



## **Town Council Work Session**

**April 09, 2026 at 6:30 PM**

**Cape Charles Civic Center - 500 Tazewell Avenue**

### **Agenda**

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#### **1. Call to Order**

**A. Roll Call**

#### **2. Items for Discussion**

**A.** Zoning Ordinance Article VIII – Historic District Guidelines

**B.** PROPOSED Mobile Food and Beverage Vending Unit Ordinance

**C.** Houseboat Short Term Rental Denial

#### **3. Adjournment**

	<b>Agenda Title:</b>	<b>Agenda Date:</b>
	Zoning Ordinance Article VIII – Historic District Guidelines	April 9, 2026
	<b>Subject/Proposal/Request:</b>	
	Review and discussion of possible zoning text amendment to Article VIII (Historic District Overlay Ordinance) and Historic District Guidelines	
<b>Town of Cape Charles</b>	<b>Attachments:</b>	<b>For Council:</b>
	1) Proposed Zoning Text Amendment to Article VIII – Historic District Overlay; 2) Proposed Historic District Guidelines new Appendix G	Action: X Information:
	<b>Staff Contact(s):</b>	<b>Reviewed by:</b>
	Katie H. Nunez, Director of Planning & Zoning Administrator	Rick Keuroglan, Town Manager

**Background:**

- 1) Summer 2024, an appeal was filed with the Board of Zoning Appeals regarding a Zoning Administrator decision that found a property owner in violation of not completing an application and obtaining Zoning approval prior to conducting work on their property in compliance with the Historic District Overlay Ordinance and the Guidelines. On October 8, 2024, the Board of Zoning Appeals upheld the appeal and overturned the Zoning Administrator decision.
- 2) Fall 2024, this entire file of the BZA Appeals Case was reviewed by the Town’s attorney and he noted that the ordinance did not clearly state that a zoning approval by the Town was required for all elements of repair/renovation or building additions within the Historic District.
- 3) November 7, 2024, the BZA decision and Attorney input was reviewed with Town Council by the Town Manager at Town Council Work Session. This discussion concluded that some amendments to the Zoning Ordinance should be proposed regarding process and approvals required and a more detailed listing of the types of renovation/repair work that require no review; review by Zoning Administrator; and review by the Historic District Review Board. Said zoning text amendments and guideline revisions should be considered to rectify this issue and clearly state the Town’s intent of zoning review in the Historic District but that it would be useful to also improve the distinction between routine maintenance work on a property vs. minor work vs. major work and the levels of review required by either the Zoning Administrator or the Historic District Review Board leading to the issuance of a Certificate of Appropriateness of the approved work being sought by the property owner.
- 4) November 2024 thru June 2025, staff worked on developing draft language amendments to CCZO Section VIII – Historic District Overlay Ordinance and developed a new

Appendix “G” to the Design Guidelines to give greater clarity as to the types of building work being conducted in the Historic District is classified under these proposed changes.

- 5) July 1, 2025 Planning Commission meeting - Staff requested an initial review by the Planning Commission at their July 1, 2025 meeting to see if there were errors, omissions, or edits that should be made before providing a full presentation to Town Council to determine if this is the text amendment they were seeking to address this issue.
- 6) August 21, 2025- this item was then placed back before Town Council at their August 21, 2025 meeting where staff requested Council review of the proposed text amendments to Article VIII (Historic District Overlay) and the new Appendix G and a determination of whether the issues raised last year were addressed and whether this matter was ready to commence the public hearing process for zoning text amendments. At that meeting, Councilman Newman stated that he, Councilman Grossman, Claudette Lajoie, and Edward Wells of the Historic District Civic League met and reviewed the documents line by line. They had not concluded their review work and would like to be able to present their comments to Town Council on this matter before they decide to send it to public hearing. He indicated that part of what this work group of the Civic League would do is to develop a communication document/plan to let the citizens know of the requirements, possibly thru a letter welcoming new property owners to Town/Historic District and providing the information regarding the process and zoning office staff contacts for questions. HE indicated that this group has raised the issue of associated fees being charged for Historic District Review Board applications and would like to suggest revisions to that fee structure for Town Council consideration. Town Council agreed to send this document to this subcommittee of two members of the Historic District Civic League and two members of Town Council for continued review, editing and development. Once their review is concluded, then it would be reviewed thru a Town Council work session.
- 7) November 6, 2025 – a work session was held with Town Council to review the work to date by the Civic League subcommittee and obtain feedback from the Town Council on several items. I have attached minutes from that Town Council work session to see the specific discussion items and consensus reached by Town Council. From this meeting, the Civic League subcommittee was tasked to complete their review and make changes to the draft document as a result of this work session with Town Council.
- 8) In mid-December, the Civic League subcommittee submitted their final draft document back to the Town Manager and staff. This work was moved into the queue of work for the Planning & Zoning department which is now advancing this item for a final draft review with both the Planning Commission & Historic District Review Board before scheduling a work session of Town Council to review these documents in depth.
- 9) Joint Work Session held of Planning Commission and Historic District Review Board on February 21 & March 3, 2026 conducting a final review of the draft document. Code Official Jeb Brady participated as well.

**Item Specifics: Staff** is requesting review by Town Council to determine if the proposed zoning text amendment to Article VIII (Historic District Overlay), specifically Section 8.15, 8.16, 8.17 & 8.20 as well as proposed definitions to Appendix A and the proposed new Appendix G.

Appendix G is a brand new document to the Guidelines which provides a comprehensive listing of types of work that could occur on a property and indicates its classification of either Routine Maintenance vs. Minor Work vs. Major Work. We have also included a column that details when an inspection will be needed by staff and a column to indicate if Building review/permit is required. This document is intended to be a user friendly document for property owners in the

District to be able to determine if the work they are considering on their property requires approval from the Town before they commence any work.

**Recommendation:** Town Council is asked to provide direction/determination if the proposed zoning text amendment to Article VIII (Historic District Overlay), proposed definitions and the amendment to the Historic District Guidelines (the new Appendix G) addresses the issues that were raised last year and whether this matter is ready to be voted to commence the public hearing process for zoning text amendments.

**Article VIII - Historic District Overlay**

Proposed Text Amendment – Red Font

**Section 32.210 – Intent.**

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

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

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

**Section 32.211: Purpose of the District**

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

**Section 32.212: Criteria for Establishing Historic Districts - General Character**

The boundaries of the Historic District shall in general be drawn to include areas containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation. The district may include either individual buildings or places of such character, and a reasonable distance beyond, or it may include areas or groupings of structures which have significance relative to their patterns of development or social

and economic or architectural interrelationships, even though some structures in the area might not possess significant merit when considered alone.

**Section 32.213: Inventory of Landmarks and Contributing Properties Established**

The Town of Cape Charles has established, as part of this ordinance, a map covering the area included in the Historic District, based on the criteria set forth in this ordinance. This map shall be as much a part of this ordinance as if fully described herein. Pending further amendment of this ordinance, the period of significance for the Town will be from 1883 to 1964 as delineated in the Cape Charles Historic District National Register of Historic Places (amended 2019). As identified in the National Register, structures or sites designated as properties which contribute to the historic character of the Town shall be known as contributing properties for the purpose of this Ordinance. Structures or sites not designated as landmark or contributing properties shall be known as noncontributing properties. Should a building or structure within the boundaries of the historic district not be listed in the national register, the building or structure will be classified as noncontributing. The map may be amended from time to time in the same manner as the zoning district map.

Historic District Overlay is bounded by the following and encompasses all of the areas within said bounds and will be shown as an Overlay Map to the Town's Zoning Map:

- Starting from the beach front at the corner of Mason Avenue and Bay Avenue and running north along Bay Avenue to the corner of Washington Avenue;
- Then running east down the center line of Washington Avenue to the corner of Fig Street;
- Then running south down the center line of Fig Street to the corner of Monroe Avenue;
- Then running east down the center line of Monroe Avenue to the corner of Fulcher Street;
- Then running south down the center line of Fulcher Street to the intersection with Randolph Avenue;
- Then running east along Randolph Avenue for approximately 300 feet to the far east property line of the Cape Charles Historical Society (Tax Map #83A4-1-B-23) located on the south side of Randolph Avenue;
- Then running west approximately 952 feet along the rear property lines of the Cape Charles Historic Society (Tax Map #82A4-1B-83 & 84), the Town of Cape Charles (Tax Map #83A4-4-76), and Rayfield Pharmacy (Tax Map #83A4-4-74 & 75 and 83A4- A-21) properties to the corner of Fig Street and Mason Avenue;
- Then continuing to run west along Mason Avenue to the intersection of Nectarine Street;
- Then turning south and running 140 feet then turning west for approximately 2,045 feet up to, but not including, Tax Map #83A3-A-5 (currently owned by Cape Charles RF, LLC and historically referenced as the former Tavi property) then turning north and running 140 feet to Mason Avenue;
- Then turning west along Mason Avenue to the beach front at the intersection with Bay Avenue

**Section 32.214: Application of the District; Relation to Other Zoning Districts**

To enable the district to operate in harmony with the plan for land use and population

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

***Section 32.215: Permitted Uses***

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

***Section 32.216: Historic District Review Board; Creation***

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

***Section 32.217: Historic District Review Board; Membership***

The members of the Historic District Review Board shall be appointed by the Town Council. The Membership shall consist of five (5) citizens, at least three (3) of whom shall be residents of the local historic district.

***Section 32.218: Historic District Review Board; Terms***

Upon approval by the Town Council, members shall be appointed for a term of five years (5 yrs). Appointments to fill vacancies shall be only for the unexpired term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until a successor is appointed and qualifies.

***Section 32.219: Historic District Review Board; Qualifications***

Members of the Historic District Review Board shall have demonstrated interest and knowledge in the historical and architectural development of the Town and when possible, include a Planning Commission member, as well as professionals in the disciplines of architecture, history, historic preservation, archaeology, or related professions; and professionals in the disciplines of planning, building construction, or real estate.

***Section 32.220: Historic District Review Board; Organization***

The Historic District Review Board shall elect from its own membership a chairman and vice chairman who shall serve annual terms and may succeed themselves. The chairman shall preside over all meetings in addition to having the duties and responsibilities of other members of the Board. The vice chairman shall preside over meetings of the Board in the absence of the chairman.

***Section 32.221: Historic District Review Board; Rules***

The Board shall meet in regular session on the third (3<sup>rd</sup>) Tuesday of every month

when an application has been filed requiring consideration. Special meetings of the Board may be called by the chairman or a majority of the members after public notice as required.

***Section 32.222: Historic District Review Board; Meetings; Hearings***

Written notice of a special meeting is not required if the time of special meeting has been fixed at a regular meeting or if all members are present at a special meeting or file a written waiver of notice. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all voting members of the Board. The Board may make, alter, or rescind rules and forms for its procedures, consistent with the ordinances of the Town and the general laws of the Commonwealth of Virginia.

***Section 32.223: Historic District Review Board; Procedures***

The Board shall, with the concurrence of the town manager, establish procedures for all matters coming before it for review, and all meetings shall be open to the public. The Board will have the right to appeal decisions of the town manager to the Town Council.

***Section 32.224: Historic District Review Board; Powers and Duties***

**The Zoning Administrator will review all applications to determine the proper level of review and compliance with the Cape Charles Zoning Ordinance.** The Historic District Review Board shall have the power and authority to issue or deny Certificates of Appropriateness for construction, reconstruction, substantial exterior alteration, razing, or relocation within the historic district. **Further details of classification can be found in the Cape Charles Historic District Overlay Design Guidelines, Appendix G.** In addition, the Board shall have the following duties:

- (1) To assist and advise the Town Council, the Planning Commission, and other Town departments, agencies, and property owners in matters involving historically significant sites and buildings or other properties in the historic districts such as, but not limited to, appropriate land usage, parking facilities, and signs.
- (2) To continuously evaluate conditions and advise owners of historic landmarks or contributing structures or other properties in historic districts on problems of preservation.
- (3) To oversee studies deemed necessary by the Town Council or Planning Commission concerning location of historic districts and means of preservation, utilization, improvement, and maintenance of historic assets in the Town.
- (4) To propose additional historic districts or additions or deletions to districts.
- (5) To recommend standards and guidelines for adoption by the Town Council to supplement the standards set forth in this Ordinance; the currently adopted guidelines are called "Cape Charles Historic District Guidelines revised October 2017."

