



Planning Commission Regular Meeting

April 07, 2026 at 6:00 PM

Cape Charles Civic Center - 500 Tazewell Avenue

Agenda

- 1. Call to Order**
 - A. Roll Call
 - B. Establish a Quorum
- 2. Invocation and Pledge of Allegiance**
- 3. Consent Agenda**
 - A. Approval of Agenda Format
 - B. Approval of Minutes
- 4. Public Hearings**
 - A. Zoning Text Amendment – Amend Article VII, Appendix A, and Appendix C of the Town Code to ensure the ordinance complies with state law regarding the Chesapeake Bay Preservation Act.
- 5. Citizen Comment Period, for any item not subject to an advertised public hearing**
- 6. Unfinished Business**
- 7. New Business**
 - A. Zoning Text Amendment – Amend Article VII, Appendix A, and Appendix C of the Town Code to ensure the ordinance complies with state law regarding the Chesapeake Bay Preservation Act.
- 8. Standing Staff Reports**
 - A. Standing Staff Report for December 2025 and January, February and March 2026
- 9. Announcements - Next Meetings**
- 10. Adjournment**

**Planning Commission and Historic District Review Board
Joint Work Session
Cape Charles Civic Center
March 3rd, 2025**

At 6:00 p.m., having established a quorum, Chairman Bill Stramm called to order the Planning Commission continuation of the February 17th, 2026, Joint Work Session. In addition to Chairman Stramm, Commissioners present were Bill Ashworth, Libby Wright, Ian McDonald, Jim Holloway, Clayton Newman, and Alan Clark.

At 6:00 p.m., having established a quorum, Chairwoman Kathy Glaser called to order the Historic District Review Board continuation of the February 17th, 2026, Joint Work Session. In addition to Chairwoman Glaser, members present were Joan Cooper, Ken Monarch, and Elizabeth Wright.

Staff present were the Director of Planning/Zoning Administrator Katie Nunez, Code Official Jeb Brady, Planning/Zoning Assistant, Preservation and Zoning Administrator Tracy Outten, Town Clerk Libby Hume, and Zoning Compliance Officer Jack Steinmayer.

There were 2 members of the public in attendance.

Consent Agenda

The consent agenda was approved by common consent.

Unfinished Business

A. Review of Draft New Appendix G to Design Guidelines

The main focus of this work session was the ongoing review of the draft of the new Appendix G to the Historic District Design Guidelines, starting at item number 26 of the revised document.

Before resuming the item-by-item discussion, staff addressed the term “replacement,” which had become a concern following the previous meeting. Staff observed that the term “replacement” is not defined in the Zoning Ordinance or the Guidelines document, and its presence in the draft caused ambiguity. Ms. Nunez then explained that “replacement” suggests a complete substitution of an entire feature or element, which is quite different from a repair.

The two boards discussed the distinction in detail, noting that a repair may involve replacing individual parts, while replacing the entire item is more like new construction.

The boards then reached a consensus that the terminology should be refined throughout the document. Where work involving replacing components without any change in design, dimensions, materials, or overall appearance should be classified as a repair. Replacements that do not alter those elements described above would be classified differently from replacements that involve a change in materials or design. The board agreed to apply this change in terminology across all remaining categories.

Staff also noted that the term “primary structure” would be removed from Appendix G and replaced with “main building,” in line with Town Code definitions, and that a corresponding amendment to Appendix A of the Zoning Ordinance would be forwarded to the Town Council.

Next, the staff proposed several new definitions for review, noting they would revisit them at the end of the meeting after completing a full review of the guidelines chart. Proposed additions included definitions for alteration, in-kind, repairs (major and minor), and a refinement to the existing repairs definition, replacing the word “equivalent” with “in-kind.” The boards were also told that several points in the document reference an “approved list of materials” that does not yet exist, and that further discussion would be needed to decide whether to develop such a list or remove the references.

Before starting the line-by-line discussion, Member Cooper addressed the provided definitions she thought would be helpful to include in Appendix A of the Zoning Ordinance. (see attachment A)

Item-by-Item Review of Appendix G (Items 27-46)

Roof Forms and Coverings (Item 27): The boards discussed how to distinguish routine repairs from more extensive roof work. Using a square footage threshold consistent with building permit requirements, the boards agreed on the following framework: (1) repairs less than 100 sq. ft. with no change in design, materials, dimensions, or overall appearance would be considered routine maintenance; (2) repairs exceeding 100 sq. ft. with no change in those elements would be classified as minor work, reviewed on a case-by-case basis; and (3) replacement involving a

change in materials would be considered major work, and any alteration to dimensions, design, or appearance would also be categorized as major work.

Satellite Dishes and/or Television Antennas (Item 28): The boards discussed whether satellite dishes and/or television antennas are historic features that should be included in Appendix G. It was noted that, although they are addressed in the Zoning Ordinance, they are not considered historically significant. The boards then agreed to remove this category from Appendix G and keep its regulation within the Zoning Ordinance. They also agreed that if the item remains, removal or replacement without change would be considered routine maintenance, while any new installation or change would qualify as minor work.

Screening (Item 29): Extended discussion clarified that “screening” refers to the shielding of modern utilitarian exterior features – such as outdoor showers, propane tanks, or mechanical equipment – from public view, often imposed as a condition of a Certificate of Appropriateness (COA). The boards concluded that screening is not a category of work and should be removed from Appendix G and added to Appendix A (Definitions). Staff then noted that if screening is a condition of a COA, any removal of that screening within replacement would constitute a violation of that COA.

Outdoor Showers (Item 30): Repair and replacement without changing dimensions, design, materials, or appearance is considered routine maintenance. Replacing with similar materials would be minor work. Alterations, removal, or new construction would be minor work on a case-by-case basis, with referral to the HDRB if the project scope warrants it. Staff confirmed that outdoor showers require plumbing permits.

Shutters (Item 31): The HDRB discussed the historic district’s shutter guidelines, which require shutters to be either operable or appear operable, appropriately sized for the window opening, and installed with proper depth and hinges. The board then agreed to remove “replacement” from routine maintenance for this category and retain only “repair.” Further clarification was provided that a replacement using in-kind materials that meet current guidelines would constitute minor work on a case-by-case basis. Alterations, removal, or new construction would be considered major work.

Siding (Item 32): A similar review structure was used for siding. Repairing less than 100 sq. ft. with no changes in design, materials, or overall appearance is considered

routine maintenance. Repairs over 100 sq. ft. with no changes in these elements are classified as minor work. Removal is categorized as major work. The boards then agree to remove the word “alterations” from the final category, keeping only “removal.”

Signs (Current #34, will change to 33): Routine maintenance of existing signage with no change in dimensions, design, materials, or general appearance is classified as routine maintenance and does not require HDRB review. Alterations, installations, or removals of signage must comply with the town's sign ordinance and are considered minor work. The Code Official does not need to issue building permits for signs.

Solar Panels (Current #35, will change to 34): Repair and replacement without altering dimensions, design, materials, or overall appearance would be considered routine maintenance. Any repair or replacement involving modifications to these elements or a change in placement on the structure or lot would be deemed minor work, evaluated on a case-by-case basis, since relocating could impact visibility from the public right-of-way. New installations not visible from the public right-of-way would be classified as minor; those visible would be classified as major. The board discussed including "placement on lot/structure" in the language of category B to better address location changes.

Stairs and Steps – (Exterior) Street View (Current #36, will change to 35): Repairs that do not alter dimensions, design, materials, or appearance are considered routine maintenance. Minor work applies if there are slight changes to those elements. Major work involves new construction, alteration, addition, or removal. For stairs and steps not visible from the street, the same general rules apply, with new construction classified as minor work due to its limited visibility.

Surfaces – (Exterior) Not Specifically Listed (Current #37, will change to 36): This entire category was eliminated. Members of both the Planning Commission and HDRB noted that any surface type not already covered elsewhere in Appendix G could be addressed under existing relevant categories.

Structure, Demolition of Contributing in whole or part (Current #39, will change to 37): Demolition of a contributing structure in whole or in part was classified as major work requiring HDRB review. Demolition of a non-contributing structure in whole or in part was classified as minor work requiring Zoning Administrator review, but not HDRB approval.

Structure – Emergency Stabilization (Current #40, will change to 38): After discussion, it was decided that emergency stabilization work on a historic property that does not alter the historic character does not require HDRB review but will need Zoning Administrator approval and Building Official review. Staff then noted this would follow the same format as item 17 (fuel tanks), with a notation spanning all columns to avoid confusion.

Swimming Pools, Spas, Saunas, Plunge Pools, and Hot Tubs, etc. (Current #42, will change to 39): Staff expanded this category to include spas, saunas, plunge pools, and hot tubs in addition to swimming pools. Repairs to existing features would be routine maintenance. Additions, alterations, or new construction do not require HDRB review but do require Zoning Administrator approval and Building Official review. The boards then discussed fencing requirements and agreed to reference the applicable Zoning Ordinance section (4.7) rather than restate the fencing standards.

Temporary Features – Emergency Stabilization and Family Healthcare Structures (Current #42-43, will change to 40-41): Emergency temporary installations to protect a historic property do not require HDRB review but do require Zoning and Building review. Temporary family healthcare structures, authorized under Virginia Code Section 15.2-2292.1, similarly do not require HDRB review but are subject to both Zoning and Building review. Staff noted that the word “temporary” may need to be revisited for the ADA ramp category, as such features persist for the duration of a medical need and are not temporary in the traditional sense.

Walkways (Current #44, will change to 42): Repairs that do not affect dimensions, design, materials, or overall appearance are considered routine maintenance. Replacing materials with minor changes is classified as minor work. New construction, alterations, additions, or removals are also minor work on a case-by-case basis, depending on their visibility. The boards agree to add ramps—particularly ADA-compliant ramps—as a separate line item within this section, noting that such installations are governed by the ADA and fair housing provisions in the Zoning Ordinance and do not require HDRB review.

Walls (such as garden or retaining walls) (Current #46 will change to 43): Repairing and replacing existing walls without changing their size, design, or appearance, using approved materials from the guidelines, is considered routine

maintenance. New construction, modifications, or changes in placement would be classified as minor work.

Windows (including casings and sills) (Current #47, will change to 44): Caulking and weatherstripping with no change in dimensions, design, materials, or overall appearance are considered routine maintenance. The board discussed the difference between repair and replacement within the context of existing window guidelines, which — similar to shutters — may require new windows to meet current standards rather than match non-compliant existing windows. The board agreed to remove "replacement" from the routine maintenance category and keep only "repair." Replacing windows with in-kind materials that meet the guidelines would be minor work done on a case-by-case basis. Installing new windows, changing window style or opening size, or removing windows would be considered major work. The Code Official confirmed that window replacement that does not involve changing the opening size does not require a building permit.

Window Storm (Current #48, will change to 45): Repair and replacement without altering dimensions, design, materials, or appearance would be considered routine maintenance. Replacing with different materials or appearance would be classified as minor work. Installing, altering, or removing storm windows would also be minor work.

Following the completion of the chart review, the board approved the proposed amendments to the Zoning Ordinance and Appendix G: (1) adding the definition of "alteration," sourced from The Complete Illustrated Book of Development Definitions, Fourth Edition; (2) including the definition of "in-kind" in the Zoning Ordinance to replace the word "equivalent"; (3) amending the definition of "repairs"; and (4) creating new definitions for "major repair" and "minor repair." The term "primary structure" would be removed from Appendix G and replaced throughout with "main building," as defined by the Town Code. Commissioner Newman suggested replacing the "X" notation in the chart columns with a checkmark or bullet, noting that "X" can carry a negative connotation inconsistent with the document's intent.

Finally, staff noted that due to the significant revisions made during this and the previous work session, they would need additional time to thoroughly review the revised Appendix G against the entire existing historic district design guidelines to

identify any remaining alignment issues. As a result, the staff indicated that the Zoning Text Amendment would likely not be ready for the March Town Council meeting and would instead be submitted for the April Council meeting. Staff also mentioned that they might need to return to the Planning Commission in April if further changes to the guidelines are identified.

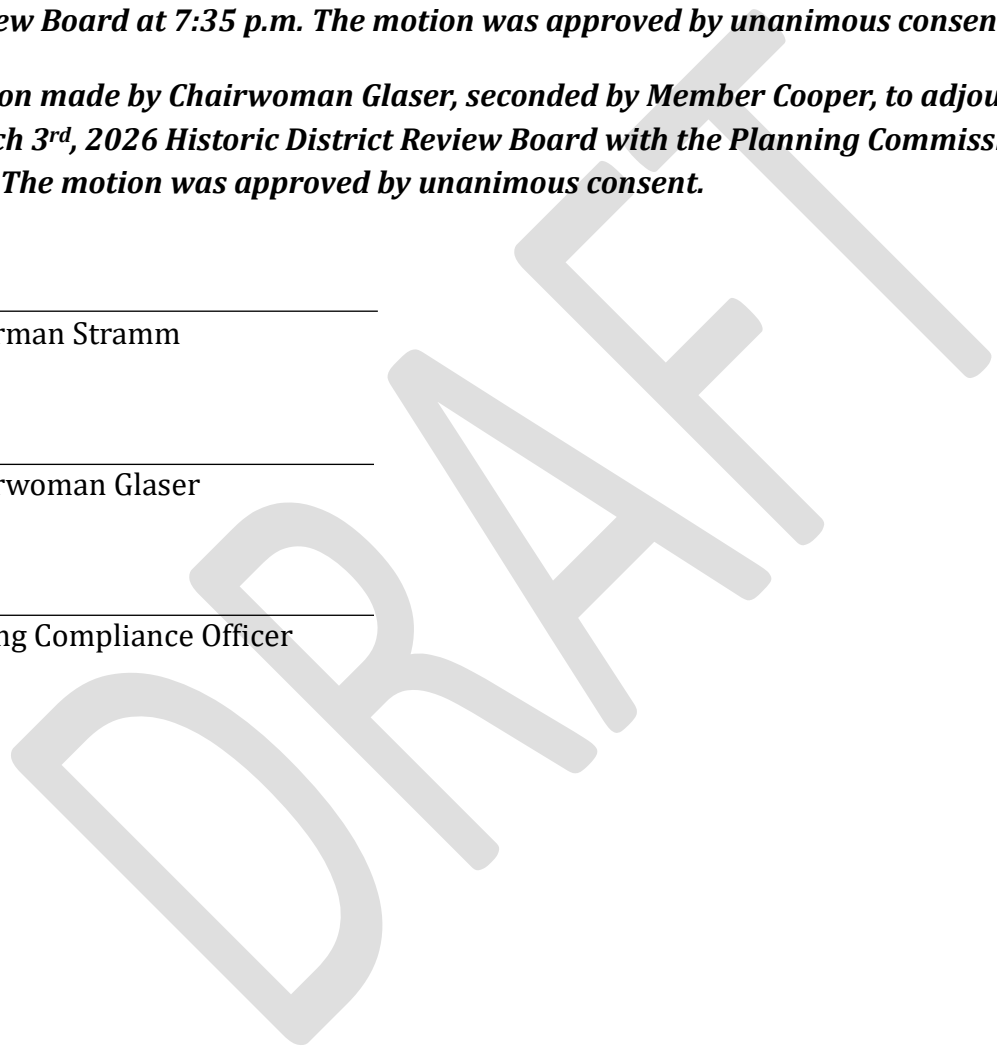
Motion made by Chairman Stramm, seconded by Commissioner Ashworth, to adjourn the March 3rd, 2026, Planning Commission Joint Work Session with the Historic District Review Board at 7:35 p.m. The motion was approved by unanimous consent.

Motion made by Chairwoman Glaser, seconded by Member Cooper, to adjourn the March 3rd, 2026 Historic District Review Board with the Planning Commission at 7:35 p.m. The motion was approved by unanimous consent.

Chairman Stramm

Chairwoman Glaser

Zoning Compliance Officer



Article VIII - Historic District Overlay

Proposed Text Amendment – Red Font

Section 32.210 – Intent.

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

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

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

Section 32.211: Purpose of the District

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

Section 32.212: Criteria for Establishing Historic Districts - General Character

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

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

Section 32.213: Inventory of Landmarks and Contributing Properties Established

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

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

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

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

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

Section 32.215: Permitted Uses

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

Section 32.216: Historic District Review Board; Creation

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

Section 32.217: Historic District Review Board; Membership

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

Section 32.218: Historic District Review Board; Terms

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

Section 32.219: Historic District Review Board; Qualifications

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

Section 32.220: Historic District Review Board; Organization

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

Section 32.221: Historic District Review Board; Rules

The Board shall meet in regular session on the third (3rd) Tuesday of every month when an application has been filed requiring consideration. Special meetings of the Board may be called by the chairman or a majority of the members after public notice as required.

Section 32.222: Historic District Review Board; Meetings; Hearings

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

Section 32.223: Historic District Review Board; Procedures

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

Section 32.224: Historic District Review Board; Powers and Duties

The Zoning Administrator will review all applications to determine the proper level of review and compliance with the Cape Charles Zoning Ordinance. The Historic District Review Board shall have the power and authority for issuing or denying Certificates of Appropriateness for construction, reconstruction, substantial exterior alteration, razing, or relocation within the historic district. In addition, the Board shall have the following duties:

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

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

Section 32.225: Summary of Administration Review Procedures

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

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

Section 32.226: Description of Proposed Work

Changes proposed to a property within the Historic District fall into one of the following categories. The nature of the work will determine whether the change proposed requires the department or Historic District Review Board (HDRB) approval. Not every project requires a property owner to obtain a Certificate of Appropriateness (COA). There are three (3) basic categories for projects: Routine Maintenance, Minor Work, and Major Work. The property owner must confirm with the department that the project is consistent with the appropriate work level. The following will give a brief description of each and indicate whether a COA is required by either staff or HDRB.

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

Routine Maintenance will not require the issuance of a COA by staff or the HDRB. It is the property owners’ responsibility to ensure the proposed work qualifies as Routine Maintenance.

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

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

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

Major Work projects require an application and issuance of a COA by the HDRB.

*A detailed Classification of Work Chart can be found in Appendix G of the Cape Charles Historic Overlay District Design Guidelines.

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

Section 32.227: Declaration of Unsafe or Dangerous Conditions

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

Section 32.228: Delegation of Authority

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

Section 32.229: Certificate of Appropriateness

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

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

Section 32.230: Design Guidelines; Recommendations for Review

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

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

Section 32.231 Demolition: Alternate Procedure: Offer to Sell

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

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

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

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

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

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

Section 32.232: Maintenance and Repair Required

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

Section 32.233: File of Actions to be Maintained

In order to provide guidance for the consistent application of standards and guidelines, and for assistance to future applicants and the promotion of consistent policies in guiding applicants toward better standards of design, the Zoning Administrator shall maintain a file containing a record of all applications, including

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

Section 32.234: Administration; Zoning Administrator

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

Section 32.235: Receipt of Application

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

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

Section 32.236: Material to be Submitted for Review

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

such proposal, or their agent.

Section 32.237: Other Approvals Required

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

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

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

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

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

Section 32.239: Expiration of Certificates of Appropriateness

Any certificate issued pursuant to this article shall expire of its own limitation six (6) months from the date of issuance if the work authorized thereby is not commenced by the end of such six (6) month period; and further, any such certificate shall also expire

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

Section 32.240: Inspection by Administrator After Approval

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

Section 32.241: Delay of Approval

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

Section 32.242: Conditions Imposed by the Historic District Review Board

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

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

An appeal from a decision of the Historic District Review Board may be taken to the Town Council by the owner of the property in question or by any party aggrieved and must show that he has an immediate, pecuniary and substantial interest in the litigation, and not a remote or indirect interest, which shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator the following: a notice of appeal specifying the grounds thereof; a signed statement listing any personal or business relationship with any general or subcontractors associated with the project under appeal; a signed statement that all real and personal property taxes are current as of the date of the filed appeal notice; a signed statement listing any personal or business relationship or partnership with the property owner(s) associated with the project under appeal; a fee equal in value to the fee paid by the property owner(s) associated with the project under appeal. The person submitting the appeal shall not be allowed to present any evidence that was not presented to the Historic District Review Board, Council members having any relevant interaction with the applicant shall disclose such interaction prior to considering the appeal. The Zoning Administrator will prepare a document of all the papers constituting the

record upon which the action appealed from was taken. The Town Council shall fix a reasonable time for the hearing, give public notice thereof and decide the same within sixty (60) days from the date the person submitted a request for appeal. At the hearing, the appealing party may appear in person or by an agent. In exercising its powers, the Town Council will rely solely on the written record of decision from the Historic District Review Board and will refer to the Adopted Historic District Guidelines to determine if they were appropriately applied. The Town Council, through their appeal hearing, is determining only if a procedural or application error has occurred.

Section 32.244: Appeals; Decisions of the Zoning Administrator

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

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

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

Section 32.246: Violations and Penalties

Any violation of this Article and the penalties for all such violations shall be as set forth in §2.4.3 of the Zoning Ordinance.

Section 32.247: Definitions

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

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APPENDIX G – CLASSIFICATION OF WORK – GENERAL GUIDELINES

The following chart is provided as a reference for Routine Maintenance, Minor Work, and Major Work, as defined in the Cape Charles Zoning Ordinance, Article VIII. This chart does not exempt the homeowner from obtaining the required building permits. It is the homeowner's responsibility to confirm and obtain all necessary Zoning and Building permits.

Please call the Planning & Zoning Department with any questions.

