, possibly restricting it to members of a single family; ii) Councilman Butta stated that the occupancy limit was determined during the inspection; iii) The attendees were split regarding children under the age of 10 being excluded from the occupancy count as stated in item #8. There was no consensus reached at this time but several attendees thought the age limit could possibly be lowered to 2 years old versus 10; iv) Several attendees felt that the normal occupancy requirements should be followed, but that a maximum occupancy was necessary regardless of the size of the house. There was much debate about this. John Hozey suggested the possibility of a different maximum occupancy number for houses in Bay Creek versus the historic district since the Bay Creek houses were generally larger than those in the historic district; v) Jeff Palmor encouraged the Council and Planning Commissioners to think about applying the same occupancy restrictions to families with children versus all adults. 4 adults and 5 children were different than having a house of 9 adults. He wanted to encourage families to come to Cape Charles.

Violations (items#10 and 11): i) Commissioner Ashworth expressed his concern with “bad actors” renting houses. He noted that item #10 had a note stating that “individual nuisance, noise, or parking citations will not be counted against the STR owner/operator, but issued directly to the offending party,” and suggested that the STR owner should possibly be penalized as well. There had to be a way to address the issue of bad behavior with some STRs, possibly adding that after 3 violations, they would lose their permit; ii) Councilwoman Holloway added that the biggest challenge was that we had new people every week; iii) Jeff Palmor asked where to draw the line between bad guests and bad owner/operators. He stated that we did not want properties welcoming fraternities or parties, etc., and added that if a party was being held at his house at 2:00 a.m., neighbors should call the police, then contact him. Everyone involved needed to be penalized, including the owner/operator, but it got tricky when we were talking about revoking a permit when the owners were not there; iv) Mayor Charney stated that if the police had to be called, and the owner/management company took care of the issue, the owner should not get a strike against them; v) Commissioner Ashworth added that if the owner/operator did not screen their renters, there should be consequences; vi) Councilman Grossman explained that the reason that noise, parking, and nuisances were not specifically identified in this item was that they were already in the Town Code and applied to everyone, not just STRs; vii) Sam Jones provided a basic overview of the recent Historic District Civic League survey which had 112 responses for the 7 questions. There was a question related to having to complain to STR owners/operators or the Town regarding noise, lighting, trespassing, or other nuisance behavior. Full-time residents or next-door neighbors were more likely to complain. 53% of responders stated that they have had to complain; 38% occasionally complained; and 7.4% frequently complained. That’s why owner/operator contact information was needed in the STR database; viii) John Hozey stated that the framework to address the “bad actors” was included in the recommendations but more detail was needed; ix) John Hozey stated that these recommendations were sent to the attorney for review and it was believed that all items were implementable, including the cap. We were advised to be careful to exercise authority only with individuals who had that authority such as the treasurer, zoning administrator, building official, police chief. This was included in item #11. We also had to provide an avenue for the owners to appeal a determination. Appeals would be made to the town manager who would investigate the situation and make a ruling. The

town manager's decision would be final. If the owner wanted to continue to pursue the issue, it would be through the court system.

Inspections (item #9): i) Inspections would be required of all STRs initially. Annual recertifications would be made by the owner at time of business license renewal but reinspection would only be done upon a change in property ownership or management entity; ii) Councilman Buchholz expressed his concern of reinspection being required only if the property was sold; iii) Councilman Butta suggested requiring reinspection every 3 years. John Hozey clarified that property owners would be able to recertify for 2 years with an inspection being required for year 3; iv) Commissioner Holloway added that inspections would be required if the property was cited for any violations.

Parking (item #12): i) John Hozey stated that the intent was not to increase parking requirements at this time. The biggest complaints being received were related to parking and the fact that residents could not park at or near their homes because of STR parking; ii) There was much discussion regarding the recommendations, but no consensus was reached; iii) Parking was an issue in the historic district regardless of STRs; iv) By providing 2 parking passes per STR, any additional vehicles would have to park elsewhere. Arrangements were needed for overflow parking that we currently did not have; v) Jeff Palmor stated that people generally wanted to do the right thing. By just moving cars to another street, etc. we were creating a problem for someone else; vi) All were in agreement that the full-time residents' right to park in front of or by their homes needed to be protected; vii) One of the recommendations was to issue parking stickers to residents and painting the curb area in front of their homes a different color, if permitted by VDOT. There was a lot of discussion of "what ifs" regarding this recommendation; viii) Commissioner Smith stated that everyone agreed that parking was a big problem but was not going to be resolved tonight. More research was needed; ix) John Hozey stated that more research would be done regarding obtaining additional parking.

Councilwoman Holloway thanked the members of the STR committee for all their hard work in developing these recommendations.

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

Motion made by Commissioner Holloway, seconded by Commissioner Smith, to adjourn the Planning Commission Work Session. The motion was approved by unanimous vote.

The joint work session was adjourned at 8:43 p.m.

Mayor Adam Charney

Chairman Bill Stramm

Town Clerk

**November 2, 2023 Joint Work Session of Town Council & Planning Commission
Information Provided in Writing**

Memorandum



From: John Hozey, Town Manager
Date: November 2, 2023
To: Town Council and Town Planning Commission
RE: Short-Term Rentals

Earlier this year I created an ad hoc committee to research short-term rental (STR) issues. Over the past five months, this committee has been reviewing related information and considering possible suggestions for STR regulations that the Town Council and Planning Commission might consider. This committee had no formal authority nor any decision-making ability. It was simply a working group assisting staff, that brought together varying perspectives. This six-member committee had the following representation:

- Town Council/Planning Commission
- Cape Charles Historic District Civic League
- Cape Charles Vacation Homeowners Association
- Bay Creek Community Association
- Town Zoning Administrator
- Town Manager

The consensus among these committee members was that our work should be guided by the following question: ***How do we best protect/preserve the town's sense of community; while recognizing the existing proliferation of STR's and their associated economic benefits?***

Note that the rationale to consider some type of limitation or regulation of STR activity was not only driven by our desire to protect the character of our residential communities, but also to address concerns of stress on the Town's infrastructure. In other words, the town is only so big, and can only accommodate so many people before saturation of public infrastructure occurs. Staying ahead of this curve is unquestionably in the Town's best interest.

So, this was a balancing act to be sure; pitting economic needs against practical concerns. Nobody wanted to take anything away from those already vested in any STR interest, nor did anyone want any STR impact to unnecessarily affect our residents. Therefore, the attached list of recommendations attempts to thread that needle.

It is important to note that the presentation of these recommendations does not represent the end of a process, but rather the beginning of one. This is just a starting point. If during the joint work session of the Council and Planning Commission a consensus can be found on what to move forward; public input would then be solicited. This would likely take the form of a Town Hall style meeting. Only after full public vetting would anything be considered for the formal adoption process.



TOCC STR Regulation Committee Recommendations

11/02/23

- 1) Effective date for all recommendations is January 1, 2025. This allows time to fully vet and develop these concepts, without them impacting operators during mid-season. It also provides additional time for those engaged in the development of an STR to potentially finish what's already been started
- 2) Set an initial cap on STRs at the number being operated per zoning district (or by village in Bay Creek) on the effective date. Establish the final cap for STRs (based on those actually operating) twelve months after the initial cap is set (to weed out those who grabbed a permit before the deadline, but who did not operate an STR). Note caps are by number, not percentage. This preserves all existing uses, while decreasing the overall density as additional construction occurs
- 3) Future changes to STR caps, or to establish caps in districts initially without STRs, would require a zoning text amendment for the affected district; enabling the Planning Commission and Town Council to evaluate the merits of such changes against the greater needs of the Town at that time
- 4) The established cap in the R-1 (historic) district may be increased for specific instances where significant investment is committed to rehabilitate a dilapidated (as determined by the Town) dwelling
- 5) STR's will require an annual permit that will be applied for with their business license. Permits once issued (valid for one year), will automatically renew each subsequent year upon approval of the associated annual business license. Any break in business license coverage for a period of one year, or if a STR remains vacant or not used as a valid short-term rental for a period of one year, will constitute termination of the permit; requiring reapplication the following year, and going to the bottom of a waiting list (if any)
- 6) STR permits in good standing are transferable with the sale of the property
- 7) There will be no STR registry. STRs will be tracked via the business license database. Business license applications will be expanded to collect additional information. This database will include points of contact for all businesses, to include 24/7 contacts for STRs. A listing of all businesses (grouped by type), with their contact information, will be posted on the Town website

- 8) Occupancy will be determined by the square footage of bedrooms, as already defined in ZO Article II; exception: children under the age of 10 are excluded from occupancy count
- 9) Initial inspections will be required for all STRs to confirm occupancy limits and other safety/building code requirements. Annual recertifications of these requirements will be made by the property owner at time of business license renewal. Reinspection will occur upon a change in property ownership or management entity. The Town reserves the right to inspect any property to investigate potential violations, with adequate notice
- 10) An STR permit will be suspended for the following calendar year (to minimize impacts on reservations in the current calendar year), if any of the violations described below occur. An applicant with a suspended permit will be required to reapply once the suspension period is over. Depending on the availability of permits under the applicable district cap, this may cause the application to go to the bottom of a waiting list.
- Qualifying violations include:
- a. Failure to pay business or real/personal property taxes
 - b. Failure to pay transient occupancy tax
 - c. Cancellation of insurance and/or failure to notify the Town of insurance cancellation
 - d. Operating without a business license
 - e. Owner or management entity knowingly allow exceedance of occupancy limits
 - f. Failure to adhere to safety/building code requirements following reasonable notice
 - g. Falsifying annual certifications or resident parking applications
 - h. Applicable zoning violations
 - i. Failure to provide responsive contacts (as determined through Town investigations)
- Note: individual nuisance, noise, or parking citations will not be counted against the STR owner/operator, but issued directly to the offending party
- 11) Violations will be determined by the Treasurer, Zoning Administrator, Code Official, or Police Chief as appropriate. Appeals may be made to the Town Manager, who will conduct, or cause to be conducted, an investigation. The Town Manager's ruling, based on the investigation, will be final
- 12) There are no additional parking requirements for STRs. Instead, we will add to ZO Article IV, a new section for On-Street Parking within the R-1 District designating parking areas for permanent residents of the Town. The following requirements will apply:
- a. Applicable only to permanent residents of R-1 (homeowner or long-term renters) who physically reside in the R-1 District for a minimum of 185 days per year
 - b. Allow up to two parking spaces along the primary residence property frontage (for developed lots only) not to exceed 40' in length. If there is a driveway, only one on-street parking spot will be available (maximum 20' in length)

- c. Curb will be identified as permanent resident parking (painted green or other color)
- d. Permanent residents of R-1 must apply for the specific number of spaces they require (up to two) and receive stickers for their vehicle(s). Copy of vehicle registration will be required for each spot requested
- e. This does not constitute reserved parking for any resident; a permanent resident displaying a valid sticker may park in ANY area designated for permanent residents
- f. Signage and implementation requirements will need to be further explored with VDOT
- g. An application for a short-term rental permit will prompt a review of off-street parking designations for that property
- h. All other areas not designated for permanent resident parking will be open parking and available on a first come, first served basis, to all part-time residents, visitors, or STR guests

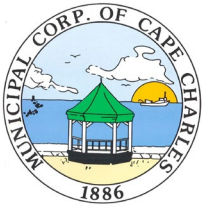
13) Other miscellaneous STR provisions:

- a. There are no restrictions on the types of homes that can be used for an STR (i.e., single family, duplex, condos, etc.)
- b. Except for existing legal non-conforming uses, STRs are prohibited in accessory dwelling units or accessory structures
- c. There is no requirement for owner occupancy or residency on site
- d. No simultaneous STR rentals under separate contracts within a single residence
- e. No Subleasing
- f. If within an HOA, proof that HOA has been notified
- g. No commercial events or gatherings
- h. Signage will comply with newly updated zoning requirements
- i. No person or entity may have an ownership interest in more than five STRs
- j. Refuse requirements: one and two bedroom units require one trash receptacle; three or more bedroom units require two receptacles

Treasurer's Report (as of 12/5/22)

	<u>TOTAL HOMES AS OF 12/5/2022 RE TAX BILLING</u>		<u># of homes as Primary Residence</u>		<u># of homes as Second Home</u>		<u># of STRs</u>	
	# of Homes	%age	# of Homes	%age of Primary Residences from TOTAL HOMES IN TOWN	# of Homes	%age of Total Secondary Homes from TOTAL HOMES IN TOWN	# of Homes	%age of TOTAL STRs as of 5/18/2023 from TOTAL HOMES IN TOWN
Bay Creek Homes	508	37.80%	206	40.55%	302	59.45%	57	11.22%
Historic District Homes	838	62.20%	363	43.32%	475	56.68%	196	23.39%
TOTAL HOMES	1,346	100%	569	42.27%	777	57.73%	253	18.80%

STRs currently occur in 18.8% of the housing stock in the Town with 196 STRs in the Historic District and 57 in Bay Creek. IF you take that in reverse, then 81.2% of the housing stock is not part of the STRS or 1,093 housing units are not part of STRs



**PLANNING COMMISSION
Public Hearing & Regular Meeting
Cape Charles Civic Center
November 20, 2023**

At 6:00 p.m., Chairman Bill Stramm, having established a quorum, called to order the Public Hearing and Regular Meeting of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Bill Ashworth, Jim Holloway, and Michael Strub. Commissioners Paul Grossman, Dennis McCoy and Shannon Smith were not in attendance. Also, in attendance were Planning/Zoning Administrator Katie Nunez and Town Clerk Libby Hume. There were seven (7) members of the public in attendance and two viewers on Facebook Live.

