



# **Board of Zoning Appeals Regular Meeting**

## **December 09, 2025 at 10:00 AM**

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

### **Agenda**

---

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

- A. Roll Call
- B. Establish Quorum

#### **2. Invocation and Pledge of Allegiance**

#### **3. Reorganization and Election of Officers**

- A. Election of Chair, Vice-Chair, and Secretary

#### **4. Review and Approval of Minutes**

- A. Approval of Agenda Format
- B. Approval of October 14th, 2025 Minutes

#### **5. Old Business/Matters Deferred from Previous Meetings**

#### **6. New Business**

- A. Application from Derek Roncaioli appealing a decision from the Zoning Administrator dated October 3, 2025, which provided a Zoning Determination letter, which was further amended on November 10, 2025, regarding licensing a houseboat as a Short-Term Rental (STR) in the Harbor-Commercial (HAR-C) District that stated:

The houseboat is not a structure and is not exclusively used for human habitation; therefore, it does not fit the definition of a Short-Term Rental, and

The houseboat is a non-navigable, floating home; therefore, it is not within the US Coast Guard's jurisdiction and falls under the Town's zoning jurisdiction. The Town's Zoning Ordinance Section 3.8 does not permit single-family homes in the Harbor Commercial District (HAR-C).

The appeal application is authorized pursuant to Cape Charles Zoning Ordinance Section 2.6.4. This property is located in the HAR-C Zoning District.

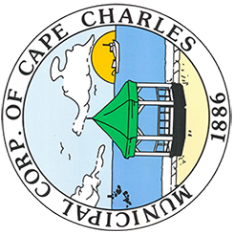
#### **7. Other Matters**

- A. Acceptance of 2026 Board of Zoning Appeals Meeting Calendar
- B. Review of BZA By-Laws

#### **8. Next Meeting**

- A. January 13th, 2026

#### **9. Adjournment**



## *Municipal Corporation of Cape Charles*

### **Board of Zoning Appeals Public Hearing and Regular Meeting Cape Charles Civic Center October 14<sup>th</sup>, 2025 10:00 am**

At approximately 10:00 am, on October 14<sup>th</sup>, in the Cape Charles Civic Center, Member Pete Baumann, having established a quorum, called to order the Board of Zoning Appeals Public Hearing and Regular Meeting. Also in attendance were Vice-Chair Laura Weigand and Member Elise McMath.

Also present were Planning/Zoning Administrator Katie Nunez, Zoning Compliance Officer Jack Steinmayer, and Assistant to the Town Manager Pam Endlein.

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

After the recitation of the Pledge of Allegiance, the Board was informed of Chairwoman Dolores Blackburn's resignation. Following this, the Board learned that they would need to reorganize the Board of Zoning Appeals and elect a new Chair and Vice-Chair. Since only three Members were present, the Zoning Administrator, Katie Nunez, suggested waiting to reorganize until the entire Board of Zoning Appeals was available. The Board agreed.

#### **Consent Agenda**

Member Baumann requested a motion to adopt the agenda as presented.

***Motion made by Vice-Chair Weigand, seconded by Member McMath, to accept the consent agenda as presented. The motion was approved unanimously.***

Member Baumann then opened the public hearing.

#### **Public Hearing**

***A. Application from Martin Mayer, for a variance from Article 3 Section 3.2 of the Cape Charles Zoning Ordinance to allow for a rear deck to extend 1.5' into the side-yard setback and 5' into the rear-yard setback.***

Zoning Compliance Officer Jack Steinmayer summarized the staff report.

After the summarization of the staff report, the applicant, Martin Mayer, spoke on the variance application.

Vice-Chair Weigand wanted to know why there were no setback requirements on the side of the lot adjacent to Madison Avenue. Mr. Mayer explained that the

property had approximately a 15' section of VDOT right-of-way coming off of Madison Avenue. Vice-Chair Weigand then wanted to know if the lot behind 502 Plum Street, Mr. Mayer's lot, was also. Mr. Mayer clarified that this empty lot was not his and had been sold to the Palmore's. Vice-Chair Weigand then wanted to know if the Palmore's had any input on the variance application. Ms. Nunez explained that Mr. Palmore had called in to the Planning/Zoning Department to make sure he understood what was being sought for this application.

After the Board had all of their questions answered, Zoning Compliance Officer Jack Steinmayer then read the letters of support that were submitted by Josh Fullam of 508 Plum Street and Raffaele Allen and Brent Diggs of 504 Plum Street. (See attached letters)

***Motion made by Vice-Chair Weigand, seconded by Member McMath, to accept the staff's proposed motion on the variance application, which stated, "after careful consideration of the application and the staff report, the Board of Zoning Appeals votes to approve the Variance Application submitted by Martin Mayer for a variance to allow for a rear deck to extend 1.5' into the northside setback and 5' into the rear yard setback for the rear deck." The Motion was approved unanimously.***

***Motion to adjourn made by Member Baumann, seconded by Member McMath. The Board of Zoning Appeals dismissed at 10:15 am.***

---

Chair of the Board of Zoning Appeals

---

Zoning Compliance Officer

Dear Ms. Nunez,

I am writing to formally convey my support for the Mayer's zoning variance request concerning their property at 502 Plum Street. The proposed variance, which would allow for a minor extension of a raised deck into the setback area, appears both reasonable and necessary to alleviate recurring drainage and flooding concerns affecting the rear portion of the property.

Due to the limited dimensions of the lot, the current setback restrictions significantly constrain opportunities for effective use and improvement of the property. Granting this variance would not create any adverse effects on adjacent properties nor alter the established character of the neighborhood. Several nearby properties already include comparable structures extending within the setback boundaries.

For these reasons, I respectfully recommend that the Town approve the requested variance.

Thank you,

Josh Fullam  
508 Plum Street



October 13, 2025

Ms. Katie Nunez  
Director of Planning/Zoning Administrator and Subdivision Agent  
Town of Cape Charles  
Cape Charles, Virginia 23310

Dear Ms. Nunez,

I am writing in support of the Mayer's zoning variance request for 502 Plum Street. The requested variance, which would allow the raised deck to extend a few feet into the setback, will help address the frequent flooding issues the property experiences.

Given the size of the lot, the current setbacks leave minimal room for expansion and limit the full use of the property. Granting this variance would not create any undue impact on neighboring properties or alter the character of the neighborhood, as many surrounding properties already have structures or hardscaping that extend into the rear setback.

For these reasons, I respectfully offer my support for the Town to grant the requested zoning variance.

Sincerely,



Raffaele Allen and Brent Diggs  
504 Plum Street



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**

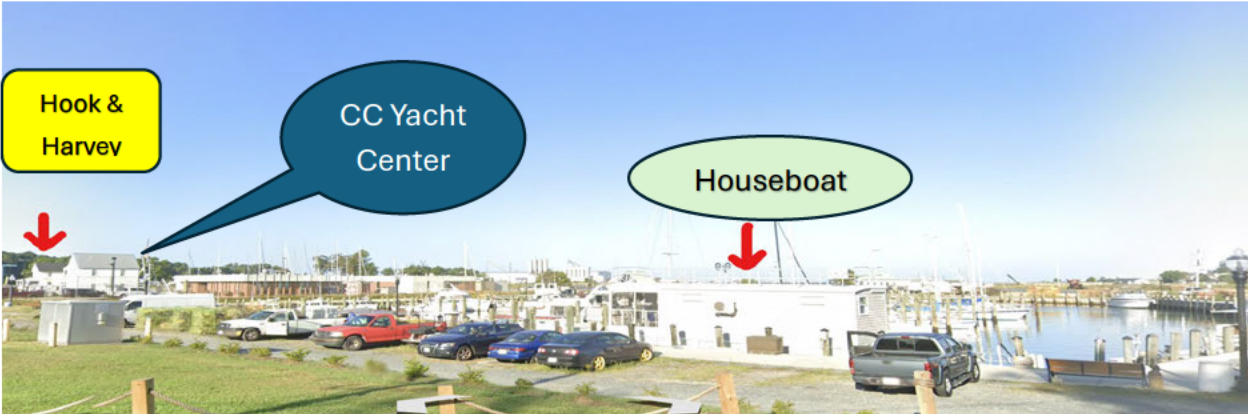


**P.2 - Location of the Applicant's houseboat within the Harbor Commercial (HAR-C) zoning district.**

-  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

**Attachment 1:**  
**Zoning Administrator Denial Decision**  
**dated October 3<sup>rd</sup>, 2025**



# Municipal Corporation of Cape Charles

October 3, 2025

Salty Belle Investments, LLC  
Derek Roncaioli

Sent via: Regular Mail, Certified & Return  
Receipt # \_\_\_\_\_ & Email

**RE: Business License Decision of Denial Based on Zoning Clearance for House Boat STR  
1011 Bayshore Rd., Cape Charles, VA 23310**