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

	c) New Construction that <u>cannot be seen</u> from the public right-of-way		✓		✓	✓
	d) New Construction that <u>can be seen</u> from the public right-of-way			✓	✓	✓
7)	Certificate of Appropriateness (CoA)					
	a) Modification to previously approved CoA (could require HDRB approval)		✓		Case-by-Case basis	
	b) Renewal of Expiring		✓			
8)	Chimneys					
	a) Reflash or Repair to the cap, caulk, or stucco when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement of the cap, caulk, flashing, or stucco where there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	
	c) Alteration / New Construction / Removal			✓	✓	✓
9)	Decks					
	a) Repair when there is no change in dimensions, design, materials, or general appearance	✓				✓
	b) Replacement when there is no change in design or general appearance, but a change in materials, using in-kind		✓		✓	✓
	c) Addition / Alteration / New Construction / Removal			✓	✓	✓
10)	Doors (Exterior)					
	a) Replacement when there is no change in design, dimensions, materials, or general appearance	✓				✓
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓			✓
	c) Addition/Alterations/Removal when there is a change in style or opening size			✓	✓	✓
	d) New Installation or New opening (example: changing a window to a door)			✓	✓	✓
11)	Doors (Storm), Installation (Front of House only)					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	
	c) New Installation		✓		✓	
12)	Driveways					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Addition / Alteration / Removal of existing or New Construction			✓	✓	
13)	Features not specifically listed – some examples are arches, corbels, historic signage, vestibules, etc.					

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

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

	c) Replacement when there is no change in design, dimensions, materials, or general appearance (excluding color)		✓		✓	✓
	d) Replacement when there is no change in design, dimensions, or general appearance (excluding color), but a change in materials, using in-kind			✓	✓	✓
28)	Satellite Dishes and/or Television Antennas					
	a) Removal when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement when there is no change in design or materials, but a change in general appearance		✓		✓	
	c) New Installation		✓		✓	
29)	Showers (Outdoor)					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind		✓		✓	
	c) Alterations / Removal / New Construction		✓		✓	✓
30)	Shutters					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind, and conform to the Guidelines Section 5.5.1 Windows – Shutters		✓		✓	
	c) Alterations / Removal / New Construction			✓	✓	
31)	Siding					
	a) Repair when there is no change in design, dimensions, materials, or general appearance. A building permit is required if altering or replacing more than 100 sq. ft. of the roof.	✓				✓
	b) Replacement when there is no change in design, dimensions, or general appearance, but a change in materials, using in-kind. A building permit is required if altering or replacing more than 100 sq. ft. of the roof.		✓			✓
	c) Removal			✓	✓	✓
32)	Signs					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Alteration / Installation / Removal (must comply with Town Code Chapter 32 (Zoning), Article V (Signs) (Excludes historic markers and signs excluded by the Town Code)		✓		✓	

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

	b) Replacement when there is no change in design, but a change in materials or general appearance		✓		✓	
	c) Addition / Alteration / Removal of existing or New Construction		✓		✓	
44)	Walls (for example: garden or retaining walls)					
	a) Repair when there is no change in design, dimensions, or general appearance with approved materials from guidelines.	✓				
	b) Alteration of Placement / Replacement / New Construction		✓		✓	
45)	Windows (includes casings and sills)					
	a) Caulking and weatherstripping when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	c) Replacement when there is no change in design, but a change in materials or general appearance		✓		✓	
	d) Alteration of Style or Opening Size / Removal of Existing / Installation of New			✓	✓	✓
46)	Windows (Storm)					
	a) Repair when there is no change in design, dimensions, materials, or general appearance	✓				
	b) Replacement when there is no change in design, but a change in materials or general appearance		✓		✓	
	c) Alteration or Removal of existing / New Installation		✓		✓	

Tracy Outten

From: Joan Cooper - HDRB
Sent: Tuesday, February 24, 2026 3:16 PM
To: Katie Nunez; Tracy Outten
Subject: Definitions research from town code.

Follow Up Flag: Follow up
Flag Status: Completed

From Sec 32-298 Definitions appendix A

Building, main means the principal structure or the principal build on a lot or the building or the principal building housing the principle use on a lot.

The Virginia state code adds: the main building is designated the primary structure and other structures on the property are secondary, for example: on a residential property, the primary structure is usually the home while a secondary structure could include a garage, shed, or in-ground pool.

Recommend we add clarifying language to the definitions page to include principal or primary building or remove principal structure from new Appendix G, and replace it with main building as defined by Town Code

Sent from my iPad

PROPOSED AMENDMENTS AND NEW DEFINITIONS

Town Code Chapter 32, Appendix A – Definitions

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

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

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

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

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

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

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

Cape Charles Historic District Overlay Design Guidelines

Appendix A – Glossary

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

Planning Commission
Regular Meeting and Public Hearing
Cape Charles Civic Center
August 5th 2025

At 6:00 p.m., having established a quorum, Chairman Bill Stramm called to order the August 5th, 2025, Planning Commission Regular Meeting and Public Hearing. In addition to Chairman Stramm, present were Commissioners Holloway, Newman, McDonald, and Wright. Commissioner Ashworth and Smith were not in attendance.

Town staff in attendance were Director of Planning/Zoning Administrator Katie Nunez, Zoning Compliance Officer Jack Steinmayer, and Town Clerk Libby Hume.

2 members of the public are in attendance.

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

Consent Agenda

Motion made by Chairman Stramm to approve the Consent Agenda as presented. The motion was approved by common consent.

Public Hearing

- A. *Conditional Use Permit (2025-03): Application for a Comprehensive Sign Plan for Dreams by the Water subdivision, according to Cape Charles Zoning Ordinance Section 5.3 (F).*

Zoning Compliance Officer Jack Steinmayer summarized the staff report.

Commissioner McDonald wanted to know why there were already 3'x4' *For Sale* signs on the property. Ms. Nunez explained that she did allow them to put them up, as there is a period of time that they were up on the market before they came before the Planning Commission for the Comprehensive Sign Plan Application.

Ms. Nunez then explained that the need for the approval of the Comprehensive Sign Plan Application was for the number of signs that they wanted on their property and not the size of the signs.

Commissioner Newman wanted a bit of clarification on when the aspect of the Comprehensive Sign Plan was implemented in the Sign Ordinance. Ms. Nunez explained that it was implemented on December 19th, 2024.

Commissioner McDonald made a motion to recommend approval of Conditional Use Permit (2025-03): Application for a Comprehensive Sign Plan for Dreams by the Water Subdivision, according to Cape Charles Zoning Ordinance Section 5.3 (F), to the Town Council, seconded by Commissioner Holloway. Motion was approved by a unanimous vote.

New Business

- A. *Review of Incorporate Changes to the Draft Zoning Text Amendment of Cape Charles Zoning Ordinance Article VII – Chesapeake Bay Preservation Ordinance to finalize for Submission to the Town Council to commence the Public Hearing Process on said Zoning Text Amendment.*

Director of Planning/Zoning Administrator Katie Nunez summarized the staff report and went over Article VII – Chesapeake Bay Preservation Ordinance and the changes that were requested by the Planning Commission at the previous meeting.

Commissioner McDonald wanted to remove the text *a minimum of* from Section 7.3: Areas of Applicability.

Commissioner Holloway wanted to strike the word *width* from Section 7.3 Areas of Applicability. Ms. Nunez explained that the RPA is not just a point-to-point measurement.

Commissioner Holloway wanted to know what the highlighted text was in certain areas. Ms. Nunez explained that the highlighted text was the state language that was unable to be changed.

Commissioner McDonald wanted to remove the text; *however, these requirements may not be waived for projects located on parcels impacted by the Chesapeake Bay Preservation Areas.* From 7.11 B (4). Ms. Nunez explained that she will talk with DEQ (Department of Environmental Quality) to get more information on why this sentence was submitted.

Commissioner McDonald wanted to change the \$XXX to refer to town fees in Section 7.14 (A). Ms. Nunez explained that when the Town adopted its fee schedule, this would fall under Town fees.

Afterwards, Ms. Nunez went over Appendix A – Definitions and told the Planning Commission of all the new definitions that would need to be included.

The Commission then went back through the notes that DEQ included in Article VII.

Standing Staff Reports

Ms. Nunez then told the Planning Commission about the approval of the creation of Village L (the Villas at Magnolia Park) and a vacation of a lot line in the Hollies.

She then explained that Coastal Precast Systems, LLC, had submitted an application to do substantial work on their property for the reconstruction of the Francis Scott Key Bridge in Baltimore.

Finally, Ms. Nunez mentioned that the Historic District Civic League had submitted a Zoning Text Amendment and Comprehensive Plan application to look into changing ADUs (Accessory Dwelling Units) to be allowed to be used as STRs (Short-Term Rentals).

Motion to adjourn made by Commissioner Holloway, seconded by Commissioner Wright. The motion passed unanimously. The August 5th, 2025, Planning Commission Regular Meeting and Public Hearing adjourned at 7:15 p.m.

Chairman Stramm

Zoning Compliance Officer



Planning Commission Staff Report

Agenda Title: Zoning Text Amendment – Amend Article VII, Appendix A, and Appendix C of the Town Code to ensure the ordinance complies with state law regarding the Chesapeake Bay Preservation Act.

Agenda Date: April 7th, 2026

Prepared by: Jack Steinmayer, Zoning Compliance Officer

Reviewed By: Katie Nunez, Town Planner

Date: March 23rd, 2026

Type of Application: Zoning Text Amendment

Applicant: Town of Cape Charles

Site Address NA

Tax Map: NA

Zoning: NA

Proposal: Amend Article VII, Appendix A, and Appendix C of the Town Code to ensure the ordinance complies with state law regarding the Chesapeake Bay Preservation Act.

Legal Deadline Requirements July 2nd, 2026

Date Application Received: March 23rd, 2026

Date Application Deemed Complete: March 23rd, 2026

For Planning Commission: July 1st, 2026

**For Town Council
(Directory, not Mandatory)** Can act upon receipt of recommendation from Planning Commission; if PC fails to provide recommendation within the prescribed deadlines, it is deemed a favorable recommendation by the PC. The Town Council's max time frame is 12 months from when referred to the Planning Commission:

Background:

Since early 2024, staff and the Planning Commission have been revising Article VII (Chesapeake Bay Preservation Act Overlay Ordinance) of the Town Zoning Ordinance in response to legislative changes to the Chesapeake Bay Preservation Act (CBPA) by the General Assembly. The state developed and provided localities with a model ordinance reflecting the legislative changes, but the Virginia Department of Environmental Quality (DEQ) did not complete its update to the accompanying administrative regulations until late summer 2025.

During the summer of 2025, DEQ visited the Town of Cape Charles to conduct an audit to make sure staff were administering and enforcing the Chesapeake Bay Preservation Act correctly.

After their visit, the staff provided the proposed Zoning Text Amendment to DEQ for review, and DEQ returned their comments and edits to the Town. These were then given to the Planning Commission, which finalized its development of ZTA2026-01 in late summer 2025. Staff completed finalization in late fall 2025. There were further changes to Appendix A (Definitions) and Appendix C (Site Plan Ordinance) as well.

Finally, DEQ noted that *the Town of Cape Charles shall amend its comprehensive plan to include required mapping elements, such as the locations of the CBPA areas, shoreline, and streambank erosion issues, as well as existing and potential water pollution sources. It should also include necessary implementation measures for goals and objectives related to potential water quality impacts, as well as an overlay map layer with the CBPA, specifically the Resource Protection Area (RPA) and Resource Management Area (RMA), on the Town's Zoning Map.*

Then, at their March 19th, 2026, Regular Meeting, the Town Council adopted resolution 20260319 to consider amending the Cape Charles Zoning Ordinance by modifying Article VII (Chesapeake Bay Preservation Act Overlay District) and related changes to Appendix A (Definitions) and Appendix C (Site Plan Ordinance), and to send it to the Planning Commission for a Public Hearing.

Comprehensive Plan Requirements:

The proposed changes are in keeping with Chapter 7 (Environment) of the Comprehensive Plan.

Zoning Ordinance Requirements:

The proposed Zoning Text Amendments have been reviewed thoroughly and evaluated in accordance with the applicable provisions of the Zoning Ordinance and have been found to be consistent with its intent, purpose, and requirements. Furthermore, these proposed amendments aim to provide clarity and ensure that the Town Ordinance complies with the applicable state law regarding the Chesapeake Bay Preservation Act. (see attachment 2, 3, 4 for proposed changes to Article VII, Appendix A, and Appendix C)

Staff Review:

The proposed amendments to Article VII, Appendix A, and Appendix C of the Zoning Ordinance have been carefully reviewed by the Planning Commission and Town Staff. These numerous meetings confirmed that the amendments are consistent and do not conflict with, diminish, or alter the established performance criteria. They also continue to support the community's obligations under the Bay Act to protect and enhance the quality of state waters through effective land-use management and development controls.

Planning Commission Motion for Consideration:

Staff is recommending that the Planning Commission make the following motion for consideration: ***The Planning Commission recommends to the Town Council to approve Zoning Text Amendment (ZTA) 2026-01: application from the Town of Cape Charles to amend Town Code Chapter 32, Article VII (Chesapeake Bay Preservation Area Overlay District) and related updates to Appendix A (Definitions) and Appendix C (Site Plan Ordinance) to ensure the ordinance complies with state law regarding the Chesapeake Bay Preservation Act.***

Attachments:

- Attachment 1: Resolution of Intent 20260319
- Attachment 2: Town of Cape Charles Zoning Ordinance Article VII
- Attachment 3: Town of Cape Charles Zoning Ordinance Appendix A
- Attachment 4: Town of Cape Charles Zoning Ordinance Appendix C
- Attachment 5: Town of Cape Charles Zoning Text Amendment Application

Resolution of Intent – 20260319

RESOLUTION OF INTENT 20260319__

**PROPOSED ZONING TEXT AMENDMENT 2026-01
APPLICATION FROM TOWN OF CAPE CHARLES TO AMEND
ARTICLE VII & Appendix A & C regarding the Chesapeake Bay
Preservation Act**

WHEREAS, § 15.2-2286 (A) (7) of the Code of Virginia requires that amendments to a zoning ordinance shall be initiated by a resolution of the local governing body; a motion of the planning commission; or in the case of zoning district map amendments, by application of the landowner or the landowner’s authorized agent; and

WHEREAS, Section 15.2-2285 (B) of the Code of Virginia provides that no zoning ordinance shall be amended or re-enacted unless the governing body has referred the amendment or reenactment to the local planning commission for its recommendation; and

WHEREAS, the Cape Charles Town Council finds that the public necessity, convenience, general welfare, and good zoning practice requires that a zoning text amendment be considered, based upon a model ordinance provided by the Virginia Department of Environmental Quality concerning the Chesapeake Bay Preservation Act which has been reviewed, discussed and tailored to the specific development patterns and geographic location of the Town of Cape Charles:

WHEREAS, said proposed revisions to Article VII (Chesapeake Bay Preservation Act Overlay District) and associated changes to Appendix A (Definitions) and Appendix C (Site Plan) bring the ordinance into compliance with state law concerning the Chesapeake Bay Preservation Act;

NOW, THEREFORE, BE IT RESOLVED that for purposes of public necessity, convenience, general welfare or good zoning practice, the Cape Charles Town Council hereby adopts a resolution of intent to consider amending the Cape Charles Zoning Ordinance to amend Article VII (Chesapeake Bay Preservation Act Overlay District) and associated changes to Appendix A (Definitions) and Appendix C (Site Plan).

Said Zoning Text Amendment 2026-01 is referred to the Cape Charles Planning Commission to convene the requisite public hearings and public notifications, which may be done jointly between the Cape Charles Planning Commission and Cape Charles Town Council and for the Cape Charles Planning Commission to prepare its recommendation on said Zoning Text Amendment 2026-01 for Cape Charles Town Council’s consideration.

Adopted by the Town Council of the Town of Cape Charles on March 19, 2026

By: _____
Mayor Charney

Attest:

Town Clerk

Article VII, Appendix A, and Appendix C

Town of Cape Charles Zoning Ordinance
Article VII – Chesapeake Bay Preservation Area Overlay District

Article VII - Chesapeake Bay Preservation Area Overlay District

Section 32-180: Title

This ordinance shall be known and referenced as the Chesapeake Bay Preservation Area Overlay District of the Town of Cape Charles.

Section 32.181: Findings of Fact

The Chesapeake Bay and its tributaries is one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of Cape Charles and the Commonwealth of Virginia. The health of the Bay is vital to maintaining the Town of Cape Charles' economy and the welfare of its citizens.

The Chesapeake Bay has been degraded significantly by many sources of pollution, including non-point source pollution from land uses and development. Existing high-quality waters are worthy of protection from degradation to guard against further pollution. Certain lands that are proximate to shorelines have intrinsic water quality value due to the ecological and biological processes they perform. Other lands have severe development constraints from flooding, erosion, and soil limitations. With proper management, they offer significant ecological benefits by providing water quality maintenance and pollution control, as well as flood and shoreline erosion control. These lands together, designated by the Town Council of Cape Charles as Chesapeake Bay Preservation Areas (hereinafter CBPA), need to be protected from destruction and damage in order to protect the quality of life in Cape Charles and the Commonwealth of Virginia.

Section 32.182: Purpose and Intent

- (a) This ordinance is enacted to implement the requirements of [§ 62.1-44.15:67](#) et seq. of the Code of Virginia, 1988 as amended, (The Chesapeake Bay Preservation Act) and amends the Zoning Ordinance of Cape Charles. The intent of the Town Council and the purpose of the Overlay District is to: (1) protect existing high quality state waters; (2) restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them; (3) safeguard the clean water of the Commonwealth from pollution; (4) prevent any increase in pollution; (5) reduce existing pollution; and (6) promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the Town of Cape Charles.
- (b) This district shall be in addition to and shall overlay all other zoning districts where they are applied so that any parcel of land lying in the Chesapeake Bay Preservation Area Overlay District shall also lie in one or more of the other zoning districts provided for by the Zoning Ordinance. Unless otherwise stated in the Overlay District, the review and approval procedures provided for in other applicable ordinances shall be followed in reviewing and approving

Town of Cape Charles Zoning Ordinance
Article VII – Chesapeake Bay Preservation Area Overlay District

development, redevelopment, and uses governed by this Article.

- (c) This Article is enacted under the authority of [§ 62.1-44.15:67](#) et seq., The Chesapeake Bay Preservation Act, and [§ 15.2-2283](#) of the Code of Virginia, which states that zoning ordinances may “also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and groundwater as defined in [§ 62.1-255.](#)”

Section 32.183: Areas of Applicability

- (a) The Chesapeake Bay Preservation Act Overlay District shall apply to all lands identified as CBPAs as designated by the Town Council and as shown on the Zoning District Map. Such map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Article.
- (b) The Resource Protection Area includes:
 - (1) tidal wetlands
 - (2) non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow
 - (3) tidal shores
 - (4) a one-hundred-foot (100’) vegetated buffer area located adjacent to and landward of the components listed in subsections [a1](#) through [e 3](#) above and along both sides of any water body with perennial flow
- (c) The Resource Management Area is composed of ~~the following land categories: flood plains; highly erodible soils, including steep slopes; highly permeable soils; non-tidal wetlands not included in the RPA; other lands necessary to protect the quality of state waters or a minimum of one hundred feet (100’) in width landward of the Resource Protection Area, whichever is greatest.~~
- (d) The Zoning District Map shows the general location of CBPAs and should be consulted by persons contemplating activities within Cape Charles prior to engaging in a regulated activity.
- (e) Portions of RPAs and RMAs designated by the Town Council as Intensely Developed Areas shall serve as [development and](#) redevelopment areas. Areas so designated shall comply with all erosion and sediment control requirements and the performance standards for redevelopment in Section 32-189, Performance Standards.

Section 32.184: Use Regulations

Permitted uses, special permit uses, accessory uses, and special requirements shall be as established by the underlying zoning district unless specifically modified by the requirements set forth herein.

Section 32.185: Lot Size

Lot size shall be subject to the requirements of the underlying zoning district(s) provided

Town of Cape Charles Zoning Ordinance
Article VII – Chesapeake Bay Preservation Area Overlay District

that any lot shall have sufficient area outside the RPA to accommodate an intended development in accordance with the performance standards in Section 32.189 when such development is not otherwise allowed in the RPA.

Section 32.186: Development Criteria for Resource Protection Areas

(a) Development in RPAs may be allowed only if it: (1) is water dependent, (2) constitutes redevelopment, ~~or (3) constitutes development~~ or redevelopment within IDAs, or (34) constitutes redevelopment, is a new use established pursuant to subsection 107(C) of this Ordinance; (5) is a road or driveway crossing satisfying the conditions set forth in subdivision 5 of this section; or (6) is a flood control or stormwater management facility. In addition, the following conditions shall apply:

(1) A water quality impact assessment shall be required for any proposed land disturbance, development or redevelopment within RPAs and for any development within RMAs when required by the Zoning Administrator because of the unique characteristics of the site or intensity of development in accordance with the provisions of Section 7.10 of this Article.

(2) A resiliency assessment as set forth in Section 7.10G of this Ordinance shall be required for any proposed land development during the plan of development or other project review process in the RPA.

(3) A new or expanded water dependent facility may be allowed, provided that the following criteria are met:

- (a) It does not conflict with the comprehensive plan;
- (b) It complies with the performance criteria set forth in Section 32.190 of this Article;
- (c) Any non-water dependent component is located outside of the RPA; and
- (d) Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.

(4) Redevelopment on isolated redevelopment sites outside of the designated IDAs shall be permitted only if there is not an increase in the amount of impervious cover and no further encroachment within the RPA and it shall conform to the Virginia Erosion and Stormwater Management Act, ~~stormwater management requirements outlined under Section 7.9 and erosion and sediment control requirements outlined under Section 7.9 of this Article.~~

(5) Roads and driveways not otherwise exempt from the provisions of this Ordinance, as per subsection 32.193 of this Ordinance, may be constructed in or across Resource Protection Areas provided each of the following conditions are met:

Town of Cape Charles Zoning Ordinance
Article VII – Chesapeake Bay Preservation Area Overlay District

- a. The Town Zoning Administrator finds that there are no reasonable alternatives to aligning the road or driveway in or across the Resource Protection Area.
- b. The alignment and design of the road or driveway are optimized, consistent with other requirements, to minimize encroachment into the Resource Protection Area and adverse effects on water quality.
- c. The design and construction of the road or driveway satisfy all applicable criteria of this Ordinance, including submission of a water quality impact assessment.
- d. The Town Zoning Administrator reviews the plan for the road or driveway proposed in or across the Resource Protection Area in coordination with the Town’s site plan, subdivision, and other plan of development reviews.