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

Annual reorganization of the Board – Due to other Board Members not being present, this was deferred to December 2023 Meeting.

CONSENT AGENDA:

Hearing no objections, Chairman Stramm approved the Consent Agenda as presented by unanimous consent.

PUBLIC HEARINGS:

- A. *Zoning Map Amendment (ZMA) 2023-04 application from Municipal Corporation of Cape Charles to rezone Tax Map #83A3-1-644 & 83A3-1-641 (11,301.22 square feet) from Commercial -1 (C-1) to Residential-1 (R-1) pursuant to CCZO Section 2.7.2 and Section 3.2.*

Chairman Stramm read the public hearing notice.

Ms. Nunez summarized the staff report. There are two lots that are located behind the library property and all of this property was acquired by the Town when they purchased it from Bank of America. These two lots were never developed or utilized when the main building in front of the lots was used as a bank and the Town has not utilized them in the operation of the library building. These two lots are in compliance with the lot requirements in the Residential-1 Zoning District and the Town Council does not wish to have these two lots be developed in a commercial nature but should be developed in a residential nature since they front on Randolph Avenue and really are part of that residential neighborhood.

She reported that the proposed developer for the library building itself, City and Guild, has now indicated to the Town that they do not wish to purchase these two lots behind the library as part of the library project. The Town Council has indicated that they intend on putting these two lots out for sale in the near future for residential development, thus the request for the rezoning of these two, and would establish a minimum bid price for each lot as part of that process. In addition, there is an easement that runs along the side of one the lots (Tax Map 83A3-1-641). The town recognizes that there is activity occurring on the parking lot area behind the library which is adjacent to these two lots and said activity is serving several common good purposes for ancillary property owners, such as trash collection, dumpsters, parking, etc. and there is an interest from the Town to see if we can clean up this area and establish a more appropriate

easement/alley coming in from Pine Street and running behind the buildings located on Mason Avenue.

PUBLIC HEARING COMMENTS:

Mark A. Pugh, 211 Mason Avenue, Lives in 245 Mason Avenue

He has no problem with the rezoning of the lot right on the corner of Pine and Randolph Avenue; however, he has an issue with doing anything with the other lot (Tax Map #83A3-1-641) since there is an easement/driveway that must be preserved and retained. He does think that this neighborhood has changed and was not adequately addressed in the Town's application for rezoning. Many of the businesses at this end of Mason Avenue use the alley/easement that comes off this Town lot from Randolph Avenue to come into the backside of their business. He believes there is a prescriptive easement under the law for this easement/alley and cautions

John Barrett, owns a unit in The Loggias at 209 Mason Ave. He sold 207 Mason Avenue earlier in the year and there was a survey done at that time and there is evidence in that survey that the long easement that runs parallel to Mason Avenue belongs to 207 & 209 Mason Avenue. He indicated that he was not speaking about the cross easement that comes in from Randolph Avenue which Mr. Pugh just spoke about. He asked if these 2 lots would be used for apartments or single family homes. He inquired as to what would happen to the pecan tree on this lot. He indicated that The Loggias Condominiums have a trash unit back there and there is a great deal of stuff behind the library that would benefit from cleaning some of this up.

Motion made by Commissioner Strub, seconded by Commissioner Holloway, to close the public hearing at 6:16 p.m. The motion was unanimously approved.

CITIZEN COMMENTS:

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

UNFINISHED BUSINESS:

None

NEW BUSINESS:

- A. *Zoning Map Amendment (ZMA) 2023-04 application from Municipal Corporation of Cape Charles to rezone Tax Map #83A3-1-644 & 83A3-1-641 (11,301.22 square feet) from Commercial -1 (C-1) to Residential-1 (R-1) pursuant to CCZO Section 2.7.2 and Section 3.2.*

The discussion and questions were as follows:

Commissioner Ashworth asked for clarification regarding the alley/easement/driveway and how that may be impacted by this rezoning application.

Ms. Nunez stated that there is no driveway from Randolph Avenue across the lot in questions leading to the backside of the Mason Avenue commercial buildings but it is an easement. She does not feel a rezoning of the properties impacts the easement and its existence. The easement/alley is not a public alley but is owned by the property owners that abut it. The Town's thought process at this point is asking staff to see if a solution can be crafted which may include the establishment of a proper alley/easement across the town lot which is currently the parking lot for the library with the alley/easement coming in from Pine Street and coming up to approximately the building at 213 Mason Avenue. In addition, the Town is hoping to address the placement of and use of various dumpsters on the Town lot by several commercial

establishments without a legal agreement with the Town memorializing and approving these uses on Town property.

Commissioner Ashworth asked about the claim of prescriptive rights advanced by Mr. Pugh and Ms. Nunez stated that that is a legal determination that would need to be resolved by the courts.

Mr. Pugh was recognized by the Chairman and he stated that he thinks the size and location of the driveway on Randolph is not being fairly represented by Ms. Nunez. Chairman Stramm stated that the Town has not indicated that the easement will be eliminated but rather the Town is trying to see if a new solution of access & trash management and parking can be devised for the commercial properties at this end of Mason Avenue.

Commissioner Ashwork verified that the Planning Commission is being asked to vote on a recommendation to rezone these two lots from Commercial to Residential-1.

Motion made by Commissioner Holloway, seconded by Commissioner Ashworth, to recommend in favor of Zoning Map Amendment (ZMA) 2023-04 application from Municipal Corporation of Cape Charles to rezone Tax Map #83A3-1-644 & 83A3-1-641 (11,301.22 square feet) from Commercial -1 (C-1) to Residential-1 (R-1) pursuant to CCZO Section 2.7.2 and Section 3.2. The motion was approved by unanimous vote.

Ms. Nunez stated for the public information that the Planning Commission action on this rezoning application is a recommendation to Town Council and the public hearing before Town Council on this matter will be held on December 21, 2023 where they will be provided a full report and all documents submitted and provided to the Planning Commission on this matter.

REPORT OF OFFICERS AND COMMITTEES: NONE

STANDING STAFF REPORT: There was no meeting of the Board of Zoning Appeals in November nor for the Wetlands nor Harbor Area Review Board. There has been a staff change in the department – Robert James, PT Code Compliance Officer, has resigned from his position, effective November 16, 2023. Ms. Nunez indicated that the zoning ordinance review work will recommence in January 2023 with the exception that the Sign Review Committee draft sign ordinance will be on your December agenda to commence review of this section of the ordinance.

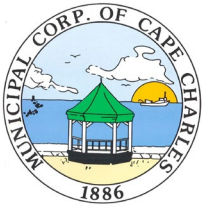
ANNOUNCEMENTS:

- Regular Planning Commission Meeting on Tuesday, December 5, 2023 at the Civic Center

Motion made by Commissioner Holloway, seconded by Commissioner Ashworth, to adjourn the Planning Commission Regular Meeting at 6:30 p.m. The motion was approved by unanimous vote.

Chairman Bill Stramm

Planning/Zoning Administrator



**PLANNING COMMISSION
Public Hearing & Regular Meeting
Cape Charles Civic Center
December 05, 2023**

At 6:00 p.m., Chairman Bill Stramm, having established a quorum, called to order the Regular Meeting of the Planning Commission. In addition to Chairman Stramm, present were Commissioners Bill Ashworth, Paul Grossman, Jim Holloway, and Michael Strub. Commissioner Shannon Smith joined online via Microsoft Teams Meeting. Commissioner Dennis McCoy was not in attendance. Also, in attendance were Planning/Zoning Administrator Katie Nunez, Planning & Zoning Administrative Assistant Maureen Tamares-Meditz, Town Clerk Libby Hume. There was one member of the public in attendance and two viewers on Facebook Live.

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

Annual reorganization of the Board - Commissioner Stramm asked for nominations of Chairman. Commissioner Holloway nominated Commissioner Stramm as Chairman and was seconded by Commissioner Grossman. There were no other nominations for Chairman. All were in favor.

Chairman Stramm asked for nominations of Vice-Chairman. Commissioner Holloway nominated Commissioner Grossman and was seconded by Commissioner Smith. All were in favor.

CONSENT AGENDA:

Hearing no objections, Chairman Stramm approved the Consent Agenda as presented.

CITIZEN COMMENTS:

WRITTEN COMMENTS RECEIVED: (please see attached)

1. Mark A. Pugh, Kookaburra LLC

REPORT OF OFFICERS AND COMMITTEES:

Ms. Nunez summarized the Staff Report for the Draft Sign Ordinance. She stated that, in 2015, there was a case called *Reed v Town of Gilbert* in which the US Supreme Court basically ruled sign ordinances that are structured from a content-based perspective are illegal. They view it as an infringement upon freedom of speech. Ms. Nunez said that we needed to revamp our ordinance to grant compliance with the federal law. What it means is that we cannot have categories of political side or specific types of temporary signs which are content-based signs. A more generic themed category is what needs to be created. Ms. Nunez continued to say that for the past 2 years that she has been the Planning/Zoning Administrator, when reviewing sign applications, she has not been looking at any of the content that is being proposed. Right now, she is just looking solely based on, does it meet Historic District standards; does it meet the sign size in relation to the building itself; how is it going to be affixed to the property, will it be hanging, standup or monument sign; does it comply with staying out of public pedestrian traffic ways. She mentioned that while the Town's ordinance has not been in compliance, the current ordinance has not been enforced as it relates to content-based signage. It has been kept within the constraints of federal law. Ms. Nunez said that each section will be discussed and the whole board can weigh in with any thoughts or comments about the draft ordinance.

Commissioner Ashworth, member of the Sign Subcommittee, addressed the board saying that their feedback is important to know whether the Draft Sign Ordinance is going in the right direction. He continued to say that they try to balance public safety and aesthetic concerns with the benefits of signage and advertising in the business community for businesses to have reasonable opportunity to promote their businesses. Commissioner Smith, also member of the Sign Subcommittee, said that when they were working on this, they wanted to make sure that this shows support to new businesses coming to town; existing business; residents and Historic nature of the town. She thought that they reached a pretty good balance and look forward to the board's review.

Discussion about the Draft Sign Ordinance was as follows: (i) Vice-Chairman Grossman asked if the Sign ordinance will be included in or separate after all the language, headers or whatever needs to be changed. Ms. Nunez replied that if the Draft Sign Ordinance is acceptable after some tweaks, it will be brought to the Town Council, it will be inserted into Article 4 and the current Sign Ordinance will go away. (ii) At some point, Commissioner Michael Strub asked if we are getting a legal review for the sign ordinance. Ms. Nunez replied that after all the Zoning Ordinance is done it will all go to the Town Legal Counsel.

Article __ - SIGNS

§1. – Findings, purpose and intent; interpretation

- After some discussion about the word *findings* having a negative impact, Commissioner Jim Holloway recommended removing the word from this section. All agreed.
- (sub-paragraph A) Delete the first sentence that states: *Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation.*
- (sub-paragraph B) Signs not expressly permitted as ~~being~~ allowed by right or by ~~special use~~ *change to: conditional sign* permit under this article, by specific requirements in another portion of this chapter, or otherwise expressly allowed by the ~~{governing body}~~ *change to: Town Council* or Board of Zoning Appeals are forbidden.
- (sub-paragraph E) Ms. Nunez stated that she will clarify this paragraph.
- (sub-paragraph F) Delete the words *City/County* from the first sentence.