- (6) To formulate recommendations to the Town Council concerning the establishment of an appropriate system of markers for selected historic sites and buildings, including proposals for the installation and care of such historic markers.
- (7) To cooperate with and enlist assistance from the Virginia Department of Historic Resources, the National Trust for Historic Preservation, and other interested parties both public and private in its efforts to preserve the character of historic landmarks, buildings, sites, or areas within the Town.

**Section 32.225: Summary of Administration Review Procedures**

In general, It is the purpose of this ordinance to establish review procedures for actions affecting properties in the Historic District. Therefore, the Zoning Administrator will review all applications to determine the proper level of review and compliance with the Cape Charles Zoning Ordinance.

- (1) Actions related to “Standards” will be exclusively the purview of the Zoning Administrator.
- (2) Actions addressed by “Guidelines” will be the purview of the Historic District Review Board, except that guidelines that are relatively straightforward may be delegated to the Zoning Administrator at the discretion of the Historic District Review Board.
- (3) In all cases the decisions of the Zoning Administrator shall be appealed to the Board of Zoning Appeals as stated in §2-2.6.2.C, the decisions of the Historic District Review Board may be appealed to the Town Council, and the final decisions of the Town Council may be appealed to the Circuit Court of Northampton County.

**Section 32.226: Approval of Historic District Review Board Required**

- A. ~~Except as herein otherwise provided in this article, no building or structure, including signs, shall be erected, reconstructed, restored, or substantially altered in exterior appearance and no contributing buildings or structures shall be razed or demolished within a historic district and no permit authorizing same shall be granted unless and until the same is approved by the Historic District Review Board and a Certificate of Appropriateness has been issued by that body, with right of direct appeal to the Town Council as hereinafter provided, as being architecturally compatible with the historical, cultural, and/or architectural aspects of the structure and its surroundings.~~
- B. ~~Contributing accessory structures will be treated as contributing structures only under the following conditions:~~
  1. ~~It is on a permanent foundation; and~~
  2. ~~It is of sufficient square footage that a new structure of that type would require a building permit; and it is not being used as, or being considered for, Accessory Dwelling Units.~~

- C. ~~"Substantial alterations" shall be defined as any and all work done on buildings, structures, or sites in a historic district other than those specifically exempted herein:~~
1. ~~General examples of "non-substantial" alterations:~~
    - a. ~~Work done to prevent deterioration or to replace parts of a structure with similar materials in order to correct any deterioration, decay of, or damage to any structure or on any part thereof, or~~
    - b. ~~To restore same as nearly as practical to its condition prior to such deterioration, decay, or damage.~~
  2. ~~Examples of work not constituting "substantial alteration" include those minor actions exempted from review by §8.16 of this article.~~
  3. ~~General examples of work constituting "substantial alterations" include:~~
    - a. ~~Construction of a new building at any location or a new permanent accessory building requiring a building permit on a landmark or contributing property or on a site within the Historic District.~~
    - b. ~~Any addition to or alteration of a building which increases the square footage of the building or otherwise alters substantially its size, height, contour, or outline.~~
    - c. ~~Any alteration of the exterior architectural style of a structure or its significant elements; some examples being removal or rebuilding of porches, openings, dormers, window sashes, chimneys, columns, stairways, terraces, decks, fences, or any other structural elements.~~
    - d. ~~Addition to or removal of one (1) or more stories or alteration of a roofline.~~
    - e. ~~Any other major actions not specifically covered by the terms of this section, but which would have an effect on the character of the historic district.~~
- D. ~~In any case in which there might be some question as to whether a project may be exempted from review, may constitute a minor action, or may constitute "substantial alteration," the Zoning Administrator shall be contacted for an interpretation prior to commencement of work.~~

### **Section 32.226: Description of Proposed Work**

Changes proposed to a property within the Historic District fall into one of the three categories, which can be found in the Cape Charles Historic District Overlay Design Guidelines (CCHDODG) Appendix G: (1) Routine Maintenance, (2) Minor Work, and (3) Major Work, which are described as follows, including the level of Town review and approval required for each:

- A. **\*Routine Maintenance** items are types of exterior work that keep the property in good condition. Such projects include any repair where no change is made to the appearance of the structure or site.

Routine Maintenance will not require the issuance of a Certificate of

Appropriateness (CoA) or Zoning Clearance by staff or the HDRB. It is the property owners' responsibility to ensure the proposed work qualifies as Routine Maintenance. If there is uncertainty by the property owner, we encourage them to contact Town staff to review and confirm the category of work.

- B. **\*Minor Work** projects do not substantially alter the visual character of the structure or site.

Minor Work projects require an application, including a Zoning Clearance and issuance of a CoA. They may be approved by the department if the proposed work is consistent with the HDODG. If the department does not approve the application or if the work is questionable as to whether it is consistent with the HDODG, an application for minor work may be forwarded to the HDRB.

- C. **\*Major Work** projects that involve a change in the appearance of a building or site and are more substantial than routine maintenance or minor projects. They include changes from the original design or material, or replacement, alteration, or removal of an original feature.

Major Work projects require an application, including a Zoning Clearance and issuance of a CoA by the HDRB.

\*The property owner must schedule an inspection if required in the Cape Charles Historic Overlay District Design Guidelines Appendix G Classification of Work Chart.

**~~Section 32.227: Certain Minor Actions Exempted from Review by the Historic District Review Board~~**

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

- ~~A. Repainting the structure. (Original painting of masonry surfaces is not exempted from review.)~~
- ~~B. Replacement of missing or broken windowpanes, roofing slates, tiles, porch floor, posts, rails, shingles, window frames, or shutters where no substantial change in design or material is proposed.~~
- ~~C. Addition or deletion of storm doors or storm windows, window gardens, or similar appurtenances and portable air conditioners located in existing windows, doors, or other existing wall openings (if no building permit is required for such addition or deletion).~~
- ~~D. Landscaping involving minor grading, walks, low retaining walls, temporary~~

~~fencing, fencing immediately surrounding trash receptacles or outdoor ventilation units, small fountains, outdoor showers, and ponds which will not substantially affect the character of the property and its surroundings.~~

- ~~E. Construction of off-street loading areas and off-street parking areas.~~
- ~~F. Creation of outside storage in a commercial or industrial district which does not require structural changes or major grading and is not visible from a public street or waterway.~~
- ~~G. Additions or deletions to an existing building which are not visible from a public street or sidewalk. Alleys in this context are not to be considered public places.~~
- ~~H. Covered by other zoning ordinance requirements as administrated by the Zoning Administrator unless altered by the overlay ordinance.~~
- ~~I. Receiving historic preservation tax credits through state or federal offices.~~
- ~~J. Demolition of non-contributing buildings or structures.~~
- ~~K. Alterations or repairs made to a building or structure for the purpose of temporary emergency stabilization.~~

***Section 32.227: Declaration of Unsafe or Dangerous Conditions***

Nothing in this Ordinance shall be construed to prevent any measures necessary to correct an unsafe or dangerous condition of a property in the Historic District. Temporary measures may be taken as directed by the Zoning Administrator and Code Official without obtaining a Certificate of Appropriateness.

***Section 32.228: Delegation of Authority***

- A. The Zoning Administrator or Code Official shall have authority to order that work be stopped and that an appropriate application be filed for review by the Historic District Review Board in any case where the action has an adverse effect on the Historic District.
- B. The Historic District Review Board shall periodically review the design guidelines contained in this section.

***Section 32.229: Certificate of Appropriateness***

Evidence of the approval required under the terms of the Historic District shall be a certificate of appropriateness issued on behalf of the Historic District Review Board, stating that the demolition, moving, or changes in the exterior architectural appearance of the proposed construction, reconstruction, alteration, or restoration for which application has been made are approved by the Historic District Review Board or the Zoning Administrator. The Historic District Review Board may permit modifications of original proposals if such modifications are formally acknowledged, clearly described, and recorded in the records of the case. A certificate of

appropriateness shall be obtained in addition to any other required permits. Any action by applicants following issuance of a permit-requiring certificate of appropriateness shall be in accord with the application and material approved and any conditions appended thereto.

**Section 32.230: Design Guidelines; Recommendations for Review**

The intent of the guidelines is to ensure that changes within the district are compatible with the district's historic and architectural character.

- (a) The Historic District Review Board shall be guided in its decisions by the design guidelines but must also use independent judgement and discretion to consider the unique characteristics of each request. The board is expected to work with each applicant to assist them in achieving their goal while preserving the character of the district. The board shall utilize the pre-application review process as defined in §32.235 (A).
- (b) It shall be the duty of the Historic District Review Board to prepare recommended amendments to the design guidelines.
- (c) The Town Council shall adopt and amend the design guidelines after conducting at least one public hearing pursuant to [§15.2-2204](#) of the Code of Virginia.
- (d) Separate guidelines shall be developed for all new infill buildings in Cape Charles' historic district. New infill construction will not diminish, detract, or distract from the character of surrounding historic buildings or the overall historic district.
- (e) Alterations and additions to non-contributing structures that affect the exterior appearance of the structure or additions should be compatible with the district following the guidelines for new (infill) construction. Criteria for non-contributing structures may be less restrictive than that applied to contributing structures.

**Section 32.231 Demolition: Alternate Procedure: Offer to Sell**

- (a) Prior to approval of any application for demolition, razing, moving, or removal of a contributing structure within the Cape Charles Historic District; the zoning administrator, the Historic District Review Board, or the Town Council, as applicable, shall review the application for its compatibility with each of the following guidelines.
  - (1) Whether or not the contributing structure is of such architectural or historic interest that its removal would be to the detriment of the character and integrity of the Historic District.
  - (2) Whether or not the contributing structure is of such interest or significance that it would qualify as a National, State, or local historic landmark.
  - (3) Whether or not retention of the contributing structure would help to preserve and protect a historic place or area of historic interest in the Town.
  - (4) Whether or not plans for future use of the site after demolition are

appropriate, compatible, sympathetic, and complementary to the character and integrity of the Historic District.

No subsequent application under §32.231 (A) regarding the contributing structure may be made until more than one year (1 yr) after a final denial by the Town Council.

- (b) In addition to the right of appeal herein elsewhere set forth, the owner of a contributing structure in the Cape Charles Historic District shall as a matter of right be entitled to raze or demolish a contributing structure provided that:
- (1) The owner has applied to the Town Council for such right.
  - (2) The owner has for the applicable period of time set forth in the time schedule in §32.231 (b)(4), and at a price reasonably related to the fair market value of the contributing structure and the land, other improvements and appurtenances pertaining thereto (assuming the buyer will be required to preserve and restore the contributing structure in place on the property) as determined by the average of two (2) real estate appraisals from two (2) different appraisers, made a bona fide, public offer (pursuant to the requirements of this §32.231 (b)) to sell such contributing structure, and the land, other improvements and appurtenances pertaining thereto (collectively, the “Property”), to the Town and any other person, firm, corporation, government or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the contributing structure in place. If the two (2) required real estate appraisals submitted by the Owner differ by more than ten percent (10%), the owner must have the Property appraised a third time at his own expense by a third real estate appraiser selected by the Town. The bona fide offer to sell must be at a price not more than the average of the two (2) such appraisals that are closest to one another.
  - (3) No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such Property thereto, prior to the expiration of the applicable time period set forth in the time schedule in §32.231 (b)(4). Any appeal which may be taken to the court from the decision of the Town Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above.
  - (4) The time schedule for offers to sell shall be as follows:
    - a. Three (3) consecutive months when the offering price is less than twenty-five thousand dollars.
    - b. Four (4) consecutive months when the offering price is twenty-five thousand (\$25,000) or more but less than forty thousand dollars (\$40,000).
    - c. Five (5) consecutive months when the offering price is forty thousand (\$40,000) or more but less than fifty-five thousand dollars (\$50,000).
    - d. Six (6) consecutive months when the offering price is fifty-