65. Flood control and stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed may be allowed in Resource Protection Areas, provided that:

- a. Such facilities are allowed and constructed in accordance with the Virginia Stormwater Management Act and Regulations.
- b. The Town Zoning Administrator conclusively establishes that the location of the facility within the Resource Protection Area is the optimum location.
- c. The size of the facility is the minimum necessary to provide necessary flood control or stormwater treatment, or both.
- d. The facility is consistent with a comprehensive stormwater management plan developed and approved in accordance with Virginia Stormwater Management Program (VSMP) regulations.
- e. All applicable State and Federal permits are obtained from the appropriate federal and state agencies having jurisdiction, such as the U.S. Army Corps of Engineers, the Department of Environmental Quality, and the Virginia Marine Resources Commission.
- f. Approval is received from the Town Zoning Administrator prior to construction.
- g. Routine maintenance is performed on such facilities to assure that they continue to function as designed.

It is not the intent of this subdivision to allow a best management practice that collects and treats runoff from an individual lot or portion thereof to be located within a Resource Protection Area.

1.

~~(4) A water quality impact assessment shall be required for any proposed land disturbance, development, or redevelopment within RPAs and for any development within RMAs when required by the Zoning Administrator because of the unique characteristics of the site or intensity of development in accordance with the provisions of Section 7.10 of this Article.~~

Town of Cape Charles Zoning Ordinance
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b. Buffer Area Requirements. To minimize the adverse effects of human activities on the other components of Resource Protection Areas, state waters, and aquatic life, a 100-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist. The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the RPA in accordance with Section 32.183, Areas of Applicability, and Section 32.191, Plan of Development Process, of this Article. The planting of trees shall be incorporated into the reestablishment of the 100-foot buffer, as appropriate to site conditions and in such a manner to maximize the buffer function. Inclusion of native species in tree planting is preferred.

a. The 100-foot buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients. Notwithstanding permitted uses, encroachments, and vegetation clearing, as set forth in this section, the 100-foot wide buffer area is not reduced in width.

b. Where land uses such as agriculture or silviculture within the area of the buffer cease and the lands are proposed to be converted to other uses, the full 100-foot wide buffer shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions set forth in this chapter. The planting of trees shall be incorporated into the reestablishment of the 100-foot buffer, as appropriate to site conditions and in such a manner to maximize the buffer function. Inclusion of native species in tree planting is preferred.

C. Permitted Encroachments into the buffer area.

1. When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Zoning Administrator may allow encroachments into the buffer area in accordance with Section 32.191, Plan of Development Process, and the following criteria:

a. Encroachments into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;

b. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel. Where established, such vegetated area shall include the planting of trees as appropriate to site conditions. Inclusion of native species in tree planting is preferred.

c. The encroachment may not extend into the seaward 50 feet of the buffer area; and

d. Encroachments into the buffer area processed through an administrative review shall be subject to the findings required by Section 32.194 of this Ordinance but without the requirement for a public hearing, such findings to be made instead by the Zoning Administrator.

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D. Permitted modifications the buffer area.

The buffer area shall be maintained to meet the following additional performance standards:

1. In order to maintain the functional value of the buffer area, indigenous vegetation may be removed, subject to approval by the Zoning Administrator, only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices including those that prevent upland erosion and concentrated flows of stormwater, shoreline erosion control projects, or adaptation measures. Such buffer modifications shall be permitted under the following conditions, and consistent with the requirements of this Ordinance:

a. In general, where the removal of trees within the buffer area is proposed, mature trees shall be preserved and trimmed or pruned in lieu of removal as site conditions permit and removal should be limited to the fewest number of trees feasible. Where tree planting for mitigation, conservation landscaping, or for buffer reestablishment is proposed, inclusion of native species in tree planting is preferred.

b. Trees may be pruned or removed as necessary to provide for sight lines and vistas provided that, where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.

1. When trees are proposed for removal to provide for site lines, vistas, and access paths they shall be replaced with trees as appropriate to site conditions and in such a manner as to maximize the buffer function and to protect the quality of state waters. The boundaries of this area shall be determined in a manner acceptable to the Zoning Administrator and be based on identified vantage points and the portion of the shoreline to be viewed.

2. A written request for a determination by the Zoning Administrator that the proposed removal of vegetation from the RPA buffer is in accordance with the requirements of this subsection is required. Such request shall include a plan showing the following: (i) the vantage points for the sight lines, vistas, and access paths (ii) the portion of the shoreline to be viewed or accessed, (iii) the area in which trees are to be pruned or removed, (iv) the location of all trees six inches or greater in diameter at breast height or as required by the Zoning Administrator, and (v) the location of the trees to be removed or pruned. The request shall also indicate

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the type, location and number of replacement vegetation proposed.

3. Trees may not be pruned or removed from the buffer area until a written determination is obtained from the Zoning Administrator that the proposed activity is in accordance with the requirements of this Ordinance.
- c. Any path shall be constructed and surfaced so as to effectively control erosion.
 - d. Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu and multiflora rose) may be removed and thinning of trees allowed, pursuant to standards adopted by the Town of Cape Charles.
 - e. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best of available technical advice and applicable permit conditions or requirements.
 1. The removal of mature trees for the installation and maintenance of proposed shoreline erosion control projects shall only be permitted as necessary and consistent with the best available technical advice, approved project plans, and applicable permit conditions or requirements.
 2. Where vegetation is proposed for removal within the buffer area as part of a shoreline erosion control project, a water quality impact assessment with vegetative mitigation equal to the area of encroachment is required. Trees shall be incorporated, as appropriate to the site conditions and the project specifications. In addition, vegetation in the form of a mixture of grasses, sedges, flowers, and shrubs can be used by property owners to provide natural stabilization of shorelines. Inclusion of native species is preferred.
 3. Existing trees, proposed plantings, and clearing limits must be shown on the Joint Permit Application and/or Water Quality Impact Assessment.
 4. Shoreline erosion control within the RPA shall be consistent with the Wetlands Act (Chapter 13 Title 28.2), the Virginia Marine Resources Commission (VMRC) Tidal Wetlands Guidelines which provide for "minimum standards for the protection and

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conservation of wetlands,” and “ensure protection of shorelines and sensitive coastal habitat from sea level rise and coastal hazard.”

- a. Installation of living shorelines is the required adaptation measure for stabilizing tidal shorelines unless the best available science indicates that such approaches are not suitable for the site on which the practice is being considered, as determined by the Virginia Marine Resources Commission. Such projects should be coordinated to address the requirements of the VMRC Tidal Wetlands Guidelines current at the time of application submission in conjunction with the requirements of this Ordinance [and the local wetlands ordinance].
- b. Approval from the VMRC is also required for adaptation measures proposing the use of sea walls, riprap, groins, or other structural means of stabilization within tidal wetlands. Such projects shall demonstrate to the satisfaction of the Zoning Administrator that vegetative techniques cannot be effectively utilized and shall incorporate elements of living shoreline approaches into permitted projects to the maximum extent possible.
- c. If a hardened shoreline structure is allowed, the applicant shall be required to incorporate elements of living shoreline approaches into permitted projects, to the maximum extent possible.

f. Adaptation measures proposed for location within the Resource Protection Area, shall meet the following conditions:

- 1. The selected adaptation measure shall be a nature-based solution that uses environmental processes, natural systems, or natural features identified as being appropriate for existing site conditions.
- 2. An identified adaptation measure shall be selected from one of the following sources: Chesapeake Bay program approved BMP list, the Virginia Stormwater BMP Clearinghouse, the VMRC Tidal Wetlands Guidelines, or be a project that is eligible for funding by the Virginia Community Flood Preparedness Fund Grant.
 - a. Adaptation measures should consist of trees, vegetation, stone or enhance existing natural

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elements.

3. Adaptation measures approved for use in the RPA shall be designed, installed, and maintained in accordance with the applicable specifications for the selected adaptation measure.
4. Adaptation measures should be placed channelward of the proposed development whenever possible and should maximize the preservation of mature trees and other natural vegetation to minimize adverse impacts to the RPA and to maximize water quality benefits.
5. The use of fill as a component of an adaptation measure may be permitted, provided it meets the following conditions:
 - a. The grading and slope created by the use of fill shall be no greater than necessary based upon the project specifications and implemented in a manner that minimize the impact of run-off.
 - i. Slopes should be equal to or less than 10% to support water quality conditions, including infiltration.
 - ii. Slopes less than or equal to 5% or that convey sheet flow of velocities less than one and one-half (1.5) feet/second are preferred, to reduce runoff and tidal wave energies.
 - iii. Slopes greater or different than the above may be necessary based upon certain site conditions and adaptation measure specifications. In such instances, submittal of additional calculations and engineering plans, and assessments of the impacts of the use of fill on existing vegetation, wetland migration and water movement, both landward and channelward, in support of the proposed slope shall be required.
 - b. Fill shall have the necessary biogeochemical characteristics, including sufficient organic content, to support the growth of vegetation and adequate permeability to allow infiltration consistent with project specifications. The applicant shall:
 - i. Provide documentation

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- specifying the proposed depth, extent, and type of fill material proposed for use.
- ii. Provide documentation that the proposed soils are compliant with the requirements governing the use of lightly contaminated soil consistent with the Virginia Solid Waste Management Regulations (9 VAC 20-81 et seq.) or permitting requirements for upland placement of dredge soil, if applicable.
- iii. Provide documentation that the newly placed fill is revegetated with multi-strata vegetation inclusive of canopy and understory trees, shrubs, and ground cover consistent with the guidance found in the *Buffer Manual*. Inclusion of native species is encouraged.
- iv. Ensure that the fill area is vegetatively stabilized within seven (7) days.
- c. The use of fill shall not exacerbate stormwater run-off, and lateral flow onto adjacent properties shall be controlled.
 - i. Appropriate erosion and sediment control and stormwater management measures shall be incorporated into the design specifications, including the establishment of positive and proper drainage.
 - ii. If the adaptation measure triggers separate stormwater management requirements, then these criteria should be considered in conjunction with those requirements.
 - iii. Larger scale adaptation measures may require the use of stormwater calculations to ensure these criteria are met.
 - iv. Any impacts on the management

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of stormwater upland of the Resource Protection Area created by the use of fill shall be mitigated, as necessary.

- d. The use of fill for an adaptation measure shall not negatively impact septic systems and drainfields located within the RPA. Where present, the proximity of the adaptation measure using fill should be considered such that the fill will not interfere with the proper function or maintenance of either of these features.
- e. The use of fill shall be consistent with floodplain requirements.
- f. The placement of fill allowed by either the Living Shoreline Group 1 or Group 2 general permits to establish appropriate elevations to support required vegetation shall be consistent with the fill requirements of this subsection, in that a change in slope or land elevation may not alter water flow in contravention with the fill requirements of this subsection.

- 6. The preservation of existing natural vegetation shall be maximized, including mature trees, and land disturbance consistent with design specifications shall be minimized.
- 7. Adaptation measures shall comply with all federal, state and local requirements, including any required permits and conditions such as the need for a Water Quality Impact Assessment.
- 8. Nothing in these provisions shall be construed to authorize approval or allowance of an adaptation measure in contravention of floodplain management requirements, including [the local floodplain ordinance].

2. In Intensely Developed Areas the Zoning Administrator may exercise discretion regarding whether to require establishment of vegetation in the 100-foot wide buffer area. However, while the immediate establishment of vegetation in the buffer area may be impractical, the Zoning Administrator shall give consideration to implementing measures that would establish vegetation in the buffer in these areas over time in order to maximize water quality protection, pollutant removal, and water resource conservation. When considering the reestablishment of a buffer within an Intensely Developed Area, the Zoning Administrator shall consider the planting of trees as a component of such buffer reestablishment measure. Inclusion of native species in tree planting is preferred.

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3. On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area as follows:
- a. Agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when at least one agricultural best management practice, which, in the opinion of the [local soil and water conservation district board], addresses the more predominant water quality issue on the adjacent land – erosion control or nutrient management – is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil test, must be developed consistent with the “Virginia Nutrient Management Training and Certification Regulations (4 VAC 50-85 et seq.)” administered by the Virginia Soil and Water Conservation Board.
 - b. Agricultural activities may encroach within the landward 75 feet of the 100-foot-wide buffer area where agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as “T”, as defined in the “National Soil Survey Handbook” of November 1996 in the “Field Office Technical Guide” of the U. S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil test, must be developed consistent with the “Virginia Nutrient Management Training and Certification Regulations (4 VAC 50-85 et seq). administered by the Virginia Soil and Water Conservation Board. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot-wide buffer area.
 - c. The buffer area is not required to be designated adjacent to agricultural drainage ditches if the adjacent agricultural land has in place at least one best management practices as considered by the Eastern Shore Soil and Water Conservation District to address the more predominant water quality issue on the adjacent land – either erosion control or nutrient management
 - d. If specific problems are identified pertaining to agricultural activities that are causing pollution of the nearby water body with perennial flow or violate performance standards pertaining to the vegetated buffer area, the town, in cooperation with soil and water conservation district, shall recommend a compliance schedule to the landowner and require the problems to be corrected consistent with that schedule. This schedule shall expedite environmental protection while taking into account the seasons and other temporal considerations so that the probability for successfully implementing the corrective measures is greatest.
 - e. In cases where the landowner or the landowner's agent or operator has

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refused assistance from the local soil and water conservation district in complying with or documenting compliance with the agricultural requirements of this chapter, the district shall report the noncompliance to the Town. The Town shall require the landowner to correct the problems within a specified period of time not to exceed 18 months from their initial notification of the deficiencies to the landowner. The local government, in cooperation with the district, shall recommend a compliance schedule to the landowner. This schedule shall expedite environmental protection while taking into account the seasons and other temporal considerations so that the probability for successfully implementing the corrective measures is greatest.

Section 32.187: Conflict With Other Regulations

In any case where the requirements of this Article conflict with any other provision of the Cape Charles Zoning Ordinance and other regulations or existing state or federal regulations, whichever imposes the more stringent restrictions shall apply.

Section 32.188: Interpretation of Resource Protection Area Boundaries

- (a) *Delineation by the Applicant.* The site-specific boundaries of the Resource Protection Area shall be determined by the applicant through the performance of an environmental site assessment, subject to approval by the Zoning Administrator and in accordance with Section 32.191, Plan of Development Process, or Section 32.190 Water Quality Impact Assessment, of this Article. The Zoning District Map may be used as a guide to the general location of Resource Protection Areas.
- (b) *Where Conflict Arises Over Delineation.* When the applicant provides a site-specific delineation of the RPA, the Zoning Administrator will verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the Zoning Administrator may render adjustments to the applicant’s boundary delineation in accordance with Section 32.191, Plan of Development Process, of this Article. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief in accordance with the provisions of Section 32.191 of this ordinance.

Section 32.189: Performance Standards

- (a) *Purpose and Intent.* The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, within its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential.

The purpose and intent of these requirements are also to implement the

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following objectives: prevent a net increase in nonpoint source pollution from new development; achieve a ten percent (10%) reduction in nonpoint source pollution from redevelopment; and achieve a forty percent (40%) reduction in nonpoint source pollution from agricultural uses.

- (b) General Performance Standards for Development and Redevelopment
- (1) Land disturbance shall be limited to the area necessary to provide for the proposed use or development.
 - a. Ingress and egress during construction shall be limited to one access point unless otherwise approved by the Zoning Administrator.
 - (2) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed and in accordance with the Virginia Erosion and [Sediment Control Stormwater Management Handbook, Version 1.1](#).
 - a. [Mature trees shall be protected during development and only removed where necessary, including to provide for the proposed use or development.](#)
 - a.b. Site clearing for construction activities shall be allowed as approved by the Zoning Administrator through the plan of development review process.
 - b.c. Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected five feet outside of the drip line of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
 - (3) Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the proposed use or development.
 - a. Grid and modular pavements may be used for any required parking area, alley, or other low-traffic driveway unless otherwise approved by the Zoning Administrator.
 - (4) Notwithstanding any other provision of this Article or exceptions or exemptions thereto, any land-disturbing activity exceeding twenty thousand five hundred square feet (2,500 SF), including construction of all single-family houses, shall comply with the requirements of Cape Charles' Erosion and Sediment Control Ordinance.
 - ~~(5)~~ All development and redevelopment exceeding two thousand five hundred square feet (2,500 SF) of land disturbance shall be subject to a plan of development process, including the approval of a site plan in accordance with the provisions of the Site Plan Ordinance.
 6. All on-site sewage disposal systems not requiring a VPDES permit shall be pumped out at least once every five years (5 yrs) in accordance with the provisions of the State Health Code. [Effective July 1, 2023.](#)

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requirements of this section directly related to compliance with onsite sewage system pump-outs shall be managed and enforced by the Virginia Department of Health in Accomack, Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, and Westmoreland Counties, and the incorporated towns within those counties.

- a. Subject to conditions established by the local Health District of the Virginia Department of Health (VDH), the owners of such systems may, in lieu of pumping out such systems every five (5) years, have a plastic filter installed and maintained in the outflow pipe from the septic tank to filter solid material from the effluent while sustaining adequate flow to the drainfield to permit normal use of the septic system. Such a filter shall satisfy standards established in the Sewage Handling and Disposal Regulations (12 VAC 5-610) administered by VDH; and
- b. In lieu of requiring proof of septic tank pump out every five (5) years, the Town may allow owners of on-site sewage treatment systems to submit documentation every five (5) years, certified by a an operator or onsite soil evaluator licensed or certified under Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 of the Code of Virginia as being qualified to operate, maintain, or design onsite sewage systems, that the septic system has been inspected, is functioning properly, and that – as of the date of inspection – pump-out of the effluent was not deemed necessary.
- c. For new construction not served by public sewer or other system requiring a VPDES permit, a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989 if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local Health District. Building or construction of any impervious cover shall be prohibited on the area of all sewage disposal sites, including reserve sewage disposal sites, until the property is served by public sewer or an on-site sewage treatment system operating under a VPDES permit. All sewage disposal site records shall be administered to provide adequate notice and enforcement. As an alternative to the reserve sewage disposal site, the owners of such systems may install an alternative drainfield system meeting the following conditions:
 - 1. Each of the two (2) alternating drainfields in the system shall have at a minimum, an area not less than fifty (50) percent of the area that would otherwise be required if a single primary drainfield were constructed.
 - 2. An area equal to fifty (50) percent of the area that would otherwise be required for the primary drainfield site shall be reserved for subsurface absorption systems that utilize a flow diversion device, to provide for future replacement or repair to meet the requirements for a sewage disposal system.

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Expansion of the primary system shall require an expansion of the reserve system.

3. The two (2) alternating drainfields shall be connected by a diversion valve, approved by the local Health District, located in the pipe between the septic tank and the distribution boxes. The diversion valve shall be used to alternate the direction of effluent flow to one (1) drainfield or the other at a time. Diversion valves shall not be used for the following types of treatment systems:

- (a). Sand mounds.
- (b). Low pressure distribution systems.
- (c). Repair situations when installation of a valve is not feasible.
- (d). Any other approved system for which the use of a valve would adversely affect the design of the system, as determined by the local Health District.

d. The diversion valve shall be a three-port, two-way valve of approved materials (i.e., resistant to sewage, leak-proof and designed so that the effluent from the tank can be directed to flow into either one (1) of the two (2) distribution boxes).

e. There shall be a conduit from the top of the valve to the ground surface with an appropriate cover to be level with or above the ground surface.

f. The valve shall not be located in driveways, recreational courts, parking lots, or beneath sheds or other structures.

g. In lieu of a diversion valve, any device that can be designed and constructed to direct the flow of effluent from the tank into either one (1) of the two (2) distribution boxes may be approved if plans are submitted to the local Health District and determined to be satisfactory.

h. Owners shall alternate using the drainfields every 12 months to permit the yearly resting of half of the absorption system.

i. The Zoning Administrator shall ensure that the owners are notified annually of the requirement to switch the valve to the opposite drainfield.

~~(6) — 7. For any development or redevelopment, stormwater runoff shall be controlled by the use of best management practices that achieve the following:~~

~~a. For development, the post-development nonpoint source-pollution runoff load shall not exceed the pre-development load based on the calculated average land cover condition of the Town of Cape Charles.~~

~~b. For sites within IDAs or other isolated redevelopment sites, the non-point source pollution load shall be reduced by at least ten percent (10%). The Zoning Administrator may waive or modify this requirement for redevelopment sites that originally incorporated best management~~

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~~practices for storm water runoff quality control provided the following provisions are satisfied:~~

- ~~i. In no case may the post-development non-point source pollution runoff load exceed the pre-development load.~~
- ~~ii. Runoff pollution loads must have been calculated and the BMPs selected for the expressed purpose of controlling non-point source pollution.~~
- ~~iii. If best management practices are structural, evidence shall be provided that the facilities are currently in good working order and performing at the design levels of service. The Zoning Administrator may require a review of both the original structural design and maintenance plans to verify this provision. A new maintenance agreement may be required to ensure compliance with this Article.~~

~~For redevelopment, both the pre- and the post-development loadings shall be calculated by the same procedures. However, where the design data is available, the original post-development non-point source pollution loadings can be substituted for the existing development loadings.~~

8. Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state, and local laws and regulations shall be obtained and evidence of such submitted to the Zoning Administrator in accordance with Section 32.191 of this Article.