§2. Definitions

- Ms. Nunez suggested to proceed to Section 3 and go back/refer to this Section as needed.

§3. Permit Required

§4. Permit not Required

- (2) Flags up to 16 Square feet change: *16sq ft to 24sq ft or (4x6)* as suggested by Chairman Bill Stramm. All agreed.
- (4) *Temporary signs*
 - (sub-paragraph A) On the first sentence delete: *One (1) sign*, and change to: *Allowance on a sign of each general contractor and subcontractors.*
 - (sub-paragraph A) On the first sentence delete: *One (1) no more*, and change to: *with each not being more than...*
 - (sub-paragraph B) Commissioner Grossman stated that he is opposed to having rental signs sitting on a residential property that seems permanent. After further discussion it was decided to delete: *or rent* on the first paragraph. All agreed.

- (sub-paragraph D) On residential ~~property~~, one ~~or more~~ temporary signs with a total area of no more than twelve (12) square feet, and which are ~~removed~~ within ~~90~~ days after being erected. After some discussions it was agreed that this paragraph should be changed to: *On residential zoning district, one temporary sign with a total area of no more than twelve (12) square feet, and which are allowed for 30 days after being erected and not to exceed more than 90 days out of any 365-day period. (examples: including but not limited to: yard sales, estate sales). Exceptions can be granted for non-residential property in Residential districts.*
- (sub-paragraph E) First sentence, on residential property, change to: In the Residential Zoning District.
- (sub-paragraph F) Add: *Town permitted events* after marketing campaigns on the first sentence.
- (6) Delete the 2nd sentence that read: *Additional minor signs are permitted in certain districts with a permit.* As recommended by Commissioner Paul Grossman, all agreed.
 - Add: Sign Example: Hanging Signs (name of homes)
- (7) A-frame signs ~~more than fifty (50) feet from the nearest public right of way.~~ After further discussion it was agreed that this sentence be changed to: *A-frame signs not to impede pedestrians or vehicular traffic.*
- (8) This will be cross-referenced on Section 12.

STANDING STAFF REPORT:

Ms. Nunez gave updates on the following: (i) Board of Zoning Appeals: No applications filed for December 2023 or January 2024. However, the BZA will be doing a meeting in January 2024 to handle administrative issues (minutes, election of offices, review of bylaws and procedures) (ii) An application has been received for the Historic District Review Board December meeting to move a house from 645 Mason Avenue to 602 Washington Avenue. Ms Nunez is informing the Planning Commission of this application because, if the house move is approved, then there will be a development site plan submission to locate a drive-thru bank at the 645 Mason Avenue as well as the adjacent lot to the west (see aerial below). These lots are zoned Commercial-Residential (CR). While a bank is not expressly listed by right in the CR District, Ms. Nunez finds this commercial use to be compatible in nature and complementary to the CR District and, specifically, to this location within the CR District adjacent to the Kellogg Building which is being converted into a restaurant and across the street from Rayfield's Pharmacy. The CCZO requires that concurrence be obtained from the Planning Commission with Ms. Nunez' determination of this use within this district. (Please see attached monthly report). Ms. Nunez asked the Board to concur with her determination and ask for their action since this will be going to the Historic Board December 19, 2023 meeting to see if they will approve moving the house from 645 Mason to 600 Washington. She also mentioned that if the house move gets approved, she does not want the board to say that it is not in favor of the bank being built at 645 Mason.

Motion made by Commissioner Holloway, seconded by Commissioner Ashworth, that at the property outlined both at 641 Mason and the adjacent lot next to it, a bank would be a compatible use in the commercial residential zoning district. The motion was approved by unanimous vote.

ANNOUNCEMENTS

- Regular Planning Commission Meeting on Thursday, January 11, 2024 at the Civic Center

Motion made by Commissioner Holloway, seconded by Commissioner Ashworth, to adjourn the Planning Commission Regular Meeting at 7:50 p.m. The motion was approved by unanimous vote.

Chairman Bill Stramm

Planning & Zoning Administrative Assistant

Kookaburra LLC

211 Mason Ave, Cape Charles, VA 23310

December 5, 2023

Dear Ms. Nunez and Cape Charles Planning Commission:

This is a letter in support of the possible use of 645 Mason Ave as a commercial bank within the CR District.

Taylor Bank is the only bank headquartered and focused on the three, and now hopefully four, Delmarva coastal counties. As a Taylor Bank customer for 45 years, we know Cape Charles will be well served by a local bank that invests and loans in our peninsula. Sadly, there is currently no financial institution that will accept commercial deposits within the Town of Cape Charles after the PenFed takeover of NFCU on Mason Ave. The proposed bank will greatly help foster business growth and additional employment opportunities in Cape Charles.

Thank you for your consideration in this matter.

Sincerely,



Mark A. Pugh

Kookaburra LLC



Municipal Corporation of Cape Charles

DECEMBER 2023 MONTHLY REPORT

Katie H. Nunez, Planning/Zoning Administrator

A. SUBDIVISION AGENT: No items to report.

B. BOARD OF ZONING APPEALS - CODE OF VIRGINIA SECTION 15.2-2310

[Planning Commission shall be provided any applications filed with the Board of Zoning Appeals.]

No applications filed for December 2023 or January 2024. However, the BZA will be doing a meeting in January 2024 to handle administrative issues (minutes, election of offices, review of bylaws and procedures).

C. HARBOR DEVELOPMENT CERTIFICATES: None.

D. WETLANDS and COASTAL SAND DUNE BOARD: No applications filed for December 2023.

E. OTHER

An application has been received for the Historic District Review Board December meeting to move a house from 645 Mason Avenue to 602 Washington Avenue. I am informing the Planning Commission of this application because, if the house move is approved, then there will be a development site plan submission to locate a drive-thru bank at the 645 Mason Avenue as well as the adjacent lot to the west (see aerial below).



These lots are zoned Commercial- Residential (CR). While a bank is not expressly listed by right in the CR District, I do find this commercial use to be compatible in nature and complementary to the CR District and, specifically, to this location within the CR District adjacent to the Kellogg Building which is being converted into a restaurant and across the street from Rayfield's Pharmacy.

The CCZO requires that concurrence be obtained from the Planning Commission with my determination of this use within this district. Below is the Statement of Intent and Permitted Uses for the CR Zoning District for your review.

Section 3.5 Commercial Residential CR

A. Statement of Intent. The purpose of this district is to recognize the unique juxtaposition of the existing residential structures within the central business district and the future needs of Cape Charles commercial districts. It is the intent of this zone to promote the continued residential character of these areas while allowing commercial uses to be introduced.

The specific intent of this district is (1) to encourage retention of the existing residential buildings and character of the area and (2) to encourage compatible uses for these buildings.

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

- 1. Accessory buildings*
- 2. Antique shops*
- 3. Art galleries*
- 4. Athletic clubs*
- 5. Beauty and barber shops*
- 6. Bed and breakfasts*
- 7. Camera shops*
- 8. Candy stores*
- 9. Clothing stores*
- 10. Day spas*
- 11. Dry goods stores*
- 12. Florists*
- 13. Gift shops*
- 14. Leather goods*
- 15. Newsstands*
- 16. Offices*
- 17. Real estate sales*
- 18. Single-family dwellings*
- 19. Tobacco stores*
- 20. Video stores*
- 21. Any other use which is compatible in nature with the foregoing uses and which the Zoning Administrator determines to be compatible with the intent of the district and is concurred with by the Planning Commission.*

I have received a conceptual drawing for the bank building and site plan and have enclosed for your information.

Town of Cape Charles Planning Commission By-Laws

ADOPTED: October 5, 2021 REVISED: October 5, 2021 AMENDED:
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ARTICLE ONE AUTHORIZATION

- 1-1 This commission, established in conformance with the resolution passed by the Cape Charles Town Council on October 12, 1976, has adopted the following articles in order to facilitate its powers and duties in accordance with the provisions of Section 15.2-2210 and 15.2-2212, Code of Virginia, 1950, as amended.
- 1-2 The official title of this commission shall be the “Town of Cape Charles Planning Commission.”

ARTICLE TWO PURPOSE

- 2-1 The purpose of the Cape Charles Planning Commission (the “Commission”) is to serve in an advisory capacity to the Town Council by preparing and/or reviewing plans, ordinances, capital improvement programs and other documents for consideration by the Town Council and to carry out activities as designated by the Town Council.

ARTICLE THREE Membership

- 3-1 This Planning Commission shall consist of seven (7) members. One (1) member shall be a representative of the Town Council. The remaining six (6) members shall be referred to as appointed members.
- 3-2 The qualifications of the six (6) appointed members shall be that each is a resident of the Town, qualified by knowledge and experience to make decisions on questions of community growth and development, provided that at least one-half (1/2) of the members so appointed shall be owners of property within the Town.
- 3-3 The term of the representative from the Town Council shall be for tenure of office.
- 3-4 All other Commissioners shall be appointed for a term of four (4) years; the term of office shall commence on November 1 and expire 4 years hence on October 31.
- 3-5 Any vacancy in membership shall be filled by appointment of Town Council and shall be for the unexpired term only.

- 3-6 Members of the Commission may be removed by the Town Council for malfeasance in office or poor attendance as determined in the sole discretion of the Council. A Commissioner may be removed without limitation in the event that the Commission member is absent from any three consecutive meetings of the Commission or is absent from any four meetings of the Commission within any twelve-month period.
- 3-7 Members of the Commission shall attend and fulfill the requirements of the Virginia Certified Planning Commissioners Program within two calendar years of their appointment.
- 3-8 The Town Council may provide for the payment of expenses incurred by Commission members in the performance of their official duties and for compensation for service. *Note: Town Council has established a \$25 monthly meeting rate as of 07/2021; this rate will automatically be adjusted if Town Council adopts new meeting rates.*

ARTICLE FOUR OFFICERS AND THEIR SELECTION

- 4-1 The officers of the Commission shall consist of a Chair, a Vice-Chair, and a Secretary. The Chair and Vice-Chair shall be elected by the membership. The Secretary shall be the Zoning Administrator, Planning Director or their designee.
- 4-2 The elected officers of the Planning Commission shall be elected for a one (1) year term by the Commission from the members at the first regular meeting after November 1 each year.
- 4-3 A candidate receiving a majority vote of a quorum of the Commission shall be duly elected. He shall take office immediately and serve for one (1) year or until his successor shall take office.
- 4-4 Should the Chair and Vice-Chair be absent at any meeting, the member with the most seniority on the Commission, alphabetically, shall preside as temporary Chair until the Chair or Vice-Chair is present.
- 4-5 Vacancies in offices shall be filled immediately by regular election procedures at the next meeting after such vacancy has occurred.

ARTICLE FIVE DUTIES OF OFFICERS

5-1 The **Chairman** shall be an appointed member of the Commission and shall:

- 5-1.1 Preside at all meetings.
- 5-1.2 Appoint committee chairmen and members.
- 5-1.3 Be informed immediately of any official communications and report the same at the next regular Commission meeting.
- 5-1.4 Rule on all procedural questions.
- 5-1.5 Carry out other duties as are assigned by the Commission.

5-2 The **Vice Chairman** shall be an appointed member of the Commission and shall:

- 5-2.1 Act in the absence or inability of the Chairman.
- 5-2.2 Have the power to function in the same capacity as the Chairman in cases of the Chairman's inability to act.

5-3 The **Secretary** shall:

- 5-3.1 Keep a written record of all business transacted by the Commission.
- 5-3.2 Notify all members of all meetings.
- 5-3.3 Keep a file of all official records and reports of the Commission.
- 5-3.4 Certify all maps, records, and reports of the Commission.
- 5-3.5 Attend to the correspondence of the Commission.
- 5-3.6 Prepare and be responsible for the publishing of advertisements and public notices relating to all public hearings and public meetings.
- 5-3.7 Keep a set of minutes of the Commission meetings, which, after approval by the Commission, shall be retained in the Department of Planning & Zoning, and posted on the Town website.
- 5-3.8 Forward Commission recommendations to the Town Council along with a summary explanation of the Commission's vote and a summary explanation of any difference(s) between a staff recommendation and commission recommendation on a given matter within five days.