- five thousand dollars (\$50,000) or more but less than seventy-five thousand dollars (\$75,000).
- e. Seven (7) consecutive months when the offering price is seventy-five thousand dollars (\$75,000) or more but less than ninety thousand dollars (\$90,000).
  - f. Twelve (12) consecutive months when the offering price is ninety thousand dollars (\$90,000) or more.
- (5) Before making a bona fide offer to sell, the owner shall first file a statement with the Zoning Administrator along with the appraisals required by §32.231 (b)(2). The statement shall identify the Property, state the offering price, the date the offer of sale is to begin, the names and addresses of adjacent property owners, and the names and addresses of listing real estate agents, if any. The owner shall be required to maintain the Property in at least its current condition during the term of the public offer. No time period set forth in the time schedule contained in §32.231 (b)(4). shall begin to run until the statement has been filed. Within five (5) business days after receipt of a statement, copies of the statement shall be delivered by the Zoning Administrator to the Town Manager, the Town Council, and the Historic District Review Board. Within thirty (30) days after the receipt of a statement, the Zoning Administrator: (a) shall place notice of the statement once a week for two (2) successive weeks in a newspaper having general circulation in the Town, (b) post a notice of the statement prominently on the Property, and (c) send notice of the offer, accompanied by the statement, to the adjacent property owners by certified or registered mail.
- (6) During the time period for the offer to sell, the Town may take steps as it deems necessary to preserve the contributing structure in accordance with the purposes of this article. Such steps may include, but are not limited to, consultation with civic groups, public agencies, and interested citizens, recommendations for acquisition of the Property by public or private bodies or agencies, and exploration of the possibility of moving structures or other features on the Property.
- (7) The fact that an offer to sell a property is made at a price reasonably related to fair market value as described previously may be questioned by any party who files with the Zoning Administrator, on or before sixty (60) days after the offer for sale has begun, a petition in writing signed by at least twenty-five (25) persons owning real estate within Cape Charles, questioning such valuation. Upon receipt of such a petition, one (1) disinterested real estate appraiser shall be appointed by the petitioners, and the cost of the appraisal shall be borne by the petitioners. Said appraiser shall forthwith make an appraisal of the Property on the same basis as described in §32.231 (b)(2) above, and the Town shall use the average of the lower two (2) appraisals to establish fair market value under §32.231 (b). In the event such valuation indicates that the price at which the applicant offered to sell the Property was at a price that is higher than the Property's fair market value, the offer to sell shall be void and of no force and effect for

- purposes of satisfying the requirements set forth in this §32.231 (b).
- (8) If the Town Council authorizes any such demolition or razing of said structure after the above procedures were complied with, then said demolition will proceed after applying for and obtaining approval from the Building Official.

***Section 32.232: Maintenance and Repair Required***

- (a) The purpose of this section is solely to stop demolition by neglect, whereby owners of property in the Historic District allow the structure, or historic attributes of the structure, to become a hazardous building or structure. Any building or structure which is determined to be in such an unsafe condition that it would endanger life or property is governed by Town Code Chapter 18, Article III, Unsafe Buildings or Structures and under the sole jurisdiction of the Town's Code Official. The Zoning Administrator may also pursue violations of the ordinance jointly with the Town's Code Official.
- (b) All buildings and structures in the Historic District shall be preserved against decay and deterioration and maintained free from structural defects to the extent that such decay, deterioration, or defects may, in the opinion of the Historic District Review Board and Town Council, result in the irreparable deterioration of any exterior appurtenance or architectural feature or produce a detrimental effect upon the character of the district as a whole or upon the life and character of the structure itself, including but not limited to:
- (1) The deterioration of exterior walls or other vertical supports, including broken doors and windowpanes;
  - (2) The deterioration of roofs or horizontal members;
  - (3) The deterioration of exterior chimneys;
  - (4) The deterioration or crumbling of exterior plaster, wood, or mortar;
  - (5) The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.
- (c) After notice by the Zoning Administrator or Code Official by certified mail of specific instances of failure to maintain or repair and of an opportunity to appear before the Historic District Review Board, the owner or person in charge of said structure shall have ninety (90) days to remedy such violation. Thereafter, each day during which there exists any violation of this section shall constitute a separate offense and shall be punishable as provided in this ordinance. In the alternative, if the owner fails to act, the Historic District Review Board may recommend to the Town Council that the Zoning Administrator, after due notice to the owner, enter the property and make or cause to be made such repairs as are necessary to preserve the integrity and safety of the structure and the reasonable costs thereof shall be placed as a lien against the property.

***Section 32.233: File of Actions to be Maintained***

In order to provide guidance for the consistent application of standards and guidelines, and for assistance to future applicants and the promotion of consistent policies in guiding applicants toward better standards of design, the Zoning

Administrator shall maintain a file containing a record of all applications, including drawings and photographs pertaining thereto and the decision of the Zoning Administrator or the Historic District Review Board in each case. The file documents shall be compiled by the Zoning Administrator, maintained by the Town Clerk, and remain the property of the Town but shall be held available for public review.

***Section 32.234: Administration; Zoning Administrator***

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

***Section 32.235: Receipt of Application***

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

- (1) Pre-application review: Persons considering action that requires a certificate of appropriateness, as set forth in this ordinance, are to request an informal informational meeting with the Zoning Administrator and at least one member of the Historic District Review Board prior to submitting a formal application for a certificate of appropriateness. Requests for such informational meetings can be made to the zoning administrator, who will contact a member of the board. The informational meeting will occur within thirty (30) days of receipt of such a request. The purpose of an informational meeting is to review the design guidelines and standards and the procedures for obtaining a certificate of appropriateness. Neither the applicant nor the zoning administrator/board member(s) shall be bound by any informational meeting or conceptual review. Zoning Administrator can use discretion on the need for a pre-application meeting or the inclusion of a board representative depending on the nature of project proposed;
- (2) Once accepted by the zoning administrator as a fully completed application, the zoning administrator will forward to the Historic District Review Board a copy of the application, together with a copy of the site plan and the building plans and specifications filed by the applicant if such application requires the Historic District Review Board to meet and render a decision;
- (3) Compile a record of all such applications and of the final disposition of the same, to be maintained by the Town Clerk;
- (4) Require applicants to submit one (1) hard copy and one (1) electronic version of material required to permit compliance with the foregoing.

***Section 32.236: Material to be Submitted for Review***

By general rule, or by specific request in a particular case, the Historic District Review Board may require submission of any or all of the following in connection with the application: architectural plans, **site plans**, landscaping plans, construction methods, proposed exterior lighting arrangements, elevations of all portions of structures with important relationships to public view and such other exhibits and reports as are necessary for its determinations. Requests for approval of activities proposed in

historic districts shall be accepted only from the record owner of the land involved in such proposal, or their agent.

***Section 32.237: Other Approvals Required***

The Zoning Administrator will review submitted applications for Certificates of Appropriateness against appropriate zoning requirements before forwarding the application to the Historic District Review Board for pre-application review and approval. In any case in which an applicant's proposal also requires the approval of the Board of Zoning Appeals, final action by the Board of Zoning Appeals shall precede final action by the Historic District Review Board. The Board of Zoning Appeals may, however, table a proposal in order to request the comments of the Historic District Review Board. In this case, final action by the Historic District Review Board shall be taken prior to consideration of proposals requiring site plan approval.

***Section 32.238: Action by the Historic District Review Board; Issuance of Certificates of Appropriateness***

The Historic District Review Board shall render a decision upon any request or application for a Certificate of Appropriateness within ninety (90) days after the filing of an application accepted as complete. Failure of the Historic District Review Board to render such a decision within said ninety (90) day period, unless such period be extended with the concurrence of the applicant, shall entitle the applicant to proceed as if the Historic District Review Board had granted the Certificate of Appropriateness applied for prior to denying the Certificate of Appropriateness. The Historic District Review Board, on the basis of the review of information received shall, upon request, indicate to the applicant the changes in plans and specifications, if any, which in the opinion of the Historic District Review Board, would protect and/or preserve the historical aspects of the landmark, building, structure, or district. If the applicant determines that they will make the suggested changes, the Historic District Review Board may issue the Certificate of Appropriateness. Agreed to changes will be stipulated on the Certificate of Appropriateness.

All conditions required for the approval of a certificate of appropriateness will also be included on the building plan and will be reviewed by the Code Official during routine inspections.

The Zoning Administrator will be responsible for issuance of the Certificate of Appropriateness to the applicant and the Town's Code Official office within five (5) business days. Denials of applications are to be stated in writing to the applicant along with the reasons for such denials by the zoning administrator and issued within five (5) business days. Once a Certificate of Appropriateness is granted, the applicant may obtain permits to start work with the understanding that work may be stopped should an appeal be filed to the board's decision within a 30-day period following approval of the Certificate of Appropriateness, and that the applicant takes full responsibility to bear whatever consequences result from the appeal's final decision.

***Section 32.239: Expiration of Certificates of Appropriateness***

Any certificate issued pursuant to this article shall expire of its own limitation six (6) months from the date of issuance if the work authorized thereby is not commenced by

the end of such six (6) month period; and further, any such certificate shall also expire and become null and void if such authorized work is suspended or abandoned for a period of six (6) months after being commenced. Any period or periods of time during which the right to use any such certificate is stayed pursuant to this article shall be excluded from the computation of the six (6) months.

***Section 32.240: Inspection by Administrator After Approval***

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

***Section 32.241: Delay of Approval***

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

***Section 32.242: Conditions Imposed by the Historic District Review Board***

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

***Section 32.243: Appeals; Decisions of the Historic District Review Board***

An appeal from a decision of the Historic District Review Board may be taken to the Town Council by the owner of the property in question or by any party aggrieved and must show that he has an immediate, pecuniary and substantial interest in the litigation, and not a remote or indirect interest, which shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator the following:

- a notice of appeal specifying the grounds thereof; a signed statement listing any personal or business relationship with any general or subcontractors associated with the project under appeal;
- a signed statement that all real and personal property taxes are current as of the date of the filed appeal notice;
- a signed statement listing any personal or business relationship or partnership with the property owner(s) associated with the project under appeal;
- a fee equal in value to the fee paid by the property owner(s) associated with the project under appeal.

The person submitting the appeal shall not be allowed to present any evidence that was not presented to the Historic District Review Board. Council members having any relevant interaction with the applicant shall disclose such interaction prior to considering the appeal. The Zoning Administrator will prepare a document of all the papers constituting the record upon which the action appealed from was taken. The Town Council shall fix a reasonable time for the hearing, give public notice thereof and decide the same within sixty (60) days from the date the person submitted a request for appeal. At the hearing, the appealing party may appear in person or by an agent. In exercising its powers, the Town Council will rely solely on the written record of decision from the Historic District Review Board and will refer to the Adopted Historic District Guidelines to determine if they were appropriately applied. The Town Council, through their appeal hearing, is determining only if a procedural or application error has occurred.

***Section 32.244: Appeals; Decisions of the Zoning Administrator***

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

***Section 32.245: Appeal to the Circuit Court from a Decision of the Town Council***

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

**Section 32.246: Violations and Penalties**

Any violation of this Article and the penalties for all such violations shall be as set forth in §32-32 of the Town Code.

**Section 32.247: Definitions**

For the purpose of this article, terms and words pertaining to the Historic District are defined in Chapter 32, Appendix A of this Town Code.

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**PROPOSED AMENDMENTS AND NEW DEFINITIONS**

**Town Code Chapter 32, Appendix A – Definitions**

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

**IN-KIND** The replacement of historic fabric with new material that matches the historic detail, configuration, appearance, and fabric as closely as possible.

**PUBLIC RIGHT-OF-WAY** means the land, property, or interest therein, usually in a strip, acquired for or devoted to a public street designated to become part of the secondary system of state highways.

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

**REPAIR, MAJOR** any improvement that requires a building permit or that requires the replacement of a roof, wall, or other major building element.

**REPAIR, MINOR** improvements to correct deficiencies resulting from normal wear and tear, or improvements generally not requiring a building permit.

**SCREEN** a structure, berm, or planting consisting of fencing and/or evergreen trees or shrubs providing continuous view obstruction within a site or property or a portion thereof.

**SCREENING** a method of visually shielding or buffering one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation. This is a designated condition placed on an issued Certificate of Appropriateness to limit the visibility of new appurtenances from the public right-of-way.