To: Derek Roncaioli

You submitted an application dated 9/23/2025 requesting a Business License (BPOL) and Application for Rental Inspection for a Short Term Rental (STR). The Cape Charles Zoning Ordinance Section 4.14 (B) states that an STR shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department and an STR shall not be operated until a STR zoning permit is issued by the Planning Department.

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 your 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). As a result, we do not have clearance to issue you a business license.

## **RIGHT OF APPEAL**

You have the right to appeal any Zoning Determination within 30 days of the receipt of this decision letter, pursuant to Cape Charles Zoning Ordinance Section 2.6.4 by filing an application with the Cape Charles Board of Zoning Appeals. The forms are attached to this letter and require a filing fee of \$500. You would also be responsible for the actual advertising costs and mailing costs for any adjacent property owner notification letters which the Town is responsible for handling and will send you a bill; said payments if you avail yourself of the right to appeal are to be made out to the Town of Cape Charles and made prior to any hearing before the Board of Zoning Appeals.

Pursuant to Code of Virginia §15.2-2309 (1), any appeal filed on a Zoning Determination issued by the Zoning Administrator shall be viewed by the Board of Zoning Appeals that the zoning determination is correct. The appellant has the requirement to state how the zoning determination is not correct under Zoning Ordinance, providing reference to the sections of the zoning ordinance that rebut the zoning determination.

This Zoning Determination shall be final and unappealable if not appealed within the prescribed 30 days.

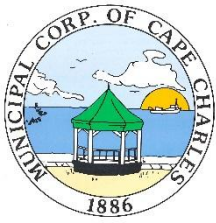
Sincerely,

Katie H. Nunez  
Planning Director & Zoning Administrator

Cc: Rick Keuroglan, Town Manager  
Jeb Brady, Code Official  
Casey Quilter, Compliance & Inspector Officer  
Paula Davis, Harbor Master  
Marion Sofield, Treasurer

Attachments: CCZO Section 4.14 (B) – Short Term Rental Ordinance  
CCZO Appendix A – Definition of Short Term Rental  
CCZO Appendix A – Definition of Dwelling  
CCZO Section 2.6.4 – Appeals  
Code of Virginia §15.2-2309 (1)

**Attachment 2:**  
**Zoning Administrator Amended Denial**  
**Decision dated November 10<sup>th</sup>, 2025**



# Municipal Corporation of Cape Charles

November 10, 2025

Salty Belle Investments, LLC  
Derek Roncaioli

[REDACTED]  
[REDACTED]

Sent via: Regular Mail, Certified & Return  
Receipt # \_\_\_\_\_ & Email

[REDACTED]

**RE: Business License Decision of Denial Revision for House Boat STR  
1011 Bayshore Rd., Cape Charles, VA 23310**

To: Derek Roncaioli

The Town of Cape Charles acknowledges and appreciates your Zoning Appeals Application received October 3, 2025, with the \$500 application fee. Based on the additional information you provided, the Town is amending the Zoning Determination letter regarding the use of your houseboat as a Short Term Rental (STR). Please see our original and additional comments below:

*You submitted an application dated 9/23/2025 requesting a Business License (BPOL) and Application for Rental Inspection for a Short Term Rental (STR). The Cape Charles Zoning Ordinance Section 4.14 (B) states that an STR shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department and an STR shall not be operated until a STR zoning permit is issued by the Planning Department.*

*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 your 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).*

In addition, we accept your classification of the houseboat as “non-navigable” and your position that you classify the houseboat as a floating home. Having said that, the houseboat is not within the US Coast Guard’s jurisdiction and does fall under the Town’s zoning jurisdiction. The Town’s Zoning Ordinance Section 3.8 does not permit single-family dwellings in the Harbor Commercial District (HAR-C). As a result, we do not have clearance to issue you a business license.

## **RIGHT OF APPEAL**

We are extending your right to amend your appeal application to address this amended Zoning Determination until Monday, November 17, 2025. You do not need to pay an additional application fee. Contact our office if you want to withdraw your appeal application based upon

the amended Zoning Determination Letter/Business License Decision of Denial. Otherwise, the office is proceeding to schedule this appeal hearing for Tuesday, December 9, 2025 at 10:00 a.m. with legal notice being placed in the Eastern Shore Post on Friday, November 28 & December 5, 2025.

*You have the right to appeal any Zoning Determination within 30 days of the receipt of this decision letter, pursuant to Cape Charles Zoning Ordinance Section 2.6.4 by filing an application with the Cape Charles Board of Zoning Appeals. The forms are attached to this letter and require a filing fee of \$500. You would also be responsible for the actual advertising costs and mailing costs for any adjacent property owner notification letters which the Town is responsible for handling and will send you a bill; said payments if you avail yourself of the right to appeal are to be made out to the Town of Cape Charles and made prior to any hearing before the Board of Zoning Appeals.*

*Pursuant to Code of Virginia §15.2-2309 (1), any appeal filed on a Zoning Determination issued by the Zoning Administrator shall be viewed by the Board of Zoning Appeals that the zoning determination is correct. The appellant has the requirement to state how the zoning determination is not correct under Zoning Ordinance, providing reference to the sections of the zoning ordinance that rebut the zoning determination.*

*This Zoning Determination shall be final and unappealable if not appealed within the prescribed 30 days.*

Sincerely,

Katie H. Nunez  
Planning Director & Zoning Administrator

Cc: Rick Keuroglan, Town Manager  
Jeb Brady, Code Official  
Casey Quilter, Compliance & Inspector Officer  
Jack Steinmayer, Zoning Compliance Officer  
Paula Davis, Harbor Master  
Marion Sofield, Treasurer

Attachments: CCZO Section 4.14 (B) – Short Term Rental Ordinance  
CCZO Appendix A – Definition of Short Term Rental  
CCZO Appendix A – Definition of Dwelling  
CCZO Section 2.6.4 – Appeals  
Code of Virginia §15.2-2309 (1)  
**NEW ATTACHMENT: CCZO Section 3.8 – Harbor Commercial Zoning District**

**Attachment 3:**  
**Appeal Application filed by Derek**  
**Roncaioli dated October 9<sup>th</sup>, 2025**



# Board of Zoning Appeals Application for Appeal of Administrative Zoning Decision

Planning & Zoning Department  
2 Plum Street; Cape Charles, VA 23310  
757-331-3259 x31  
[planningtech@capecharles.org](mailto:planningtech@capecharles.org)

Revi	Section 6, Item A.
Taxes	
Violations	
Fee	
Decision	

Budget Code: MISPL 100-3100-1070

**PART 1: APPLICATION NOTES**

This form is used to appeal an administrative zoning decision. Appeal fee \$500. Fee must be paid at the time of application for appeal.  
**FEES \*\* Payment of advertising costs, actual and adjacent property owner notification mailing costs, actual.**

**PART 2: PROPERTY INFORMATION**

Subject Property Address: 1011 Bayshore Rd, Cape Charles, VA 23310

**PART 3: APPLICANT INFORMATION**

Applicant's Name: Derek Roncaioli

Applicant's Mailing Address: [REDACTED]