ARTICLE SIX COMMITTEES

6-1 Committees, standing or special, may be appointed by the Chairman, to serve as needed. Such committees shall be subject to the approval of a majority vote of the Commission.

ARTICLE SEVEN MEETINGS

7-1 Regular meetings of the Commission shall be held on the first Tuesday of each month in the Cape Charles Civic Center at 6:00 p.m. When a meeting date falls on a legal holiday, an alternative date shall be designated by the Commission. Meetings may be cancelled in advance by a majority vote of those present at a previous

meeting. If the Chairman, or the Vice Chairman if the Chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for Commission members to attend a regularly scheduled meeting, the meeting shall be continued to the following Tuesday at 6:00 P.M. in the Cape Charles Civic Center. Such finding shall be communicated to the members of the Commission and the press and posted on the Town's website as promptly as possible. All hearing and other matters previously advertised shall be conducted at the continued meeting, and no further advertisement is required. Any regular meeting may be cancelled by the Chairman, or the Vice Chairman if the Chairman is unable to act, if there is no new business. The Secretary shall notify the members of the Commission of the cancelled meeting.

- 7-2 Special meetings or work sessions shall be called at the request of the Chairman or at the request of a majority of the membership.
- 7-3 Except as provided for in Section 2.2-3711, Code of Virginia, 1950, as amended (Virginia Freedom of Information Act), all meetings, hearings, records, and accounts of the Commission shall be open to the public. There shall be a Citizen Comment Period at each of the regular Planning Commission meetings. The Citizen Comment Period will allow a member of the Public three (3) minutes to speak about any planning matter, except agenda items scheduled for a Public Hearing. All public participation must comply with the Guidelines for Citizen Participation, as adopted by the Town Council on July 22, 2021, and which are affixed as Appendix A to these Bylaws.
- 7-4 Three or more of the members of the Commission shall constitute a quorum. No action of the Commission shall be valid unless authorized by a majority vote of those present and voting.
- 7-5 No member present shall abstain from voting unless such member has a conflict of interest in the matter being voted upon. A "conflict of interest" shall exist when there is an actual conflict: 1) pursuant to the Virginia State and Local Government Conflict of Interests Act (§ 2.2-3100 et. seq. of the Code of Virginia, or 2) pursuant to Town of Cape Charles Code of Ethics & Meeting Rules of Order, adopted by Town Council on July 22, 2021, and which is affixed as Appendix B to these Bylaws or 3) as stated by the Commission member unless objected to by a majority vote of the members of the Commission with such member asserting such conflict of interest not permitted to vote on such matter.
- 7-6 Commission members are permitted to meet with applicants outside of a Planning Commission meeting and Commission members shall publicly disclose any meetings at the next available Commission meeting by providing names of those persons in attendance and a summary of the reason(s) for such meeting, topics of discussion and any conclusions or findings as a result of the meeting.
- 7-7 The Secretary, in reporting votes of the Commission to the Town Council, shall indicate the recorded vote including any abstentions and absences.

ARTICLE EIGHT ORDER OF BUSINESS

- 8-1 The order of business for a regular meeting shall be:
 - 8-1.1 Call to order by the Chairman.
 - 8-1.2 Roll call; determination of a quorum.
 - 8-1.3 Invocation and Pledge of Allegiance.
 - 8-1.4 Consent Agenda: A) Acceptance of the Agenda; B) Presentation of the minutes; and C) Other
 - 8-1.5 Public Hearings.
 - 8-1.6 Unfinished business.
 - 8-1.7 New business.
 - 8-1.8 Report of officers and committees.
 - 8-1.9 Citizen Comment Period.
 - 8.1.10 Standing Staff Reports:
 - A) Subdivision Agent; and B) Board of Zoning Appeals Applications received, pursuant to Section 2.2-3711 of the Code of Virginia
 - 8.1.11 Adjournment.
- 8-2 The first item of business for the first regular meeting after November 1 of each year shall be the election of new officers.
- 8.3 Parliamentary procedures in the Commission meetings shall be governed by Robert's Rules of Order, specifically by the provisions which pertain to the Procedure in Small Boards. The Chair may speak, make motions and vote on all matters.
 - 8-3.1 Motions shall be restated before a vote is taken.
 - 8-3.2 A tie vote on any motion means the defeat of the motion for a lack of a majority vote.
- 8.4 The Commission shall keep a set of minutes of all meetings, and these minutes shall become a public record.
- 8.5 The Commission shall retain the option to invite public comment by those present at a business meeting at such times as the Commission deems necessary.

ARTICLE NINE HEARINGS

- 9-1 The Commission, in addition to those required by law, following Town Council referral, shall hold public hearings.
- 9-2 Notice of a hearing shall be published in a newspaper having general circulation in the area once a week for two (2) successive weeks specifying the time and place of hearing at which persons affected may appear and present their views, not less than five (5) days nor more than twenty-one (21) days after final publication, or as otherwise set forth in the Code of Virginia. Non-legal matters, or informational

meetings not covered by the Code of Virginia, but called by the Commission, may be advertised once in a/any paper deemed appropriate by the Commission for the meeting purpose.

9-3 The procedures followed for a public hearing on any matter shall be:

- 9.3.1 The legal advertisement is read, and the public hearing is opened.
- 9.3.2 The matter/case before the Commission shall be summarized by the Planning Director/Zoning Administrator. Presentations by staff shall be limited to fifteen (15) minutes unless additional time is authorized by the Commission.
- 9.3.3 The applicant, or their designated agent and/or legal representative, may make a presentation, combined total of fifteen (15) minutes, unless additional time is authorized by the Commission.
- 9.3.4 The Commission may recall a staff member or applicant to obtain specific information or ask additional questions regarding the matter or case.
- 9.3.5 Public Comments: Members of the public shall have three (3) minutes to speak or submit written comments in accordance with the Guidelines for Citizen Participation (Appendix A).
- 9.3.6 The applicant and staff are each provided an opportunity to provide a rebuttal or to clarify information in response to public comments, limited to five (5) minutes.
- 9.3.7 Staff recommendation is presented.
- 9.3.8 If the Planning Commission does not require additional information, then the Public Hearing is closed.
- 9.3.9 Planning Commission opens discussion on the matter and entertains votes for the recommendation and disposition of the matter.

ARTICLE TEN CORRESPONDENCE AND APPLICATION INFORMATION

- 10-1 The Secretary shall draft and sign all correspondence necessary for the execution of the duties and functions of the Planning Commission.
- 10-2 The Secretary shall communicate by telephone or other means when necessary to make communications that cannot be carried out as rapidly as required through direct correspondence.
- 10-3 A complete application from an applicant for consideration of Commission action shall be submitted generally to the Secretary not less than sixty (60) days preceding the meeting proposed for such consideration. Depending on the scope of work the Secretary may determine additional time is required for application review before such application is scheduled for consideration by the Commission and the applicant will be notified, in writing, of such action(s) and also shall be advised when an application may be considered complete and may be scheduled for Commission action.

- 10-4. All official papers and plans involving the authority of the Commission shall bear the signature of the Secretary.

ARTICLE ELEVEN
AMENDMENTS

- 11-1 These rules may be changed by a recorded two-thirds (2/3) vote of the entire membership after thirty (30) day's prior notice.

Town of Cape Charles Guidelines for Citizen Participation

Town Council meetings are open to the public, except when the Council invokes the provisions of the Virginia Freedom of Information Act to discuss an authorized topic under a closed (Executive) session. A period of Public Comment shall be provided as part of the Agenda for the Council's regular monthly meetings. The Public Comment period is an obligation of the Council to provide members of the public an opportunity to address the Council on legitimate matters of town business. This period shall be governed by the following provisions:

Eligibility

Only those citizens with standing in the Town of Cape Charles will be provided the opportunity to provide input during the Public Comment period. Citizens with standing include full-time residents, property owners, and business owners within the corporate boundaries of the Town of Cape Charles. State, federal, and county officials representing/serving the Town of Cape Charles are also eligible. When eligibility is called into question, input may be provided upon affirmative vote of the Council.

Registering

Persons having an interest in making in-person comments to the Town Council during the Public Comment period must register on a sign-up sheet, including their name and basis for standing, indicating the item or topic on which they wish to speak. The sign-in sheet is available at the main entrance to the Council meeting and must be completed prior to the start of the meeting. The Mayor will recognize speakers at the appropriate time.

Persons having an interest in providing written comments to the Town Council during the Public Comment period must provide such comments to the Town Clerk no later than 60 minutes prior to the start of the meeting. Written comments must include a full name, basis for standing, and the agenda item or topic on which they wish to comment. The Clerk will read authorized comments into the record following all in-person speakers during the Public Comment period.

Members of Council are not permitted to sign-up and make comment during the Public Comment period unless an agenda item being considered has a direct impact upon the Council member or his/her interests, they have declared a potential conflict of interest, and the remaining Council members have voted to excuse that Council member from official action on the related item.

Regulations:

Cell Phone and Recordings

- Ringers on cell phones or pagers shall be turned off during the time that persons are at a Town Council meeting.
- The taking of photographs and video or audio recordings of a speaker or the activities during a meeting of Town Council shall be no closer than the front row of seating or other location designated by the Mayor or presiding officer to avoid disruption to the meeting and to promote public safety. The photographer or recorder shall take steps to avoid obstructing the aisles or other areas for any length of time in such a manner as to prevent other citizens from taking photographs, or to block the view of other citizens attending the meeting. No flashes or lighting devices may be used by photographers or operators of video recording equipment.

Speaking

When a speaker is called by the Mayor or presiding officer, the following is required:

- Speakers shall speak into the microphone to ensure that their name and remarks are heard and recorded as a part of the record of the meeting.
- Speakers shall state their full name and basis for standing and topic to which they are speaking.
- If a speaker represents a group or organization, the speaker shall indicate the name of the organization and the speaker's relationship to the group or organization. Speakers may ask others from their group or organization to stand at their seats to be recognized while the group's or organization's name is announced, but non-speakers or individual members are not permitted to stand with the speaker at the podium and for safety reasons, no members of the group or organization are permitted to stand in the aisles or doorways at Town Council meetings. Those members of a group or organization who do stand when the name of the group or organization is announced shall then be seated.
- Speakers shall address remarks to the Mayor and members of Council and not to the audience.
- Speakers shall state their position, give the facts to substantiate their position, and relate the concerns they believe the Town Council should consider.
- Speaker's comments will be made part of the record and a written copy should be delivered to the Town Clerk for inclusion. If other supportive material is available, it should also be delivered to the Town Clerk for the record.
- Speakers shall refrain from campaigning for public office, personal attacks upon members of the Town Council, Town employees or officials, or any other person.
- Speakers shall refrain from words or statements which, from their usual construction and common acceptance, are construed as insults or which have a tendency to cause an act of violence or a breach of the peace.
- Speakers shall refrain from abusive language, obscenity, vulgarity, and profanely cursing or swearing.
- Speakers shall refrain from actions that would interrupt the public meeting.
- All comments must come directly from the speaker.

Time limitations for remarks

- In-person speakers shall confine their remarks to no more than three (3) minutes. Speakers will be advised when their three (3) minutes have concluded.
- Persons providing written input must limit their comments to no more than can be read by the Town Clerk within three (3) minutes. Written comments provided beyond what can be read during the allotted time will not be entered into the record.
- Speakers cannot "yield," "transfer" or "designate" their time to another speaker in an effort to provide another speaker more than the allotted three (3) minutes.
- The Mayor or other presiding officer shall have the right to limit redundant remarks, as well as the overall time provided for remarks based on consideration of the time available and the need to complete the meeting efficiently.
- After a speaker has concluded his or her remarks, the speaker shall be seated.