**Cape Charles Historic District Overlay Design Guidelines**  
**Appendix A – Glossary**

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

## APPENDIX G – CLASSIFICATION OF WORK – GENERAL GUIDELINES

The following chart is provided as a reference for Routine Maintenance, Minor Work, and Major Work, as defined in the Town Code §32.226, which is available below. This chart does not exempt the homeowner from obtaining the required Zoning and Building permits. It is the homeowner's responsibility to confirm and obtain all necessary Zoning and Building permits.

### Town Code §32.226: Description of Proposed Work

Changes proposed to a property within the Historic District fall into one of the three categories, which can be found in the Cape Charles Historic District Overlay Design Guidelines (CCHDODG) Appendix G: (1) Routine Maintenance, (2) Minor Work, and (3) Major Work, which are described as follows, including the level of Town review and approval required for each:

- A. **\*Routine Maintenance** items are types of exterior work that keep the property in good condition. Such projects include any repair where no change is made to the appearance of the structure or site.

Routine Maintenance will not require the issuance of a Certificate of Appropriateness (CoA) or Zoning Clearance by staff or HDRB. It is the property owners' responsibility to ensure the proposed work qualifies as Routine Maintenance. If there is uncertainty by the property owner, we encourage them to contact Town Staff to review and confirm the category of work.

- B. **\*Minor Work** projects do not substantially alter the visual character of the structure or site.

Minor Work projects require an application, including a Zoning Clearance and issuance of a CoA. They may be approved by the department if the proposed work is consistent with the CCHDODG. If the department does not approve the application or if the work is questionable as to whether it is consistent with the HDODG, an application for minor work may be forwarded to the HDRB.

- C. **\*Major Work** projects that involve a change in the appearance of a building or site and are more substantial than routine maintenance or minor projects. They include changes from the original design or material, or replacement, alteration, or removal of an original feature.

Major Work projects require an application, including a Zoning Clearance and issuance of a CoA by the HDRB.

\*The property owner must schedule an inspection if required in the CCHDODG Appendix G Classification of Work Chart.

Please call the Planning & Zoning Department with any questions.

	Type of Work	Routine Maintenance	Minor Work	Major Work	Inspection Required	Code Official Review
1)	Painting or repainting of a <b>non-masonry structure</b> does not require approval.					
2)	<b>Accessory Structures* or Buildings</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance.	✓				✓
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	✓
	c) Additions or Alterations to existing, or New Construction that <u>cannot be seen</u> from the public right-of-way		✓		✓	✓
	d) Additions or Alterations to existing, or New Construction that <u>can be seen</u> from the public right-of-way			✓	✓	✓
3)	<b>Architectural Style</b> is a set of characteristics and features that make a building or other structure notable or historically identifiable.					
	a) Repair when there is no change in design, dimension, materials, or general appearance	✓				✓
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	✓
	c) Addition / Alteration / Removal of existing or New			✓	✓	✓
4)	<b>Awnings and Canopies</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				✓
	b) Addition / Removal of existing or Installation of New			✓	✓	✓
5)	<b>Buildings, Relocation</b>			✓	✓	✓
6)	<b>Carpports</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				✓
	b) Addition / Alteration / Removal / Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	✓
	c) New Construction that <u>cannot be seen</u> from the public right-of-way		✓		✓	✓
	d) New Construction that <u>can be seen</u> from the public right-of-way			✓	✓	✓
7)	<b>Certificate of Appropriateness (CoA)</b>					
	a) Modification to previously approved CoA (could require HDRB approval)		✓		Case-by-Case basis	
	b) Renewal of Expiring		✓			

8)	<b>Chimneys</b>					
	a) Reflash or Repair to the cap, caulk, or stucco when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement of the cap, caulk, flashing, or stucco where there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	
	c) Alteration / New Construction / Removal			✓	✓	✓
9)	<b>Decks</b>					
	a) Repair when there is no change in dimensions, design, materials, or general appearance	✓				✓
	b) Replacement when there is no change in design or general appearance, but a change in materials, using in-kind		✓		✓	✓
	c) Addition / Alteration / New Construction / Removal			✓	✓	✓
10)	<b>Doors (Exterior)</b>					
	a) Replacement when there is no change in design, dimensions, materials, or general appearance	✓				✓
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	✓
	c) Addition/Alterations/Removal when there is a change in style or opening size			✓	✓	✓
	d) New Installation or New opening (example: changing a window to a door)			✓	✓	✓
11)	<b>Doors (Storm), Installation (Front of House only)</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	
	c) New Installation		✓		✓	
12)	<b>Driveways</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Addition / Alteration / Removal of existing or New Construction			✓	✓	
13)	<b>Features not specifically listed – some examples are arches, corbels, historic signage, vestibules, etc.</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓			✓	✓
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	✓
	c) Addition / Alteration / Removal of existing or New Construction				✓	✓
14)	<b>Fences</b>					


	a) Repair with approved materials from guidelines and Zoning Approval in compliance with the Town Code	✓				
	b) Alteration of Placement / Replacement / New Construction		✓		✓	
15)	<b>Foundations</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				✓
	b) Addition / Alteration of existing			✓	✓	✓
16)	<b>Foundation Vents and Ventilators</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				✓
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	✓
	c) Alteration / Installation / Removal		✓		✓	
17)	<b>Fuel Tanks Addition / Removal – Screening is required to limit visibility if placed in view of the public right-of-way</b>	Not historic, but requires zoning administrator and building code approval				
18)	<b>Gutters and Downspouts</b>					
	a) Repair when there is no change in design, materials, or general appearance	✓				
	b) Addition / Change in Material / Installation / Removal		✓			
19)	<b>Handrails/Porch Rails/Stair Rails</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	
	c) Alteration / Removal of existing or New Construction			✓	✓	✓
20)	<b>HVAC Equipment like air conditioners, heat pumps, mini splits</b>	Not historic, but requires zoning administrator and building code approval				
21)	<b>Lighting Fixtures (Exterior)</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Alteration / Installation / Removal		✓			
22)	<b>Main Building</b>					
	a) Additions of Commercial or Residential that <u>cannot be seen</u> from the public right-of-way		✓		✓	✓
	b) Additions of Commercial or Residential that <u>can be seen</u> from the public right-of-way			✓	✓	✓
	c) New Construction of Commercial or Residential			✓	✓	✓
23)	<b>Masonry</b>					
	a) Repainting only when there is no change to the existing color or composition.	✓				

	<b>Painting of unpainted masonry is not allowed.</b>					
	b) Repair when the color and composition of the mortar match the original, and the new brick or stone matches the original	✓				✓
	c) Repointing	✓				✓
	d) Installation of utility penetrations, hose bibs, or vents	✓				
	e) Alteration / Removal of existing or New Construction			✓	✓	✓
24)	<b>Outdoor Features like kitchens, firepits, built-in BBQs – Screening is required to limit visibility if placed in view of the public right-of-way</b> *saunas, hot tubs, plunge or spa pools will be treated as swimming pools		✓			✓
25)	<b>Painting or repainting of a <u>non-masonry structure</u> does not require approval.</b>	✓				
26)	<b>Patios – under 16” above grade</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	
	c) Addition / Alteration / Removal of existing		✓		✓	
	d) New Construction		✓		✓	
27)	<b>Porches</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				✓
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	✓
	c) Addition / Alteration / Removal of existing or New Construction			✓	✓	✓
28)	<b>Roof Forms &amp; Covering</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance (excluding color). A building permit is required for repairs of more than 100 sq. ft. of the roof.	✓				✓
	b) Replacement when there is no change in design, dimensions, materials, or general appearance (excluding color)		✓		✓	✓
	c) Replacement when there is a change in design, dimensions, materials, or general appearance. A building permit is required if altering or replacing more than 100 sq. ft. of the roof.			✓	✓	✓
	d) Replacement when there is no change in design, dimensions, or general appearance (excluding color), but a change in materials, using in-kind			✓	✓	✓
29)	<b>Satellite Dishes and/or Television Antennas</b>					

	a) Removal when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement when there is no change in design or materials, but a change in general appearance		✓		✓	
	c) New Installation		✓		✓	
30)	<b>Showers (Outdoor)</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	
	c) Alterations / Removal / New Construction		✓		✓	✓
31)	<b>Shutters</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind, and conform to the Guidelines §5.5.1 Windows – Shutters		✓		✓	
	c) Alterations / Removal / New Construction			✓	✓	
32)	<b>Siding</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance. A building permit is required if altering or replacing more than 100 sq. ft. of the siding.	✓				✓
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind. A building permit is required if altering or replacing more than 100 sq. ft. of the siding.		✓			✓
	c) Removal			✓	✓	✓
33)	<b>Signs</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Alteration / Installation / Removal (must comply with Town Code Chapter 32 (Zoning), Article V (Signs) (Excludes historic markers and signs excluded by the Town Code)		✓		✓	
34)	<b>Solar Panels</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				✓
	b) Replacement when there is a change in design, dimensions, materials, general appearance, or placement on the lot or structure		✓		✓	✓
	c) Installation of new that <u>cannot be seen</u> from the public right-of-way		✓		✓	✓

	d) Installation of new that <u>can be seen</u> from the public right-of-way			✓	✓	✓
35)	<b>Stairs and Steps (Exterior – Street View)</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓			✓	✓
	b) Replacement when there is a change in design, dimensions, materials, or general appearance			✓	✓	✓
	c) Addition / Alteration / Removal of existing or New Construction			✓	✓	✓
36)	<b>Stairs and Steps (Exterior – Non-Street View)</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement when there is a change in design, dimensions, materials, or general appearance		✓		✓	
	c) Addition / Alteration / Removal of existing or New Construction			✓	✓	
37)	<b>Structure, Demolition of Contributing in whole or part per Town Code §32-99 – Demolition Policy Guidelines</b>			✓	✓	✓
38)	<b>Structure, Demolition of Non-Contributing in whole or part per Town Code §32-99 – Demolition Policy Guidelines</b>		✓		✓	✓
39)	<b>Structure, Emergency Stabilization</b> , to protect a historic property that does not alter the resource.	Exempted from Historic Review, but requires zoning administrator and building code approval				
40)	<b>Swimming Pools, Spa Pools, Saunas, Plunge Pools, Hot Tubs, etc.</b> per Town Code §32-97	Not historic, but requires zoning administrator and building code approval				
	a) Repairs to existing					
	b) Addition / Alteration / New Construction. A fence is required to be placed around the perimeter of the pool in compliance with the Virginia Building Code and per Town Code Chapter 32, Article IV, Sec. 32-97 (e).					
	c) Removal					
41)	<b>Temporary Family Health Care Structures</b> for use by caregivers assisting mentally or physically impaired residents, per VA Code §15.2-2292.1 and Town Code §32-91 (e) (11).	Exempted from Historic Review, but requires zoning administrator and building code approval				
42)	<b>Temporary Features, Accommodations</b> relative to the Americans with Disabilities Act (ADA) and the Fair Housing Act per Town Code §32-91 (i).	Exempted from Historic Review, but requires zoning administrator and building code approval				
43)	<b>Walkways</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement when there is no change in design, but a change in materials or general appearance		✓		✓	
	c) Addition / Alteration / Removal of existing or New Construction		✓		✓	
44)	<b>Walls (for example: garden or retaining walls)</b>					
	a) Repair when there is no change in design, dimensions, or general appearance with approved	✓				

	materials from guidelines.					
	b) Alteration of Placement / Replacement / New Construction		✓		✓	
45)	<b>Windows (includes casings and sills)</b>					
	a) Caulking and weatherstripping when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	c) Replacement when there is no change in design, but a change in materials or general appearance		✓		✓	
	d) Alteration of Style or Opening Size / Removal of Existing / Installation of New			✓	✓	✓
46)	<b>Windows (Storm)</b>					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement when there is no change in design, but a change in materials or general appearance		✓		✓	
	c) Alteration or Removal of existing / New Installation		✓		✓	

	<b>Agenda Title:</b>	<b>Agenda Date:</b>
	PROPOSED Mobile Food and Beverage Vending Unit Ordinance	April 9, 2026
<b>Subject/Proposal/Request:</b>		
Proposed Zoning Text Amendment (ZTA) re: Mobile Food and Beverage Vending Unit Zoning Ordinance		
<b>Town of Cape Charles</b>	<b>Attachments:</b>	<b>For Council:</b>
	<ul style="list-style-type: none"> <li>1) 2026 Food Truck Requirements Handout             <ul style="list-style-type: none"> <li>a) Town Code Section 18-83</li> </ul> </li> <li>2) Mobile Food and Beverage Vending Unit Ordinance – Draft 2026-03-17</li> </ul>	Action: X Information:
	<b>Staff Contact(s):</b>	<b>Reviewed by:</b>
	Katie Nunez, Director of Planning & Zoning Administrator	Rick Keuroglan, Town Manager

**Background:**

Over the past four years, the Town has experienced a noticeable increase in the number of mobile food vendors operating within the community. These vendors are most commonly located at the beach along Bay Avenue during the summer season, as well as at various events and festivals held throughout the year.