9. Land upon which agricultural activities are being conducted shall have a soil and water quality conservation assessment. Such assessments shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides, and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with the Article.

a. Recommendations for additional conservation practices need address only those conservation issues applicable to the tract or field being assessed. Any soil and water quality conservation practices that are recommended as a result of such an assessment and are subsequently implemented with financial assistance from federal or state cost-share programs must be designed, consistent with cost-share practice standards effective in January 1999 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service or the June 2000 edition of the "Virginia Agricultural BMP Manual" of the Virginia Department of Conservation and Recreation, respectively. Unless otherwise specified in this section, general standards pertaining to the various agricultural conservation practices being assessed shall be as follows:

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- (1) For erosion and sediment control recommendations, the goal shall be, where feasible, to prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. However, in no case shall erosion exceed the soil loss consistent with an Alternative Conservation System, referred to as an "ACS", as defined in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service.
- (2) For nutrient management, whenever nutrient management plans are developed, the operator or landowner must provide soil test information, consistent with the Virginia Nutrient Management Training and Certification Regulations (4VAC50-85).
- (3) For pest chemical control, referrals shall be made to the local cooperative extension agent or an Integrated Pest Management Specialist of the Virginia Cooperative Extension Service. Recommendations shall include copies of applicable information from the "Virginia Pest Management Guide" or other Extension materials related to pest control.

b. A higher priority shall be placed on conducting assessments of agricultural fields and tracts adjacent to Resource Protection Areas. However, if the landowner or operator of such a tract also has Resource Management Area fields or tracts in his operation, the assessment for that landowner or operator may be conducted for all fields or tracts in the operation. When such an expanded assessment is completed, priority must return to Resource Protection Area fields and tracts.

c. The findings and recommendations of such assessments and any resulting soil and water quality conservation plans will be submitted to the Eastern Shore Soil and Water Conservation District Board, which will be the plan-approving authority.

(7)

~~B. Buffer Area Requirements. To minimize the adverse effects of human activities on the other components of Resource Protection Areas, state waters, and aquatic life, a one-hundred-foot (100') buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist. The buffer area shall be located adjacent to and landward of other RPA~~

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~~components and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the RPA in accordance with Section 7.3, Areas of Applicability, and Section 7.11, Plan of Development Process, of this Article.~~

~~The one-hundred-foot (100') buffer area shall be deemed to achieve a seventy-five percent (75%) reduction of sediments and a forty percent (40%) reduction of nutrients.~~

~~The buffer area shall be maintained to meet the following additional performance standards:~~

- ~~(1) In order to maintain the functional value of the buffer area, indigenous vegetation may be removed, subject to approval by the Zoning Administrator, only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices including those that prevent upland erosion and concentrated flows of stormwater, as follows:
 - ~~a. Trees may be pruned or removed as necessary to provide for sight lines and vistas provided that, where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.~~
 - ~~b. Any path shall be constructed and surfaced so as to effectively control erosion.~~
 - ~~c. Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu and multiflora rose) may be removed and thinning of trees allowed, pursuant to standards adopted by the Town of Cape Charles.~~
 - ~~d. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best of available technical advice and applicable permit conditions or requirements.~~~~
- ~~(2) When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Zoning Administrator may allow encroachments into the buffer area in accordance with Section 7.11, Plan of Development Process, and the following criteria:
 - ~~a. Encroachments into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities.~~
 - ~~b. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel;~~~~

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and

~~c. The encroachment may not extend into the seaward 50 feet of the buffer area.~~

~~(3) Redevelopment within IDAs may be exempt from establishing vegetation within the buffer area in accordance with Section 7.11, Plan of Development Process, of this Article.~~

~~(4) On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area as follows:~~

~~a. Agricultural activities may encroach into the landward 50 feet of the one-hundred-foot (100') wide buffer area when at least one agricultural best management practice, which, in the opinion of the [local soil and water conservation district board], addresses the more predominant water quality issue on the adjacent land — erosion control or nutrient management — is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the one-hundred-foot (100') wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil test, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.)" administered by the Virginia Department of Conservation and Recreation.~~

~~b. Agricultural activities may encroach within the landward seventy-five feet (75') of the one-hundred-foot (100') wide buffer area where agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T", as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U. S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil test, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.)" administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the one-hundred-foot (100') wide buffer area.~~

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~~c. The buffer area is not required to be designated adjacent to agricultural drainage ditches if the adjacent agricultural land has in place at least one best management practices as considered by the local Soil and Water Conservation District to address the more predominant water quality issue on the adjacent land - either erosion control or nutrient management~~

~~(5) When agricultural or silvicultural uses within the buffer area cease, and the lands are proposed to be converted to other uses, the full one-hundred-foot (100') wide buffer area shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions are maintained or established.~~

Section 32.190: Water Quality Impact Assessment and Resiliency Assessment

- (a) Purpose and Intent. The purpose of the water quality impact assessment is to: (1) identify the impact of proposed development on water quality and lands within RPAs and other environmentally sensitive lands; (2) ensure that, where development does take place within RPAs and other sensitive lands, it will be located on those portions of a site and in a manner that will be least disruptive to the natural functions of RPAs and other sensitive lands; (3) to protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high ground water, erosion, or vulnerability to flood and storm damage; and (4) specify mitigation and to demonstrate compliance with the local program which will address water quality protection.
- (b) Water Quality Impact Assessment Required. A water quality impact assessment is required for (1) any proposed land disturbance, redevelopment or development within an RPA, including any buffer area modification or encroachment as provided in Section 32.190 of this Article; (2) any development in an RMA as deemed necessary by the Zoning Administrator due to the unique characteristics of the site or intensity of the proposed development; and (3) if living shorelines are being installed. There shall be two levels of water quality impact assessments--a minor assessment and a major assessment.
- (c) Minor Water Quality Impact Assessment. A minor water quality impact assessment pertains only to a development within CBPAs which causes no more than five thousand square feet (5,000 SF) of land disturbance and requires any modification or encroachment into the landward fifty feet (50') of the one-hundred-foot (100') buffer area. A minor assessment must demonstrate that the undisturbed buffer area, enhanced vegetative plantings, and any required best management practices will result in removal of no less than seventy-five percent (75%) of sediments and forty percent (40%) of nutrients from post-development stormwater runoff and that the remaining buffer area will retard runoff, prevent erosion and filter nonpoint source

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pollution the equivalent of the full undisturbed one-hundred-foot (100') buffer area. A minor assessment shall include a site drawing to scale which shows the following:

- ~~(1)~~ (1) Location of the components of the RPA, including the one-hundred-foot (100') buffer area;
- ~~(1)(2)~~ (2) RPA and RMA boundaries.
- ~~(3)~~ (3) Location and nature of the proposed encroachment into the buffer area if ~~needed~~ necessary; including type of paving material; areas ~~limits~~ of clearing or grading; location of any structures, drives, or other impervious cover;
- ~~(2)(4)~~ (4) Area of land disturbance and impervious coverage proposed within the RPA;
- ~~(3)(5)~~ (5) Type and location of proposed best management practices to mitigate the proposed encroachment.
- ~~(4)(6)~~ (6) Location of existing vegetation onsite, including the number and type of trees and other vegetation to be removed in the buffer to accommodate the encroachment or modification;
- ~~(7)~~ (7) Revegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control and mitigates for the removal of vegetation in the buffer;
- ~~(5)(8)~~ (8) Limits of land disturbance and the area of land disturbance within the RPA.

(d) Major Water Quality Impact Assessment. A major water quality impact assessment shall be required for any development which (1) exceeds five thousand square feet (5,000 SF) of land disturbance within CBPA and requires any modifications or encroachment into the landward seaward fifty feet (50') of the one-hundred-foot (100') buffer area; (2) proposes to disturb any portion of any other component of an RPA or proposes to disturbs any portion of the buffer area within fifty feet (50') of any other component of any RPA; or (3) is located in an RMA and is deemed necessary by the Zoning Administrator. The information required in this section shall be considered a minimum unless the Zoning Administrator determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development of land.

- (1) The following elements shall be included in the preparation and submission of a major water quality assessment:
 - a. All of the information required in a minor water quality impact assessment as specified in Section 32.190 (c);
 - b. A hydro-ecological element that:
 - 1. Describes the existing topography, soils, hydrology, and geology of the site and adjacent lands
 - 2. indicates the following:
 - i. disturbance or destruction of wetlands and justification for such action.
 - ii. disruptions or reductions in the supply of water to

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- wetlands, streams, or other water bodies.
- iii. disruptions to existing hydrology including wetlands and stream circulation patterns.
- iv. source location and description of proposed fill material.
- v. location of dredge material and location of dumping area for such material.
- vi. location of and impacts on shellfish beds or submerged aquatic vegetation.
- vii. estimation of pre- and post- development pollutant loads in runoff.
- viii. estimation of percent increase in impervious surface on site and type(s) of surfacing materials used.
- ix. percent of site to be cleared for project.
- x. anticipated duration and phasing schedule of construction project.
- xi. listing of all requisite permits from all applicable agencies necessary to develop project
- 3. describes the proposed mitigation measures for the potential hydroecological impacts. Potential mitigation measures include:
 - i. proposed erosion and sediment control concepts; concepts should include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, schedule and personnel for site inspection
 - ii. proposed water quality and quantity stormwater management system
 - iii. creation of wetlands to replace those lost
 - iv. minimizing cut and fill
- c. A landscape element that:
 - 1. identifies and delineates the location of plant material on site, including all trees two inches or greater diameter at breast height. Where there are groups of trees, stands may be outlined.
 - 2. describes the impacts the development or use will have on the existing vegetation. Information should include:
 - i. limits of clearing based on all anticipated improvements including buildings, drives, and utilities
 - ii. clear delineation of all trees and other woody vegetation proposed to be removed
 - iii. description of plant species to be disturbed or removed
 - 3. describes the potential measures for mitigation.

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Possible mitigation measures should include:

- i. replanting schedule for trees and other significant vegetation removed for construction including a list of possible plants and trees to be used
- ii. demonstration that the design of the plan will preserve to the greatest extent possible any significant trees and vegetation on the site and will provide maximum erosion control and overland flow benefits from such vegetation
- iii. demonstration that native plants are to be used to the greatest extent possible

(e) Submission and Review Requirements

- (1) ~~Eight (8)~~ Four (4) copies of all site drawings and other applicable information as required by subsections C and D above shall be submitted to the Zoning Administrator for review.
- (2) All information required in this section shall be certified as complete and accurate by a professional engineer or certified land surveyor.
- (3) A minor water quality impact assessment shall be prepared and submitted to and reviewed by the Zoning Administrator in conjunction with Section 32.191, Plan of Development Process, of this Article.
- (4) A major water quality impact assessment shall be prepared and submitted to and reviewed by the Zoning Administrator in conjunction with a request for rezoning, special use permit, or in conjunction with Section 32.191 of this Article as deemed necessary by the Zoning Administrator.
- (5) As part of any major quality impact assessment submittal, the Zoning Administrator may require review by the ~~Chesapeake Bay Local Assistance Department (CBLAD)~~ Department of Environmental Quality. Upon receipt of a major water quality impact assessment, the Zoning Administrator will determine if such review is warranted and may request ~~CBLAD-DEQ~~ to review the assessment and respond with written comments. Any comments by such ~~CBLAD-DEQ~~ will be incorporated into the final review by the Zoning Administrator provided that such comments are provided by ~~CBLAD-DEQ~~ within ninety (90) days of the request.

(f) Evaluation Procedure

- (1) Upon the completed review of a minor water quality impact assessment, the Zoning Administrator will determine if any proposed encroachment into the buffer area is consistent with the provisions of this Article and make a finding based upon the following criteria:
 - a. the necessity of the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;
 - b. impervious surface is minimized;

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- c. proposed best management practices, where required, achieve the requisite reductions in pollutant loadings;
 - d. the development, as proposed, meets the purpose and intent of this Article;
 - e. the cumulative impact of the proposed development, when considered in relation to other development in the vicinity both existing and proposed, will not result in a significant degradation of water quality.
- (2) Upon the completed review of a major water quality impact assessment, the Zoning Administrator will determine if the proposed development is consistent with the purpose and intent of this Article and make a finding based upon the following criteria in conjunction with Section 32.191.
- a. Within an RPA, the proposed development is water dependent.
 - b. The disturbance of any wetlands will be minimized.
 - c. The development will not result in significant disruption of the hydrology of the site.
 - d. The development will not result in significant degradation to aquatic vegetation or life.
 - e. The development will not result in unnecessary destruction of plant materials on site.
 - f. Proposed erosion and sediment control concepts are adequate to achieve the reductions in runoff and prevent off-site sedimentations.
 - g. Proposed storm water management concepts are adequate to control the storm water runoff to achieve the required performance standard for pollutant control.
 - h. Proposed re-vegetation of disturbed areas will provide optimum erosion and sediment control benefits.
 - i. The development as proposed is consistent with the purpose and intent of the Overlay District.
- (3) The Zoning Administrator shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the Zoning Administrator based on the criteria listed above in subsections 1 and 2.
- (4) The Zoning Administrator shall find the proposal to be inconsistent with the purpose and intent of this Article when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the Zoning Administrator based on the criteria listed in subsections 1 and 2.

G. Resiliency assessment.

(A) Submittal of a resiliency assessment that considers the potential impacts of sea level rise, storm surge, and flooding on buffer function in light of a proposed RPA encroachment is required during the review of a plan of development or other review process. Such an assessment is to be based upon the RPA as delineated at the time of the proposed land

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development and is required in addition to all other requirements of this and other local ordinances. At a minimum the resiliency assessment should contain the following information:

(1) A scaled drawing or aerial image of the proposed project that includes the RPA and RMA boundary, required setbacks, existing topography, and a graphic depiction of the anticipated impacts of sea level rise, flooding, and storm surge on the parcel and the proposed project, based upon a review of approved models and forecasts, to include the following:

- a. For sea level rise, use the 2017 National Oceanographic and Atmospheric Administration (NOAA) Intermediate-High scenario projection curve [or any subsequently updated version thereof on the project site. Sea level rise data can be accessed on the AdaptVA website, maintained by the Virginia Institute of Marine Science (VIMS). When determining potential sea-level rise impacts, the applicant should use the model to identify both the extent of anticipated inland migration, as well as the water depth.
- b. For storm surge, use the most up to date NOAA hydrodynamic Sea, Lake, and Overland Surges Hurricanes (SLOSH) model on the project site. Storm surge data can be accessed on the AdaptVA website. Selection of a default storm category is determined by the locality based upon historical frequency and specified for use in conducting resiliency assessments by the applicant.
- c. For flooding, use the most up to date Special Flood Hazard Area and the Limit of Moderate Wave Action (LiMWA) model on the project site according to the Virginia Flood Risk Information System (VFRIS) model in conjunction with the requirements and application of the [local] floodplain management ordinance. VFRIS includes the Flood Insurance Rate Maps, flood insurance studies, and associated models produced by the Federal Emergency Management Agency, and is available on the Virginia Department of Conservation and Recreation (DCR) website. When identifying flooding impacts, the applicant may rely on existing use and application of the relevant Special Flood Hazard Area. This data is also accessible on the AdaptVA website.
- d. The anticipated impacts shall be based upon a thirty (30) year timeframe, unless the applicant demonstrates that the lifespan of the project proposed for development is less than thirty (30) years based upon the information in 2(b) as approved by the Planning Commission. Where a lifespan of less than 30 years is proposed, the applicant shall provide documentation of proposed building materials, anticipated quality of construction, design specifications, and other materials or information in support of a predicted lifespan of less than 30 years for the project.

(2) A narrative report that analyzes the results of the data and graphic research, and provides the following information:

- (a) Define the intended service life of the proposed structure(s).
- (b) Identification of any proposed impact directly from proposed impervious cover or structures in the RPA and the extent of such impact.
- (c) Identification of extent of impact on the current buffer area including impacts to existing vegetation from the landward movement of water and vegetative migration.

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- (d) Describe the extent to which anticipated impacts can be or have been mitigated by altering the location design, size, or orientation of proposed structures or impervious cover, by preserving and/or supplementing existing buffer areas as provided for in Section 32-188 of this Ordinance, and/or by considering other limiting site conditions including required setbacks and parcel size, and/or by proposing an adaptation measure in accordance with the provisions of Section 32-188.
- (e) Identification of the utilization of existing local programs that already take potential impacts into account through the building permit or site design review processes, such as freeboard requirements enacted through the local floodplain ordinance.
- (3) Apply the results of the resiliency assessment to the proposed development. The Zoning Administrator will review the narrative report along with the water quality impact assessment and determine whether the anticipated impacts necessitate an alteration or conditions to the proposed project or implementation of an adaptation measure for approval.

 - (a) In considering whether a requirement for project alteration or adaptation measure is appropriate, the Zoning Administrator will ensure that the proposed alteration or adaptation measure is practical, achievable, and necessary to mitigate the identified impact.
 - (b) Where possible, consideration will be given to modifying the proposed development size or location, such that the extent of land disturbance or impervious cover can be reduced to avoid or minimize the area or areas of the parcel that the assessment indicates will be impacted.
 - (c) If the resiliency assessment reveals that impacts on the parcel can be addressed by structural design or siting alterations, then supplemental information on the potential alterations shall be provided for consideration by the Zoning Administrator. Supplemental information may include additional sketches or plans, including plan and section views, building specifications, and other supporting materials.
 - (d) Approval may be conditioned on the implementation of the proposed alterations, conditions, or adaptation measure.
 - (e) The resiliency assessment may also indicate that no alterations, conditions, or adaptation measures are required, in which case the applicant may proceed through the remainder of the approval process.
- (4) Identify conditions, alterations, or adaptation measures for the proposed development. Should an impact from sea-level rise, storm surge, or flooding be identified that exceeds available design alterations, approval of the proposed project should then be conditioned with the requirement for an adaptation measure and the following information provided:

 - (a) Describe the proposed adaptation measure(s) for the site as selected from one of the sources listed in subsection 32.190(G) of this Ordinance and submit documentation of the proposed adaptation measure and its suitability for use on the site, such as design specifications, construction methods and materials that will provide shoreline stabilization until vegetation is established, and a proposed maintenance plan.

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(b) Describe how the selected adaptation measure meets the requirement for being a nature-based solution.

(c) Describe how the selected adaptation measure(s) comply with applicable regulatory or permitting requirements. Submit a water quality impact assessment pursuant to Section 32.190 of this Ordinance and a site plan pursuant to Appendix C of this Ordinance detailing the proposed placement of the adaptation measure, existing and proposed topography and vegetation, proposed limits of clearing and grading, and mitigation for the area of land disturbance within the RPA. Additionally, provide documentation of as-built documentation of the final design and installation, including photographs, and final inspection is required upon completion of installation.

(5) The resiliency assessment may be submitted as a standalone document as part of the plan of development process or it may be submitted as part of a water quality impact assessment pursuant to Section 32.190 of this Ordinance for those projects disturbing less than 2,500 square feet.

Section 32.191: Plan of Development Process

Any development or redevelopment within the Chesapeake Bay Preservation Areas exceeding two thousand five hundred square feet (2,500 SF) of land disturbance shall be accomplished through a plan of development process prior to any clearing or grading of the site or the issuance of any building permit to assure compliance with all applicable requirements of this Article.

(1) Required Information. In addition to the requirements of this Ordinance or the requirements of the Cape Charles Subdivision Ordinance, the plan of development process shall consist of the plans and studies identified below. These required plans and studies may be coordinated or combined as deemed appropriate by the Zoning Administrator. The Zoning Administrator may determine that some of the following information is unnecessary due to the scope and nature of the proposed development.

a. Except as otherwise provided herein, the plan of development process for any development or redevelopment in a CBPA shall consist of the plans and information identified below: The following plans or studies shall be submitted unless otherwise provided for:

- 1. A site plan in accordance with the provisions of this ordinance; or a subdivision plat in accordance with the provisions of the Subdivision Ordinance of Cape Charles;
- 2. An environmental site assessment;
- 3. A landscaping plan;
- 4. A water quality impact assessment, according to Section 32.190 of this Ordinance;
- 3.5. A resiliency assessment, according to Section 32.190 of this Ordinance;
- 4.6. A storm water management plan;
- 5.7. An erosion and sediment control plan in accordance with the

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provisions of the Cape Charles Erosion and Sediment Control Ordinance.

- (2) Environmental Site Assessment. An environmental site assessment shall be submitted in conjunction with preliminary site plan or preliminary subdivision plan approval.
- a. The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:
 - 1. tidal wetlands
 - 2. tidal shores
 - 3. non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow
 - 4. a one-hundred-foot (100') buffer area located adjacent to and landward of the components listed in Subsections a through c above, and along both sides of any water body with perennial flow
 - 5. other sensitive environmental features as determined by the Zoning Administrator
 - b. Wetlands delineations shall be performed consistent with the methods and procedures used and accepted from time to time by the U.S. Army Corps of Engineers.
 - c. The environmental site assessment shall delineate the site-specific geographic extent of the RPA and RMA, as necessary.
 - d. The environmental site assessment shall be drawn at the same scale as the preliminary site plan or subdivision plat and shall be certified as complete and accurate by a professional engineer or a certified land surveyor. This requirement may be waived by the Zoning Administrator when the proposed use or development would result in less than five thousand square feet (5,000 SF) of disturbed area; however, this requirement may not be waived for projects located on parcels impacted by the Chesapeake Bay Preservation Areas.
- (3) Landscaping Plan. A landscape plan shall be submitted in conjunction with site plan approval or as part of subdivision plat approval. No clearing or grading of any lot or parcel shall be permitted without an approved landscaping plan.
- a. Landscaping plans when required shall be prepared and/or certified by design professionals practicing within their areas of competence as prescribed by the Code of Virginia and must meet the following requirements:
 - 1. The landscaping plan shall be drawn to scale and clearly delineate the location, size, and description of existing and proposed plant material within the RPA and the RMA. All existing-mature trees on the site two-four inches (24") or greater DBH shall be shown on the landscaping plan. Where there are groups of trees, stands may be outlined instead, except for mature trees, which shall be individually identified. Mature

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trees shall be protected during development and only removed where necessary, including to provide for the proposed use or development. The location and specific number ~~of trees two inches (2”) or greater DBH~~ to be preserved outside of this construction footprint shall be indicated on the plan. Trees to be removed to create a desired construction footprint shall be clearly delineated on the landscaping plan.