Decorum and order

- For safety reasons, petitioning, picketing, displaying signs or posters, solicitation, demonstrating, pamphlet distribution, conducting polls, and blocking of the entryway shall not be permitted at a Town Council meeting or within one hundred (100) feet of any doorway to the meeting location.
- These guidelines do not preclude speakers, when addressing the Town Council, from delivering to the Council members by way of the Town Clerk written materials including reports, statements, exhibits, letters, or signed petitions. Nor do these guidelines preclude those addressing the Town Council from using a chart or graph during their remarks.
- Speakers and members of the audience shall be respectful of others, even if they do not agree with others' comments.
- The Mayor or other presiding officer shall preserve decorum and shall decide all questions of public order.
- At the request of the Mayor or Town Manager, one or more persons, including Town police officers shall act as sergeant-at-arms or sergeants-at-arms at all Town Council meetings. The sergeant-at-arms or sergeants-at-arms shall, under the direction of the Mayor or other presiding officer, have charge of the Council meeting location, and shall prevent disorder or interruption of the business of Town Council.
- Applause shall be permitted only during awards and presentations. Flash photography will be permitted at this time.
- Violation of these rules by speakers or members of the audience shall enable the Mayor or other presiding officer to rule the speaker or member of the audience out of order and by directive to have the speaker or member of the audience removed from the meeting, if necessary, and to take such other steps the Mayor or other presiding officer deems appropriate. The Mayor's or other presiding officer's decision to remove or rule a speaker or member of the audience out of order shall be final. One (1) warning will be given and if not heeded, the speaker or member(s) of the audience shall be escorted from the meeting.
- Any citizen is welcome to address their concerns informally with the Mayor, Town Council or Town Manager at any time outside of a Town Council meeting.

Town Council Response

Council members or Town employees shall not respond to questions posed nor address or rebut speaker's statements made during the Public Comment period. The Council, at its discretion, may direct matters raised during the Public Comment period be placed on the Agenda of a future meeting.

The Town Council hopes these Guidelines will encourage the greatest possible participation by citizens in the Town Government.

Applicability

While these guidelines reference the Town Council specifically, they shall also apply to all Town boards, commissions, and committees as appropriate.

Thank you for your interest and participation in your Town Council meeting. The Mayor and Town Council invite and encourage you to attend whenever possible because good, responsive government depends on the interest and involvement of all citizens.

Appendix B



Town of Cape Charles Code of Ethics & Meeting Rules of Order

Adopted July 22, 2021

Preamble

The citizens and businesses of the Town of Cape Charles, Virginia, are entitled to have fair, ethical and accountable local government, which has earned the public's full confidence for integrity. The effective functioning of representative government requires that public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government; that public officials be independent, impartial, and fair in their judgment and actions; that public office be used for the public good, not for personal gain; and that public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Town of Cape Charles Town Council has adopted this Code of Ethics and Rules of Order for members of the Town Council and of the Town's boards, commissions, and committees to assure public confidence in the integrity of local government and its effective and fair operations.

Code of Ethics

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of the Town of Cape Charles and not for any private or personal interest, and they will assure fair and equitable treatment of all persons, claims, and transactions coming before the Town of Cape Charles Town Council, boards, commissions, and committees.

2. Comply with the Law

Members shall comply with the laws of the nation, the Commonwealth of Virginia, and the Town of Cape Charles in the performance of their public duties. These laws include but are not limited to the United States and Virginia Constitutions; the Charter of the Town of Cape Charles; laws pertaining to conflicts of interest, election campaigns, employer responsibilities, open processes of government; and Town ordinances and policies.

3. Conduct of Members

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct or language, personal charges or verbal attacks upon the character or motives of other members of the Town Council, boards, commissions, committees, the staff, or the public.

4. Respect for Process

Members shall perform their duties in accordance with the processes and Rules of Order established by the Town Council; they shall respect the deliberation of public policy issues of other bodies, the meaningful involvement of the public, and the Town staff's implementation of policy decisions of the Town Council.

5. Conduct of Public Meetings

Members shall prepare themselves for public business; listen courteously and attentively to all public discussions before the body; and focus on the issues at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. Communication

Members shall publicly share substantive information that is relevant to a matter under consideration by the Town Council or boards, committees, and commissions, which they may have received from sources outside of the public decision-making process.

8. Gifts and Favors

A member should never accept for himself or herself or for family members, gifts, favors, or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

9. Confidential Information

Members shall respect the confidentiality of information concerning the property, personnel, or affairs of the Town. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or other private interests.

10. Use of Public Resources

Members shall not use public resources that are not available to the public in general, such as Town staff time, equipment, supplies, or facilities, for private gain or personal purposes.

11. Advocacy

Members shall represent the official policies or positions of the Town Council, boards, commissions, or committees to the best of their ability when designated as delegates for this purpose. When representing their individual opinions and positions in any venue, members shall explicitly state they do not represent their body of Town of Cape Charles, nor will they allow the inference that they do.

12. Policy Role of Members

The Town Council determines the policies of the Town with the advice, information, and analysis provided by the public boards, commissions, committees, and Town staff. The Town Council delegates authority for the administration of the Town to the Town Manager.

Members, therefore, shall not interfere with the administrative functions of the Town or the professional duties of Town staff, nor shall they impair the ability of staff to implement Town Council policy decisions. Inquiries to staff shall be made through the Town Manager or the appropriate department manager or director as authorized by the Town Manager.

13. Independence of Town Council and Commissions

Because of the value of the independent advice of boards, committees, and commissions to the public decision-making process, members of the Town Council shall refrain from using their positions to unduly influence the deliberations or outcomes of board, committee, or commission proceedings.

14. Positive Workplace Environment

Members shall support the maintenance of a positive and constructive workplace environment for Town employees, citizens, and businesses dealing with the Town. Members shall recognize their special role in dealings with Town employees and in no way create the perception of inappropriate direction to staff. All requests for staff resources must be approved by the Town Manager.

15. Implementation

Ethical standards shall be included in the regular orientations for candidates for the Town Council, applicants to boards, committees, commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they have read and understood the Town of Cape Charles Code of Ethics and Rules of Order. In addition, the Town Council, boards, committees, and commissions, shall annually review the Code of Ethics and Rules of Order, and the Town Council shall consider recommendations from boards, committees, and commissions to update it as necessary.

16. Compliance and Enforcement

The Town of Cape Charles Code of Ethics expresses standards of ethical conduct expected of Members of the Town of Cape Charles Town Council, boards, committees, and commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

The chairs of boards, committees, and commissions and the Mayor of the Town of Cape Charles have the additional responsibility to intervene when actions of Members that appear to be in violation of the Code of Ethics are brought to their attention.

A violation of this Code of Ethics shall not be considered a basis for challenging the validity of a Town Council, board, committee, or commission decision. However, it may be considered when the Town Council is determining the suitability of any person to serve in any appointed position.

Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest and shall disclose any substantial organizational responsibility or personal business relationship to the parties in any matter coming before them. In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts are determined to exist. This paragraph is not intended to unduly restrict members who have minor business or professional dealings with clients whose matter comes before them.

1. Abstention

As elected or appointed officials, members have a duty/obligation to represent their constituents in all public matters coming before their body. It is not appropriate for individual members to decide in which matters they should abstain. If a member believes they have a conflict of interest on any matter before their body, they are REQUIRED to disclose it before deliberations on that business begins. However, it shall be up to the remaining members of that body to determine if an actual conflict exists and if the member disclosing the potential conflict can be excused from participating in the business. If the body votes to allow the member to recuse him/herself, that member will not participate in any of the discussions or vote related to that business. Failing a vote to allow recusal, the member shall participate as normal.

2. Representation of Third-Party Interests

In keeping with their role as stewards of the public interest, members of the Town Council shall not appear on behalf of the private interests of third parties before the Town Council or any board, committee, commission, or proceeding of the Town; nor shall members of boards, committees, or commissions appear before their own bodies or before the Town Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies. This provision should not unduly restrict a member's participation who is associated with, but not representing, community or non-profit organizations serving the Town, whose matter comes before them.

Meeting Rules of Order

The following rules of order are to serve as a non-binding guide to the conduct of business. It is the duty of the Mayor or other presiding officer to conduct meetings in accordance with the Code of Virginia, the Town Charter, applicable Bylaws, and in a manner intended to promote open, civil, and fair discussion of all issues.

1. Meeting Types

All meetings of the Town of Cape Charles fall under the provisions of the Virginia Freedom of Information Act (FOIA). All members will receive training on VA FOIA requirements upon initial appointment, as well as periodic refreshers. The Town Clerk will ensure FOIA training is completed, and that all records of the training are maintained. This document is not to be considered a substitute for FOIA training and offered only as a summary overview.

The public must be provided notice and access to all Town meetings.

- **Regular Meeting:** Meetings required by Charter or Bylaws to occur on a regular interval to conduct the primary business of the body. These meetings are conducted more formally, with established procedure. The Mayor or presiding officer will enforce these procedures to ensure proper decorum and efficient flow of business. Agendas will include a public comment period on any topic in accordance with public comment procedures established by the Town Council.
- **Special Meeting:** Meetings to conduct official business of the body that are deemed necessary in addition to Regular Meetings. Special Meetings are also conducted formally but may not include all Regular Meeting agenda items. Public comments will be permitted but limited to only business items on the agenda. Special meetings may be called by the Mayor, Chairperson, Town Manager, or any three members of a body.
- **Work Session:** Informal meetings of the body that allow for relaxed procedure enabling freer flowing discussion. No official action may be taken during a work session, however determining consensus on items to be brought forward to a Regular or Special meeting is appropriate. Work Sessions are generally used for (but not limited to) brainstorming, information gathering, planning efforts, budget review, or when more time is needed on a particular item than is typically afforded during formal meetings. The public must be permitted the opportunity to observe work sessions but are not typically permitted an opportunity to provide comments. The Mayor or presiding officer may on special circumstance, allow public comment. Work sessions may be called by the Mayor, Chairperson, Town Manager, or any three members of a body.
- **Closed Session:** Closed Sessions (Executive Sessions) are authorized by FOIA to discuss certain confidential matters limited to specific purposes, while using very specific procedures. Though a portion of this meeting is closed to the public, other portions are open. The public must be permitted to observe the motion to go into Closed Session as well as the certification upon leaving the Closed Session.
- **Public Hearing:** Public Hearings are intended to solicit public feedback on specific topics. These topics will be advertised in advance. Input may be made in person or in writing. All comments will adhere to the Town Council approved guidelines. Comments will be directed to the body and not to any individual. Members shall not respond to questions posed nor address or rebut speaker's statements made during the Public Hearing.
- **Town Hall Meeting:** An informal meeting where no official action is taken. A Town Hall Meeting is essentially a Work Session that involves the public. These meetings are typically focused on one or two topics and encourages dialog between members and the public. A primary goal of a Town Hall meeting is to provide decision makers with in-depth public perspectives prior to taking an official action.

- Social or Community Events: These are gatherings where no official business is conducted, but where Town issues may be informally discussed. If more than two members will be present in their capacity as a Town official, the gathering should be posted. There are no agendas or minutes associated with these functions.

2. Motions

- Unanimous Consent: Routine business is typically conducted by unanimous consent. This is an informal process that allows business to be conducted expeditiously. The procedure is for the presiding officer to ask whether anyone objects to a particular action and then to state, "Hearing no objection the action will be taken by unanimous consent." Note that even when a member is not in favor of a particular action the member may chose not to object in the interest of moving the agenda forward. In other words, unanimous consent does not mean that everyone was actually in favor of the action. If anyone objects, then the action must be addressed with a formal motion and vote.
- Main Motion: This is the motion that brings business before the council or other body. Such motions should be stated in a concise form and should generally be in writing to avoid misunderstandings. It must be seconded and when voted upon will ordinarily require a simple majority vote. There are circumstances where a super majority may be required. such as in the disposition of real estate. Before voting on the motion the presiding officer should call for discussion. The presiding officer should allow for discussion until it terminates by *unanimous consent* or is formally terminated by a subsidiary motion (discussed below).

When the motion is ripe for a vote the presiding officer should call for "all in favor" and then "all opposed." The presiding officer should then clearly state either the "motion passes" or the "motion fails." Generally, in the event of a tie the presiding officer may cast the deciding vote. The Town Charter expressly allows the Mayor to vote in the event of a tie. Any member may request a roll call vote.

- Subsidiary Motions:
 - Motion to Postpone Indefinitely (sometimes incorrectly called a motion to table): Normally used to put aside business that is not ripe for consideration. such as when further study is required. It requires a second. is debatable and is not amendable.
 - Motion to Amend: This is a motion to amend the wording and sometimes the meaning of the main motion. It requires a second and is debatable. It is also amendable *one time*. Note that a vole to adopt the amendment is not a vote on the main motion. Once the motion to amend is adopted the amended main motion must then be voted on as well. Often. simple motions to amend are adopted by unanimous consent. Also. note that whether the member that offered the original motion is willing to accept the proposed amendment or not is irrelevant. It must still be seconded and voted upon or adopted by unanimous consent.