In response to this growth, staff identified the need to establish a standardized regulatory framework to clearly define acceptable types of mobile food units, operating procedures within the Town, and the approvals required for operation. Over the past four months, staff from the Finance Office, Town Manager’s Office, and the Planning & Zoning Department have collaborated to evaluate existing conditions, identify regulatory gaps, and clarify the intended role of mobile food vendors within the Town’s business and tourism economy. This effort also considered the importance of ensuring compatibility with adjacent residential areas.

**Item Specifics:**

The current oversight of mobile food trucks is found in 2 areas of the Town Code:

- 1) Chapter 18 (Licenses, Taxation and Miscellaneous Regulations), Section 18-83 (c):  
This section defines a “peddler” as any person who travels from place to place selling or offering goods, wares, or merchandise, or who does not maintain regular business hours at a fixed location and conducts sales elsewhere.

Mobile food units—including food carts, open trailers, enclosed trailers, and food vehicles—are classified under this definition. The section outlines permitted locations,

requires approval from the health department, and mandates that such operations be licensed and taxed annually at a rate established by the Town.

Additionally, this section incorporates state law provisions related to food producers and seafood harvesters (commonly referred to as the “Farm Stand” concept), requiring licensure but exempting these operators from local licensing fees.

2) Chapter 26-9 (Streets, Sidewalks, and Other Public Places):

This section regulates the operation of vendors within public rights-of-way. It limits food and flower sales from vehicles to no more than 15 minutes in any one block, unless the vendor is located more than 150 feet from a licensed business selling similar goods. It also prohibits vending from vehicles within the designated business district.

**Recommendation:**

Staff has developed a draft zoning ordinance for Town Council’s consideration. The draft is intended to modernize and clarify regulations governing mobile food vendors by:

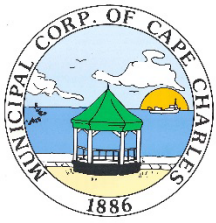
- Defining permitted types of mobile food units (vehicles, carts, trailers)
- Establishing a consistent approval process
- Setting clear operational standards and conditions

The purpose of this discussion is to review the draft ordinance with Town Council to confirm that it adequately addresses concerns raised over time regarding mobile food vendors and to solicit feedback on its overall approach.

Staff also seeks guidance on whether these regulations are more appropriately incorporated into the Zoning Ordinance or adopted as a standalone Town ordinance.

Pending Council’s direction and refinement of the proposed regulations, staff will evaluate and update the Town’s fee schedule for mobile food vendors to ensure alignment with the new framework.

Finally, this effort has highlighted broader questions related to the regulation of other peddlers and itinerant merchants. Staff anticipates addressing these issues as a subsequent phase of this review.



# Municipal Corp. of Cape Charles

## CURRENT REQUIREMENTS FOR FOOD TRUCKS as of January 2026

- A. Cape Charles Town Code Chapter 18 (Licenses, Taxation and Miscellaneous Regulations), Section 18-83 details the various type of retailers or peddlers, including the food trucks, etc. and the requirements for said – link is here for Town Code Section 18-83:  
([https://library.municode.com/va/cape\\_charles/codes/code\\_of\\_ordinances?nodeId=PTIIC OOR CH18LITAMIRE ARTIIBUPRLITA DIV2LITASC S18-83RE](https://library.municode.com/va/cape_charles/codes/code_of_ordinances?nodeId=PTIIC OOR CH18LITAMIRE ARTIIBUPRLITA DIV2LITASC S18-83RE))

If the peddler is conducting food sales of any kind, they need a Town Peddlers Business License and a VA Dept of Health Certification for Food Sales ([Mobile Food Units - Environmental Health](#) – phone # is 757-442-6228), a copy of which must be provided to the Town along with the Peddlers Business License application.

- B. Cape Charles Town Code Chapter 26 (Streets, Sidewalks and Other Public Places), Section 26-9  
([https://library.municode.com/va/cape\\_charles/codes/code\\_of\\_ordinances?nodeId=PTIIC OOR CH26STSIOTPUPL S26-9LIUSSTSAVE](https://library.municode.com/va/cape_charles/codes/code_of_ordinances?nodeId=PTIIC OOR CH26STSIOTPUPL S26-9LIUSSTSAVE))– this section states that the food trucks, etc. must be 150 feet from the nearest store or place of business of any licensed person who sells the same food as the food truck. This translates to most of Mason Avenue from Northampton Hotel to Deadrise Pizza being off-limits to food trucks. Bay Avenue is open for food trucks. I have provided the aerial map for the area around Northampton Hotel with a 150 radius shown so that you know Bay Avenue is open for food trucks since it meets the requirements of Chapter 26.



**VENDOR PARTICIPATION IN VARIOUS TOWN EVENTS**

If you wish to be a vendor in one or more of the Town Events, then you need to contact one of the following people who organize/oversee that particular Town event to determine what is required to be a vendor (food and/or retail) at that particular event. There may be limitations on the # of such vendors or other rules associated due to size and location of the event and the nature of the event but that particular organizer will be able to provide that information to the interested vendors.

- Summer Concert Series in Central Park -generally held near the end of June thru the beginning of September, every Saturday evening: Joan Natali ([joan.natali@outlook.com](mailto:joan.natali@outlook.com)) and Hank Mayer ([hankmayer95@gmail.com](mailto:hankmayer95@gmail.com))
- Cape Charles Main Street events (Love Run, Festive Fridays) – [capecharlesmainstreet@gmail.com](mailto:capecharlesmainstreet@gmail.com) – 757-210-8083
- Town Staff Run Events – Fourth of July Golf Cart Parade and Fourth of July Vendor Event; Halloween Hootenany in Central Park; CrabPot Drop on New Year’s Eve – [admin.events@capecharles.org](mailto:admin.events@capecharles.org) - 757-331-3259 ext. 18

**ADDITIONAL EVENTS for 2026**

- The Eastern Shore Chamber of Commerce is hosting their Chamber Fest in the Town on May 15 – 16, 2026 and will have food and retail vendor booths/spaces/trucks at this event. You would need to contact them at 757-787-2460 or [marketing@esvachamber.org](mailto:marketing@esvachamber.org) for more information.
- SailFest Cape Charles will be occurring on June 20 & 21, 2026. If you are interested in being a vendor for this event, please go to <https://sailfestcapecharles.com/> and visit the Vendor Page to submit an application for booth space.
- The Cape Charles Christian School hosts the Crabby Blues Festival on September 19, 2026 in Cape Charles Central Park. If you wish to participate as a vendor for this event, you need to contact the school directly at 757-331-1717 or Debbie Mountain at [debbie@ccsesva.org](mailto:debbie@ccsesva.org) for more information.

**Sec. 18-83. Retailers.**

- (a) The license tax imposed on a person engaged in retail sales is as established by the town.
- (b) For the purpose of this section, "retail sale" means the sale of goods, wares and merchandise for any purpose other than resale; and "retail merchant" means any person who sells to others at retail and not for resale.
- (c) Any person who carries from place to place any goods, wares or merchandise and offers to sell or actually sells them and any person who does not keep regular business hours at the same place and who, other than at that regular place of business, personally or through agents offers for sale or sells and, at the time of such offering for sale, delivers goods, wares and merchandise is a **peddler**, for the purposes of this section.
- (d) Food carts/open trailers. Food sales from a cart or trailer that is not enclosed and not self-propelled. Carts or trailers shall be moved daily and only allowed in the public right-of-way or public property as specified by the town manager and in accordance with section 26-9. A department of health certification is required for food sales and no generators are allowed.
- (1) The license tax for a peddler is as established by the town.
- (2) The license tax for an existing business is as established by the town.
- (e) Food trailers (enclosed). Food sales from a trailer that is enclosed and may have a generator or electrical service connection. The trailer must be moved daily and only allowed in the public right-of-way as specified by the town manager and in accordance with section 26-9. A department of health certification is required for food sales. The license tax is as established by the town.
- (f) Food producers, seafood catchers.
- (1) Bona fide producers of goods or food and catchers of seafood are required to obtain a license from the town at no cost. As defined in Code of Virginia, § 58.1-3719, bona fide producers are:
- (1) A distributor or vendor of seafood who catches seafood and sells only the seafood caught by said distributor or vendor;
- (2) A farmer or producer of agricultural products who sells only the farm or agricultural products produced or grown by said farmer or producer;
- (3) A farmers' cooperative association.
- (2) A license is required at no cost.
- (g) Food vehicles. Food sales from a vehicle, including, but not limited to, ice cream, candy, soft drinks. The vehicle may be a golf cart, car, truck, bicycle or other mobile vehicle sales from vehicles are subject to section 26-9 and may also be subject to locations as allowed by the town manager and approved by the chief of police. A department of health certification is required for food sales. The license tax is as established by the town.
- (h) Itinerant merchant. Any person who engages in, does or transacts any temporary business within the town and who, for purposes of carrying on such business, occupies any private property location for a period of less than one year. The license tax is as established by the town.

(Code 2002, § 38-36; Ord. No. 14, art. II, §§ 2.1, 2.2, 12-14-1982; Ord. of 12-11-1984, § 2; Ord. No. 20101014, 10-14-2010)

State law reference(s)—Tax on retail sales, Code of Virginia, § 58.1-3706(A).(2.).

**Sec. 26-9. Limitations on use of streets for sales from vehicles.**

- (a) It shall be unlawful for any huckster, hawker or vendor of flowers or articles of food to permit the vehicle from which such individual sells such flowers or articles of food to remain standing on the streets in any one block longer than 15 minutes, unless the place in which the vehicle is standing is more than 150 feet from the nearest store or place of business of any licensed person who sells flowers or the same articles of food as those sold by the huckster, hawker or vendor.
- (b) It shall be unlawful for any huckster, hawker or vendor to park said individual's vehicle on a street for longer than 15 minutes within 50 feet of any street intersection, and only at places outside of the prohibited zones after said individual has secured the written consent of the owner of the property abutting on such space.
- (c) It shall be unlawful to park any vehicle from which any merchandise is sold upon any street in a business district.

(Code 2002, § 62-11; Ord. No. 6, § 5, 7-10-1973; Ord. of 6-8-1993)

**Mobile Food or Beverage Vending Unit Ordinance (3/17/2026)**

**Title**

This ordinance shall be known and may be cited as the “Town of Cape Charles Mobile Food or Beverage Vending Unit Ordinance.”

**Jurisdiction**

On and after [Date of Adoption], this ordinance shall govern the use of all Mobile Food or Beverage Vending Units on all lands lying within the Town of Cape Charles.

**Code Administrator**

This ordinance shall be administered and enforced by the Zoning Administrator or their appointed designee.

**Section 1: Purpose of Intent**

The purpose of this section is to promote the health, safety, and general welfare of the citizens of the Town of Cape Charles by requiring that new and existing mobile food or beverage vendors provide residents and customers with a level of cleanliness, quality, and safety. It is also the intent of this section to establish reasonable standards, regulations, and licensing requirements. This ordinance is not intended to cover special events or town-sponsored events. All special events and town-sponsored events must fill out the applicable applications and get the necessary approvals.

**Section 2: Definitions**

**Concession Cart.** A mobile food or beverage vending unit that must be moved by non-motorized means, from which a mobile food vendor sells edible goods to the public. A concession cart must maintain its mobility at all times. This does not mean a table or booth.