- 2. Any required buffer area shall be clearly delineated and any plant material to be added to establish or supplement the buffer area, as required by this Article, shall be shown on the landscaping plan.

— Within the buffer area, trees to be removed for sight lines, vistas, access paths, shoreline erosion control projects, and best management practices, as provided for in this Article, shall be shown on the plan. Vegetation required by this Article to replace any existing trees within the buffer area shall also be shown on the landscaping plan. Mature trees shall be preserved and trimmed or pruned in lieu of removal as site conditions permit. Any removal of mature trees should be limited to the fewest number of trees feasible. When mature trees are removed in the RPA to provide for sight lines and vistas, access paths or BMPs, they shall be replaced with trees as appropriate to site conditions.

~~3.~~

- ~~4.3.~~ Trees to be removed for shoreline stabilization projects and any replacement vegetation required by this Article shall be shown on the landscaping plan.

- ~~5.4.~~ The plan shall depict grade changes or other work adjacent to trees which would affect them adversely. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.

- ~~6.5.~~ The landscaping plan will include specifications for the protection of existing trees during clearing, grading, and all phases of construction.

b. Plant specifications

- 1. All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.

- 2. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.

- ~~2.3.~~ The landscaping plan should include a demonstration that where the planting of new trees or vegetation is required, native species will be used to the greatest extent

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c. Maintenance

1. The applicant shall be responsible for the maintenance and replacement of all vegetation as may be required by the provision of the Article.
2. In buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season as required by the provisions of this Article.

~~(4) Stormwater Management Plan. A stormwater management plan shall be submitted in accordance with the requirements of the Virginia Erosion and Stormwater Management Regulations, as part of the plan of development process required by this Article and in conjunction with site plan or subdivision plan approval.~~

- ~~a. Contents of the plan. The storm water management plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations, and citations to supporting references as appropriate to communicate the information required by this Article. At a minimum, the storm water management plan must contain the following:
 1. location and design of all planned storm water control devices;
 2. procedures for implementing non-structural storm water control practices and techniques;
 3. pre and post-development non-point source pollutant loadings with supporting documentation of all utilized coefficients and calculations;
 4. for facilities, verification of structural soundness, including a professional engineer or Class HIB surveyor certification.~~
- ~~b. Site specific facilities shall be designed for the ultimate development of the contributing watershed based on zoning, comprehensive plans, local public facility master plans, or other similar planning documents.~~
- ~~c. All engineering calculations must be performed in accordance with procedures outlined in the current edition of the Virginia Storm water Management Handbook.~~
- ~~d. The plan shall establish a long-term schedule for inspection and maintenance of storm water management facilities that includes all maintenance requirements and persons responsible for performing maintenance. If the designated maintenance responsibility is with a party other than the Town of Cape Charles, then a maintenance agreement shall be executed between the responsible party and the Town of Cape Charles.~~

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~~(5)~~(4) Erosion and Sediment Control Plan. An erosion and sediment control plan shall be submitted that satisfies the requirements of this Article and in accordance with the Cape Charles Erosion and Sediment Control Ordinance in conjunction with site plan or subdivision plan approval.

~~(6)~~(5) Final Plan. Final plan for property within CBPAs shall be final plats for land to be subdivided or site plans for land not to be subdivided as required in the Cape Charles Subdivision Ordinance and this Ordinance.

a. Final plans for all lands within CBPAs shall include the following additional information:

1. Evidence of the site-specific RPA boundary determination, inclusive of perennial flow determination and wetland delineation studies , as appropriate to the site conditions.the delineation of the Resource Protection Area boundary.

~~2. the delineation of required buffer areas~~

~~3. Evidence that all applicable wetland permits required by law have been obtained prior to authorization of grading or other on-site activities shall be provided.all wetlands permits required by law~~

~~d. Limits of land disturbance and all areas of clearing, grading, access ways and staging areas and the total area of land disturbance, as well as total area of land disturbance proposed within the RPA.~~

~~e. Location of all approved existing and proposed septic tanks and drainfield areas, including reserve areas, and the location of all existing and proposed wells and utilities.~~

~~f. A statement that excavation material and debris from construction shall be disposed of in a lawful manner.~~

~~g. Existing and proposed impervious cover and the total amount of impervious cover proposed for the site, as well as total amount of impervious cover proposed within the RPA.~~

~~4. h. Aa maintenance agreement as deemed necessary and appropriate by the Zoning Administrator to ensure proper maintenance of best management practices in order to continue their functions.~~

~~b.~~ The following notations are required on plats:

1. the requirement to retain an undisturbed and vegetated 100-foot wide buffer area

2. the requirement for pump-out and 100% reserve drainfield sites for onsite sewage treatment systems, when applicable

3. the permissibility of only water dependent facilities or redevelopment in Resource Protection Areas, including the 100-foot wide buffer area

~~b.c.~~ Installation and bonding requirements

1. Where buffer areas, landscaping, storm water management

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- facilities, or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed in accordance with the approved site plan.
2. When the occupancy of a structure is desired prior to the completion of the required landscaping, storm water management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides Cape Charles a form of surety satisfactory to the Zoning Administrator in an amount equal to the remaining plant materials, related materials, and installation costs of the required landscaping or facilities and/or maintenance costs for any required storm water management facilities during the construction period.
 3. All required landscaping shall be installed and approved by the first planting season following the issuance of a certificate of occupancy or the surety may be forfeited to the Town of Cape Charles.
 4. All required storm water management facilities or other specifications shall be installed and approved within eighteen months (18 mos) of project commencement. Should the applicant fail, after proper notice, to initiate, complete, or maintain appropriate actions required by the approved plan, the surety may be forfeited to the Town of Cape Charles. Cape Charles may collect from the applicant the amount by which the reasonable cost of required actions exceed the amount of the surety held.
 5. After all required actions of the approved site plan have been completed the applicant must submit a written request for a final inspection. If the requirements of the approved plan have been completed to the satisfaction of the Zoning Administrator, such unexpended or un-obligated portion of the surety held shall be refunded to the applicant or terminated within sixty (60) days following the receipt of the applicant's request for the final inspection. The Zoning Administrator may require a certificate of substantial from a professional engineer or Class IIIB surveyor before making the final inspection.

~~(7)~~(6) Administrative Responsibility. Administration of the plan of development process shall be in accordance with this ordinance or the Cape Charles Subdivision Ordinance.

~~(8)~~(7) Denial of Plan, Appeal of Conditions or Modifications. In the event the final plan or any component of the plan of development process is disapproved and recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the

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Planning Commission. In granting an appeal the Planning Commission must find such plan to be in accordance with all applicable ordinances and include necessary elements to mitigate any detrimental impact on water quality and upon adjacent property and the surrounding area or such plan meets the purposes and intent of the performance standards in this Article. If the Planning Commission finds that the applicant’s plan does not meet the above-stated criteria, they shall deny approval of the plan. In the event of a denial of appeal to the Planning Commission, the applicant may appeal such decision to the Cape Charles Town Council. Said appeal shall be made within fifteen (15) days of the negative decision. Further appeals by the applicant shall be established by law.

Section 32.192: Non-Conforming Use and Development Waivers

- (a) The lawful use of a building or structure which existed on September 11, 1990, or which exists at the time of any amendment to this Article, and which is not in conformity with the provisions of the Overly District may be continued in accordance article II division 4 of this chapter. No change or expansion of use shall be allowed with the exception that:
 - (1) The Zoning Administrator may grant a non-conforming use and development waiver for structures on legal non-conforming lots or parcels to provide for remodeling and alterations to such non-conforming structures provided that:
 - a. there will be no increase in non-point source pollution load;
 - b. any development or land disturbance exceeding an area of two thousand five hundred square feet (2,500 SF) complies with all erosion and sediment control requirements of this Article;
 - c. the intent of article ii, division 4, Non-Conforming Uses, is upheld.
 - (2) An application for a non-conforming use and development waiver shall be made to and upon forms furnished by the Zoning Administrator and shall include, for the purpose of proper enforcement of this Article, the following information:
 - a. name and address of applicant and property owner;
 - b. legal description of the property and type of proposed use and development;
 - c. a sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the Resource Protection Area;
 - d. location and description of any existing private water supply or sewerage system.
 - (3) A non-conforming use and development waiver shall become null and void 12 months from the date issued if no substantial work has commenced.
 - (4) An application for the expansion of a nonconforming structure may be approved by the Zoning Administrator through an administrative review process provided that the following findings are made:
 - a. The request for the waiver is the minimum necessary to afford

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- relief;
 - b. Granting the waiver will not confer upon the applicant any specific privileges that are denied by this Article to other property owners in similar situations;
 - c. The waiver is in harmony with the purpose and intent of this Article and does not result in water quality degradation;
 - d. The waiver is not based on conditions or circumstances that are self- created or self-imposed;
 - e. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing a degradation of water quality;
 - f. Other findings, as appropriate and required by the Town of Cape Charles are met; and
 - g. In no case shall this provision apply to accessory structures.
- (5) In accordance with Code of Virginia [§ 15.2-2283](#), additions to nonconforming structures for the purpose of providing reasonable modifications in accordance with the American with Disabilities Act of 1990 shall not be considered an expansion of a nonconforming structure.
- ~~(6)~~ In accordance with the Code of Virginia [§ 15.2-2307.H](#), nothing in this ordinance shall be construed to prevent the owner of a valid nonconforming mobile or manufactured home from replacing that home with a newer manufactured home, either single- or multisection, that meets the current HUD manufactured housing code. Any such replacement home shall retain the valid nonconforming status of the prior home.
- ~~(6)~~~~(7)~~ [This chapter shall not be construed to prevent the reconstruction of pre-existing structures within Chesapeake Bay Preservation Areas from occurring as a result of casualty loss unless otherwise restricted by this Ordinance.](#)

Section 32.193: Exemptions

- (a) Exemptions for Utilities, Railroads, and Public Roads.
- (1) Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with (i) regulations promulgated pursuant to the [Virginia Erosion and Sediment Control Law \(§ 62.1-44.15:51 et seq. of the Code of Virginia\)](#) and the Stormwater Management Act ([§ 62.1-44.15:24 et seq. of the Code of Virginia](#)), (ii) an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of [Conservation and Recreation Environmental Quality](#), or (iii) local water quality protection criteria at least as stringent as the above state requirements are deemed to comply with this Article. The exemption of public roads is further conditioned on the following:
- a. The road alignment and design has been optimized, consistent with all applicable requirements, to prevent or otherwise

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minimize the encroachment in the Resource Protection Area and to minimize the adverse effects on water quality.

- (2) Construction, installation, and maintenance of water, sewer, and natural gas and underground telecommunication and cable television lines, owned, permitted or both by the Town of Cape Charles, shall be exempt from the Overlay District provided that:
 - a. to the degree possible, the location of such utilities and facilities shall be outside RPAs;
 - b. no more land shall be disturbed than is necessary to provide for the proposed utility installation;
 - c. all construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and
 - d. any land disturbance exceeding an area of two thousand five hundred square feet (2,500 SF) complies with all Cape Charles erosion and sediment control requirements.

- (b) Exemptions for Silvicultural Activities. Silvicultural activities [located within designated CBPAs](#) are exempt from the requirements of this Article provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the [1997 edition of "Best Management Practices Handbook for Forestry Operations \[Technical Guide\] the Fifth Edition \(March 2011\) of "Virginia's Forestry Best Management Practices for Water Quality Technical Manual." The Virginia Department of Forestry will oversee and document installation of best management practices and will monitor in-stream impacts of forestry operations in Chesapeake Bay Preservation Areas.](#)

- (c) Exemptions in Resource Protection Areas. The following land disturbances in Resource Protection Areas may be exempted from the Overlay District: (1) water wells; (2) passive recreation facilities such as boardwalks, trails, and pathways; and (3) historic preservation and archaeological activities provided that it is demonstrated to the satisfaction of the Zoning Administrator that:
 - 1. Any required permits, except those to which this exemption specifically applies, shall have been issued;
 - 2. Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality;
 - 3. The intended use does not conflict with nearby planned or approved uses; and
 - 4. Any land disturbance exceeding an area two thousand five hundred square feet (2,500 SF) shall comply with all Cape Charles erosion and sediment control requirements.

Section 32.194: Exceptions

- A. A request for an exception to the requirements of sections 32.186 and 32-189(c) of this overlay district shall be made in writing to the Board of Zoning

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Appeals. It shall identify the impacts of the proposed exception on water quality and on lands within the RPA through the performance of a water quality impact assessment which complies with the provisions of section 32.190.

- B. The Town of Cape Charles shall notify the affected public of any such exception requests and shall consider these requests in a public hearing in accordance with [§ 15.2-2204](#) of the Code of Virginia, except that only one hearing shall be required.
- C. The Board of Zoning Appeals shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this Article if the Board of Zoning Appeals finds:
 1. Granting the exception will not confer upon the applicant any special privileges that are denied by this Article to other property owners in the Overlay District;
 2. The exception request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels;
 3. The exception request is the minimum necessary to afford relief;
 4. The exception request will be consistent with the purpose and intent of the Overlay District and not injurious to the neighborhood or otherwise detrimental to the public welfare, and is not of substantial detriment to water quality; and
 5. Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

D. If the Board of Zoning Appeals cannot make the required findings or refuses to grant the exception, the Board of Zoning Appeals shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.

~~D.E.~~ Exceptions to Section 32.189(b) may be made by the zoning administrator, provided that the findings noted in Section 32.194(C) are made.

~~E.~~—A request for an exception to the requirements of provisions of this Article other than those in Sections 32.186 and 32.189.C shall be made in writing to the Zoning Administrator. The Zoning Administrator may grant these exceptions provided that: exceptions to the requirements are minimum necessary to afford relief; and reasonable and appropriate conditions are placed upon any exception that is granted, as necessary, so that the purpose and intent of this Article is preserved

- ~~1. Exceptions to the requirements are minimum necessary to afford relief; and Reasonable and appropriate conditions are placed upon any exception that~~

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~~is granted, as necessary, so that the purpose and intent of this Article is preserved.~~

~~2. — Exceptions to § 7.9.B may be made provided that the findings noted in §7.14.C are made.~~

(g) General requirements. Applications for variances [waivers] and exceptions from the requirements of Section 32.189 general performance standards, and 7.6, development standards for RPAs, shall be made in writing and filed with the Zoning Administrator. Such applications shall identify any potential impacts of the proposed variance [waiver] or exception on water quality and on lands within the RPA through the performance of a water quality impact assessment, pursuant to Section 32.190 of this Ordinance, and shall examine the impacts of sea level rise, storm surge, and flooding on the project through the performance of a resiliency assessment, pursuant to Section 32.190(G). Each application for a variance [waiver] and exception shall be approved, denied, or approved with conditions according to the review process outlined in the following subsections. No application for a variance [waiver] or exception to sections 32.190 and 32.186 of this Ordinance shall be granted under this Section without meeting the following findings:

- (1) The requested variance [waiver] or exception to the criteria is the minimum necessary to afford relief.
- (2) Granting the variance [waiver] or exception will not confer upon the applicant any special privileges that are denied by this Ordinance to other property owners who are subject to its provisions and who are similarly situated.
- (3) The variance [waiver] or exception is in harmony with the purpose and intent of this Ordinance and is not of substantial detriment to water quality.
- (4) The variance [waiver] or exception request is not based upon conditions or circumstances that are self-created or self-imposed.
- (5) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality.
- (6) Other findings, as appropriate to the Zoning Administrator are met.

(A) Administrative variances [waivers]. The Zoning Administrator shall approve, deny, or approve with conditions an application requesting an administrative variance [waiver] following the review of a complete application, as defined under subsection (e) of this section. No such application shall be accepted by the Zoning Administrator unless accompanied by a nonrefundable fee as established by Cape Charles Town Council.

- (1) The Zoning Administrator may establish such review policies as they deem expedient in implementing the intent of this Ordinance. In approving an application, the Zoning Administrator shall, if warranted, include reasonable and appropriate conditions that will prevent the degradation of water quality.
- (2) No administrative variance [waiver] or exception shall be granted to Section 32.189 of this Ordinance, general performance standards, unless the Zoning Administrator makes the findings required in subsection 32.194(c) of this chapter.
- (3) Administrative variances [waivers] to provisions within sections of this Ordinance other than 32.190 or 32.186 may be granted, provided that:

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- a. Variances [waivers] to the criteria shall be the minimum necessary to afford relief.
- b. Reasonable and appropriate conditions upon any variance [waiver] granted shall be imposed, as necessary, so that the purpose and intent of this Ordinance is preserved.

(B) Formal exceptions. Exceptions from the criteria of Section 32.186 of this Ordinance, development criteria for Resource Protection Areas, require public notice and a public hearing before the Board of Zoning Appeals. Complete applications for an exception shall be submitted to the Zoning Administrator for review and evaluation prior to being forwarded to the Board for consideration. No such application for an exception shall be accepted by the Zoning Administrator unless accompanied by a nonrefundable fee as set by the Cape Charles Town Council. Such fee shall include all costs of notification and advertising.

- (1) The Zoning Administrator shall review complete applications for an exception to the requirements of Section 32.186 of this Ordinance, including the water quality impact assessment and resiliency assessment, and provide the Board and the applicant with copies of the submitted materials, an evaluation of the required findings and potential impacts of the proposed exception, and such other information as may aid the Board in considering the application no less than five (5) days prior to the scheduled hearing.
- (2) Not later than 60 days after the receipt of a complete application, the Board shall hold a public hearing on such application. Notice of the time and place of the hearing shall be published no less than once per week for two (2) consecutive weeks prior to such hearing in a newspaper having a general circulation in the Town. The second such notice shall appear not less than five (5) days nor more than 21 days prior to the hearing.
- (3) The Board shall notify, by first class mail, all property owners adjacent to the subject property and each waterfront property owner across the waterway from the subject property, if the water body is less than 500-feet wide, of the public hearing at least five (5) days prior to the hearing.
- (4) The Board may make, alter and rescind rules for its procedures not inconsistent with the provisions of this Ordinance; provided, however, that a quorum shall be not less than a majority of the members of the Board, and provided further, that the concurring vote of a majority of the members of the Board present and voting shall be required to grant any exception.
- (5) The Board shall approve, deny, or approve with conditions an application requesting an exception to the requirements of Section 7.6 following the review of a complete application and a determination that the proposed project meets the findings required by subsection 32.194(A) above.

(D) No application for relief from sections 32.190 or 32.186 of this Ordinance shall be considered complete where a resiliency assessment, as outlined in Section 32.190(G) of this Ordinance has not occurred or the proposed adaptation measure allows for the use of fill in a Resource Protection Area in contravention to the requirements of subsection 32.186(E)(1)(f)5 of this Ordinance.

Section 32.195: Enforcement

- A. Any person who: (i) violates any provision of this ordinance or (ii) violates or

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fails, neglects, or refuses to obey any Town of Cape Charles or its official Designee’s final notice, order, rule, regulation, or variance or permit condition authorized under this ordinance shall, upon such finding by an appropriate circuit court be assessed a civil penalty not to exceed five thousand dollars (\$5,000) for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the Town of Cape Charles for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas therein, in such a manner as the court may direct by order, except that where the violator is the Town of Cape Charles itself or its agent, the court shall direct the penalty to be paid into the state treasury.

- B. With the consent of any person who: (i) violates any provision of any Town of Cape Charles ordinance related to the protection of water quality in Chesapeake Bay Preservation Areas or (ii) violates or fails, neglects, or refuses to obey any Town of Cape Charles or its official Designee’s order, rule, regulation, or variance or permit condition authorized under such ordinance, the Town of Cape Charles may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed ten thousand dollars (\$10,000) for each violation. Such civil charges shall be paid into the treasury of the Town of Cape Charles for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas therein, except that where the violator is the Town of Cape Charles itself or its agent, the civil charges shall be paid into the state treasury. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subdivision 1 of this subsection. Civil charges may be in addition to the cost of any restoration required or ordered by the Town of Cape Charles body or official.

Section 32.196: Severability

The provisions of this ordinance shall be deemed to be severable, and if any of the provisions hereof are adjudged to be invalid or unenforceable, the remaining portions of this ordinance shall remain in full force and effect and their validity shall remain unimpaired.

Section 7.17: Effective Date

This ordinance was duly considered following a required public hearing held on November 18, 2024, and was adopted by the Town Council of Cape Charles, Virginia, at its regular meeting held December 19, 2024. (~~Ord. No. 20241219A; 12/19/24~~)

Appendix A – Definitions

Sec. 100 - Definitions

For the purpose of the Zoning Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section. Please note that certain words and phrases have not been included here if their definitions are topic specific; those definitions continue to reside in their respective sections of the Zoning Ordinance which includes the *Sign Section (Article V)*, *Floodplain Ordinance (Article VI)*, *Subdivision Ordinance (Appendix B)*, *Coastal Primary Sand Dune Ordinance (Appendix D)*, *Erosion and Sediment Control Ordinance (Appendix E)* and *Wetlands Ordinance (Appendix F)*.

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

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

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

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

ACRE is a measure of land area containing forty-three thousand and five hundred and sixty square feet (43,560 SF).

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

[ADAPTATION MEASURE means a project, practice, or approach to mitigate or address an impact of climate change including sea-level rise, storm surge, and flooding including increased or recurrent flooding.](#)

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

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

ADJACENT includes the term contiguous.

ADJACENT GROUND ELEVATION means the elevation of the surface of the ground between a point touching the exterior wall of a building and a point three feet (.3') in distance from such wall measured perpendicularly therefrom.

ADULT BOOK STORE means any establishment having as a substantial portion of its stock in trade, books, pictures, magazines, and other periodicals which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities or specified anatomical areas, or an establishment trading in such books, pictures, magazines, and other periodicals which limits its customers to persons over eighteen years (18 yrs) of age.