- Motion to Refer: This is a motion to refer a matter to a committee or other body for action. In effect, when the motion is to refer the matter to a "workshop, it is a motion to refer the matter to a committee comprised of the entire council or other body (a committee of the whole). It requires a second and is debatable.
- Postpone to a Certain Time: Used when a matter is best considered at a different time to allow for the orderly conduct of business. It requires a second and is debatable.
- Motion to Limit Debate: Used to put a limit on the time permitted for debate of a motion. It requires a second, is not debatable and traditionally requires a two-thirds vote. Since the Town Charter allows for business to be conducted based on a majority vote, if a motion to limit debate does not pass by a two-thirds vote, then after further debate for a reasonable time the motion shall require only a majority vote.
- Motion of the Previous Question (often referred to as "a motion to call the question" or "motion to bring the matter to a vote"): Used to end debate and bring the pending motion to a vote. It requires a second, is not debatable, and traditionally requires a two-thirds vote. Since the Town Charter allows for business to be conducted based on a majority vote, if a motion of the previous question does not pass by a two-thirds vote, then after further debate for a reasonable time the motion shall require only a majority vote.
- Motion to Lay on the Table (often confused with a motion to postpone indefinitely): Used to temporarily interrupt pending business so that another matter can be considered first. It requires a second and is not debatable. This is often done by unanimous consent to move business forward.
- Motion to Recess: This is a motion to take a short break in the proceeding. It requires a second and is not debatable.
- Motion to Adjourn: This motion closes the meeting. It requires a second and is not debatable.

3. Agenda

The presiding officer should make a reasonable effort to conduct business in accordance with a consent agenda. The agenda should be organized to promote the orderly conduct of business. If the members cannot agree on the agenda, it should be presented by motion and subject to a vote. Keep in mind that even after an agenda is approved it can be amended. Often that is done by unanimous consent at the suggestion of the presiding officer to expedite the meeting. The procedure is for the presiding officer to state, "Is there any objection to amending the agenda [explain]. Hearing no objection, the agenda is so amended by unanimous consent."

4. Other Issues

- Mayor's Veto: The Town Charter provides the Mayor with "the power of veto over the ordinances and resolutions of the council, but such ordinances and resolutions may be passed over such veto by a two-thirds vote of the members of the town council present and meeting." With a six-member council the override requires a vote of four members if all are present and voting.
- Quorum: The Town Charter provides that "four members of the town council shall constitute a quorum for the transaction of business at any meeting." The bylaws of other bodies establish the number of members required for a quorum. The Code of Virginia provides that if a member is disqualified due to a conflict of interest "the remaining member or members shall constitute a quorum for the conduct of business and have authority to act for the agency by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of remaining members." 2.2-3112.C.

Acknowledgement

I _____ (printed name), a sitting member of
_____ (body), hereby certify that I have
been given a copy, read, understand, and will abide by the above Town of Cape Charles Code of
Ethics & Meeting Rules of Order, adopted on July 22, 2021.

_____ (signature)

_____ (date)

TOWN OF CAPE CHARLES

POLICY FOR ELECTRONIC PARTICIPATION IN PLANNING COMMISSION MEETINGS

Adopted _____

Pursuant to the Code of Virginia Section 2.2-3708.2 and 2.2-3708.3, the Cape Charles Planning Commission adopts the following to allow for remote participation or electronic participation in meetings of the Planning Commission:

The following provisions qualify for an individual member of a public body to use remote participation in meetings:

- i) a temporary or permanent disability or other medical condition that prevents the member's physical attendance;
 - ii) a family member's medical condition that requires the member to provide care for such family member that prevents the member's physical attendance;
 - iii) the member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or
 - iv) a personal matter.
1. On or before the day of a meeting, the Planning Commission Member shall notify the Chairman that he/she is unable to attend the meeting due to:
 - a. A temporary or permanent disability or other medical condition. The minutes of the meeting shall include the fact that the member participated through electronic communication means due to a temporary or permanent disability or other medical condition that prevented the member's physical attendance, along with the remote location from which the absent member participated.
 - b. A family member's medical condition. The minutes of the meeting shall include the fact that the member participated through electronic communication means due to a family member's medical condition that required the member to provide care for such family member, preventing the member's physical attendance, along with the remote location from which the absent member participated.
 - c. Principal residence is more than 60 miles from the meeting location. The minutes of the meeting shall include the fact that the member participated through electronic communication means due to the distance between the member's principal residence and the meeting location.
 - d. A personal matter. The member must specifically identify the nature of the personal matter which shall be recorded in the minutes of the meeting, along with the remote location from which the absent member participated.

Participation by a member pursuant to this subdivision is limited to two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.
2. A quorum of the Planning Commission must be physically assembled at the primary meeting location.
3. The Planning Commission members present at the physical location must approve the electronic participation by a majority vote.
 - a. If the absent member's remote participation is disapproved because such participation would violate this policy, such disapproval shall be recorded in the minutes of the meeting.
4. Arrangements must be made for the voice of the remote participant to be heard by all persons at the primary meeting location.

§ 2.2-3708.3. Meetings held through electronic communication means; situations other than declared states of emergency

A. Public bodies are encouraged to (i) provide public access, both in person and through electronic communication means, to public meetings and (ii) provide avenues for public comment at public meetings when public comment is customarily received, which may include public comments made in person or by electronic communication means or other methods.

B. Individual members of a public body may use remote participation instead of attending a public meeting in person if, in advance of the public meeting, the public body has adopted a policy as described in subsection D and the member notifies the public body chair that:

1. The member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance;
2. A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance;
3. The member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or
4. The member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. However, the member may not use remote participation due to personal matters more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

If participation by a member through electronic communication means is approved pursuant to this subsection, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public and may be identified in the minutes by a general description. If participation is approved pursuant to subdivision 1 or 2, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance. If participation is approved pursuant to subdivision 3, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to the distance between the member's principal residence and the meeting location. If participation is approved pursuant to subdivision 4, the public body shall also include in its minutes the specific nature of the personal matter cited by the member.

If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.

C. With the exception of local governing bodies, local school boards, planning commissions, architectural review boards, zoning appeals boards, and boards with the authority to deny, revoke, or suspend a professional or occupational license, any public body may hold all-virtual public meetings, provided that the public body follows the other requirements in this chapter for meetings, the public body has adopted a policy as described in subsection D, and:

1. An indication of whether the meeting will be an in-person or all-virtual public meeting is included in the required meeting notice along with a statement notifying the public that the method by which a public body chooses to meet shall not be changed unless the public body provides a new meeting notice in accordance with the provisions of § 2.2-3707;
2. Public access to the all-virtual public meeting is provided via electronic communication means;
3. The electronic communication means used allows the public to hear all members of the public body participating in the all-virtual public meeting and, when audio-visual technology is available, to see the members of the public body as well;
4. A phone number or other live contact information is provided to alert the public body if the audio or video transmission of the meeting provided by the public body fails, the public body monitors such designated means of communication during the meeting, and the public body takes a recess until public access is restored if the transmission fails for the public;
5. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting is made available to the public in electronic format at the same time that such materials are provided to members of the public body;
6. The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;
7. No more than two members of the public body are together in any one remote location unless that remote location is open to the public to physically access it;
8. If a closed session is held during an all-virtual public meeting, transmission of the meeting to the public resumes before the public body votes to certify the closed meeting as required by subsection D of § 2.2-3712;
9. The public body does not convene an all-virtual public meeting (i) more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, or (ii) consecutively with another all-virtual public meeting; and
10. Minutes of all-virtual public meetings held by electronic communication means are taken as required by § 2.2-3707 and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held. If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.

D. Before a public body uses all-virtual public meetings as described in subsection C or allows members to use remote participation as described in subsection B, the public body shall first adopt a policy, by recorded vote at a public meeting, that shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member

requesting remote participation or the matters that will be considered or voted on at the meeting. The policy shall:

1. Describe the circumstances under which an all-virtual public meeting and remote participation will be allowed and the process the public body will use for making requests to use remote participation, approving or denying such requests, and creating a record of such requests; and
2. Fix the number of times remote participation for personal matters or all-virtual public meetings can be used per calendar year, not to exceed the limitations set forth in subdivisions B 4 and C 9.

Any public body that creates a committee, subcommittee, or other entity however designated of the public body to perform delegated functions of the public body or to advise the public body may also adopt a policy on behalf of its committee, subcommittee, or other entity that shall apply to the committee, subcommittee, or other entity's use of individual remote participation and all-virtual public meetings.

2022, c. [597](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

SIGN ORDINANCE

DIVISION I. - GENERAL PROVISIONS

Sec. 1. – Purpose and intent.

Sec. 2. – Definitions.

Sec. 3. – Permit required.

Sec. 4. – Permit not required.

Sec. 5. – Prohibited signs.

Sec. 6. – Measurements of sign area.

Sec. 7. – Maintenance and removal.

Sec. 8. – General requirements.

Sec. 9. – Nonconforming signs.

Sec. 10. – Non-commercial signs.

DIVISION II. - SIGN REGULATIONS BY USE AND DISTRICT

Sec. 11. – Residential district signs.

Sec. 12. – Commercial district signs.

Sec. 13. – Industrial district signs.

ARTICLE ____ - SIGNS

DIVISION I. - GENERAL PROVISIONS

Sec. 1. – Findings, purpose and intent; interpretation.

- (a) Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment upon historic areas, and the safety and welfare of pedestrians and wheeled traffic, while providing convenience to citizens and encouraging economic development. This article allows adequate

communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this article which can be given effect without the invalid provision.

- (b) Signs not expressly permitted as being allowed by right or by special use permit under this article, by specific requirements in another portion of this chapter, or otherwise expressly allowed by the [governing body] or Board of Zoning Appeals are forbidden.
- (c) A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein shall be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in subsection (a) of this section.
- (d) These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.
- (e) These regulations distinguish between portions of the City/County/Town designed for primarily vehicular access and portions of the City/County/Town designed for primarily pedestrian access.
- (f) These regulations do not regulate every form and instance of visual speech that may be displayed anywhere within the jurisdictional limits of the City/County/Town. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.
- (g) These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

Sec. 2. - Definitions.

A-Frame sign means a two-faced sign with supports that are connected at the top and separated at the base, forming an “A” shape not more than four feet high. These are also referred to as “sandwich board” signs. They are included in the term “portable sign.”

Advertising means any words, symbol, color or design used to call attention to a commercial product, service, or activity.

Animated sign means a sign or part of a sign that is designed to rotate, move or appear to rotate or move. Such a sign is sometimes referred to as a “moving sign.”

Awning sign means a sign placed directly on the surface of an awning.

Banner means a sign of flexible material affixed to a framework or flat surface.

Building frontage means the length of the main wall of a building which physically encloses usable interior space and which is the architecturally designed wall that contains the main entrance for use by the general public. Said frontage shall be measured at a height of ten (10) feet above grade.

Business sign means a sign which directs attention to a product, service or commercial activity available on the premises.

Canopy sign means a sign attached to a canopy.

Chalk-board sign means a single-faced, framed slate or chalk-board that can be written on with chalk or similar markers.

Changeable copy sign means a sign or part of a sign that is designed so that characters, letters or illustrations can be changed or rearranged without altering the face or surface of the sign.

Comprehensive sign plan means a plan for the signage of a property that includes multiple tenants or owners with shared parking or other facilities.

Directory sign (also identified as Multi-Tenant Sign): A freestanding sign which identifies tenants in a multi-tenant building or complex and which is located in the development for which it is advertising. Said sign will list the tenants or occupants of a building or group of buildings and may also indicate their respective professions or business activities.

Feather sign. A lightweight, portable sign mounted along one edge on a single, vertical, flexible pole the physical structure of which at may resemble a sail, bow, or teardrop.

Flag means a piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope and used as a symbol or decoration; this includes pennants.

Flashing sign means a sign that includes lights that flash, blink, or turn on and off intermittently.

Freestanding sign means any non-portable sign supported by a fence, retaining wall, or by upright structural members or braces on or in the ground and not attached to a building.

Ground mounted sign means a sign that is supported by structures or supports in or upon the ground and independent of any support from any building or wall.

Height, means the maximum vertical distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

- (1) Existing grade prior to construction; or
- (2) The newly established grade after construction, exclusive of any filling, berming, mounding or excavating primarily for the purpose of mounting or elevating the sign.