**Concession Trailer.** A mobile food or beverage vending unit that is pulled by a motorized unit and has no power to move on its own. A concession trailer must remain attached to the towing vehicle during hours of operation, and the power supply must be attached to the concession trailer.

**Commissary Location.** A established location where food or beverage service providers can prepare and store their food or beverages, as well as a location to store a mobile unit while not in use.

**Mobile Food Vendors.** A motor vehicle, designed and equipped to sell food and/or beverages directly to consumers. It does not include wholesale food distributors. The vendor physically reports to and operates from an off-site kitchen for servicing, restocking, and maintenance each operating day.

**Pushcart.** A non-self-propelled vehicle limited to serving commissary prepared or prepackaged food and non-potentially hazardous food, unless the equipment is commercially designed and approved to handle food preparation and service.

**Traveling Vendor.** A mobile food or beverage vendor that operates without a fixed location within the Town, that routinely moves about to sell their food. Example: Ice Cream Truck.

**Vendor.** A individual engaged in the business of mobile food or beverage vending; if more than one individual is operating a concession trailer, concession cart, pushcart, or mobile food or beverage vending unit, then the vendor shall mean all individuals operating such concession trailer, concession cart, pushcart, or mobile food or beverage vending unit that is designed to be portable and not permanently attached to the ground.

**Section 3: Permit Required**

- A. It shall be unlawful for any mobile food or beverage vendor to sell, display, or offer for sale any food, beverages, goods, or merchandise within the Town of Cape Charles without first obtaining a mobile food or beverage vendor license from the Town of Cape Charles.
  
- B. Applications for all mobile food or beverage vendor licenses shall be made in writing to the Zoning Administrator and shall contain the following information:
  - 1. A copy of a valid Town of Cape Charles business license. Such business license shall be posted and visible at all times when in operation in the Town of Cape Charles.
  - 2. A copy of a valid Northampton County Department of Health permit. Such permit shall be posted and visible at all times when in operation in the Town of Cape Charles.
  - 3. The name, mailing address, email address, phone number, and current business address of the applicant; and the name, mailing address, and phone number of the owners of the mobile food or beverage vending unit to be used, if other than the applicant.
  - 4. Information on the mobile food or beverage vending unit, such as the year, make, and model of the vehicle, and the vehicle or trailers license plate number, if applicable.

5. The intended location of the mobile food or beverage vending unit, subject to locational limitations set forth by the Town of Cape Charles. If located on private/town property that is appropriately zoned for commercial activity, the applicant must submit a written approval from the property owner; this excludes town-sponsored events. ***\*All special events and town-sponsored event applicants must fill out the special events application, which includes a section identifying the number of mobile food and beverage vendors, and get approval from the Town Manager.***
  6. Copies of required State Licenses and Approvals
  7. Proof of insurance. Applicant shall provide current registration for the mobile food or beverage vending unit, proof of mobile vehicle inspection, and proof of valid motor vehicle insurance for the mobile food or beverage vending unit.
  8. Applicant shall provide a valid driver's license for each person who will drive the mobile food or beverage vending unit, if applicable.
- C. A mobile food or beverage vending unit permit shall be valid for 1 calendar year (January 1 – December 31) and must be renewed annually.

#### **Section 4: Performance Standards**

- A. Location
  1. No mobile food or beverage vendor selling food shall be located within one-hundred fifty (150') linear feet of an existing brick and mortar or food service establishment.
  2. Mobile food or beverage vendors may only be located in valid parking spaces. They will not be situated or located in a way that obstructs the free passage of pedestrians or vehicles, an entrance or exit, or access to a fire hydrant.
  3. Mobile food and beverage vendors may only be located on the non-residential side of Bay Avenue.
- B. Hours of Operation
  1. A mobile food or beverage vendor with a generator may only operate between the times of 10:00 am and 6:00 pm, Sunday – Saturday.

2. A mobile food or beverage vendor without a generator may only operate between the times of 7:00 am and 6:00 pm, Sunday – Saturday.
3. Vendors are not able to drop off their mobile food or beverage vending unit and leave it unattended outside of operation hours. An authorized representative capable of driving the mobile vending unit must be with the unit at all times in case of an emergency.

C. Signs

1. No more than two (2) A-Frame signs may be used to display or advertise menu items and other information associated with the mobile food or beverage vending operation. Such signs shall not exceed six (6) square feet in area (e.g., each face of the A-Frame) and four (4) feet in height.
2. Signs shall be positioned within five (5) feet of the vehicle and in such a way that does not block visibility or impede pedestrian or vehicular traffic.
3. Signage that is permanently affixed to the mobile food or beverage vending unit shall be permitted; however, the Zoning Administrator may approve flags, banners, or other decorative appurtenances, whether attached or detached, on a case-by-case basis.
4. Signs may only be up during hours of operation and must be removed after closing.
5. No signs are permitted on Town property without permission.

D. Trash and Refuse

1. Receptacles, either those already available on site or temporary/portable ones provided by the mobile food or beverage unit vehicle operator, shall be positioned conveniently for disposal of all trash, refuse, compost, and garbage generated.
2. The mobile food or beverage unit vendor shall leave the site clean each day, including picking up all trash and litter within a twenty-five-foot (25') radius of the mobile food or beverage vending unit.

3. Any greywater, fats, oils, grease, or hazardous liquids generated in the mobile food or beverage vending operation shall be contained within the mobile food unit and transported off the premises for proper disposal.

#### E. Service

1. No food shall be prepared, sold, or displayed outside of the mobile food or beverage vending unit.
2. The mobile vendor may not set up tables or chairs for patrons for on-site dining.
3. No outdoor cooking facilities, including but not limited to grills and other heating elements, or outdoor refrigeration or storage units which are not contained in the mobile food or beverage vending unit.
4. All materials and supplies, including but not limited to plates, cups, napkins, eating or serving utensils, and condiments, must be stored in the mobile food or beverage vending unit.
5. Food and beverage service shall be provided only on the non-driving lane side of the mobile food or beverage vending unit.
6. No expanded polystyrene/Styrofoam® containers are to be distributed in accordance with Section [§ 10.1-1424.3](#) of the State of Virginia.

#### F. Sound

1. Vendors shall not use loud music, horns, amplification devices, “crying out”, or any other audible means of gaining attention that causes a nuisance or safety hazard.
2. Generators must be quiet (i.e., not to disturb nearby buildings or outdoor space operations), and no generators may be placed on the ground.
3. Generator noise must be directed towards the beach.

#### G. Lighting

1. Any exterior lighting used by the mobile food or beverage vending unit shall be designed and placed in such a manner that it does not result in glare or

light spillage onto other properties or interfere with vehicular traffic.  
Lighting shall be directed in a downward manner to minimize light pollution.

H. Utilities

1. No utilities shall be drawn from the public right-of-way
2. Mobile Food Units must be self-contained, able to provide necessary power and running water. Vendors shall not utilize any electricity or other utilities without the prior written authorization of the utility customer(s), and no power cable or similar device shall be extended at or across any street, sidewalk, or path to cause a safety hazard, as determined by the Town of Cape Charles Code Official.

I. Appearance/Maintenance

1. A mobile food or beverage vending unit shall be kept in good repair and free of graffiti.
2. A mobile food or beverage vending unit must be free of leaking fluids. Any leaking equipment must be immediately removed from the location. The burden and cost of remediating any leak is the sole responsibility of the mobile food vendor owner/operator.

The Zoning Administrator may revoke the permit at any time for failure of the permit holder to comply with any requirements laid out in this section and to correct such noncompliance within the timeframe specified in a notice of violation. Notice of revocation shall be made in writing to the permit holder. Any person aggrieved by such notice may appeal the revocation to the Board of Zoning Appeals.



## MEMORANDUM

**TO:** Rick Keuroglan, Town Manager & Cape Charles Town Council

**FROM:** Katie H. Nunez, Planning Director & Zoning Administrator

**DATE:** April 3, 2026

**RE:** Possible Amendments to the Short Term Rental Zoning Ordinance Section 32-104

**ATTACHMENTS:**

- A) Town Code Zoning Ordinance Section 32-104 – Short Term Rentals with 2 definitions of Bedroom and Short Term Rental
- B) BZO Houseboat Staff Report 2025-12-09
- C) Letter from Derek Roncaioli dated January 26, 2026

Even though the Town has not had a full year of implementation of the Short Term Rental Ordinance, there are a few items that I believe deserve discussion with you and Town Council for consideration of possibly amending this ordinance.

I convened a meeting of Code Official Jeb Brady, Town Treasurer Marion Sofield and Harbormaster Paula Davis at the end of January 2026 to discuss this ordinance and obtain input as we are fully applying and enforcing this ordinance if there are any issues/impediments that we should address and the following items were identified:

- 1) Houseboats as Short Term Rentals: on September 25, 2025, the Town received an STR application from Derek Roncaioli who owns a houseboat that is moored in the northeast corner of the Town Harbor. I was not able to provide zoning approval for this STR application and issued a letter of denial. Mr. Roncaioli appealed this decision to the Board of Zoning Appeals who held a hearing on December 9, 2025; the BZA upheld my decision, which denied Mr. Roncaioli's application for an STR at his houseboat.

Staff reviewed this issue further and remain concerned that STRs on houseboats raise several concerns:

- if located in the harbor, access to public water in the off-season when the harbor water system is shut off as a preventative measure from cold weather breakage;
- lack of a known and traditional management of a septic system or direct discharge into a municipal sewer system; the waste management system described by Mr. Roncaioli does meet the needs and requirement of his personal use of the houseboat as a residence but does not easily translate to passing on the in-depth oversight of this system on the boat to a “weekly” renter who may not have familiarity with dealing with pumpouts/cleanouts of a septic storage unit/tank.
- A boat does not fall within the description of dwelling contained in the Town Zoning Ordinance and clearly does not fall under the jurisdiction of the Code Official and the criteria and program implemented of an annual safety inspection

pursuant to the Building Code and does not fall within the categories that we have established regarding bedrooms and the definition of said in our ordinance which is used to set occupancy for each STR.

- The ordinance requires each STR to have a minimum of one Town-supplied trash receptacle which is not feasible for a houseboat. Additionally, this houseboat currently has access to and most probably fully uses the Town-provided dumpsters for the handling of all of their trash issues.

Mr. Roncaioli has requested an opportunity to discuss this with the Town and consider amending the zoning ordinance to allow for houseboats to be an STR. I have attached his letter dated January 26, 2025 where he outlines his request and suggestions to how to amend the ordinance to authorize this.

Staff is not supportive of this request and would actually suggest amending the ordinance to ensure that it is clear this is not allowable. We feel that adding to the definition of Short-Term Rental that a houseboat is not included in this definition, similar to hotels, motels and bed & breakfasts have been identified and called as not applicable to the definition of a Short Term Rental.

- 2) In Section 32-104 (c) (5), it stated the following:

*Occupancy: There shall be no more than two lodgers per bedroom, **plus two**; with the maximum number of overnight lodgers per dwelling being no greater than ten. Occupancy shall not exceed any limit set by the Virginia Uniform Statewide Building Code (VA USBC) or local building official. This shall be identified as the Base Occupancy for STRs (BOSTR). For the purpose of the BOSTR, an occupant shall not include any person two years of age or under.*

The particular wording of “plus two” has not been widely understood to mean only plus two per property; some property owners have taken to mean it could be plus two per bedroom.

Staff believes a simple fix to make clear the Town’s intent on this matter could be:

*Occupancy: There shall be no more than two lodgers per bedroom, **plus two in only one bedroom of the residence if it has met the Bedroom Definition, specifically regarding square footage for each occupant**; with the maximum number of overnight lodgers per dwelling being no greater than ten.*

- 3) As part of the read of Section 32-104 (c) (5), we included a definition of Bedroom in Appendix A – Definitions and it reads as follows:

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

- (1) A minimum size of 70 square feet; if more than one person occupies the room, there must be 50 square feet per occupant.
- (2) Access to a bathroom without crossing another bedroom.
- (3) Every bedroom must have access to natural ventilation and have a permanent heat source.
- (4) Two means of egress: one that leads to the rest of the home without going through another bedroom and one that leads directly to the outside. If the outside egress is a window, it must be at least five point seven square feet (5.7

SF) and can be no more than 44 inches from the room floor, unless there is permanent step installed. It shall be illegal to have locking bars or grates covering an egress window.