Applicant's Phone #: [REDACTED]

Email: [REDACTED]

**PART 4: PROJECT INFORMATION**

Briefly describe the decision that you are appealing. Provide a copy of the letter sent to you by the Zoning Administrator. If necessary, you may attach additional information to this form. Date of Decision: 3 October 2025

In accordance with the Code of Virginia, Section 15.2-2309 (1) and Cape Charles Zoning Ordinance Section 2.6.4 (A), I am appealing the decision of the Zoning Administrator. The appeal is based on the following information:

The applicants floating home is a permanent, utility-connected residential structure used exclusively for human habitation - meeting the Town's definition of "dwelling" under Appendix A. It is not a navigable houseboat as confirmed by the U.S Supreme Court in *Lozman v. City of Riviera Beach* (2013), which distinguishes stationary floating homes from vessels. Accordingly, denying the Short-Term Rental permit solely because the home floats rather than rests on land is inconsistent with both the intent and the plain language of the CCZO, and the ruling should be overturned. The intent of the STR ordinance (4.14) is to ensure that rental properties are safe, habitable, and properly licensed - not because the home floats rather than rests on pilings or concrete contradicts both the ordinances intent and equitable land-use principles.

This appeal is based on Section(s) 4.14 (B) of the Cape Charles Zoning Ordinance.

Applicant's signature: 

Date: 9 October 2025

Zoning Administrator's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Chairman: \_\_\_\_\_

Date: \_\_\_\_\_

Notice sent to applicant by certified mail of the decision by the BZA with 30 day right to appeal to Circuit Court.

Date: \_\_\_\_\_ Sent by: \_\_\_\_\_

# Legal Summary Brief in Support of Appeal

**Applicant:** Derek Roncaioli

**Application Date:** September 23, 2025

**Subject:** Appeal of Denial – Short-Term Rental (STR) Zoning Permit and Business License

**Property:** [Floating Home / Current: Town Docks / Future: Cape Charles Yacht Center]

**Town:** Cape Charles, Virginia

## I. Overview

This brief supports the appeal of the Town’s denial of an STR zoning permit and Business License for the applicant’s floating home. The denial misclassifies the property as a “houseboat” rather than a “dwelling,” asserting it is “not a structure” and “not used exclusively for human habitation.” In fact, the property satisfies the definition of a *structure* and *dwelling* under the Cape Charles Zoning Ordinance and Town Code.

It is a **floating home**—a stationary residential structure, permanently moored, utility-connected, and used exclusively for habitation—fully meeting the spirit and letter of the Town’s zoning and business licensing provisions.

## II. Relevant Town Code and Zoning Provisions

### 1. Cape Charles Zoning Ordinance § 4.14(B)

“A Short-Term Rental shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department and a Short-Term Rental zoning permit is issued by the Planning Department.”

### 2. Town Code Chapter 18, Article II (Business, Professional, and Occupational License Taxes)

Requires any person engaging in business within the Town to first obtain a business license (BPOL).

### 3. Zoning Ordinance Appendix A – Definitions

*Short-Term Rental* – “A room or space suitable or intended for occupancy for dwelling.”

*Dwelling* – “A structure used exclusively for human habitation.”

The denial rests entirely on the interpretation that the applicant’s floating home is **not a structure**, and thus not a dwelling.

### III. Interpretation of “Structure” and “Dwelling”

The Zoning Ordinance does not define “structure” to exclude floating buildings. Under ordinary and legal usage, a “structure” is *anything constructed or erected with a fixed location on or in the ground or water, including buildings and facilities for human occupancy*.

Virginia law recognizes local authority to regulate structures built on water surfaces (see *Code of Virginia* § 15.2-2280 et seq., granting municipalities zoning power over all land and water within their jurisdiction).

Nothing in Town Code or state law limits “structures” to those resting on solid ground.

Therefore, the floating home—being physically constructed, permanently affixed to a specific location, and intended for occupancy—fits comfortably within the plain meaning of “structure.”

### IV. Federal and State Authority Supporting Classification as a Dwelling

#### A. U.S. Supreme Court – *Lozman v. City of Riviera Beach*, 568 U.S. 115 (2013)

In *Lozman*, the Supreme Court held 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).

The applicant’s floating home is analogous to the *Lozman* home:

- It lacks propulsion or navigation equipment.
- It is permanently moored and connected to land-based utilities.
- It is designed and used solely as a residence.

Thus, consistent with *Lozman*, it should be treated as a dwelling structure, not a boat.

#### B. Virginia and Regional Planning References

Virginia planning and legal studies (e.g., the Middle Peninsula Planning District Commission, “*Floating Structures in Virginia*” (2010)) confirm that localities may treat permanently moored floating homes as fixed dwellings subject to zoning.

Similarly, the National Sea Grant Law Center (2009) advisory on floating homes recognizes that local governments have discretion to define and regulate floating structures as part of the built environment.

These authorities demonstrate that classifying the applicant’s floating home as a dwelling is fully consistent with Virginia’s zoning powers and regional practice.

**V. Application of the Law to the Facts**

Criterion	Evidence / Application
<b>Structure</b>	The floating home is constructed, permanently moored, and dependent on shore-based utilities—meeting ordinary meaning of “structure.”
<b>Exclusive human habitation</b>	Used solely as a residence with sleeping, cooking, and sanitation facilities; not navigable or commercial in purpose.
<b>Compliance with inspection &amp; safety standards</b>	Application materials and inspections confirm compliance with housing, electrical, and safety requirements under Chapter 8 and § 4.14(D) of the Zoning Ordinance.
<b>Business license prerequisites</b>	Applicant has applied for and is prepared to satisfy all BPOL and STR license conditions.

Hence, the floating home meets every definitional and regulatory requirement of a “dwelling” suitable for STR use.

**VI. Public Policy Considerations**

The intent of the STR ordinance (§ 4.14) is to ensure that rental properties are **safe, habitable, and properly licensed**—not to discriminate based on structural foundation type.

The applicant’s floating home provides safe, code-compliant lodging and aligns with Cape Charles’s goals of promoting tourism, tax compliance, and waterfront vitality.

Denying eligibility solely because the home floats rather than rests on pilings or concrete contradicts both the ordinance’s intent and equitable land-use principles.

**VII. Requested Relief**

The applicant respectfully requests that the Zoning Board of Appeals:

1. **Reverse** the Planning Department’s denial;
2. **Declare** that the applicant’s floating home qualifies as a “structure” and “dwelling” under Appendix A;

3. **Remand** the matter for issuance of a Short-Term Rental zoning permit, subject to standard inspection and business license requirements under Town Code Chapter 18; and
4. **Grant** such other relief as the Board deems appropriate.

### **VIII. Conclusion**

Under the Cape Charles Zoning Ordinance, the Code of Virginia, and persuasive federal precedent, the applicant's floating home qualifies as a dwelling structure eligible for use as a Short-Term Rental.

It is a fixed residential unit meeting all habitability, safety, and licensing requirements. Accordingly, the denial should be reversed.

Respectfully submitted,  
**Derek Roncaioli**

9 October 2025



# Municipal Corporation of Cape Charles

October 3, 2025

Salty Belle Investments, LLC  
Derek Roncaioli



Sent via: Regular Mail, Certified & Return  
Receipt # \_\_\_\_\_ & Email



**RE: Business License Decision of Denial Based on Zoning Clearance for House Boat STR  
1011 Bayshore Rd., Cape Charles, VA 23310**

To: Derek Roncaioli

You submitted an application dated 9/23/2025 requesting a Business License (BPOL) and Application for Rental Inspection for a Short Term Rental (STR). The Cape Charles Zoning Ordinance Section 4.14 (B) states that an STR shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department and an STR shall not be operated until a STR zoning permit is issued by the Planning Department.

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 your 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). As a result, we do not have clearance to issue you a business license.