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

ADULT MOVIE THEATER means any establishment used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein, or an establishment used for presenting such material which limits its customers to persons over eighteen years (18 yrs) of age.

AFFORDABLE HOUSING means housing that is affordable to **households** with incomes typically at or below one hundred and twenty percent **120% of the area median income**, provided that the occupant pays no more than thirty percent (30%) of his gross income for gross housing costs, including utilities. For the purpose of administering affordable dwelling unit ordinances authorized by this chapter, local governments may establish individual definitions of affordable housing and affordable dwelling units including determination of the appropriate percent of area median income and percentage of gross income.

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

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

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

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

whether horizontally or vertically, or the moving of a building or structure from one location to another.

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

APARTMENT BUILDING means a building used or intended to be used as the residence of three (3) or more households/families living independently of each other.

APARTMENT UNIT is considered one (1) or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing three or more dwelling units.

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

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

APPLICANT is the person submitting an application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BOARD OF ZONING APPEALS means the board appointed to review appeals made by

individuals with regard to decisions of the Zoning Administrator or Floodplain Manager in the interpretation of this ordinance.

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

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

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

BUILDING, ACCESSORY means a subordinate and separate building located upon the same lot occupied by the main structure or where a main structure was previously located. Accessory buildings shall not be used as dwelling units, unless a zoning permit is issued in compliance with §4.1 (J).

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

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

BUILDING, HEIGHT means the vertical distance measured from the finished grade to the top of the highest roof beams on a flat or shed roof, to the top of a parapet, the deck level on a mansard roof, and the average distance between eaves and the ridge level for gable, hip, and gambrel roofs. Note: Mechanical equipment, chimneys, air conditioning units, elevator penthouses, church spires and steeples, water towers, and similar appurtenances are exempted from height restrictions. However, these exclusive items may not exceed the height limit by more than fifteen feet (15').

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

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

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

BUILDING PERMIT is an approval statement signed by the Building Permit Office authorizing the construction, alteration, reconstruction, repair, restoration, demolition, or razing of all or a part of any building.

BUILDING CODE OFFICIAL is appointed by the Town Council as the individual who issues the permit for the construction, alteration, reconstruction, repair, restoration,

demolition, or razing of all or part of any building.

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

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

CANOPY TREE means a tree that typically reaches 35 feet in height or taller when mature.

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

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

CEMETERY means property used for interring the dead.

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

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

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

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

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

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

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

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

COMMERCIAL VEHICLE shall mean limousine, flatbed truck, dump truck, tow truck, bus, school bus, transport wrecker, cab-on-chassis truck, tractor trailer, wheeled attachment, earth-moving machinery, semi-trailer, and any vehicle over twenty feet (20') in length, eight feet (8') in height, or seven feet in width.

COMMISSION shall mean the Cape Charles Planning Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DEVELOPMENT means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three (3) or more residential dwelling units. The term "development" shall not be construed

to include any tract of land which will be principally devoted to agricultural production.

[DEVELOPMENT within the Chesapeake Bay Preservation Act Overlay Ordinance means the construction or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.](#)

DIAMETER AT BREAST HEIGHT or DBH means the diameter of a tree measured outside the bark at a point four- and one-half feet (4-1/2') above ground.

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

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

DRIVE-THROUGH ESTABLISHMENT/RESTAURANT shall mean a business establishment so developed that its retail or service character includes providing a driveway approach and service window for motor vehicles so as to serve patrons as they are seated in the motor vehicle and passing by the service window rather than serving them from within a building.

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

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

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

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

DWELLING, DUPLEX shall mean a building designed as a single structure, containing two (2) separate dwelling units joined side-by-side, has direct access to the outside, and each of which is designed or arranged to be occupied by two families living independently of each other.

DWELLING, MANUFACTURED HOME or MOBILE HOME means a special form of one-family dwellings with the following characteristics:

1. A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width, or forty (40) body feet or more in length, or which when erected on-site is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and

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includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, and designed and constructed to National Manufactured Housing Construction and Safety Standards Act of 1974. The term does not include any self-propelled recreational vehicle.

2. Calculations used to determine the number of square feet in a structure will include the total of square feet for each transportable section comprising the completed structure and will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected onsite. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows.

DWELLING, MULTI-FAMILY shall mean a building designed for and containing three (3) or more dwelling units.

DWELLING, SINGLE FAMILY DETACHED shall mean a single-family dwelling that is located on an individual lot of record.

DWELLING, SINGLE-FAMILY ATTACHED (TOWNHOUSE) shall mean a dwelling unit which is located on an individual lot of record, and which is attached to another dwelling unit or any adjoining lot by a common wall.

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

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

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

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

EVENT CENTER shall mean a multi-purpose facility generally used for meetings, parties, banquets, weddings, and other social gatherings, conventions, and the display of merchandise by a variety of industrial groups, professional groups, social groups and trade organizations.

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

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

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

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

FILL means material such as sand, soil, gravel, or crushed stone which is placed in an area, often to adjust elevation or create land contouring.

FLEX SPACE, INDUSTRIAL USE: Flex buildings are, by design, “flexible” and allow for a wide range of office and warehouse uses. They can be used for many purposes and are easier to retrofit to meet a company's needs than typical warehouse buildings.

FLOOD or FLOODING means:

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

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

FLOOD PLAIN means the channel and the relatively flat area adjoining the channel of a natural stream, river, or body of water that has been or may be covered by floodwater. **FLOODPLAIN** within the Chesapeake Bay Preservation Act Overlay Ordinance means all lands that would be inundated by floodwater as a result of a storm event of a 100-year return interval.

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

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management regulations.

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

FLOOR AREA shall mean the gross horizontal areas of a building, including mezzanines and lofts, exclusive of garages, parking structures, basements, open balconies and porches, and equipment and service areas, measured from the exterior face of the exterior walls of a building.

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

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

FREEBOARD means an additional amount of height above the Base Flood Elevation used as a factor of safety (e.g., 2 feet above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with state or community floodplain management regulations.

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

FRONTAGE, BUILDING. The length of an exterior building wall or structure of a single premise orientated to the public way or other properties that it faces.

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

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

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

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

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

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

GOVERNING BODY shall mean the Cape Charles Town Council.

GRADE (ADJACENT GROUND LEVEL), generally flat horizontal surfaces, is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building or structure and the property line. When ground level slopes, the reference plane shall be established by the average elevations at the four corners of the lot and two additional highest points on the lot (i.e., the average of six (6) points).

GRADING is the act of excavation or filling or combination thereof or any leveling to a smooth horizontal or sloping surface on a property, but not including normal cultivation associated with an agricultural operation.

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

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

GROUP HOME is a residential facility, licensed by the Department of Behavioral Health and Developmental Services, in which no more than eight individuals with mental illness, mental retardation, or developmental disabilities reside, with one (1) or more residential counselors or other staff persons. For the purposes of this ordinance, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in [§ 54.1-3401](#) of the Code of Virginia.

HARDSHIP means a restriction on property so unreasonable that it results in an arbitrary and capricious interference with basic property rights, and that which relates to the physical characteristics of the property, not the personal, financial, or self-imposed circumstances of the owner or user.

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

HISTORIC DISTRICT means an area containing buildings or places in which historic

events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community of such significance as to warrant conservation and preservation.

HISTORIC LANDMARK is defined as any building or place listed on the National Register of Historic Places or on the Register of the Virginia Historic Landmarks Commission.

HISTORIC STRUCTURES means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the national register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in the states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: a. by an approved state program as determined by the Secretary of the Interior, or b. directly by the Secretary of Interior in the states without approved programs.

HOME OCCUPATION means any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident’s dwelling.

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

HOTEL is a building in which lodging or boarding and lodging facilities are provided for transient guests and offered to the public for compensation and in which ingress and egress to and from all rooms are through an inside lobby or office supervised by a person in charge at all hours.

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

or roomers, is also counted as a household.

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

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

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

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

INFILL DEVELOPMENT: Development that takes place on vacant or underutilized parcels within an area that is already characterized by residential and/or commercial development and has access to municipal services.

INSTITUTIONAL USES shall mean a nonprofit or quasi-public use, such as a religious institution, library, public or private school, hospital, or government owned or government operated structure or land used for public purpose.

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

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

KENNEL means a commercial establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee. This includes any building or premises used, designed, or arranged for the boarding or breeding or care of four (4) or more dogs, cats, or other domesticated pets of at least six months (6 mos) of age.

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

LAND DISTURBANCE or LAND DISTURBING ACTIVITY means a man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including construction activity such as the clearing, grading, excavating, or filling of land.

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

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

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

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

LIMIT OF MODERATE WAVE ACTION (LiMWA) is an informational line that can be found on flood maps for some coastal areas. On a flood map, it is shown as a black line with black arrows that point to areas where wave heights are between one and one-half (1.5) and three (3) feet. It also marks the inland limit of the Coastal Zone A.

LIVING SHORELINE is a shoreline management practice that: provides erosion control and water quality benefits; protects, restores, or enhances natural shoreline habitat; and maintains coastal processes through the strategic placement of plants, stone, sand fill, and other structural and organic materials. When practicable, a living shoreline may enhance coastal resilience and attenuation of wave energy and storm surge. Pursuant to Va. Code §28.2-104.1, living shorelines are recognized as the preferred alternative for stabilizing shorelines in the Commonwealth. Only living shorelines shall be permitted for shoreline management unless the best available science shows that such approaches are not suitable.

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

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

LOT, CORNER means a lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than one hundred and thirty-five degrees (135°).

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

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

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

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

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

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

LOT LINE, REAR is the lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot, a line ten feet (10') in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

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

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

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

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

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

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

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

MARQUEE. See the term "Canopy."

MATURE TREE means a canopy tree with a diameter at breast height (DBH) of 12 inches or greater or an understory tree with a DBH of four (4) inches or greater.

MEAN SEA LEVEL means, for purposes of the National Flood Insurance Program, the

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National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on the Flood Insurance Rate Map are referenced.

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

MIXED USE DEVELOPMENT means property that incorporates two (2) or more different uses, and may include a variety of housing types, within a single development.

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

MODULAR BUILDING, OR HOMR OR INDUSTRIALIZED BUILDING means, but is not limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, a combination of one (1) or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating, and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. Unlike Manufactured Homes, the design, installation, and construction of modular or industrialized homes are regulated by the Uniform Statewide Building Code.

MOTEL is one (1) or more buildings in which lodging or board and lodging are provided for transient guests for compensation and supervised by a person in charge at all hours. Ingress and egress to and from all rooms are made primarily directly from an exterior walkaway rather than from an inside lobby.

MUNICIPAL COMMUNITY CENTER. See ‘Neighborhood Community Center.’”

[**NATURE-BASED SOLUTION** means an approach that reduces the impacts of sea-level rise, flooding, and storm events through the use of environmental processes and natural systems.](#)

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

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

NEW CONSTRUCTION means structures for which the start of construction commenced on or after the effective date of a flood plain management regulation

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adopted by a community and includes any subsequent improvement to such structures.

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

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

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

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

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

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

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

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

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

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tables, files, and communication equipment.

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

OPEN SPACE is a lot or portion of a lot set aside, designated or reserved for the outdoor enjoyment of the public or for all persons occupying a building on the lot, and is preserved as natural areas or is designed as a park or recreational area.

OPERATOR means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, mortgagee in possession, licensee, or any other possessory capacity.

OUTDOOR STORAGE means the keeping in an enclosed area of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four hours (24 hrs).

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

OWNER shall mean the legal or beneficial titleholder of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

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

PARCEL: See **LOT**.

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

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

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

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

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

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

private property.

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

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

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

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

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

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

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

PHASE or **PHASED** is subparts or segments of construction projects where the subpart or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

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

PLACE OF WORKSHIP shall mean a building where persons regularly assemble for religious purposes and related social events, and which is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

PLAN OF DEVELOPMENT means the process for site plan or subdivision plat review to ensure compliance with [§10.1-2109 of the Code of Virginia](#) and this Article prior to any clearing or grading of a site or the issuance of a building permit. [For the Chesapeake Bay Preservation Act Overlay Ordinance, PLAN OF DEVELOPMENT means any process for site plan review in local zoning and land development regulations designed to ensure compliance with Va. Code § 62.1-44.15:74 and with this Ordinance, prior to issuance of a building permit.](#)

PLANNED UNIT DEVELOPMENT means a form of development characterized by unified site design for a variety of housing types and densities, clustering of buildings,

common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.

PLAT or PLAT OF SUBDIVISION means the schematic representation of land divided or to be divided and information in accordance with the provisions of §§ [15.2-2241](#), [15.2-2242](#), [15.2-2258](#), [15.2-2262](#), and [15.2-2264](#), and other applicable statutes.

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

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

PORCH means a roofed area, which may be screened, usually attached to or part of and with direct access to or from a building. A porch becomes a room when the enclosed space is heated or air conditioned, or has water and sewer service, and when the percentage of window area to wall area is less than fifty percent (50%).

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

PRESERVATION is the process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project. However, new exterior additions are not within the scope of this treatment.

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

PRINCIPALLY ABOVE GROUND means that at least fifty-one percent (51%) of the actual cash value of the structure, less land value, is above ground.

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

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

PROJECT shall mean the entire proposed development.

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

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

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

PUBLIC ART is a fountain, sculpture, painting, mural, or similar object that is sited within a planned development as a focal point and is intended for the enjoyment of the general public.

PUBLIC ROAD means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to (i) [the Erosion and Sediment Control Law-Stormwater Management Act \(§ 62.1-44.15:5124 et seq. of the Code of Virginia\)](#). This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed and maintained, or both, by the Town of Cape Charles in accordance with the standards of the Town of Cape Charles.

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

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

RECONSTRUCTION is any or all work needed to remake or rebuild all or part of any building to a sound condition, but not necessarily of original materials. It is the process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location. Reconstruction is different from the other historic treatments in that it is undertaken when there are often no visible historic materials extant or only a foundation remains.

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

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places, sites, or fields.

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

RECREATIONAL VEHICLE means a vehicle which is:

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

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

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

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

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

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

RESIDENTIAL PROPERTY shall mean all property used for single-family detached, single-family attached, or multifamily residences, or mixed-use development that contains one or more dwelling units.

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

RESOURCE PROTECTION AREA or **RPA** means that component of the Chesapeake

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

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

RESTORATION is any or all work connected with the returning to or restoring of a building or a part of any building to its original condition through the use of original or nearly original materials. It is the process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

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

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

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

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

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

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

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

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) consecutive days, in exchange for a charge for the occupancy.

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This does not include a hotel, motel, or bed and breakfast.

SIDEWALK: A hard-surfaced walk or raised path and any curb ramps or blended transitions, along and generally paralleling the side of the streets for pedestrians. Sidewalks do not include the curb or gutter structures.

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

SITE PLAN means the development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, wetlands, and waterways; landscaping and open spaces; walkways; means of egress and ingress; circulation; utilities; structures and buildings; signs and lighting; berm; buffers and screening devices; surrounding development; and any other information that reasonably may be required in order that an informed decision can be made by the approving authority; a proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the subdivision ordinance to which the proposed development or subdivision is subject.

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

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

START OF CONSTRUCTION means the date the building permit was issued, provided the actual START OF CONSTRUCTION, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary

forms; nor does it include the installation of property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual START OF CONSTRUCTION means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

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

STORM SURGE is the resulting temporary rise in sea level due to the action of wind stress on the water surface and low atmospheric pressure created during storms which can cause coastal flooding. Surge is the difference from expected tide level. Storm tide is the total water level.

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

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

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

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

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

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

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

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

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

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

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

SUBDIVISION unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the division of a parcel of land into three or more lots or parcels of less than five acres (5 ac) each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resub division and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two (2) lots or parcels, a plat of such division shall be submitted for approval in accordance with § 15.2-2258. Nothing in this definition, section, nor any ordinance adopted pursuant to § 15.2-2240 shall preclude different owners of adjacent parcels from entering into a valid and enforceable boundary line agreement with one another so long as such agreement is only used to resolve a bona fide property line dispute, the boundary adjustment does not move by more than two hundred and fifty feet (250') from the center of the current platted line or alter either parcel's resultant acreage by more than five percent (5%) of the smaller parcel size, and such agreement does not create an additional lot, alter the existing boundary lines of localities, result in greater street frontage, or interfere with a recorded easement, and such agreement shall not result in any nonconformity with local ordinances and health department regulations. Notice shall be provided to the zoning administrator of the locality in which the parcels are located for review. For any property affected by this definition, any division of land subject to a partition suit by virtue of order or decree by a court of competent jurisdiction shall take precedence over the requirements of Article 6 (§ 15.2- 2240 et seq.) and the minimum lot area, width, or frontage requirements in the zoning ordinance so long as the lot or parcel resulting from such order or decree does not vary from minimum lot area, width, or frontage requirements by more than twenty percent (20%). A copy of the final decree shall be provided to the zoning administrator of the locality in which the property is located.

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

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

SUBSTANTIAL IMPROVEMENTS means any construction, rehabilitation, addition, or other improvements of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a historic structure, provided that the alteration will not preclude the structure as continued designation as a historic structure.

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

TEMPORARY STRUCTURE shall mean a structure without any foundation or footing and removed when the designated time period, activity, or use of which the temporary structure was erected has ceased.

TEMPORARY FAMILY HEALTH CARE STRUCTURE means a transportable residential structure, providing an environment facilitating a caregiver’s provision of care for a mentally or physically impaired person meeting criteria stated in § 15.2-2292.1.

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

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

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

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

TRANSPORTATION FACILITY is any structure or facility that is primarily used, as part of a transit system, for the purpose of loading, unloading, or transferring passengers or accommodating the movement of passengers from one mode of transportation to another.

UNDERSTORY TREE means a tree that typically reaches 12 to 35 feet in height when mature.

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

UTILITY INSTALLATION. See Public Utility Facility.

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

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

VIEWSHEDS are the areas of land extending south from Washington Avenue to Bayshore Lane, that align in width and angle with the existing streets to the north (including Harbor Street and Peach Street), that shall be restricted to only ground-level development and their amenities, including but not limited to streets, pedestrian or multi-modal trails, or linear parks, so as to maintain the view from the north to the south and vice-versa.

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

WETLANDS means tidal and non-tidal wetlands.

WORKFORCE HOUSING means housing commonly targeted at “essential workers” in a community (e.g., police officers, firefighters, teachers, nurses, medical personnel,

Town of Cape Charles Zoning Ordinance
Appendix B – Subdivision Ordinance

service workers). Workforce housing is targeted more generally at income levels from eighty percent (80%) to one hundred and twenty percent (120%) of Area Median Income (AMI), regardless of type of employment.

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

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

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

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

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

Appendix C - Site Plan Ordinance

Section 100: Purpose of Article

The purpose of these requirements is to provide for the orderly development of certain activities in the Town and to ensure that such activities are developed in a manner harmonious with surrounding properties and in the interest of the general public welfare. To achieve these ends and to assure compliance with all applicable requirements of this chapter, site plans for certain uses of land shall be submitted to and reviewed by the Zoning Administrator.

Section 200: Developments and Uses Requiring a Site Plan

- (a) All development which exceeds two thousand five hundred square feet (2,500 sf) of land disturbance, including single-family residential development, shall submit either a plot plan or site plan prior to the initiation of the development process. Land-disturbing activities shall not include minor activities such as home gardening, individual home landscaping, and home maintenance, nor shall it include access or staging areas provided they do not result in land disturbance.
- (b) Any changes to an existing multi-family, commercial, and industrial use that increase the improved square footage by more than one hundred square feet (100 sf) or as deemed necessary by the Zoning Administrator or increase the number of units within the previously approved site plan.
- (c) Churches, church schools, public and private schools, hospitals, nursing homes, and government offices.

Section 300: Procedures for Preparation

- (a) Site plans or any portion thereof involving engineering, architecture, landscape architecture, or land surveying shall be certified by an engineer, architect, or land surveyor authorized by the Commonwealth to practice as such.
- (b) Site plans shall be prepared to a scale of not more than one-inch equals one hundred feet (1" = 100') or other scale acceptable to the administrator.
- (c) A site plan may be prepared in one (1) or more sheets to show clearly the information required by the Article and to facilitate the review and approval of the site plan. If prepared in more than one (1) sheet, match lines shall clearly indicate where the several sheets join.
- (d) All horizontal dimensions shown on the site plan shall be in feet and decimal fractions to a foot to the closest one-hundredths of a foot (.01), and all bearings in degrees, minutes, and seconds to the nearest ten (10) seconds.
- (e) Every site plan shall show the name and address of the owner or developer, the north point, the date, the scale of drawing, and the number of sheets. In addition, it shall reserve a blank space at least three inches (3") wide and five inches (5")

for the approving authority.

- (f) Three (3) copies of the site plan shall be submitted to the Zoning Administrator for administrative review.

Section 400: Required Information

(a) Plot Plans. One (1) copy of a plot plan, drawn to scale, for individual single-family dwellings or accessory structures for single-family residences or for commercial development which results in a land disturbance less than five thousand square feet (5,000 sf) and which will result in an area of impervious surface of less than sixteen percent (16%) of any lot or parcel shall be submitted to the Zoning Administrator for review and approval. Any encroachment into a Resource Protection Area (RPA) shall require an applicant to prepare a site plan as outlined in Subsection B below including the submission of a water quality impact assessment in accordance with Section 32.190 of the Chesapeake Bay Preservation Ordinance.