(5) Ceiling height must be no less than seven feet.

Staff believes that we should insert one additional word to the definition of Bedroom since some property owners have tried to apply a more liberal application of this term to other spaces in their house that meeting the criteria of a bedroom, in terms of square footage, access to a bathroom, ventilation, means of egress and ceiling height.

FIX: **Bedroom** is a room or space within a structure intended **primarily** for sleeping.

4) In Section 32-104 (c) (8), there is a refuse requirement which reads as follows:

*Refuse requirements: one- and two-bedroom dwelling units used as short-term rental units will require one trash receptacle; three or more-bedroom units will require two receptacles; five or more bedrooms will require three receptacles. Owners and operators are required to maintain the receptacles so that they do not overflow.*

Staff has received many comments regarding this particular provision of the ordinance with many of the property management companies and several individual property owners indicating that they currently engage additional trash pick-up contractual services (whether thru Davis Disposal or through a third-party service) to ensure the property(ies) are clean of all trash refuse from the week’s tenants – said service is occurring on either Saturday or Sunday, depending upon the “turnover” day of tenants.

Staff have discussed this and we would like to offer the following:

**“The property owner may apply for an exemption from the refuse requirements above one trash receptacle with written evidence of a contract or agreement for trash pick-up services occurring on Saturday or Sunday; said contract or agreement will provide the full name of the individual/business, operating business address with valid e-mail and phone contact information and length of service of said contract which must be for the period of the STR license. Failure to maintain said agreement will be a violation of the STR license.”**

The staff will be available to discuss this at a work session with Town Council to see if a Zoning Text Amendment should be submitted and advanced to public hearing. If that is the direction that Town Council wishes to take, we would like to discuss when any of these amendments would become effective.

## Sec. 32-104. Short-term rental (STR) regulations.

### (a) *Purpose and intent.*

- (1) The purpose and intent of this section is to regulate short-term rentals (STRs). STRs are common in America today, including in the town. However, given that they are commercial uses which must co-exist with residential uses, and often in neighborhoods not designed for commercial activity, limits and regulations are needed. This article is intended to provide the requirements to allow these certain limited commercial uses in town zoning districts containing residential uses per article III.
- (2) The regulations for short-term rentals are designed to accommodate an STR owner's and operator's limited commercial use in a way that is safe for the guest, meets town requirements, does not change the character of the town, and fits in with the districts in which STRs operate.
- (3) This Section is intended to work in tandem with the town's business license requirements as contained in the Town Code, as a measure for the town to monitor the number of STRs and enforce regulations.
- (4) Owners and operators are allowed a one-year grace period, from the date Zoning Ordinance No. 20241121 is adopted, to come into compliance, and pay the zoning permit fee. However, this grace period is not intended to limit or change existing rules, regulations, or fees, including but not limited to requirements to obtain a business license, pay taxes, and comply with the building code.

### (b) *Permitting requirements.*

- (1) A short-term rental unit shall not be operated until an annual business license is issued in accordance with Town Code chapter 18, article II by the finance department.
- (2) A short-term rental unit shall not be operated until a short-term rental (STR) zoning permit is issued by the planning department. The application for a zoning permit will require, as a minimum, the following:
  - a. Name of owner and operator of the short-term rental property.
  - b. Address of the short-term rental property.
  - c. Town business license number.
  - d. For operators that are a lessee or sublessee, an attestation that the property owner has granted permission for use of such property as a short-term rental.
  - e. Contact information for all owner(s), operator(s), and property management companies (if applicable), to include: names, telephone numbers, mailing addresses, and e-mail addresses. If ownership is via partnership or corporation, a list of all partners, officers, and shareholders (as appropriate) must be provided with the same contact information.
  - f. Contact information for the 24 hours/seven days a week contact who is the responsible party to address immediate concerns associated with a short-term rental, and who has the authority to act as the owner's and operator's agent.
  - g. If the property is governed by a homeowners' or condominium association, proof that authorization to operate the short-term rental was provided by the homeowners' or condominium association.
  - h. Certification that town prepared STR training information has been reviewed annually.
  - i. Certification that adjacent property owners have been notified that an application for a STR zoning permit has been submitted.

- (3) Short-term rental zoning permits will be valid for one year and may be renewed each subsequent year, if there were no permit violations, and upon approval of the associated annual business license and re-inspection.
- (4) Any change to information on the (STR) zoning permit application will require notification to the planning department within ten business days.
- (5) Any change in ownership of the property or short-term rental owner or operator will require a new application for the business license, short-term rental zoning permit, and inspection within 20 business days.
- (6) An owner (which includes, but is not limited to, corporations or partnerships, and entities or individuals that are stockholders, members or partners in corporations, companies, or partnerships) may only operate up to five short-term rental units within the entire town.
- (7) An operator is not prohibited from offering a property as a short-term rental solely on the basis that such operator is a lessee or sublessee, provided that the property owner has granted permission for such property's use as a short-term rental. However, a lessee or sublessee is limited to one short-term rental within the town. An operator will be required to meet any subleasing requirements, if any, from any applicable homeowner's or condominium association.

(c) *Additional requirements.*

- (1) Every short-term rental is required to submit transient occupancy tax (TOT) in accordance with Town Code chapter 18, article V.
- (2) Short-term rentals are only permitted in those districts as specified in article III.
- (3) Simultaneous short-term rentals under separate contracts in the same dwelling are prohibited.
- (4) Commercial gatherings providing direct or indirect compensation, including but not limited to luncheons, banquets, parties, weddings, charitable fund-raising, commercial or advertising activities, or other similar occurrences are prohibited.
- (5) Occupancy: There shall be no more than two lodgers per bedroom, plus two; with the maximum number of overnight lodgers per dwelling being no greater than ten. Occupancy shall not exceed any limit set by the Virginia Uniform Statewide Building Code (VA USBC) or local building official. This shall be identified as the Base Occupancy for STRs (BOSTR). For the purpose of the BOSTR, an occupant shall not include any person two years of age or under.

Occupancy of greater than above may be approved, provided the property can accommodate sufficient off-street parking consisting of one spot for every two additional lodgers over the base occupancy for STRs (BOSTR), the property meets any other life safety requirements as may be reasonably required for such higher occupancy, and the property will not exceed the VA USBC or local building code official limitations.

The town retains the right to investigate violations and complaints of permit violations, and to periodically contact STR lodgers to determine occupancy. If town investigators determine that a violation has occurred, notice of such violation will be provided to the STR zoning permit holder or agent who will be responsible to cure the violation.

- (6) The business license and emergency information must be conspicuously posted inside each rental, including the 24/7 contact information for the STR responsible party.
- (7) Signage is to comply with article V, section 32-120.
- (8) Refuse requirements: one- and two-bedroom dwelling units used as short-term rental units will require one trash receptacle; three or more-bedroom units will require two receptacles; five or more

bedrooms will require three receptacles. Owners and operators are required to maintain the receptacles so that they do not overflow.

- (9) Lodgers and their guests will be required to observe noise requirements contained in Town Code chapter 20, article I, section 20-3.
  - (10) Safety equipment: Operable smoke detectors, fire extinguishers, and carbon monoxide detectors shall be present in compliance with the Virginia Uniform Statewide Building Code.
  - (11) Under no circumstances shall the issuance of a certificate of zoning compliance (permit for short-term rental) by the administrator (town) be construed as abrogating, nullifying or invalidating any other provision of federal, state or local law: any deed covenant or property right; or any homeowners' or condominium association bylaw, or rule.
- (d) *Inspections.*
- (1) An initial inspection will be required for all short-term rentals in accordance with Town Code chapter 8, section 8-4.
  - (2) An annual re-inspection by the code official or designee is required when filing for a short-term rental business license renewal.
  - (3) The building code official or designee maintains the right to inspect a short-term rental, based on complaints or reasonable suspicion, to verify that the rental is being operated in accordance with the Virginia Uniform Statewide Building Code, the permit, and other applicable laws and regulations.
- (e) *Violations.*
- (1) A short-term rental (STR) zoning permit may be denied for any of the following violations:
    - a. Failure to obtain/maintain a town business license.
    - b. Failure to pay all town real property taxes.
    - c. Failure to pay all business taxes from the prior year.
    - d. Failure to file and pay (if applicable) payment of transient occupancy taxes due the town for the previous three months or more.
    - e. Falsifying town forms or applications.
    - f. Other applicable town zoning violations.
    - g. Failure to provide responsive actions to issues raised to the 24/7 contacts, as determined through town investigations.
    - h. Two violations of safety/building code requirements within the same calendar year, that are not cured following reasonable notice.
    - i. Two violations of occupancy limits within the same calendar year, that are not cured following reasonable notice.

Reasonable notice is satisfied when an authorized town official notifies the zoning permit holder or agent of a condition violating requirements of this section, and 24 hours pass without resolution of the violation.

Note: individual nuisance or noise violations will be issued directly to the offending party in addition to any consequence to the zoning permit holder.

Violations may be investigated by the town manager, treasurer, zoning administrator, building code official, police chief or their designees as appropriate. Once investigated, violations pursuant to this section will be issued by the zoning administrator.

- (2) An owner or operator, whose short-term rental (STR) zoning permit has been denied pursuant to this section, shall not be eligible to obtain another STR zoning permit for the subject short-term rental for the entire succeeding calendar year. Thereafter, the owner or operator will be required to apply for a new business license, STR zoning permit, and an inspection.
- (3) Before the denial of short-term rental (STR) zoning permits is made effective, the town shall give written notice to the short-term rental owner or operator as noted on the STR zoning permit. The notice of permit denial under the provisions of the section shall contain:
  - a. A description of the violations constituting the basis of the denial, suspension or revocation;
  - b. If applicable, a statement of acts necessary to correct the violation(s); and
  - c. A statement that the owner may have a right to appeal the notice of a permit denial within 30 days in accordance with the Code of Virginia § 15.2-2311(A) and that the decision of permit denial shall be final and unappealable if not appealed within 30 days.

(Ord. No. 20241219A, 12-19-2024)

## **APPENDIX A – DEFINITIONS**

***Short-term rental*** means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy. This does not include a hotel, motel, or bed and breakfast.

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

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



On October 3, 2025, the applicant was emailed, mailed, and certified-mailed the Planning/Zoning Administrator's decision which contained a description constituting the basis of denial and the right to appeal. In it, definitions of a *Short-Term Rental* and *Dwelling* were highlighted from the Zoning Code Appendix A (Section 2.6.4). Zoning Ordinance Appendix A defines a Short-Term Rental as a room or space that is suitable or intended for occupancy for "dwelling". It defines a Dwelling as a "structure" that is used "exclusively for human habitation". Therefore, because the applicant's House Boat is not a structure and is not used exclusively for human habitation, it does not fit the definition of a Short-Term Rental (STR).

Mr. Roncaioli filed an appeal application (APPEAL 2025-02) on October 13, 2025 and in his appeal, he stated:

*"My argument rests on the fact that the Cape Charles town code does not specify structure foundation type. While most STR structures considered dwellings are built on concrete footings or blocks, my dwelling is built on a floating barge that lacks propulsion and is tied in the land utilities. In 2013 the U.S. Supreme Court actually ruled on a similar case (Lozman v. City of Riviera Beach, 568 U.S. 115) establishing precedent that a floating structure without self-propulsion, used as a home, and intended to remain stationary was not a "vessel" under maritime law. A reasonable observer, the Court said, would view such a floating home as a house or residence, not as a mode of transportation. This decision draws a clear legal distinction between houseboats (vessels) and floating homes (structures used for habitation). Considering the structure meets all safety requirements for human habitation I believe there is a strong case to overturn the ruling.*

Upon further review and the applicant's email reply on October 13, 2025, the town refined its response accepting his classification of his houseboat as lacking propulsion or "non-navigable" and a floating home. In an email dated November 12, 2025, Ms. Nunez wrote the houseboat is not within the US Coast Guard's jurisdiction because it is not a vessel and DOES fall under the Town's zoning jurisdiction. In addition, the Town's Zoning Ordinance Section 3.8 does not permit single-family homes in the Harbor Commercial District (HAR-C). As a result, the Planning/Zoning Administrator gave additional justification for the Town's basis of denial.