### RIGHT OF APPEAL

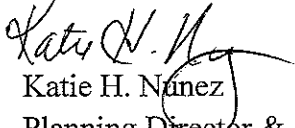
You have the right to appeal any Zoning Determination within 30 days of the receipt of this decision letter, pursuant to Cape Charles Zoning Ordinance Section 2.6.4 by filing an application with the Cape Charles Board of Zoning Appeals. The forms are attached to this letter and require a filing fee of \$500. You would also be responsible for the actual advertising costs and mailing costs for any adjacent property owner notification letters which the Town is responsible for handling and will send you a bill; said payments if you avail yourself of the right to appeal are to be made out to the Town of Cape Charles and made prior to any hearing before the Board of Zoning Appeals.

Pursuant to Code of Virginia §15.2-2309 (1), any appeal filed on a Zoning Determination issued by the Zoning Administrator shall be viewed by the Board of Zoning Appeals that the zoning determination is correct. The appellant has the requirement to state how the zoning determination is not correct under Zoning Ordinance, providing reference to the sections of the zoning ordinance that rebut the zoning determination.

This Zoning Determination shall be final and unappealable if not appealed within the prescribed 30 days.

Section 6, Item A.

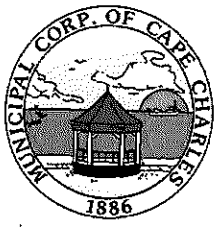
Sincerely,



Katie H. Nunez  
Planning Director & Zoning Administrator

Cc: Rick Keuroglan, Town Manager  
Jeb Brady, Code Official  
Casey Quilter, Compliance & Inspector Officer  
Paula Davis, Harbor Master  
Marion Sofield, Treasurer

Attachments: CCZO Section 4.14 (B) – Short Term Rental Ordinance  
CCZO Appendix A – Definition of Short Term Rental  
CCZO Appendix A – Definition of Dwelling  
CCZO Section 2.6.4 – Appeals  
Code of Virginia §15.2-2309 (1)



# Municipal Corp. of Cape Charles

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 4.14 - Short Term Rental (STR) Ordinance

#### 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 (1 yr) 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 twenty-four (24) hour/seven (7) 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 (1 yr) 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 (10) 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 twenty (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 (5) 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 (1) 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 (2) lodgers per bedroom, plus two; with the maximum number of overnight lodgers per dwelling being no greater than ten (10). 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 (2 yrs) of age or under.

Occupancy of greater than above may be approved, provided the property can accommodate sufficient off-street parking consisting of one (1) spot for every two (2) 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 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 twenty-four/seven (24/7) contact information for the STR responsible party.
7. Signage is to comply with Article V, Section 11.1.
8. Refuse requirements: one (1)- and two (2)-bedroom dwelling units used as short-term rental units will require one (1) trash receptacle; three (3) or more-bedroom units will require two (2) receptacles; five (5) or more bedrooms will require three (3) 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

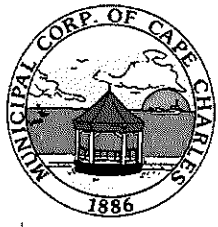
1. A Short-Term Rental (STR) zoning permit may be denied for any of the following violations:
  - a. Failure to obtain/maintain a town business license
  - b. Failure to pay all town real property taxes
  - c. Failure to pay all business taxes from the prior year
  - d. Failure to file and pay (if applicable) payment of transient occupancy taxes due the town for the previous three (3) 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 twenty-four seven (24/7) contacts, as determined through town investigations.
  - h. Two (2) violations of safety/building code requirements within the same calendar year, that are not cured following reasonable notice.
  - i. Two (2) 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 twenty-four hours (24 hrs.) 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 thirty (30) days in accordance with the Code of Virginia Section 15.2-2311 (A) and that the decision of permit denial shall be final and unappealable if not appealed within thirty (30) days.



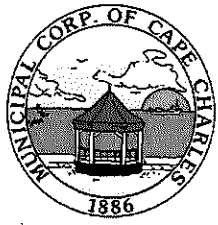
# *Municipal Corp. of Cape Charles*

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 2.6.4: Appeals and Procedure of Appeals

#### CCZO 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 thirty (30) days, in exchange for a charge for the occupancy. This does not include a hotel, motel, or bed and breakfast.



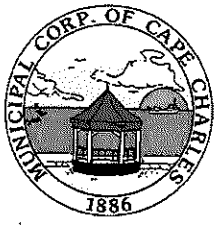
# *Municipal Corp. of Cape Charles*

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 2.6.4: Appeals and Procedure of Appeals

#### CCZO Appendix A – Definitions

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



# *Municipal Corp. of Cape Charles*

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 2.6.4: Appeals and Procedure of Appeals

#### CCZO Section 2.6.4: Appeals and Procedure of Appeals

- A. An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by an officer, department, board, or bureau of the county or municipality affected by any decision of the Zoning Administrator or Administrative Officer in the administration or enforcement of this ordinance. The decision may be appealed within thirty (30) days thereof by filing a notice of appeal specifying the grounds of appeal. Said appeal shall be filed with the Zoning Administrator and with the Board of Zoning Appeals. The Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.
  
- B. The board shall fix a reasonable time for the hearing of an application for appeal, give the public notice thereof as well as due notice to the parties of interest, and decide the same within sixty (60) days of the filing application for appeal. In exercising its powers, the board may reverse or affirm wholly in part or may modify an order, requirement, decision, or determination of an administrative officer or decide in favor of the applicant on any matter which it is required to effect any variance from the ordinance. The board shall keep minutes of its proceedings and other official actions, which shall be filed in the office of the Zoning Administrator and shall be public record. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.
  
- C. In accordance with 15.2-2313 of the Code of Virginia, where a building permit has been issued and the construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected, or abated as a violation of the zoning ordinance, by suit filed within fifteen (15) days after the start of construction by a person who had no actual notice of the issuance of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the Board of Zoning Appeals

Code of Virginia  
Title 15.2. Counties, Cities and Towns  
Subtitle II. Powers of Local Government  
Chapter 22. Planning, Subdivision of Land and Zoning  
Article 7. Zoning

**§ 15.2-2309. Powers and duties of boards of zoning appeals**

Boards of zoning appeals shall have the following powers and duties:

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.

2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application. Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when

the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable. If a request for a reasonable modification is made to a locality and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the locality unless a variance from the board of zoning appeals under this section is required in order for such request to be granted.

No variance shall be considered except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

In granting a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

Code 1950, §§ 15-831, 15-850, 15-968.9; 1950, p. 176; 1962, c. 407, § 15.1-495; 1964, c. 535; 1972, c. 695; 1975, cc. 521, 641; 1987, c. 8; 1991, c. 513; 1996, c. 555; 1997, c.; 2000, c. 1050; 2002, c. 546; 2003, c. 403; 2006, c. 264; 2008, c. 318; 2009, c. 206; 2015, c. 597; 2018, c. 757; 2025, c. 512.

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

**Attachment 4:**  
**Amended Appeal Application filed by**  
**Derek Roncaioli dated October 17<sup>th</sup>,**  
**2025**



# Board of Zoning Appeals Application for Appeal of Administrative Zoning Decision

Planning & Zoning Department  
2 Plum Street; Cape Charles, VA 23310  
757-331-3259 x31  
[planningtech@capecharles.org](mailto:planningtech@capecharles.org)

Revi	Section 6, Item A.
Taxes	
Violations	
Fee	
Decision	

Budget Code: MISPL 100-3100-1070

## PART 1: APPLICATION NOTES

This form is used to appeal an administrative zoning decision. Appeal fee \$500. Fee must be paid at the time of application for appeal.