Illegal sign means any sign erected without a required permit or which otherwise does not comply with any provisions of this article.

Illuminated sign means a sign that is backlit, internally lighted, or indirectly lighted, but does not include a neon sign.

Marquee means a permanent structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

Marquee sign means a sign attached to and made a part of a marquee or any similar projections from a building, with changeable, fixed or both types of lettering in use.

Minor sign means a wall or freestanding sign not exceeding one (1) square foot in area, not exceeding four feet in height, and not illuminated.

Monument sign means a sign affixed to a structure built on grade in which the sign and the structure are an integral part of one another; not a pole sign.

Moving Sign: see definition for *Animated Sign*.

Multi-Tenant Sign: see definition for *Directory Sign*.

Neon sign means a sign containing exposed tubes filled with light-emitting gas.

Nonconforming sign. Any sign which was lawfully erected in compliance with applicable regulations of the City/County/Town and maintained prior to the effective date of this chapter of the zoning ordinance and which fails to conform to current standards and restrictions of the zoning ordinance.

Off-premises sign means a sign that directs attention to a business, product, service or activity conducted, sold or offered at a location other than the premises on which the sign is erected. This does not include Temporary Signs for Special Events approved by the Town.

Pole sign means a sign that is mounted on one (1) or more freestanding poles.

Portable sign means any temporary sign not affixed to a building, structure, vehicle or the ground. It does not include a flag or banner.

Projecting sign means any sign, other than a wall, awning or marquee sign, affixed to a building and supported only by the wall on which it is mounted.

Public area means any public place, public right-of-way, any parking area or right-of-way open to use by the general public, or any navigable body of water.

Roof sign means a sign erected or constructed, in whole or in part, upon or above the highest point of a building with a flat roof, or the lowest portion of a roof for any building with a pitched roof.

Sign. Any object, device, display, or structure, or part thereof, visible from a public place, a public right-of-way, any parking area or right-of-way open to use by the general public, or any navigable body of water which is designed and used to attract attention to an institution, organization, business, product, service, event, or location by any means involving words, letters, figures, designs, symbols, fixtures, logos, colors, illumination, or projected images. The term does not include public art, holiday displays, architectural elements incorporated into the style or function of a building, or flags of any nation, state, or other geopolitical entity not related to a commercial business, product or service. The term "sign" also does not include the display of merchandise for sale on the site of the display.

Sign face means the portion of a sign structure bearing the message.

Sign structure means any structure bearing a sign face.

Temporary sign means any sign intended to be displayed for a limited period.

Vehicle or trailer sign means any sign attached to or displayed on a vehicle, if the vehicle or trailer is used for the primary purpose of advertising a business establishment, product, service or activity. Any such vehicle or trailer shall, without limitation, be considered to be used for the primary purpose of advertising if it fails to display current license plates, inspection sticker, or municipal decal, if the vehicle is inoperable, if evidence of paid-to-date local taxes cannot be made available, or if the sign alters the standard design of such vehicle or trailer.

Wall Sign means any sign attached to a wall or painted on or against a flat vertical surface of a structure.

Window sign means any sign visible outside the window and attached to or within 18 inches in front of or behind the surface of a window or door.

Sec. 3. - Permit required.

- (a) *In general.* A sign permit is required prior to the display and erection of any sign except as provided in section 4 of this Article.
- (b) *Application for permit.*
 - (1) An application for a sign permit shall be filed with the Planning & Zoning Department on forms furnished by that department. The applicant shall provide sufficient information to determine if the proposed sign is permitted under the zoning ordinance and other applicable laws, regulations, and ordinances. An application for a temporary sign shall state the dates intended for the erection and removal of the sign.
 - (2) The Town Zoning Administrator or designee shall promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies in the application within 5 business days after receipt. Any application that complies with all provisions of this zoning ordinance, the building code, and other applicable laws, regulations, and ordinances shall be approved.
 - (3) If the application is rejected, the Town Zoning Administrator shall provide a list of the reasons for the rejection in writing. An application shall be rejected for non-compliance with the terms of the zoning ordinance, building code, or other applicable law, regulation, or ordinance.
- (c) *Permit fee.* A nonrefundable fee as set forth in the uncodified fee schedule adopted by the Town Council shall accompany all sign permit applications.
- (d) *Duration and revocation of permit.* If a sign is not installed within six months following the issuance of a sign permit (or within 30 days in the case of a temporary sign permit), the permit shall be void. The permit for a temporary sign shall state its duration, not to exceed 30 days

unless another time is provided in the zoning ordinance. The Town may revoke a sign permit under any of the following circumstances:

- (1) The Town determines that information in the application was materially false or misleading;
 - (2) The sign as installed does not conform to the sign permit application; or
 - (3) The sign violates the zoning ordinance, building code, or other applicable law, regulation, or ordinance.
- (e) *Overlay district regulations.* All signs in the Historic Overlay District (HOD) require approval of the Historic District Review Board (HDRB) except when a sign permit is not required as provided in § 4.
- (f) *Special exceptions.* Comprehensive sign plans may be approved as part of a conditional use permit in commercial, heavy and light industrial, and harbor districts. The comprehensive sign plan shall establish the time, manner, and placement of signs, frequency of message changes, the materials, the hours of lighting, the height of signs, the total number of square feet of sign surface, and the number of signs to be placed on a site. Height of signs shall not be modified above the height permitted in the Zoning Ordinance.

Sec. 4. - Permit not required.

A sign permit is not required for:

- (1) Signs erected by a governmental body or required by law.
- (2) Flags up to 16 square feet in size not containing any commercial advertising; provided, that no freestanding pole shall be erected in the public right-of-way nor be within five (5) feet of a service drive, travel lane or adjoining street.
- (3) The changing of messages on marquees and the repair of an existing permitted sign, except that repair of a nonconforming sign must comply with § 9(e).
- (4) Temporary signs as follows:
 - a. One (1) sign, no more than twelve (12) square feet in area, located on property where a building permit is active and a structure is under construction
 - b. On any property for sale or rent, not more than one sign with a total area of up to twelve (12) square feet and a maximum height of six (6) feet.
 - c. Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of his official or directed duties; provided, that all such signs shall be removed no more than ten (10) days after their purpose has been accomplished.
 - d. On residential property, one or more temporary signs with a total area of no more than twelve (12) square feet, and which are removed within 90 days after being erected.

- e. On residential property, window signs, provided that the total extent of window signs do not obstruct more than 25% of the total area of all windows on each building façade.
 - f. Town Seasonal Events: The Town or through its designated agents are allowed to place temporary signage promoting Town sponsored seasonal events, festivals, or other marketing campaigns for the Town up to 30 days prior to the event and must be removed 7 days after the conclusion of the event.
- (6) Not more than two minor signs per parcel. Additional minor signs are permitted in certain districts with a permit.
 - (7) A-frame signs more than fifty (50) feet from the nearest public right of way.
 - (8) Pavement markings. Any sign applied directly and entirely to and flush with an asphalt, concrete, or similar paved surface.
 - (9) A permanent window sign, provided that the aggregate area of all window signs on each window or door does not exceed twenty-five percent (25%) of the total area of the window or door.

Sec. 5. – Prohibited signs

In addition to signs prohibited elsewhere in this Code or by applicable state or federal law, the following signs are prohibited:

- (a) General prohibitions.
 - (1) Signs that violate any law of the Commonwealth relating to outdoor advertising.
 - (2) Signs attached to natural vegetation on public lands
 - (3) Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority. Any such sign is subject to immediate removal and disposal by an authorized city official as a nuisance.
 - (4) Vehicle or trailer signs.
 - (5) Freestanding signs more than 25 feet in height.
 - ~~(6)~~ —
 - (7) Any sign displayed without complying with all applicable regulations of this chapter.
- (b) Prohibitions based on materials.
 - (1) Signs painted directly on a building, except where expressly permitted by this chapter.

- (2) Animated signs. This subsection does not apply to flags expressly permitted under this article or the changing of the message content no more often than once every seven seconds.
- (3) Flashing signs or other signs displaying flashing, scrolling or intermittent lights or lights of changing degrees of intensity, except where such signs are expressly permitted within this article.
- (4) Signs consisting of illuminated tubing or strings of lights outlining property lines or open sales areas, rooflines, doors, windows or wall edges of any building, except for temporary decorations not to exceed three months per year.
- (5) Signs that emit smoke, flame, scent, mist, aerosol, liquid, or gas.
- (6) Signs that emit sound.
- (7) Any electronic sign that is generated by a series of moving images, such as an LED, digital display, or other video technology, whether displayed on a building, vehicle, or mobile unit unless permitted within this article.
- (8) Strings of flags visible from, and within 50 feet of, any public right-of-way.
- (9) Pole signs less than 6 feet in height.
- (c) Prohibitions based on location.
 - (1) Off-premises signs, unless specifically permitted by this chapter.
 - (2) Signs erected on public land other than those approved by an authorized Town official in writing, required by law without such approval, or permitted under Virginia Code § 24.2-310 E. Any sign not so authorized is subject to immediate removal and disposal by any authorized official. Removal of the sign under this provision does not preclude prosecution of the person responsible for the sign.
 - (3) Signs on the roof surface or extending above the roofline of a building or its parapet wall.
 - (4) Neon signs, except in windows unless permitted in this article.
 - (5) Any sign located in the vision triangle formed by any two (2) intersecting streets, as regulated by the provisions of section _____.
 - (6) Window signs whose aggregate area on a window or door exceed twenty-five percent (25%) of the total area of the window or door.

Sec. 6. - Measurements of sign area and height.

- (a) Supports, uprights or structure on which any sign is supported shall not be included in determining the sign area unless such supports, uprights or structure are designed in such a

way as to form an integral background of the display; except, however, when a sign is placed on a fence, wall, planter, or other similar structure that is designed to serve a separate purpose other than to support the sign, the entire area of such structure shall not be computed. In such cases, the sign area shall be computed in accordance with the preceding provisions.

- (b) In instances where there are multiple tenants or users on a property or in a building, allowable sign area for all parties shall not exceed the maximum sign area computed as if there were a single tenant or user.
- (c) *Sign area.*
 - (1) Sign area is calculated under the following principles:
 - a. With signs that are regular polygons or circles, the area can be calculated by the mathematical formula for that polygon or circle. With signs that are not regular polygons or circles, the sign area is calculated using all that area within a maximum of three abutting or overlapping rectangles that enclose the sign face.
 - b. The permitted area of a double-faced sign shall be considered to be the area on one side only. If one face contains a larger sign area than the other, the larger face shall be used in calculating the sign area. A double-faced sign must have an internal angle between its two faces of no more than 45 degrees.
 - c. For projecting signs with a thickness of four inches or more, the sign area also includes the area of the visible sides of the sign, calculated as a rectangle enclosing each entire side view.
 - (2) The supports, uprights or structure on which any sign is supported shall not be included in determining the sign area unless such supports, uprights or structure area are designed in such a manner as to form an integral background of the display.
- (d) *Maximum height.* The maximum height for any sign shall be 25 feet unless otherwise specified within this chapter.

Sec. 7. - Maintenance and removal.

- (a) All signs shall be constructed and mounted in compliance with the Virginia Uniform Statewide Building Code.
- (b) All signs and components thereof shall be maintained in good repair and in a safe, neat and clean condition.
- (c) The Code official may cause to have removed or repaired immediately without written notice any sign which, in his opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such emergency removal or repair shall be at the expense of the owner or lessee thereof as provided in Chapter 8, Article III of ~~this Code~~, Town Code.

- (d) The owner of any advertising sign, other than a permitted off-premises sign, located on commercial property where the use or business has ceased operating shall, within 60 days of the cessation of use or business operation, replace the sign face with a blank face until such time as a use or business has resumed operating on the property.
- (e) *Sign condition, safety hazard, nuisance abatement, and abandonment.*
 - (1) Any sign which becomes a safety hazard or which is not kept in a reasonably good state of repair shall be put in a safe and good state of repair within 30 days of a written notice to the owner and permit holder.
 - (2) Any sign which constitutes a nuisance may be abated by the City/County/Town under the requirements of Virginia Code §§ 15.2-900, 15.2-906, and/or 15.2-1115.

Sec. 8. – General requirements.