Mr. Roncaioli replied on November 17, 2025:

*This appeal respectfully requests that the Town of Cape Charles grant Short-Term Rental approval for my permanently moored, non-navigable floating home, which is fully subject to the Town's zoning authority and capable of meeting all STR compliance requirements. The Town's position that my floating home is not a "structure" suitable for "dwelling" conflicts with both its real-world use and with existing STR activity in the Harbor District—most notably the actively operating "Crows Nest – Sunsets at the Harbor" rental above Hook & Harvey. This demonstrates that the Town already permits STR uses in the Harbor Commercial District and interprets "dwelling" flexibly to accommodate non-traditional structures. In the interest of uniform enforcement, fair application of the ordinance, and alignment with established precedent, I request approval of my STR permit and business license.*

The Town's position is that Section 3.8 clearly states in the intent statement for the Harbor-Commercial District that it is a working waterfront and that "mixed used development is encouraged with any housing located above commercial or retail space". In the list of uses for this district, it states that condominium and cooperative dwellings are permitted by-right and multi-family dwellings by Conditional Use Permit but single-family dwellings are not permitted either by-right or thru a conditional use permit. The Town also contends that a houseboat is not

connected to sewer and would not pass an STR inspection because it does not fall under the purview of state building codes like all other structures the town currently inspects.

Furthermore, the Town disagrees with the implication that it is allowing flexibility to The Crow's Nest to operate as an STR in the Harbor Commercial district when the zoning ordinance clearly states that it encourages "mixed use development located above commercial or retail space", The applicant's houseboat is not located above a commercial or retail space, but the "Crow's Nest" is (see P.3 & P.4). While the applicant did not reference the other STR that has operated in this district, we are including it so that the Board has a full understanding of any STRs that have been approved by the Town within the Harbor-Commercial Zoning District – this is the "Captain's Quarters" which is located on the second floor of the Cape Charles Yacht Center which is a allowable under the zoning ordinance for this district since the residential unit is on the second floor above a commercial space on the first floor.

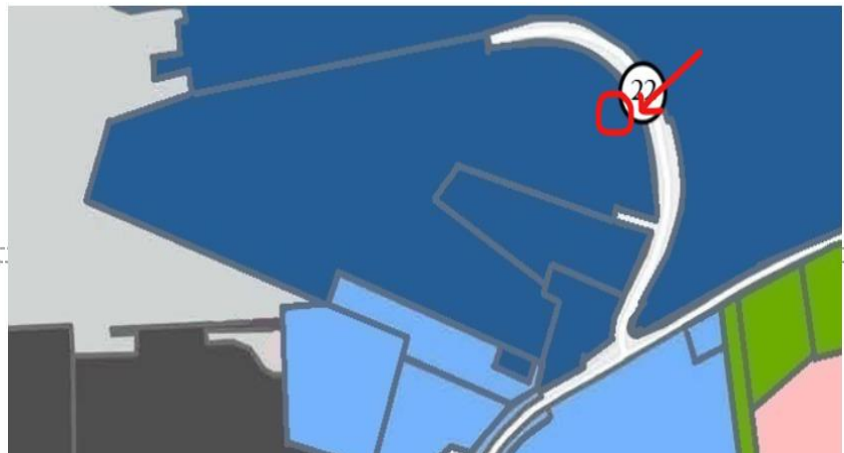
**Aerial Map:**

**P.1 - Location of the Applicant's houseboat**

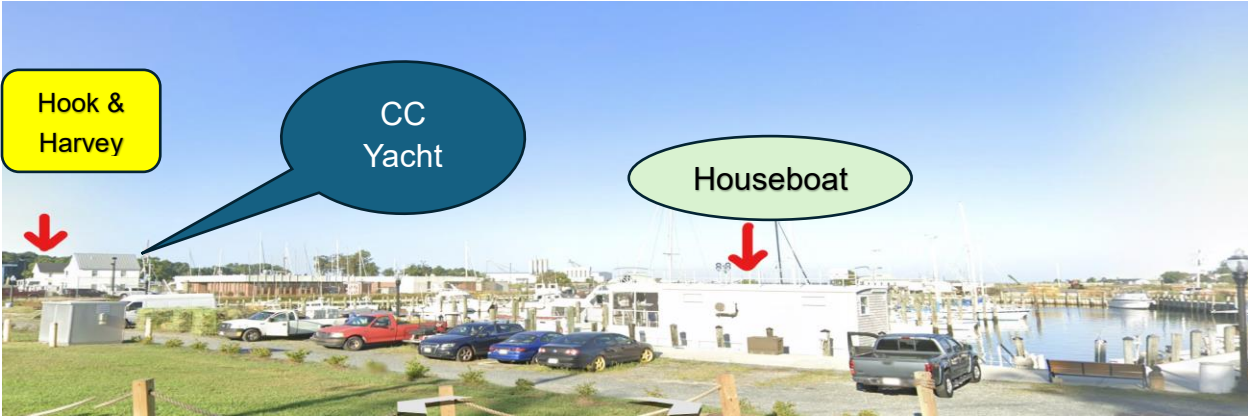


**P.2 - Location of the Applicant's houseboat within the Harbor Commercial (HAR-C) zoning district.**

- Open Space
- Single Family Residential (R-1)
- Medium Density Residential (R-2)
- Multi-Family Residential (R-3)
- Commercial Residential (CR)
- Commercial District (C-1)
- Commercial District (C-2)
- Commercial District (C-3)
- Industrial (M-2)
- Harbor Light Industrial (HAR-LI)
- Harbor Commercial (HAR-C)
- Bay Crossing



**P.3 - Location of the Applicant's houseboat, Hook & Harvey (with approved STR) & CC Yacht Center (with STR) within the Harbor Commercial (HAR-C) district.**



**P.4 - The Hook & Harvey restaurant within the Harbor Commercial (HAR-C) district and its upstairs STR, The Crow's Nest.**



**P.5 - Cape Charles Yacht Center within the Harbor Commercial (HAR-C) district and its upstairs STR, Captain's Quarters.**



**Ordinance Requirements to be Considered:**

Code of Virginia Section 15.2-2309 (1) provides the following powers and duties of boards of zoning appeals:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. **The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence.** Altering the order of evidence is a reversible error only if the appellant lodges an objection citing this section and the board subsequently refuses to reorder the hearing. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision, or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.

Cape Charles Zoning Ordinance - each section listed below has been provided as attachments to this staff report.

- Sections 4.14 - Short Term Rental
- Appendix A – Definitions of Short Term Rental & Dwelling
- Section 3.8 – Harbor- Commercial Zoning District

**Discussion Points:**

- 1.) Has evidence been provided by the appellant which proves the Zoning Administrator's application of the Zoning Ordinance was incorrect as required by the Code of Virginia?

**Board of Zoning Appeals Review:**

Based upon the staff report and associated public hearing testimony, the Board should consider all information provided against the standard required by the Code of Virginia 15.2-2309 (1) and the various section of the Town Zoning Ordinance that address the Harbor-Commercial Zoning District and the Short-Term Rental Zoning Ordinance

**Staff Recommendation:**

The Town of Cape Charles staff recommends that the Board of Zoning Appeal deny the appeal application 2025-02 and uphold the decision of Zoning Administrator Katie Nunez to deny a Business License due to failure to obtain zoning clearance for the houseboat to operate a Short Term Rental (STR) in the Harbor-Commercial District since a single-family dwelling, which the houseboat meets that standard, is not allowed as a use in the Harbor-Commercial

**Proposed Motion for Consideration:**

The Zoning Administrator respectfully requests that the Board of Zoning Appeals deny Appeal 2025-02 and uphold Zoning Determination letter dated October 3, 2025 and further amended on November 10, 2025 and find that the Town's Zoning Ordinance Section 3.8 does not allow a

single-family home which the houseboat meets that designation as a permitted use in the Harbor-Commercial District, thus there is no ability to have a Short Term Rental be licensed and permitted by the Town for the houseboat.

**Attachments: PLEASE NOTE: All mailing addresses, e-mails and phone numbers have been redacted from the publicly available documents.**

- (1) Zoning Administrator Denial Decision dated October 3, 2025
- (2) Zoning Administrator Amended Denial Decision dated November 10, 2025
- (3) Appeal Application filed by Derek Roncaioli dated October 9, 2025
- (4) Amended Appeal Application filed by Derek Roncaioli dated November 17, 2025
- (5) Excerpts from Cape Charles Zoning Ordinance: Section 4.14 – Short Term Rentals; Appendix A – Definition of Short Term Rental & Dwelling; Section 3.8 – Harbor-Commercial Zoning District

## Part 1: Letter of Intent to the Cape Charles Planning Commission

**TO:** The Cape Charles Planning Commission

**FROM:** Derek Roncaioli, Naval Logistics Officer

**DATE:** 26 January 2025

**RE:** Formal Request for Zoning Text Amendment – Harbor-Commercial (HAR-C) District

**Dear Members of the Planning Commission,**

I am writing to formally request that the Planning Commission initiate a Zoning Text Amendment to the Cape Charles Zoning Ordinance. Specifically, I am proposing the creation of a new permitted or conditional use within the **Harbor-Commercial (HAR-C) District** to allow for **"Managed Floating Vessels for Lodging."**

As a Naval Logistics Officer with 14 years of service, my family and I fell in love with Cape Charles and purchased a vessel in the harbor with the intent to make it our home. However, due to recent military orders and the growth of our family, we have sought to share this unique maritime experience with visitors through short-term lodging.

The Board of Zoning Appeals recently determined that under the current code, any habitation on a vessel is categorized as a "Single-Family Dwelling." Per Section 3.9 (referenced as 3.8 in previous determinations), such dwellings are only permitted as an accessory use above a pre-existing commercial establishment. As you are aware, this creates a physical impossibility for a vessel in the harbor, effectively prohibiting a viable form of maritime commerce in a district specifically designed for it.

**The Proposal:** I am proposing an amendment that recognizes the unique nature of the HAR-C district by allowing registered vessels to operate as transient lodging units. This model is currently thriving in Virginia Beach, Annapolis, Baltimore, and National Harbor through companies like **FLOHOM**. By adopting similar language, Cape Charles can:

1. **Enhance Tourism:** Provide a high-end, unique "floating hotel" experience that attracts visitors who value the tranquility of our harbor.
2. **Generate Revenue:** Formalize the collection of Transient Occupancy Tax (TOT) from these units, contributing directly to the Town's General Fund.
3. **Support Working Waterfronts:** Align the use of harbor slips with the commercial objectives of the HAR-C district.

I respectfully request that this matter be placed on the agenda for an upcoming work session so that we may discuss how to modernize our ordinance to support innovative maritime commerce while maintaining the character of Cape Charles.

Sincerely,

**Derek Roncaioli**

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## Part 2: Proposed Draft of Code Language

To assist the Planning Commission, I provided a "redline" or a draft of what the new law would look like. This makes it much easier for you to envision how this would look if adopted.

### Proposed Addition to Section 3.9 (HAR-C District):

#### 3.9.X Managed Floating Vessels for Lodging.

**A. Definition:** A vessel, as defined by the Code of Virginia § 29.1-700, which is moored in a permitted slip within the Harbor-Commercial District and utilized for transient lodging for periods of fewer than 30 consecutive days.

**B. Requirements:** > 1. The vessel must be currently registered as a watercraft with the Virginia Department of Wildlife Resources or documented with the U.S. Coast Guard. 2. The vessel must be equipped with a U.S. Coast Guard-approved Marine Sanitation Device (MSD) or a waste storage tank with pumping services. 3. The use shall be subject to all Town Short-Term Rental (STR) standards, safety inspections and business licensing requirements. 4. The owner/operator shall provide proof of a valid lease or permit for the slip occupied by the vessel.

Of note, #3 above requires Floating Vessels to quite literally look like a house. Doors, window, and STR building code standard still apply. This nuance prevents anybody with a boat from claiming they can rent it as a STR and protects the town from a safety standpoint.