**FEES \*\* Payment of advertising costs, actual and adjacent property owner notification mailing costs, actual.**

## PART 2: PROPERTY INFORMATION

Subject Property Address: 11A Marina Rd, Cape Charles, VA 23310

## PART 3: APPLICANT INFORMATION

Applicant's Name: Derek Roncaioli

Applicant's Mailing Address: [REDACTED]

Applicant's Phone #: [REDACTED]

Email: [REDACTED]

## PART 4: PROJECT INFORMATION

Briefly describe the decision that you are appealing. Provide a copy of the letter sent to you by the Zoning Administrator. If necessary, you may attach additional information to this form. Date of Decision: 3 Oct / 10 Nov 2025

In accordance with the Code of Virginia, Section 15.2-2309 (1) and Cape Charles Zoning Ordinance Section 2.6.4 (A), I am appealing the decision of the Zoning Administrator. The appeal is based on the following information:

---



---



---

This appeal is based on Section(s) \_\_\_\_\_ of the Cape Charles Zoning Ordinance.

Applicant's signature:

Date: 16 November 2025

Zoning Administrator's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Chairman: \_\_\_\_\_

Date: \_\_\_\_\_

Notice sent to applicant by certified mail of the decision by the BZA with 30 day right to appeal to Circuit Court.

Date: \_\_\_\_\_ Sent by: \_\_\_\_\_



# Municipal Corporation of Cape Charles

November 10, 2025

Salty Belle Investments, LLC  
Derek Roncaioli



Sent via: Regular Mail, Certified & Return  
Receipt # \_\_\_\_\_ & Email



**RE: Business License Decision of Denial Revision for House Boat STR  
1011 Bayshore Rd., Cape Charles, VA 23310**

To: Derek Roncaioli

The Town of Cape Charles acknowledges and appreciates your Zoning Appeals Application received October 3, 2025, with the \$500 application fee. Based on the additional information you provided, the Town is amending the Zoning Determination letter regarding the use of your houseboat as a Short Term Rental (STR). Please see our original and additional comments below:

*You submitted an application dated 9/23/2025 requesting a Business License (BPOL) and Application for Rental Inspection for a Short Term Rental (STR). The Cape Charles Zoning Ordinance Section 4.14 (B) states that an STR shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department and an STR shall not be operated until a STR zoning permit is issued by the Planning Department.*

*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 your 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).*

In addition, we accept your classification of the houseboat as "non-navigable" and your position that you classify the houseboat as a floating home. Having said that, the houseboat is not within the US Coast Guard's jurisdiction and does fall under the Town's zoning jurisdiction. The Town's Zoning Ordinance Section 3.8 does not permit single-family dwellings in the Harbor Commercial District (HAR-C). As a result, we do not have clearance to issue you a business license.

## **RIGHT OF APPEAL**

We are extending your right to amend your appeal application to address this amended Zoning Determination until Monday, November 17, 2025. You do not need to pay an additional application fee. Contact our office if you want to withdraw your appeal application based upon

the amended Zoning Determination Letter/Business License Decision of Denial. Otherwise office is proceeding to schedule this appeal hearing for Tuesday, December 9, 2025 at 10:00 a.m. with legal notice being placed in the Eastern Shore Post on Friday, November 28 & December 5, 2025.

*You have the right to appeal any Zoning Determination within 30 days of the receipt of this decision letter, pursuant to Cape Charles Zoning Ordinance Section 2.6.4 by filing an application with the Cape Charles Board of Zoning Appeals. The forms are attached to this letter and require a filing fee of \$500. You would also be responsible for the actual advertising costs and mailing costs for any adjacent property owner notification letters which the Town is responsible for handling and will send you a bill; said payments if you avail yourself of the right to appeal are to be made out to the Town of Cape Charles and made prior to any hearing before the Board of Zoning Appeals.*

*Pursuant to Code of Virginia §15.2-2309 (1), any appeal filed on a Zoning Determination issued by the Zoning Administrator shall be viewed by the Board of Zoning Appeals that the zoning determination is correct. The appellant has the requirement to state how the zoning determination is not correct under Zoning Ordinance, providing reference to the sections of the zoning ordinance that rebut the zoning determination.*

*This Zoning Determination shall be final and unappealable if not appealed within the prescribed 30 days.*

Sincerely,

Katie H. Nunez  
Planning Director & Zoning Administrator

Cc: Rick Keuroglan, Town Manager  
Jeb Brady, Code Official  
Casey Quilter, Compliance & Inspector Officer  
Jack Steinmayer, Zoning Compliance Officer  
Paula Davis, Harbor Master  
Marion Sofield, Treasurer

Attachments: CCZO Section 4.14 (B) – Short Term Rental Ordinance  
CCZO Appendix A – Definition of Short Term Rental  
CCZO Appendix A – Definition of Dwelling  
CCZO Section 2.6.4 – Appeals  
Code of Virginia §15.2-2309 (1)  
**NEW ATTACHMENT: CCZO Section 3.8 – Harbor Commercial Zoning District**

**Re: Appeal of Zoning Determination – Houseboat Short-Term Rental Permit**

Dear Members of the Zoning Board of Appeals,

I would like to express my appreciation to the Town for its detailed correspondence acknowledging my Zoning Appeals Application (received October 3, 2025) and for the thoughtful review of my request for a business license and Short-Term Rental (STR) zoning permit for my permanently moored, non-navigable houseboat located within the Harbor Commercial (HAR-C) District.

This letter respectfully requests that the Board reconsider the determination that my houseboat does not meet the definition of a Short-Term Rental (“STR”) under the Cape Charles Zoning Ordinance, and grant approval for its use under Section 4.14 of the Ordinance.

**I. The Houseboat Meets the Functional Definition of a Dwelling for STR Purposes**

Appendix A and Article II, Section 2.9 of the Zoning Ordinance define a **Short-Term Rental** as:

“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.”

While the Ordinance defines a “Dwelling” as a “structure used exclusively for human habitation,” the intent of this definition is to distinguish habitable, residential spaces from purely commercial or transient uses — not to exclude fixed, habitable floating homes.

My houseboat, which is **non-navigable, permanently moored, and connected to town utilities**, is designed and used **exclusively for human habitation**. It contains a full kitchen, bathroom, and sleeping quarters, and it undergoes inspection and maintenance equivalent to any land-based STR dwelling. Its functional use is entirely consistent with the intent of the Town’s STR regulations under Section 4.14: to ensure safe, taxable, and regulated lodging for guests.

**II. STRs Are Permitted in the Harbor Commercial District**

The Town’s Zoning Ordinance **Section 3.9(C)** (Harbor Commercial District – Accessory Uses) explicitly lists:

“Short-Term Rental in accordance with Section 4.14.”

This provision confirms that STRs are allowed as an accessory use in the Harbor Commercial District, provided they meet the conditions of Section 4.14.

Therefore, an STR in the HAR-C is consistent with the zoning ordinance’s structure and intent. My application seeks approval under precisely that framework — through compliance with the STR permitting and licensing requirements established in Section 4.14(B):

“A short-term rental unit shall not be operated until an annual business license is issued ... [and] a short-term rental zoning permit is issued by the Planning Department.”

Nowhere does the ordinance limit STRs in the HAR-C to land-based structures or prohibit floating, habitable units that meet safety and occupancy standards.

### III. The “Structure” Definition Should Be Interpreted Consistently with STR Intent

The Town’s prior determination concluded that the houseboat “is not a structure and is not used exclusively for human habitation.” However, that interpretation is inconsistent with the **purpose and spirit** of Section 4.14.

- The STR definition focuses on *use* — spaces “suitable or intended for occupancy for dwelling, sleeping, or lodging purposes.”
- It does **not** require that the dwelling be land-anchored or built upon a foundation.
- The Town has recognized the houseboat as non-navigable and therefore within its jurisdiction, confirming its status as a stationary, habitable unit subject to Town regulation.

Given that the Ordinance’s intent is to regulate **habitable lodging uses**, it is both reasonable and consistent to interpret “structure” broadly to include permanently moored, non-navigable floating homes used exclusively for habitation.

### IV. Precedent Within the Harbor District: “The Crows Nest” Above Hook & Harvey

There is also a clear **precedent of STR operation** within the Harbor Commercial District under similar circumstances.