(1) At a minimum, the plot plan shall be drawn to scale and contain the following information:

- a. a boundary survey of the site drawn to scale or site drawing showing the north arrow and property line boundaries and distances;
- b. area of the lot/parcel;
- c. location, dimension, and use of proposed and existing structures including marine and temporary structures. In the case of temporary structures, the date when the structures will be removed must be indicated;
- d. location of all building restriction lines, setbacks, easements, covenant restrictions, and rights-of-way;
- e. dimensions and location of all existing driveways, parking areas, or other impervious surfaces;
- f. limits of clearing and grading;
- g. specifications for the protection of existing trees and vegetation during clearing, grading, and all phases of construction;
- h. location of the [Resource Protection Area \(-RPA\) and Resource Management Area \(RMA\)](#) boundary, as specified in Subsection 32-186(a) of the Chesapeake Bay Preservation Ordinance, including any additional required buffer areas and RPA maintenance and use restrictions; ~~revision adopted by Town Council 12/2010~~;
- i. **plat notations as required in Section 7.11 (F)(2);**
- j. location of all erosion and sediment control devices;
- k. amount of **existing and proposed** impervious surface ~~proposed~~ for the site, **as well as total amount of impervious cover proposed within the RPA.**

- (b) A site plan shall be required for any single-family, residential, or commercial development which results in five thousand square feet (5,000 sf)

Town of Cape Charles Zoning Ordinance
Appendix C – Site Plan Ordinance

or more of land disturbance or for any multi-family or industrial development or for development specified in Subsections 2.B and 2.C or for any other development deemed necessary by the Zoning Administrator. All site plans shall contain the following information:

- (1) Location of the tract by an insert map at a scale of not less than one-inch equals two thousand feet (1" = 2,000'), unless otherwise acceptable to the administrator, indicating the scale, the north arrow, and such information as the names and numbers of the adjoining roads, streams and bodies of water, railroads, subdivisions, or other landmarks sufficient to clearly identify the location of the property.
- (2) A boundary survey of the tract by bearings and distances certified by a licensed land surveyor.
- (3) Certificate signed by the surveyor or engineer setting forth the source of title of the owner of the tract and the place of record of the last instrument in the chain of title.
- (4) All existing property lines; existing streets and easements, their names, numbers, and width; the location and sizes of existing sanitary and storm sewers, gas lines, water mains, culverts, and other utilities and their easements; existing buildings; existing watercourses, waterways, or lakes and their names; and other existing physical features in or adjoining the project.
- (5) Existing zoning and zoning district boundaries on the property in question and on immediately surrounding properties, including all Resource Protection Area (RPA) and Resource Management Area (RMA) boundaries, and present use of adjoining tracts.
- (6) Existing topography with a maximum of two-foot (2') contour levels. Where existing ground is on a slope of less than two percent (2%), either one foot (1') contours or spot elevations where necessary but not more than fifty feet (50') apart in both directions.
- (7) The location, dimensions, and materials proposed for the construction of proposed streets, alleys, driveways, and the location, type, and size of vehicular entrance(s) to the site.
- (8) The location and amount (in square feet) of all existing and proposed impervious surface including but not limited to all off-street parking, loading spaces, and walkways. The type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided should also be indicated.
- (9) All proposed water and sanitary sewer facilities indicating all pipe sizes, types, and grades and where connection is to be made to town or to other utility system; all proposed gas lines and other utilities and their easements.
- (10) The proposed location, general use, number of floors, height and floor area for each building, accessory and main, and where applicable, the number, size, and type of dwelling units.
- (11) Proposed finished grading by contours supplemented where necessary by spot elevations.
- (12) The location, sizes, types, and grades of ditches, catch basins, and pipes,

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- and connections to existing drainage system.
- (13) Provisions for the adequate control of erosion and sedimentation indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading, and construction.
 - (14) Delineation of any floodplain limits.
 - (15) Location, type, size, and height of fencing, retaining walls, and screen planting where required under the provisions of the chapter.
 - (16) A landscape plan, drawn to scale, delineating dimensions and distances and the location, type, size, and description of all existing and proposed plant materials. Any required buffer area and all existing trees on site six inches (6") or greater DBH shall be clearly shown on the landscape plan. Where there are groups of trees, stands may be outlined instead. Trees to be removed to create a desired construction footprint shall be clearly delineated on the plan. The landscape plan will include specifications for the protection of existing trees and buffer areas during clearing, grading, and all phases of construction.
 - (17) The location and dimensions of proposed recreation, open space, and required amenities and improvements including details of disposition.
 - (18) A storm water management plan to include maps, graphs, tables, narrative descriptions, and citations to support references as appropriate to communicate the information required by the Town Code. At a minimum, the storm water management plan shall contain:
 - (a) location and design of all planned storm water control devices;
 - (b) procedures for implementing non-structural storm water control practices and techniques as applicable;
 - (c) pre- and post-development non-point source pollutant loadings with supporting documentation of all utilized coefficients and calculations; and
 - (d) for facilities, verification of structural soundness including a Professional Engineer or Class IIIB Surveyor Certification. All engineering calculations must be performed in accordance with procedures outlined in the current edition of the Local Assistance Manual, the Virginia Erosion and Sediment Control Handbook, or the Virginia Department of Transportation Drainage Manual.
- (c) All features and elements of the site plan required by this Article shall in all respects conform to all applicable provisions and standards of the Code of Virginia and this Code, including, but not limited to: The Cape Charles Comprehensive Zoning Ordinance, Subdivision Ordinance, Erosion and Sediment Control Ordinance, or any PUD zoning ordinance approved by Town Council.

Section 500: Procedure for Processing

- (a) All applicants for site plan review shall submit to the Zoning Administrator a site plan for the proposed development. The site plan review fee, as established by the Council, shall be paid at this time.

- (b) The Zoning Administrator shall review all site plans which are submitted to him pursuant hereto. The administrator shall check the site plan for general completeness and compliance with all applicable requirements. The administrator shall circulate the site plan to the relevant town departments, agencies, and officials for written comments as to the proposed development’s conformance to all applicable standards and requirements and whether approval of the site plan is recommended.
- (c) Except under abnormal circumstances, within 45 days from the receipt of the site plan in his office, the Zoning Administrator shall approve, approve subject to conditions, or disapprove the site plan and notify the applicant in writing of the action taken. If the site plan is denied approval, the administrator, in notifying the applicant of the decision, shall set forth in detail the reasons for the denial, which shall be limited to any defect in form or required information, any violation of any provision or standard of this chapter or any other ordinance, or the inadequacy of any utility and shall state any changes which would make the site plan acceptable.

Section 600: Time for Obtaining Building Permit After Approval; Extension of Time

Approval of a site plan submitted under the provisions of this Article shall expire five years (5 yrs) after the date of such approval unless building permits have been obtained for construction in accordance therewith. A single one-year (1 yr) extension may be given upon written request by the applicant to the Zoning Administrator and Town Manager made within ninety (90) days before the expiration of the approved site plan. The Zoning Administrator and Town Manager shall acknowledge the request and shall make a decision regarding the requested extension within thirty (30) days after receipt of the request.

Section 700: Revision of Site Plan; Waiver of Requirements of Article

The Zoning Administrator may approve minor revisions to an approved site plan, provided that Town requirements and specifications are not affected. Major revisions shall require that a new site plan be drawn, and the review and approval process begun anew. Any revision to an approved site plan that does not change the proposed use, and that exceeds the ordinance requirements of the previously approved plan, shall be approved by the Zoning Administrator.

Section 800: Appeals

Any applicant aggrieved of any decision of the Zoning Administrator on a site plan review may, within ten (10) days of such decision, appeal to the Town Council. The Town Council shall act upon such an appeal by the owner at its next regularly scheduled meeting. The applicant may appeal Town Council’s decision to the

Northampton County Circuit Court as provided by law.

Section 900: Building Permits to Comply with Site Plans

No permit shall be issued for any structure in an area covered by the site plan that is required under the provisions of this Article in conformity to such a plan which has been duly approved or revised as provided in Section 700.

Section 1000: Agreement and Bond for Construction of Certain Improvements; Establishment of Fees for Examination and Issuance of Building Permits

- (a) Prior to the issuance of any building permits for which an approved site plan is required, there shall be executed by the owner, developer, or their contractor, an agreement to construct the agreed-upon physical improvements that are located within the public right-of-way or public easements in a form approved by the Town. Such agreements shall be in accordance with this ordinance and be accompanied by a letter of credit, escrow, or a bond with surety acceptable to the Town (hereinafter “security”) in the amount of the estimated cost of the required physical improvements as determined by the town departments, divisions, or agencies responsible for such improvements.
- (b) Such security shall remain in force until the completion of the secured improvements within the public right-of-way or public easements shown on the approved site plan. Such security shall be partially and proportionally released within thirty (30) days of receipt by the Town of written notice from the contractor certifying completion of a distinguishable part of the secured improvements. If the Town notifies the contractor in writing of any defects or deficiencies in the secured improvements within this thirty (30) day period, then corrective measures must be taken by the contractor prior to any partial or complete release of the security.
- (c) Such security shall be with a firm or bank acceptable to the Town Manager which approval shall not be unreasonably withheld.
- (d) “Best Management Practices” (BMP) imposed by these regulations that require regular or periodic maintenance in order to continue their function shall be regulated by a maintenance agreement submitted to the Town by the owner, developer, homeowner association, or other entity responsible for said BMPs and, where approved by the Town, shall run with the land and be binding upon the entity that assumes responsibility for said BMPs.

Section 1100: Compliance with Approved Site Plan

- A. Unless otherwise specifically provided in this chapter, the construction standards for all offsite improvements and site improvements required by this Article shall comply with approved site plan.

- B. Inspections during the installation of the offsite improvements and required onsite improvements shall be made by the department responsible for such improvements as are required to certify compliance with the approved site plan.
- C. The owner shall notify the Town Manager in writing three (3) days prior to the beginning of all street or storm sewer work shown to be constructed on the site plan.
- D. The owner or owner’s contractor shall provide adequate supervision on the site during the installation of all required improvements within the public right-of-way or public easements and have a responsible superintendent or foreman, together with one (1) set of approved plans, profiles, and specifications, available at the site at all times when work is being performed.
- E. Upon satisfactory completion of the installation of the required improvements, the owner shall receive a certificate of approval from the Zoning Administrator. The Town Manager will authorize the release of any bond which may have been furnished for the guarantee of satisfactory installation of such improvements or parts thereof upon notice by the Zoning Administrator that the improvements have been satisfactorily completed.
- F. The installation of improvements as required in this Article shall in no case serve to bind the Town except such improvements for the maintenance, repair, or operation thereof, but such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement. Upon acceptance, the Town shall assume all ownership, maintenance, and repair obligations of the dedicated improvements.

Section 1200: Occupancy Certificates

A final occupancy permit may be issued for any appropriately completed building or part of building located in a part of the total area of an approved site plan, such part of the total area to be known as a section, provided that:

- A. The other onsite construction and improvements included in the approved site plan for the section have been completed and have been inspected and accepted by the Zoning Administrator, the Town Manager, and the county health officer or their agents.
- B. The off-site improvements related to and necessary to service the section has been completed, inspected, and accepted by the Town Manager or his agents, or the developer has provided surety acceptable to the Town.

Zoning Text Amendment Application



Zoning Text Amendment Application

Planning & Zoning Department
412 Tazewell Avenue
Cape Charles, VA 23310
757-331-3259 x30

planner@capecharles.org

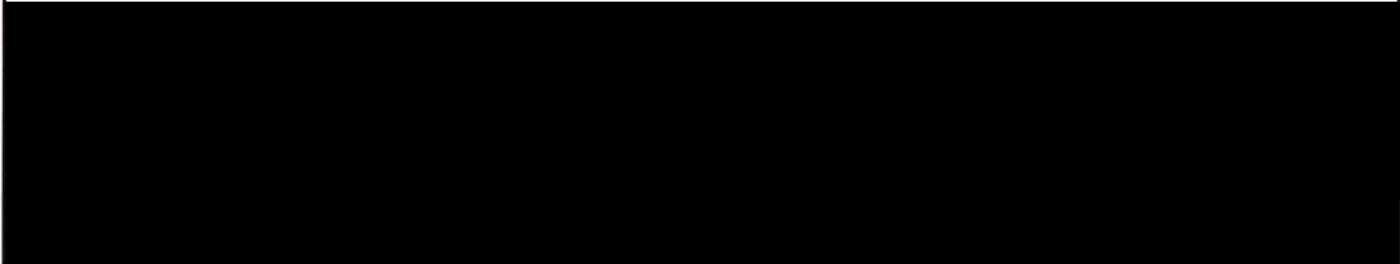
Revised 11/2025	
Taxes	✓ up to date
Violations	—
Fee	—
Decision	

Budge Code: MISPL 100-3100-1070

PART 1. APPLICATION NOTES

1. A pre-application conference with Planning staff is strongly recommended prior to submission of a zoning text amendment.
2. The Zoning Text Amendment application process typically takes about four (4) months.
3. A Zoning Text Application may be submitted by any Cape Charles property owner. It may only be advanced to either the Planning Commission or the Town Council for a public hearing following staff consultation with the Town Manager.
4. Either the Planning Commission or Town Council may submit an application for a zoning text amendment with the Town Manager, Zoning Administrator or Planning Director representing the application on behalf of the Town.
5. The application will need to receive an affirmative vote of the Cape Charles Town Council or Cape Charles Planning Commission to step in as the applicant and to set a calendar advancing the application to public hearing in compliance with the Code of Virginia Section 15.2-2285 and 15.2-2204
6. The applicant will be required to make a presentation to fully explain the request and demonstrate its need. The presentation should show how the proposed change supports and maintains compliance with the goals and objectives of the Comprehensive Plan.
7. The final decision will be made by Town Council, which approves zoning text amendments at their legislative discretion.

PART 2: APPLICANT INFORMATION



If the applicant has property owned by an LLC, LP, or other form of corporation, list all landowners and their contact information.
NA

PART 3: Description of Request

Answer all questions in this section. Attach additional sheets as needed.

Submission Date: 3/23/2026 | Zoning Ordinance Sections Proposed to be Amended (Sec. # and Title): 32-180 thru 32-197

Existing Text: Amend Town Code Chapter 32, Article VII (Chesapeake Bay Preservation Area Overlay District) and related updates to Appendix A (Definitions) and Appendix C (Site Plan Ordinance) to ensure the ordinance complies with state law regarding the Chesapeake Bay Preservation Area.

Proposed Text: See Attached

PART 4: Written Narrative – Provide on a separate sheet(s)

Provide a written narrative that, at a minimum, covers the following information:

- A) Relevant code section(s) to be amended and proposed changes to the Zoning Ordinance.
- B) Whether and the extent to which the proposed amendment is consistent with the comprehensive plan and any other applicable and adopted long range planning documents. Cite the document and page.
- C) Whether the proposed amendment conflicts with any provision of the Zoning Ordinance and any other regulations contained in the City Code or other applicable regulations.
- D) Whether and the extent to which the proposed amendment addresses a demonstrated community need.
- E) Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.
- F) Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, floodplains, wetlands, and the natural functioning of the environment.

Whether to amend the text of this Ordinance is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In determining whether to adopt or disapprove the proposed amendment, the Town Council may consider any factor it deems applicable and consistent with the Code of Virginia, including but not limited to the Town’s comprehensive plan, and the public health, safety, and general welfare.

PART 5: Applicant Certification

By signing this application below, I hereby attest to the truth and accuracy of all facts and information presented with this application and any attachments and supplemental information submitted with the application.

 Date: 3/24/2024
Date: 3/23/2024

PART 6: To Be Completed by P & Z Department Staff

Date Application Received in Office: <u>3/3/2024</u>	Application #: <u>ZTA 2024-01</u>
Planning Commission	Town Council
Date referred: 04/07/2024 <u>3/19/2024</u>	Date received from Planning Commission:
Action deadline (100 days from receipt):	Action deadline (max. 365 days from referral to PC):
Public hearing date: <u>04/07/2024</u>	Public hearing date: <u>4/16/2024</u>
Decision:	Decision:



MONTHLY REPORT

Katie H. Nunez, Planning/Zoning Administrator

This monthly report encompasses the months of December 2025
& January, February, March 2026

A. SUBDIVISION AGENT:

1. 614 Peach – Lot Line Vacation - approved
2. Approved revised Preliminary Plat for Village F-1 (originally submitted and approved for 77 single family dwelling lots) – now amended as follows:
 - 67 single family dwelling lots; 1 parcel with 5 condominium buildings - each building will be 65 ft tall and consist of 5 stories with 1st story for parking and the remaining 4 stories will house two units per floor for a total of 40 condominium residential dwellings; said approval is contingent on revised submission of construction drawings regarding revised road serving the condominium buildings to accommodate increased fire response lanes & fire hydrants and reworked parking area in front of condo buildings. The total number of units for Village F-is now at 107 dwelling units.
 - Approved Preliminary Plat for Fairways Section II, Phases 4-7 and Section III, Phase 2 (The Commons – Lots 29A-29D & 32A-32D)
 - Approved Recombination Final Plat for Fairways Parcel P-1A (The Commons, Lots 7A-7C)

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

1. A public hearing was held on October 14th, 2025, at 10:00 am regarding an 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 setback and 5' into the rear setback. Said application was approved by the BZA.
2. A public hearing was held on December 9, 2025, @ 10:00 a.m. regarding an appeal on a Zoning Determination letter denying an STR on a houseboat in the harbor. Said appeal was denied and the BZA upheld the Zoning Determination letter.
3. A public hearing will be held on April 14th, 2026, @ 9:00 a.m., to discuss an exception to the Chesapeake Bay Act Application at 165 Sunset Blvd.

C. HARBOR DEVELOPMENT CERTIFICATES: No applications were filed.

D. WETLANDS and COASTAL SAND DUNE BOARD: At the January 21st, 2026, Wetlands and Coastal Dune Board Public Hearing and Regular Meeting, the Board heard an application from the Bay Creek at Cape Charles Community Association to construct an aquatic barrier to deter aquatic vegetation floating in the Chesapeake Bay from coming ashore on the North Beach of Bay Creek.
After discussion, the Wetlands and Coastal Dune Board voted to table the application until Town Staff had received input from both VMRC and VIMS on whether this was within the Board's jurisdiction or not.

E. TOWN COUNCIL: A work session is scheduled with Town Council and staff on Thursday, April 9, 2026 regarding several proposed zoning text amendments that staff has developed for Town Council consideration to determine if they wish to accept these as Zoning Text Amendment applications for public hearing. They are as follows:

- Revisions to Article VIII (Historic District Overlay Ordinance) and new Appendix G to the Historic District Guidelines re: Routine Maintenance Work, Minor Work and Major Work and the level of review required (none vs. Zoning Administrator review vs. HDRB review)
- Development of a draft Food Mobile Vendor Zoning Ordinance
- Revisions to the Short Term Rental Zoning Ordinance
- Development of a Special Events Policy and possible zoning ordinance amendment.
- Development of a Peddler’s License Town Code or Zoning Ordinance amendment.

F. CHESAPEAKE BAY PRESERVATION ACT – DEQ COMPLIANCE REVIEW AND CORRECTIVE ACTION AGREEMENT

As I have reported to you previously, the Town was the first locality that VA Dept of Environmental Quality (DEQ) selected to resume the five-year review of CBPA Compliance; said review commenced in the summer 2024 and has been ongoing since. As a result of their initial review, DEQ staff identified several deficiencies of non-compliance and developed a Corrective Action Agreement which the Town initially executed in August 2025 and subsequently amended it to March 2026 (Attachment A).

While we have been making progress on most items and will achieve compliance and completion on the majority of the deficiency items by the end of April 2026 (Attachment B), there is one item that I have not been able to focus on and am requesting assistance from the Planning Commission to either appoint a subcommittee or have the entire Commission commit to working on addressing this item with the intent to bring us into compliance with state law. The specific item is:

Deficiency #4 - Comprehensive Plan

As required by 9VAC25-830-170 of the Regulations, the Town of Cape Charles must amend its comprehensive plan to include mapping of the location of designated Chesapeake Bay Preservation Areas, shoreline and streambank erosion problems, and existing and potential water pollution sources. The Town must also develop implementation measures (such as goals, objectives, and action strategies) and a time frame for accomplishment of the implementation measures.

Regarding the mapping of the CBPA, specifically the Resource Protection Areas (RPA) and Resource Management Areas (RMA), I have reached an agreement with Northampton County to cooperatively share their GIS Services and am working with their vendor to develop multiple “Cape Charles” specific mapping layers, which include our zoning layers, subdivision layers, sidewalk layers, conditional use permits and variances approved “designation” layer, Historic District Overlay layer including designation of Contributing Structures by property within the Historic District, and the mapping and designation of RPA and RMA based upon the proposed revisions to the CBPA Zoning Ordinance Overlay which the Town is hopefully adopting in April 2026.

There may be additional layers we should consider as a result of our Comp Plan c on Environmental Conditions, such as: shoreline erosion, oyster and clam bed locations, water access points for both boaters and swimmers.

Most importantly, the State is desirous of the Town attaching projected timeframes of implementation and/or completion on the goals and objectives that we have identified for this topic.

To that end, I have attached the Comprehensive Plan components addressing the Environmental Chapter as part of this discussion (Attachment C).



Corrective Action Agreement – Cape Charles, REVISED
Chesapeake Bay Preservation Act Program
 Page 1 of 4

This is a Corrective Action Agreement issued under the authority of Va. Code § 62.1-44.15:71, between the Department of Environmental Quality (DEQ) and the *Town of Cape Charles* regarding the *Cape Charles* Chesapeake Bay Preservation Act Program for the purpose of resolving certain deficiencies that are violations of the State Water Control Law and the applicable regulations.