- (a) *Placement.* Except as otherwise permitted, all freestanding signs shall be set back from any street right-of-way at least half the height of the sign.
- (b) *Illumination.* All permitted signs may be backlit, internally lighted, or indirectly lighted, unless such lighting is specifically prohibited in this article.
 - (1) In the case of indirect lighting, the source shall be so shielded that it illuminates only the face of the sign. However, shingle signs shall be indirectly illuminated or have shielded direct lighting, unless otherwise prohibited within this chapter. Indirect lighting shall consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light shall be substantially confined to the sign to minimize glare, sky glow, and light trespass. The beam width shall not be wider than that needed to light the sign.
 - (2) Internal illumination shall be limited to the illumination standards for parking lot lighting in _____. No sign shall be permitted to have an illumination spread of more than .05 foot candle at the lot line, shine into on-coming traffic, affect highway safety, or shine directly into a residential dwelling unit. In no event shall the illumination of any sign resulting from any internal or external artificial light source exceed 100 lumens. All lighting fixtures used to illuminate a sign shall be full-cutoff, as defined by the Illuminating Engineering Society of North America (IESNA), and shall have fully shielded or recessed luminaires with horizontal-mount flat lenses that prevent upward light scatter and protect the dark night sky.
- (c) *Landscaping.* All non-temporary ground-mounted or monument signs shall be installed with a minimum surround of three (3) feet of regularly maintained floral and shrubbery landscaping in every direction.

Sec. 9. - Nonconforming signs.

- (a) Signs lawfully existing on the effective date of this chapter or prior ordinances, which do not conform to the provisions of this chapter, and signs which are accessory to a nonconforming use shall be deemed to be nonconforming signs and may remain except as qualified below. The burden of establishing nonconforming status of signs and of the physical characteristics/location of such signs shall be that of the owner of the property. Upon notice from the zoning administrator, a property owner shall submit verification that sign(s) were lawfully existing at time of erection. Failure to provide such verification shall be cause for order to remove sign(s) or bring sign(s) into compliance with the current ordinance.
- (b) No nonconforming sign shall be enlarged nor shall any feature of a nonconforming sign, such as illumination, be increased.
- (c) Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign. Nonconforming signs shall not be extended or structurally reconstructed or altered in any manner, except a sign face may be changed so long as the new face is equal to or reduced in height and/or sign area.
- (d) No nonconforming sign shall be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform in all respects to the provisions of this article.
- (e) A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding fifty (50) percent of its area may be restored within two (2) years after such destruction or damage but shall not be enlarged in any manner. If such sign is so destroyed or damaged to an extent exceeding fifty (50) percent, it shall not be reconstructed but may be replaced with a sign that is in full accordance with the provisions of this article.
- (f) A nonconforming sign which is changed to becoming conforming or is replaced by a conforming sign shall no longer be deemed nonconforming, and thereafter such sign shall be in accordance with the provisions of this article.
- (g) A nonconforming sign structure shall be subject to the removal provisions of section _____. In addition, a nonconforming sign structure shall be removed if the use to which it is accessory has not been in operation for a period of two years or more. Such structure sign shall be removed by the owner or lessee of the property. If the owner or lessee fails to remove the sign structure, the zoning administrator or designee shall give the owner fifteen (15) days' written notice to remove it. Upon failure to comply with this notice, the zoning administrator or designee may enter the property upon which the sign is located and remove any such sign or may initiate such action as may be necessary to gain compliance with this provision. The cost of such removal shall be chargeable to the owner of the property.

Sec. 10. –Non-commercial signs.

- (a) *Substitution.* Wherever this Article permits a sign with commercial content, non-commercial content is also permitted subject to the same requirements of size, color, illumination, movement, materials, location, height and construction.

DIVISION II. - SIGN REGULATIONS BY USE AND DISTRICT

Section 11. – Residential district signs.

(a) Except as otherwise prohibited in this Article, the following signs are permitted as accessory to residential uses in residential districts. Moving signs and electronic message signs are prohibited on residential properties in all residential districts.

TYPE	Flags	Temporary	Permanent
Size (each/total)	16 s.f./no limit	16 s.f./ 16 s.f.	3 s.f. / 3 s.f.
Illumination	As required by law	None	Indirect
Setback	Height of flagpole	None	None
Maximum Height	25 ft.	4 ft.	4 ft.
Location	Flag pole $\leq$ 8" diameter	Freestanding, portable, wall, or window	Wall or window sign or affixed to mailbox
Duration	Unlimited	90 days	Unlimited

- Temporary signs include signs on property for sale or where a building permit is active.

Section 12. – Commercial district signs.

(a) *Generally.* Except as provided otherwise in this Article, the following signs are permitted as accessory uses in commercial districts. In addition, up to one minor sign per business is permitted as a wall sign.

TYPE	Freestanding (incl. monument)	Wall	Flags	Temporary Signs	Other (e.g. canopy, door, projecting)
SIZE (each/total)	20 s.f.	2 s.f. per 5 lineal ft. of building frontage	16 s.f.	16 s.f.	20 s.f./50% area
MAX. NUMBER	1	1		1	1
ILLUMINATION	See Sec. 8(b)	See Sec. 8(b)	As required by law	Not to be illuminated	See Sec. 8(b)
SETBACK	5 ft	NA	5 ft	5 ft	NA
MAX. HEIGHT	10 ft	NA	25 ft	10 ft	NA

- (b) *Window signs.* Window signs are permitted up to 25% of the area of a window and count toward the maximum square footage of wall signs. Window signs are permitted only on the first floor of a building unless the business advertised is only on the floor where the window sign is displayed.

(c) **Building with multiple tenants – Directory or Multi-Tenant-Sign: Limited to one monument sign per ingress/egress onto a primary road access.**

- (d) *Off-Site Signs for Commercial Use of Limited Duration.* Up to three off-site signs, each not to exceed 6 square feet and 7 feet in height, shall be permitted for a commercial use lasting for 3 or fewer days on property zoned Commercial, with property owner permission. No more than one permitted temporary sign shall be displayed per lot. Display of signs shall be limited to 48 hours prior to commencement, and 48 hours after cessation, of the use or activity advertised.

Section 123. – Heavy and Light Industrial District signs.

Except as provided otherwise in this Article, the following signs are permitted as accessory uses in industrial districts. In addition, up to one minor sign per business is permitted as a wall sign.

TYPE	Freestanding	Wall	Flags	Monument	Temporary Signs
SIZE (each/total)	20 s.f.	2 s.f. per 5 lineal ft. of building frontage	16 s.f.	40 s.f.	16 s.f.
MAX. NUMBER	1	1		1	1
ILLUMINATION	See Sec. 8(b)	See Sec. 8(b)	As required by law	See Sec. 8(b)	Not to be illuminated
SETBACK	5 ft	NA	5 ft	5 ft	5 ft
MAX. HEIGHT	10 ft	NA	25 ft	10ft	10 ft

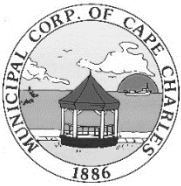
- Window signs are permitted up to 25% of the area of a window and count toward the maximum square footage of wall signs. Window signs are permitted only on the first floor of a building unless the business advertised is only on the floor where the window sign is displayed.

Section 14. – Harbor district signs.

Except as provided otherwise in this Article, the following signs are permitted as accessory uses in the harbor district. In addition, up to one minor sign per business is permitted as a wall sign.

TYPE	Freestanding (incl. monument)	Wall	Flags	Temporary Signs	Other (e.g. canopy, door, projecting)
SIZE (each/total)	20 s.f.	2 s.f. per 5 lineal ft. of building frontage	16 s.f.	16 s.f.	20 s.f./50% area
MAX. NUMBER	1	1		1	1
ILLUMINATION	See Sec. 8(b)	See Sec. 8(b)	As required by law	Not to be illuminated	See Sec. 8(b)
SETBACK	5 ft	NA	5 ft	5 ft	NA
MAX. HEIGHT	10 ft	NA	25 ft	10 ft	NA

- Window signs are permitted up to 25% of the area of a window and count toward the maximum square footage of wall signs. Window signs are permitted only on the first floor of a building unless the business advertised is only on the floor where the window sign is displayed.



Municipal Corporation of Cape Charles

JANUARY 2024 MONTHLY REPORT

Katie H. Nunez, Planning/Zoning Administrator

A. SUBDIVISION AGENT: No items to report.

B. BOARD OF ZONING APPEALS - CODE OF VIRGINIA SECTION 15.2-2310

[Planning Commission shall be provided any applications filed with the Board of Zoning Appeals.]

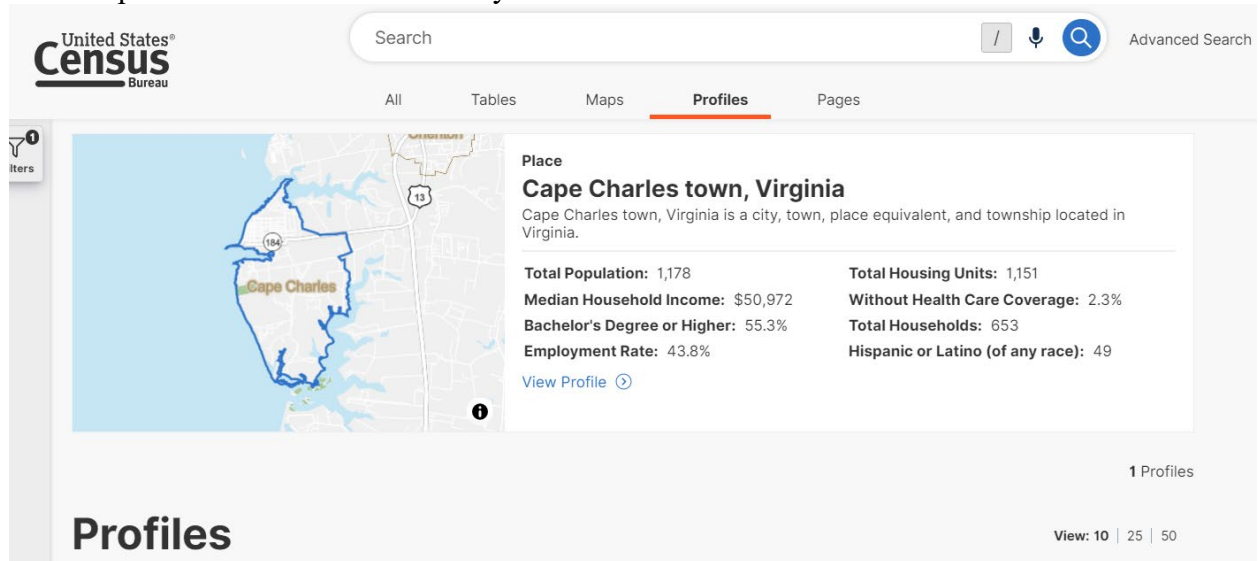
No applications filed for December 2023 or January 2024. However, the BZA will be doing a meeting in January 9, 2024 to handle administrative issues (minutes, election of offices, review of bylaws and procedures).

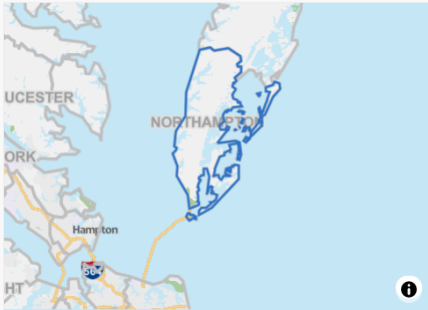
C. HARBOR DEVELOPMENT CERTIFICATES: None.

D. WETLANDS and COASTAL SAND DUNE BOARD: No applications filed for January 2024.

E. OTHER

US Census Bureau has released the 2018 – 2022 America Community Survey data. Below is the snapshot data for the Town as well as for Northampton County. I have enclosed the detailed profile data for the Town for your review.





County

Northampton County, Virginia

Northampton County, Virginia has 211.7 square miles of land area and is the 85th largest county in Virginia by total area.

Total Population: 12,282

Median Household Income: \$54,693

Bachelor's Degree or Higher: 29.3%

Employment Rate: 49.1%

Total Housing Units: 7,373

[View Profile](#) 

Without Health Care Coverage: 10.3%

Total Employer Establishments: 304

Total Households: 5,344

Hispanic or Latino (of any race): 1,068

7 Profiles

Profiles

View: 10 | 25 | 50