A publicly listed short-term rental, “**The Crows Nest – Sunsets at the Harbor**”, operates directly above **Hook & Harvey** restaurant in the same harbor district. ([VRBO listing #1800945](#))

This listing demonstrates that:

- The Town of Cape Charles has permitted or tolerated STR use **within a mixed-use commercial harbor property**.

- The unit is not a detached single-family dwelling but an upper-story lodging use integrated into a commercial structure — confirming that STRs can and do operate lawfully within the Harbor Commercial District.
- Town planning materials and public statements (see *Eastern Shore Post*, Dec 2024 – Jan 2025) further acknowledge that STRs are **allowed in most residential and commercial areas, including the harbor district.**

This precedent indicates that the Town recognizes flexible, tourism-based lodging uses in the harbor district. My non-navigable, utility-connected houseboat aligns squarely with that pattern of use and purpose — serving visitors, supporting local businesses, and contributing to the tourism-driven waterfront economy.

## V. Economic and Policy Consistency

Permitting this houseboat STR would:

- Promote fair, consistent application of the Town’s STR regulations;
- Support local tourism and small-business revenue in the harbor area;
- Provide taxable lodging that complies with safety, inspection, and occupancy rules; and
- Reflect the Town’s publicly stated objective in **Section 4.14(A)** to “accommodate an STR owner’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.”

## VI. Requested Relief

I respectfully request that the Zoning Board of Appeals:

1. **Reverse or amend** the Zoning Administrator’s determination that the houseboat cannot qualify as a dwelling for STR purposes;
2. **Affirm that a permanently moored, non-navigable, utility-connected houseboat qualifies as a habitable space** under Section 2.9 and may be regulated under Section 4.14;
3. **Acknowledge that STRs are permitted as accessory uses** in the Harbor Commercial District (Section 3.9(C)); and
4. **Authorize issuance of an STR zoning permit and business license** consistent with the above findings.

## **VII. Commitment to Compliance**

I remain committed to full compliance with all STR operational, inspection, and safety standards, and welcome any reasonable conditions the Town may attach to ensure consistency with existing regulations and harbor-area aesthetics.

## **Conclusion**

The Town's own ordinance language, existing STR activity within the Harbor Commercial District, and the functional nature of my permanently moored houseboat all support this use's inclusion within the Town's STR framework.

I respectfully request that the Board of Zoning Appeals recognize this alignment and grant approval for the issuance of a Short-Term Rental zoning permit and business license for my houseboat.

Thank you for your time and consideration.

Very Respectfully,

Derek Roncaioli



# Municipal Corporation of Cape Charles

October 3, 2025

Salty Belle Investments, LLC  
Derek Roncaioli



Sent via: Regular Mail, Certified & Return  
Receipt # \_\_\_\_\_ & Email



**RE: Business License Decision of Denial Based on Zoning Clearance for House Boat STR  
1011 Bayshore Rd., Cape Charles, VA 23310**

To: Derek Roncaioli

You submitted an application dated 9/23/2025 requesting a Business License (BPOL) and Application for Rental Inspection for a Short Term Rental (STR). The Cape Charles Zoning Ordinance Section 4.14 (B) states that an STR shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department and an STR shall not be operated until a STR zoning permit is issued by the Planning Department.

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 your 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). As a result, we do not have clearance to issue you a business license.

### RIGHT OF APPEAL

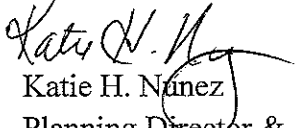
You have the right to appeal any Zoning Determination within 30 days of the receipt of this decision letter, pursuant to Cape Charles Zoning Ordinance Section 2.6.4 by filing an application with the Cape Charles Board of Zoning Appeals. The forms are attached to this letter and require a filing fee of \$500. You would also be responsible for the actual advertising costs and mailing costs for any adjacent property owner notification letters which the Town is responsible for handling and will send you a bill; said payments if you avail yourself of the right to appeal are to be made out to the Town of Cape Charles and made prior to any hearing before the Board of Zoning Appeals.

Pursuant to Code of Virginia §15.2-2309 (1), any appeal filed on a Zoning Determination issued by the Zoning Administrator shall be viewed by the Board of Zoning Appeals that the zoning determination is correct. The appellant has the requirement to state how the zoning determination is not correct under Zoning Ordinance, providing reference to the sections of the zoning ordinance that rebut the zoning determination.

This Zoning Determination shall be final and unappealable if not appealed within the prescribed 30 days.

Section 6, Item A.

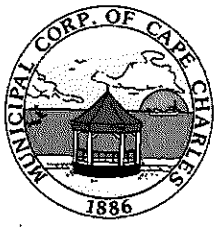
Sincerely,



Katie H. Nunez  
Planning Director & Zoning Administrator

Cc: Rick Keuroglan, Town Manager  
Jeb Brady, Code Official  
Casey Quilter, Compliance & Inspector Officer  
Paula Davis, Harbor Master  
Marion Sofield, Treasurer

Attachments: CCZO Section 4.14 (B) – Short Term Rental Ordinance  
CCZO Appendix A – Definition of Short Term Rental  
CCZO Appendix A – Definition of Dwelling  
CCZO Section 2.6.4 – Appeals  
Code of Virginia §15.2-2309 (1)



# Municipal Corp. of Cape Charles

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 4.14 - Short Term Rental (STR) Ordinance

#### 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 (1 yr) 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 twenty-four (24) hour/seven (7) 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 (1 yr) 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 (10) 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 twenty (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 (5) 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 (1) 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 (2) lodgers per bedroom, plus two; with the maximum number of overnight lodgers per dwelling being no greater than ten (10). 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 (2 yrs) of age or under.

Occupancy of greater than above may be approved, provided the property can accommodate sufficient off-street parking consisting of one (1) spot for every two (2) 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 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 twenty-four/seven (24/7) contact information for the STR responsible party.
7. Signage is to comply with Article V, Section 11.1.
8. Refuse requirements: one (1)- and two (2)-bedroom dwelling units used as short-term rental units will require one (1) trash receptacle; three (3) or more-bedroom units will require two (2) receptacles; five (5) or more bedrooms will require three (3) 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

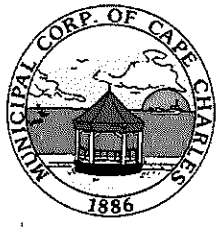
1. A Short-Term Rental (STR) zoning permit may be denied for any of the following violations:
  - a. Failure to obtain/maintain a town business license
  - b. Failure to pay all town real property taxes
  - c. Failure to pay all business taxes from the prior year
  - d. Failure to file and pay (if applicable) payment of transient occupancy taxes due the town for the previous three (3) 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 twenty-four seven (24/7) contacts, as determined through town investigations.
  - h. Two (2) violations of safety/building code requirements within the same calendar year, that are not cured following reasonable notice.
  - i. Two (2) 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 twenty-four hours (24 hrs.) 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 thirty (30) days in accordance with the Code of Virginia Section 15.2-2311 (A) and that the decision of permit denial shall be final and unappealable if not appealed within thirty (30) days.



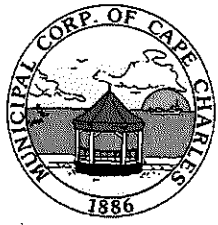
# *Municipal Corp. of Cape Charles*

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 2.6.4: Appeals and Procedure of Appeals

#### CCZO 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 thirty (30) days, in exchange for a charge for the occupancy. This does not include a hotel, motel, or bed and breakfast.



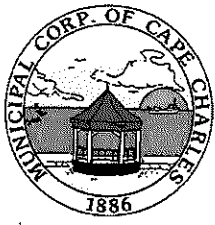
# *Municipal Corp. of Cape Charles*

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 2.6.4: Appeals and Procedure of Appeals

#### CCZO Appendix A – Definitions

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



# *Municipal Corp. of Cape Charles*

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 2.6.4: Appeals and Procedure of Appeals

#### CCZO Section 2.6.4: Appeals and Procedure of Appeals

- A. An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by an officer, department, board, or bureau of the county or municipality affected by any decision of the Zoning Administrator or Administrative Officer in the administration or enforcement of this ordinance. The decision may be appealed within thirty (30) days thereof by filing a notice of appeal specifying the grounds of appeal. Said appeal shall be filed with the Zoning Administrator and with the Board of Zoning Appeals. The Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.
  
- B. The board shall fix a reasonable time for the hearing of an application for appeal, give the public notice thereof as well as due notice to the parties of interest, and decide the same within sixty (60) days of the filing application for appeal. In exercising its powers, the board may reverse or affirm wholly in part or may modify an order, requirement, decision, or determination of an administrative officer or decide in favor of the applicant on any matter which it is required to effect any variance from the ordinance. The board shall keep minutes of its proceedings and other official actions, which shall be filed in the office of the Zoning Administrator and shall be public record. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.
  
- C. In accordance with 15.2-2313 of the Code of Virginia, where a building permit has been issued and the construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected, or abated as a violation of the zoning ordinance, by suit filed within fifteen (15) days after the start of construction by a person who had no actual notice of the issuance of the permit, the court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the administrative officer to the Board of Zoning Appeals

Code of Virginia  
Title 15.2. Counties, Cities and Towns  
Subtitle II. Powers of Local Government  
Chapter 22. Planning, Subdivision of Land and Zoning  
Article 7. Zoning

**§ 15.2-2309. Powers and duties of boards of zoning appeals**

Boards of zoning appeals shall have the following powers and duties:

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.

2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application. Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when

the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable. If a request for a reasonable modification is made to a locality and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the locality unless a variance from the board of zoning appeals under this section is required in order for such request to be granted.

No variance shall be considered except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

In granting a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

Code 1950, §§ 15-831, 15-850, 15-968.9; 1950, p. 176; 1962, c. 407, § 15.1-495; 1964, c. 535; 1972, c. 695; 1975, cc. 521, 641; 1987, c. 8; 1991, c. 513; 1996, c. 555; 1997, c.; 2000, c. 1050; 2002, c. 546; 2003, c. 403; 2006, c. 264; 2008, c. 318; 2009, c. 206; 2015, c. 597; 2018, c. 757; 2025, c. 512.

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

# Legal Summary Brief in Support of Appeal

**Applicant:** Derek Roncaioli

**Application Date:** September 23, 2025

**Subject:** Appeal of Denial – Short-Term Rental (STR) Zoning Permit and Business License

**Property:** [Floating Home / Current: Town Docks / Future: Cape Charles Yacht Center]

**Town:** Cape Charles, Virginia

## I. Overview

This brief supports the appeal of the Town’s denial of an STR zoning permit and Business License for the applicant’s floating home. The denial misclassifies the property as a “houseboat” rather than a “dwelling,” asserting it is “not a structure” and “not used exclusively for human habitation.” In fact, the property satisfies the definition of a *structure* and *dwelling* under the Cape Charles Zoning Ordinance and Town Code.

It is a **floating home**—a stationary residential structure, permanently moored, utility-connected, and used exclusively for habitation—fully meeting the spirit and letter of the Town’s zoning and business licensing provisions.

## II. Relevant Town Code and Zoning Provisions

### 1. Cape Charles Zoning Ordinance § 4.14(B)

“A Short-Term Rental shall not be operated until an annual business license is issued in accordance with Town Code Chapter 18, Article II by the Finance Department and a Short-Term Rental zoning permit is issued by the Planning Department.”

### 2. Town Code Chapter 18, Article II (Business, Professional, and Occupational License Taxes)

Requires any person engaging in business within the Town to first obtain a business license (BPOL).

### 3. Zoning Ordinance Appendix A – Definitions

*Short-Term Rental* – “A room or space suitable or intended for occupancy for dwelling.”

*Dwelling* – “A structure used exclusively for human habitation.”

The denial rests entirely on the interpretation that the applicant’s floating home is **not a structure**, and thus not a dwelling.

### III. Interpretation of “Structure” and “Dwelling”

The Zoning Ordinance does not define “structure” to exclude floating buildings. Under ordinary and legal usage, a “structure” is *anything constructed or erected with a fixed location on or in the ground or water, including buildings and facilities for human occupancy*.

Virginia law recognizes local authority to regulate structures built on water surfaces (see *Code of Virginia* § 15.2-2280 et seq., granting municipalities zoning power over all land and water within their jurisdiction).

Nothing in Town Code or state law limits “structures” to those resting on solid ground.

Therefore, the floating home—being physically constructed, permanently affixed to a specific location, and intended for occupancy—fits comfortably within the plain meaning of “structure.”

### IV. Federal and State Authority Supporting Classification as a Dwelling

#### A. U.S. Supreme Court – *Lozman v. City of Riviera Beach*, 568 U.S. 115 (2013)

In *Lozman*, the Supreme Court held 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).

The applicant’s floating home is analogous to the *Lozman* home:

- It lacks propulsion or navigation equipment.
- It is permanently moored and connected to land-based utilities.
- It is designed and used solely as a residence.

Thus, consistent with *Lozman*, it should be treated as a dwelling structure, not a boat.

#### B. Virginia and Regional Planning References

Virginia planning and legal studies (e.g., the Middle Peninsula Planning District Commission, “*Floating Structures in Virginia*” (2010)) confirm that localities may treat permanently moored floating homes as fixed dwellings subject to zoning.

Similarly, the National Sea Grant Law Center (2009) advisory on floating homes recognizes that local governments have discretion to define and regulate floating structures as part of the built environment.

These authorities demonstrate that classifying the applicant’s floating home as a dwelling is fully consistent with Virginia’s zoning powers and regional practice.

**V. Application of the Law to the Facts**

Criterion	Evidence / Application
<b>Structure</b>	The floating home is constructed, permanently moored, and dependent on shore-based utilities—meeting ordinary meaning of “structure.”
<b>Exclusive human habitation</b>	Used solely as a residence with sleeping, cooking, and sanitation facilities; not navigable or commercial in purpose.
<b>Compliance with inspection &amp; safety standards</b>	Application materials and inspections confirm compliance with housing, electrical, and safety requirements under Chapter 8 and § 4.14(D) of the Zoning Ordinance.
<b>Business license prerequisites</b>	Applicant has applied for and is prepared to satisfy all BPOL and STR license conditions.

Hence, the floating home meets every definitional and regulatory requirement of a “dwelling” suitable for STR use.

**VI. Public Policy Considerations**

The intent of the STR ordinance (§ 4.14) is to ensure that rental properties are **safe, habitable, and properly licensed**—not to discriminate based on structural foundation type.

The applicant’s floating home provides safe, code-compliant lodging and aligns with Cape Charles’s goals of promoting tourism, tax compliance, and waterfront vitality.

Denying eligibility solely because the home floats rather than rests on pilings or concrete contradicts both the ordinance’s intent and equitable land-use principles.

**VII. Requested Relief**

The applicant respectfully requests that the Zoning Board of Appeals:

1. **Reverse** the Planning Department’s denial;
2. **Declare** that the applicant’s floating home qualifies as a “structure” and “dwelling” under Appendix A;

3. **Remand** the matter for issuance of a Short-Term Rental zoning permit, subject to standard inspection and business license requirements under Town Code Chapter 18; and
4. **Grant** such other relief as the Board deems appropriate.

### **VIII. Conclusion**

Under the Cape Charles Zoning Ordinance, the Code of Virginia, and persuasive federal precedent, the applicant's floating home qualifies as a dwelling structure eligible for use as a Short-Term Rental.

It is a fixed residential unit meeting all habitability, safety, and licensing requirements. Accordingly, the denial should be reversed.

Respectfully submitted,  
**Derek Roncaioli**

9 October 2025

**Attachment 5:**  
**Excerpts from Cape Charles Zoning**  
**Ordinance Sections 3.8, 4.14, and**  
**Appendix A**



# Municipal Corp. of Cape Charles

## CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

### Section 4.14 - Short Term Rental (STR) Ordinance

#### 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 (1 yr) 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 twenty-four (24) hour/seven (7) 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 (1 yr) 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 (10) 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 twenty (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 (5) 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 (1) 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 (2) lodgers per bedroom, plus two; with the maximum number of overnight lodgers per dwelling being no greater than ten (10). 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 (2 yrs) of age or under.

Occupancy of greater than above may be approved, provided the property can accommodate sufficient off-street parking consisting of one (1) spot for every two (2) 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 twenty-four/seven (24/7) contact information for the STR responsible party.
7. Signage is to comply with Article V, Section 11.1.
8. Refuse requirements: one (1)- and two (2)-bedroom dwelling units used as short-term rental units will require one (1) trash receptacle; three (3) or more-bedroom units will require two (2) receptacles; five (5) or more bedrooms will require three (3) 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.



## *Municipal Corp. of Cape Charles*

### CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

#### Section 2.6.4: Appeals and Procedure of Appeals

##### CCZO 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 thirty (30) days, in exchange for a charge for the occupancy. This does not include a hotel, motel, or bed and breakfast.



## *Municipal Corp. of Cape Charles*

### CAPE CHARLES ZONING ORDINANCE ADOPTED DECEMBER 19, 2024

#### Section 2.6.4: Appeals and Procedure of Appeals

##### CCZO Appendix A – Definitions

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

### **Section 3.8: Harbor – Commercial**

A. Statement of Intent. A working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions.

Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs.

The district's intent is to permit retail and commercial businesses generally found in a retail business area that would be complementary to the Commercial District within the Historic Overlay District. Mixed use development is encouraged with any housing located above commercial or retail space.

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

1. Condominium dwellings
2. Cooperative dwellings
3. Parks and playgrounds
4. Schools, community centers, and public facilities
5. Retail and other stores (less than twenty-five hundred square feet (2,500 SF) of gross floor area)
6. Offices
7. Galleries and museums
8. Indoor recreation facilities
9. Performing Arts Center
10. Conference centers
11. Restaurants and bars
12. Personal services (less than twenty-five hundred square feet (2,500 SF) of gross floor area)
13. Medical/dental practices (outpatient) and labs
14. Vehicle rental/sales (less than twenty-five hundred square feet (2,500 SF) of gross floor area)
15. Marinas, docks, and wharves (if contiguous to harbor)
16. Utility Facilities

**C. Accessory Uses.** The following accessory uses shall be allowed.

1. Accessory buildings
2. Other uses that are customarily associated and clearly incidental and subordinate to a principal use.
3. Temporary licensed uses such as festivals, displays, educational exhibits, outdoor gatherings or performances, and outdoor food markets.
4. Short Term Rental in accordance with Section 4.14
5. Home occupation per Section 4.0 in the residential uses

**D. Conditional Uses.** The following uses may also be permitted, subject to securing a Conditional Use Permit as provided for in this ordinance:

1. Recreational, cultural, and entertainment uses of the following types:
  - a. Assembly halls
  - b. Auditoriums
  - c. Theaters
2. Retail goods establishments of the following types with more than two thousand five hundred square feet (2,500 SF) of gross floor area:
  - a. Antique shops
  - b. Bookstores
  - c. Camera shops
  - d. Candy stores
  - e. Clothing stores
  - f. Dry goods stores
  - g. Florists, gift shops, card shops, and stationery shops
  - h. Grocery stores
  - i. Music stores
  - j. Newsstands
  - k. Upholstering shops and fabric stores
  - l. Watch and jewelry stores
3. Retail service establishments of the following types with more than two thousand five hundred square feet (2,500 SF) of gross floor area:
  - a. Beauty and barbershops
  - b. Bicycle moped, and golf cart sales and rentals
  - c. Blueprinting shops
  - d. Dressmaking, tailoring, millinery, dry cleaning
4. Multi-family dwellings
  - a. All dwelling units shall have direct access to the street level. Means of access may be shared with other dwelling units, but not commercial uses. Access through a commercial establishment on the first (1st) level is not permitted.
  - b. The first (1st) floor of all building facades adjacent to a public street shall have a commercial appearance and shall not have a residential appearance.

5. Childcare/adult daycare facilities and nursing homes
6. Hotels and motels
7. Laundromats
8. Any other use which is compatible in nature with the foregoing permitted and conditional uses and which the Zoning Administrator determines to be compatible with the intent of the District and is concurred with by the Planning Commission.

<b>2026 Board of Zoning Appeals Meeting Dates</b>	
<i>Meetings are held as needed, the second Tuesday of the month at 10:00 am, when an application has been filed requiring their consideration</i>	
<b>Application Deadlines</b>	<b>Meeting Dates</b>
December 2 <sup>nd</sup> , 2025	January 13 <sup>th</sup> , 2026
January 6 <sup>th</sup> , 2026	February 10 <sup>th</sup> , 2026
February 3 <sup>rd</sup> , 2026	March 10 <sup>th</sup> , 2026
March 3 <sup>rd</sup> , 2026	April 14 <sup>th</sup> , 2026
April 7 <sup>th</sup> , 2026	May 12 <sup>th</sup> , 2026
May 5 <sup>th</sup> , 2026	June 9 <sup>th</sup> , 2026
June 2 <sup>nd</sup> , 2026	July 14 <sup>th</sup> , 2026
July 7 <sup>th</sup> , 2026	August 11 <sup>th</sup> , 2026
August 4 <sup>th</sup> , 2026	September 8 <sup>th</sup> , 2026
September 1 <sup>st</sup> , 2026	October 13 <sup>th</sup> , 2026
October 6 <sup>th</sup> , 2026	November 10 <sup>th</sup> , 2026
November 3 <sup>rd</sup> , 2026	December 8 <sup>th</sup> , 2026

## APPENDIX A Town of Cape Charles Guidelines for Citizen Participation

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

### Eligibility

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

### Registering

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

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

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

### Regulations:

#### Cell Phone and Recordings

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

## Speaking

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

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

## Time limitations for remarks

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

## Decorum and order

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

## Town Council Response

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

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

## Applicability

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

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



## APPENDIX B Town of Cape Charles Code of Ethics & Meeting Rules of Order

Adopted July 22, 2021

### Preamble

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

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

### Code of Ethics

#### 1. Act in the Public Interest

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

#### 2. Comply with the Law

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

#### 3. Conduct of Members

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

4. Respect for Process

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

5. Conduct of Public Meetings

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

6. Decisions Based on Merit

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

7. Communication

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

8. Gifts and Favors

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

9. Confidential Information

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

10. Use of Public Resources

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

11. Advocacy

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

12. Policy Role of Members

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

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

13. Independence of Town Council and Commissions

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

14. Positive Workplace Environment

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

15. Implementation

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

16. Compliance and Enforcement

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

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

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

## Conflict of Interest

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

### 1. Abstention

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

### 2. Representation of Third-Party Interests

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

## Meeting Rules of Order

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

### 1. Meeting Types

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

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

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

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

## 2. Motions

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

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

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

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

### 3. Agenda

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

4. Other Issues

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

**Acknowledgement**

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

\_\_\_\_\_ (signature)

\_\_\_\_\_ (date)

## APPENDIX C

**TOWN OF CAPE CHARLES  
POLICY FOR ELECTRONIC PARTICIPATION IN  
BOARD OF ZONING APPEALS MEETINGS  
Adopted January 9, 2024**

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

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

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

Participation by a member pursuant to this subdivision is limited to two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

2. A quorum of the Board of Zoning Appeals must be physically assembled at the primary meeting location.
3. The Board of Zoning Appeals members present at the physical location must approve the electronic participation by a majority vote.
  - a. If the absent member's remote participation is disapproved because such participation would violate this policy, such disapproval shall be recorded in the minutes of the meeting.
4. Arrangements must be made for the voice of the remote participant to be heard by all persons at the primary meeting location.