Program Component	Deficiencies and Legal Requirements	Corrective Action	Completion Date
Plan of Development Review Process	As required by 9 VAC25-830-60(A)(6), 9 VAC25-830-130(3), and 9 VAC25-830-190(A) and Appendix B Section 4, Article VII Section 7.9, 7.12(B), of the Cape Charles Town Code, the Town of Cape Charles shall consistently implement the requirements outlined in its Chesapeake Bay Preservation ordinance in a manner that protects the quality of state and local waters. This includes consistent documentation of site-specific Resource Protection Area determinations and their confirmation by staff; and consistent depiction of site plan and plat notation requirements including RPA and RMA boundaries, retention of an undisturbed and vegetated 100-foot buffer, and the permissibility of only water dependent facilities or redevelopment in Resource Protection Areas.	The Town shall develop new or amend existing implementation tools to include protocols, procedures, applications, and checklists to ensure the implementation and documentation of the ordinance requirements that enable the Town to determine that the proposed use and development of land in designated Chesapeake Bay Preservation Areas is consistent with the Chesapeake Bay Preservation Act and Regulations, to include those listed above. These updated implementation tools will be reviewed by DEQ to ensure that the Town's implementation tools result in accurate, consistent application of the plan of development review process.	8/31/2025 3/31/2026
Plan of Development Review Process	As required by 9 VAC25-830-140(6) of the Regulations and Article VII Section 7.7(B) and 7.11 of the Cape Charles Town Code, the Town of Cape Charles must consistently implement and enforce mitigation requirements for permitted RPA buffer encroachments, modifications, and violations as specified in the water quality impact assessment and as based upon the area of land disturbance within the RPA. Such implementation and enforcement shall include ensuring the planting of approved	The Town must develop new or amend existing protocols, procedures, applications, and checklists to ensure the consistent implementation of requirements for violations, buffer encroachments, and buffer modifications that provide mitigation plantings are consistently required, appropriately planted, and survive through two growing seasons.	8/31/2025 3/31/2026



**Corrective Action Agreement – Cape Charles, REVISED
Chesapeake Bay Preservation Act Program
Page 2 of 4**

	<p>vegetative mitigation within a reasonable time frame and documenting survival of required plantings for at least one year.</p>		
<p>RPA Development Criteria</p>	<p>As required by 9 VAC 25-830-80(B) and 9 VAC 25-830-110 and Article VII Section 7.12 of the Cape Charles Code, The Town of Cape Charles must, as part of the plan of development review process or during the review of a water quality impact assessment, ensure or confirm that a reliable, site-specific evaluation is conducted to determine whether water bodies on or adjacent to development sites have perennial flow and that Resource Protection Area boundaries are adjusted, as necessary, based on the site evaluation.</p>	<p>The Town must develop new or amend existing protocols, procedures, applications, and checklists to ensure the implementation and documentation of RPA boundaries are confirmed and documented by the Town with a site visit, regardless of such an evaluation that is submitted on a site plan by property owners, a contractor, or building developers.</p>	<p>8/31/2025 3/31/2026</p>
<p>RPA Development Criteria</p>	<p>As required by 9 VAC 25-830-140(1)(a) and 9 VAC 25-830-140(6) of the Regulations and Section 7.11(A) of the Cape Charles Code, the Town of Cape Charles must ensure the submission of a water quality impact assessment, inclusive of specific measures for mitigation of identified impacts due to proposed land disturbance or development within the Resource Protection Area.</p>	<p>The Town must develop new or amend existing protocols, procedures, applications, and checklists to ensure the submission of a water quality impact assessment and its implementation through the installation of mitigation measures as approved within a reasonable period, when required.</p>	<p>8/31/2025 3/31/2026</p>
<p>Regulatory Relief Requirements</p>	<p>As required by 9 VAC 25-830-150(C) and Article VII Section 7.15 of the Town of Cape Charles Code, the Town must improve its regulatory relief processes to ensure exceptions to buffer area requirements and development criteria for RPA are only made by the BZA based upon the required findings. The Town must properly document the basis for findings prior to a BZA decision.</p>	<p>The Town must work with DEQ to provide training and education to its BZA to ensure formal exceptions are adequately reviewed by the BZA and that decisions are made based upon the required Regulations including findings.</p>	<p>8/31/2025 3/31/2026</p>
<p>Comprehensive Plan</p>	<p>As required by 9 VAC 25-830-170 of the Regulations, the Town of Cape Charles must amend its comprehensive plan to include mapping of the location of designated Chesapeake Bay Preservation Areas, shoreline and streambank erosion problems, and existing and potential water pollution sources. The Town must also develop implementation measures (such as goals,</p>	<p>The Town of Cape Charles shall amend its comprehensive plan to include required mapping elements including the location of CBPA areas, shoreline and streambank erosion problems, existing and potential water pollution sources, in addition to required implementation measures for goals and objectives relevant to potential water quality impacts.</p>	<p>3/31/2026</p>



Corrective Action Agreement – Cape Charles, REVISED
Chesapeake Bay Preservation Act Program
 Page 3 of 4

	objectives, and action strategies) and a time frame for accomplishment of the implementation measures.		
Ordinance Consistency	As required by Va. Code 62.1-44.15:74 (C) and (D), 9 VAC 25-830-60(A)(4) and (6), and 9 VAC 25-830-190(A)(4) of the Regulations, the Town of Cape Charles must conduct a comprehensive review of the Article VII Chesapeake Bay Preservation Area Overlay District and Appendix B Site Plan Ordinance, to ensure consistency with the Regulations.	Town Council must adopt ordinance amendments to ensure compliance with the Regulations. DEQ staff will provide ordinance edits to assist the Town with this task	3/31/2026

DEQ conducted a review of *Town's* Chesapeake Bay Preservation Act Program (Bay Act Program) between June 21, 2024 and March 18, 2025. Based on the review of the Bay Act Program and subsequent discussions with the *Town*, DEQ finds the Bay Act Program contains the deficiencies listed in the table above and is therefore not consistent with the Chesapeake Bay Preservation Act and Regulations.

For purposes of this Agreement and subsequent actions with respect to this Agreement only, the *Town* agrees with the findings, deficiencies and legal requirements contained herein for the program components listed above.

By signing this Agreement, the *Town* declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by DEQ to modify, rewrite, amend, or enforce this Agreement.

The *Town* also agrees to complete the corrective actions by the deadline listed in the table above.

The undersigned representative of the *Town* certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Agreement and to execute and legally bind the *Town* to this document. Any documents to be submitted pursuant to this Agreement shall also be submitted by a responsible official of the *Town*.

This Agreement shall become effective upon execution by both the Virginia Department of Environmental Quality and *Town*.



Corrective Action Agreement – Cape Charles, **REVISED**
Chesapeake Bay Preservation Act Program
Page 4 of 4

Signature: *[Handwritten Signature]* Date: 11/25/2025

Name & Title: Dicran Kourouglan, III Town Manager

Signature: *Justin Williams* Date: 12/3/2025

Name & Title: Justin Williams, Manager, Office of Watersheds and Local Government Assistance Programs

**DEPARTMENT OF ENVIRONMENTAL QUALITY
CHESAPEAKE BAY PRESERVATION ACT PROGRAM
COMPLIANCE REVIEW- REVISED CORRECTIVE ACTION AGREEMENT**

TOWN OF CAPE CHARLES

Local Coordinator: Katie Nunez, Zoning Administrator

DEQ Liaison: Maura Christian, Bay Act Locality Liaison

Background

Pursuant to § 62.1-44.15:19 of the State Water Control Law and 9 VAC 25-830-260 of the Chesapeake Bay Preservation Area Designation and Management Regulations (Regulations), Department of Environmental Quality (DEQ) staff has conducted a compliance review of the Town of Cape Charles' Chesapeake Bay Preservation Act (Bay Act) program from June 21, 2024 through March 18, 2025, in accordance with DEQ's Chesapeake Bay Preservation Act Compliance Review Procedures Manual. DEQ staff identified five deficiencies regarding certain aspects of the Town's Bay Act Program implementation that do not fully comply with the Bay Act and Regulations. The Town is required to undertake actions to address the five deficiencies contained in this staff report no later than March 31, 2026, with three of the conditions requiring completion by August 31, 2025. Since March 18, 2025, the Town has undertaken actions to address the deficiencies.

A virtual meeting was conducted on August 28, 2025 to discuss the Town's progress on the five corrective actions. Work to address the Plan of Development Review Process, RPA Development Criteria, and Regulatory Relief Requirements conditions with an August 31, 2025 deadline is underway, but are not fully completed by the August 2025 deadline. The required Comprehensive Plan and Ordinance edits are also underway, with a March 31, 2026 deadline.

As of March 18, 2025, the Town has begun updating the Town's implementation tools to ensure documentation of site-specific RPA determinations, is developing a violation procedures manual and calendar, has delivered correspondence to developers with the list of plan requirements that must be included in submissions, and proposed a plan to amend the existing Board of Zoning Appeals(BZA) manual to include an appendix that addresses BZA authority to approve CBPA exceptions.

Staff Recommendation

DEQ staff has conducted a review of the corrective action conditions as outlined in the March 18, 2025 Corrective Action Agreement and upon meeting with Town staff on August 28, 2025, has determined that a revised CAA that extends all corrective action deadlines to March 31, 2026 is warranted. The remaining compliance issues and updated compliance deadlines are detailed below.

Staff Analysis

Deficiency #1 - Plan of Development Review Process

As required by 9 VAC 25-830-60(A)(6), 9 VAC 25-830-130(3), and 9 VAC25-830-190(A) and Appendix B Section 4, Article VII Section 7.9, 7.12(B), of the Cape Charles Town Code, the Town of Cape Charles shall consistently implement the requirements outlined in its Chesapeake Bay Preservation ordinance in a manner that protects the quality of state and local waters. This includes consistent documentation of site-specific Resource Protection Area determinations and their confirmation by staff; and consistent depiction of site plan and plat notation requirements including RPA and RMA boundaries, retention of an undisturbed and vegetated 100-foot buffer,

and the permissibility of only water dependent facilities or redevelopment in Resource Protection Areas.

As required by 9 VAC25-830-140(6) of the Regulations and Article VII Section 7.7(B) and 7.11 of the Cape Charles Town Code, the Town of Cape Charles must consistently implement and enforce mitigation requirements for permitted RPA buffer encroachments, modifications, and violations as specified in the water quality impact assessment and as based upon the area of land disturbance within the RPA. Such implementation and enforcement shall include ensuring the planting of approved vegetative mitigation within a reasonable time frame and documenting survival of required plantings for at least one year.

The Town is in the process of revising the existing zoning checklist to include a section that documents Town field visits to confirm RPA delineations, including photo documentation and a narrative write-up. DEQ has shared examples of other locality implementation measures, including checklists, applications, and procedures to be used as examples. DEQ is awaiting to receive a copy of the updated zoning checklist and any other implementation tools. Official correspondence was sent out by the Town to surveyors and developers with a list of plan requirements that must be included in site plan and plat submissions. DEQ is awaiting to receive a copy of the correspondence that was sent out, and to see implemented examples that demonstrate consistent depictions of site plan and plat notations. These actions and additional documentation will need to be reviewed by DEQ by March 31, 2026 to ensure the tools result in the accurate, consistent application of the plan of development review process.

The Town has developed written procedures to address violations and ensure the proper assessment and enforcement of mitigation is conducted. A calendar to track mitigation planting and needed inspections through two planting seasons is underway. DEQ is awaiting to receive a copy of the written violation and mitigation procedures, that ensure the consistent implementation of requirements for violations, buffer encroachments, and buffer modifications that provide mitigation plantings are consistently required and appropriately planted through two growing seasons. This documentation will need to be reviewed by DEQ by March 31, 2026.

Deficiency #2 – RPA Development Criteria

As required by 9 VAC 25-830-80(B) and 9 VAC 25-830-110 and Article VII Section 7.12 of the Cape Charles Code, The Town of Cape Charles must, as part of the plan of development review process or during the review of a water quality impact assessment, ensure or confirm that a reliable, site-specific evaluation is conducted to determine whether water bodies on or adjacent to development sites have perennial flow and that Resource Protection Area boundaries are adjusted, as necessary, based on the site evaluation.

As required by 9 VAC 25-830-140(1)(a) and 9 VAC 25-830-140(6) of the Regulations and Section 7.11(A) of the Cape Charles Code, the Town of Cape Charles must ensure the submission of a water quality impact assessment, inclusive of specific measures for mitigation of identified impacts due to proposed land disturbance or development within the Resource Protection Area.

The Town is in the process of revising the zoning checklist to include a section that confirms a site-specific evaluation was conducted by Town staff, including photo documentation and a write-up of the determination. DEQ has shared examples of other locality implementation measures, including checklists, applications, and procedures to be used as examples. The Town has developed written procedures to address violations and ensure the submission of a water quality impact assessment to determine specific measures for mitigation. DEQ will also evaluate that the zoning checklist ensures the consistent requirement of a water quality impact assessment to determine specific measures for mitigation for any proposed land

disturbance or development within the Resource Protection Area. DEQ is awaiting to receive a copy of the update zoning checklist and examples of WQIA's that have been submitted and specify mitigation requirements. These actions and additional documentation will need to be reviewed by DEQ by March 31, 2026.

Deficiency #3 – Regulatory Relief Requirements

As required by 9 VAC 25-830-150(C) and Article VII Section 7.15 of the Town of Cape Charles Code, the Town must improve its regulatory relief processes to ensure exceptions to buffer area requirements and development criteria for RPA are only made by the BZA based upon the required findings. The Town must properly document the basis for findings prior to a BZA decision.

The Town has proposed a plan to amend the existing BZA manual to include an appendix that ensures formal exceptions are adequately reviewed by the BZA and that decisions are made based upon the required Regulations including findings. DEQ has shared examples of other locality BZA staff reports and application forms as an example. The appendix and any additional training materials necessary to educate the BZA on the authority to approve CBPA exceptions will need to be reviewed by DEQ by March 31, 2026.

Deficiency #4 - Comprehensive Plan

As required by 9VAC25-830-170 of the Regulations, the Town of Cape Charles must amend its comprehensive plan to include mapping of the location of designated Chesapeake Bay Preservation Areas, shoreline and streambank erosion problems, and existing and potential water pollution sources. The Town must also develop implementation measures (such as goals, objectives, and action strategies) and a time frame for accomplishment of the implementation measures.

DEQ has discussed with the Town the necessary updates to bring the December 15, 2022 Town Comprehensive Plan into compliance. The Town has reached out to vendors for GIS mapping services. No deadline extension is necessary at this time. The Town will need to complete comprehensive plans by March 31, 2026.

Deficiency #5 - Ordinance Consistency

As required by Va. Code 62.1-44.15:74 (C) and (D), 9 VAC 25-830-60(A)(4) and (6), and 9 VAC 25-830-190(A)(4) of the Regulations, the Town of Cape Charles must conduct a comprehensive review of the Article VII Chesapeake Bay Preservation Area Overlay District and Appendix B Site Plan Ordinance, to ensure consistency with the Regulations.

DEQ has worked with the Town to provide the required edits to the Article VII Chesapeake Bay Preservation Act Overlay District. Town Council reviewed the edits in September 2025 and intends to have the ordinance amendments officially approved in October 2025, including the new resiliency and mature tree provisions.



Town of Cape Charles Comprehensive Plan

Adopted December 15, 2022



Goals & Objectives

Aerial view of the Town.

Goals and Objectives Setting

The Cape Charles Comprehensive Plan is intended to capture a broad community vision of a future Cape Charles.

Written statements that describe future expectations are necessary to describe that vision. These statements are intended to be easily understood and generally accepted among the residents and business interests in the Town. Goals and objectives are found in the subsequent chapters for each functional area of the Plan, e.g., land use, transportation, community facilities, etc. Some goals and objectives developed in the 2016 Comprehensive Plan process were retained. Goals are long-range, generalized statements that represent the ultimate desires of the Town. The situations and conditions called for in the goals would normally be achieved only through a sustained series of actions over a considerable period of time.

The goal statements in this Plan are sufficiently broad to remain valid as people’s values change over time. As these values change, the interpretation of the goals will change also. When this happens, the goals will remain in effect, but new goals and objectives may be developed. Goals and objectives comprise a proposed series of broad policies that are more immediate and specific in nature than are the goals. Objectives are intended to be intermediate steps that are taken toward achieving the goals. For each goal, several objectives can be provided.

The topic areas covered include:

- Housing
- Economy
- Transportation
- Community Facilities & Services
- Environment
- Land Use and Future Land Use

Public engagement has continued as part of the process; to include development of a routinely updated Community Strategic Plan, whose goals and objectives should dovetail well with the core areas above and help create a plan that builds on the Town’s unified vision. Each topic has a “goal statement” that describes what the Town should strive for in each area. The objectives and strategies are specific ways the Town should work to achieve each goal.

Implementation will be achieved through the annual Community Strategic Plan, whose shorter-term, more granular objectives, informed by the Comprehensive Plan, will set the Town’s annual priorities and workflow.



Forest and wetlands near Kings Creek Marina.

Environment

“Use policy and infrastructure to maintain and improve ecological resources and sustain an economy that relies on their wellbeing.”

- Overview
- Climate
- Topography
- The Resilience Adaptation Feasibility Tool (RAFT)
- Soils
- Surface Water
- Ground Water
- Drinking Water
- Wastewater
- Storm Water
- Wetlands
- Habitat
- Waterfront Access
- Shoreline Erosion
- Recycling
- Tree Canopy Coverage
- Environment Objectives and Strategies

Environment

Overview

Cape Charles has an inextricable link to its environment, particularly as a community on the water. With careful planning, the Town will protect its natural resources for future generations.

Climate

The climate of Cape Charles can be described as temperate, with warm, humid summers and chilly, but not very cold winters. July is the warmest month, and has an average daily high temperature of around 85 degrees Fahrenheit. Winters are relatively mild, with January being the coldest month. The average daily high temperature in January is 47 degrees, and the average daily low temperature is 32 degrees. The entire Eastern Shore is usually slightly warmer in the winter and cooler in the summer than the rest of Virginia due to its proximity to the Chesapeake Bay and the Atlantic Ocean.

On average, the most precipitation in Cape Charles occurs in July and August, but generally rainfall is evenly distributed throughout the year. The Town averages 45 inches of precipitation yearly. Severe storms present a risk during hurricane season from June 1 to November 30. Severe northeasterly storms can also affect the area during the fall and winter months. With rising average annual temperatures across the United States, storm events and temperature fluctuations may be more severe in the future.

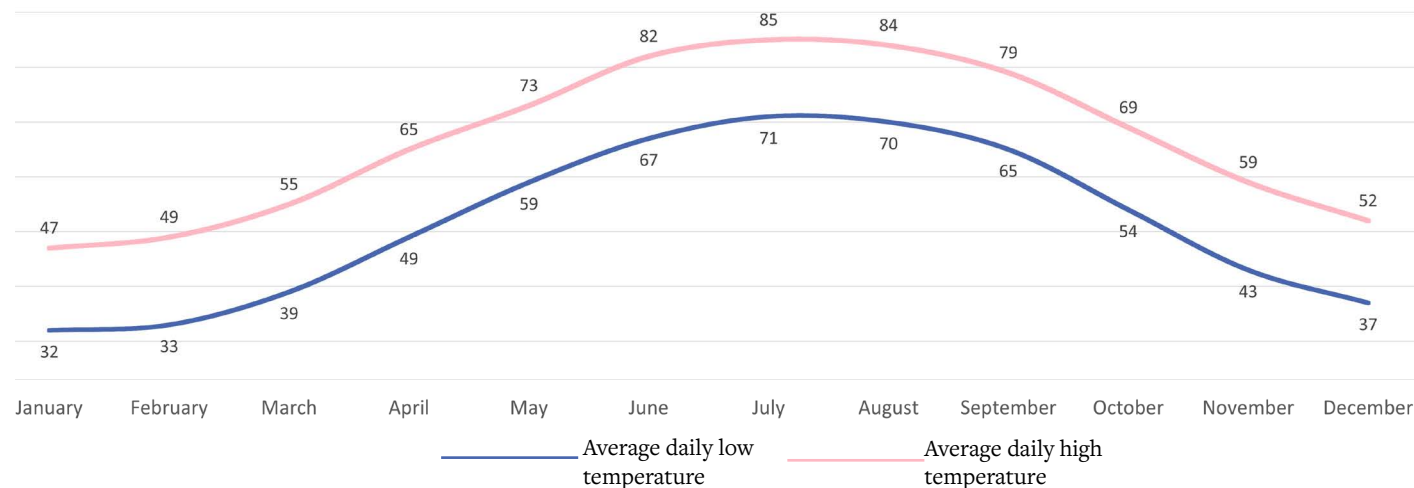


Figure 24: Average Annual Temperature

Topography

Cape Charles lies on a peninsula and is surrounded by water on three sides. The Town is situated on the Chesapeake Bay, bordered by King’s Creek to the north and Old Plantation Creek to the south. The land in Town is low lying and relatively flat, with most of the developed land in Town between five and fifteen feet in elevation. Due to its low-lying topography, Cape Charles is vulnerable to flooding. Hurricanes and northeast storms, which are characterized by high winds, heavy rainfall, higher than normal tides, and higher than normal wave action, pose threats for flooding. All coastal areas are susceptible to flooding, therefore flood insurance is recommended for properties in coastal Virginia. However, the Federal Emergency Management Agency (FEMA) has mapped areas that are predicted to have a higher probability of flood. The Virginia Flood Risk Information System has a tool that allows you to look up your address and displays the FEMA determined areas at higher risk of flood. Portions of Cape Charles are located within the 100-year floodplain, as shown in Flood Hazard Area Map on Page 73. The floodplain and associated wetland areas provide valuable wildlife habitat areas as well as protect upland areas from erosion and flooding. The 100-year floodplain is delineated by the FEMA.

Land within the 100-year floodplain (Special Flood Hazard Area) statistically averages one flood in a 100-year time period, which equates to a 1% chance of flooding in any given year. However, flooding can occur more often if conditions warrant. Development within a floodplain must take these risks into account to ensure the safety and welfare of property owners. The Flood Hazard Area Map on page 73 also reflects a 500-year floodplain.

National Flood Insurance Program (NFIP) participating communities can reduce policyholders’ premiums by participating in the Community Rating System program. The program awards points to communities that implement flood protection policies beyond minimum NFIP participation requirements. Cape Charles participates in this program and as a result has been able to achieve a 10% policy discount for its area participants. These discounts apply to NFIP policies in a Special Flood Hazard Area (100-year floodplain) and some policies located outside the area.

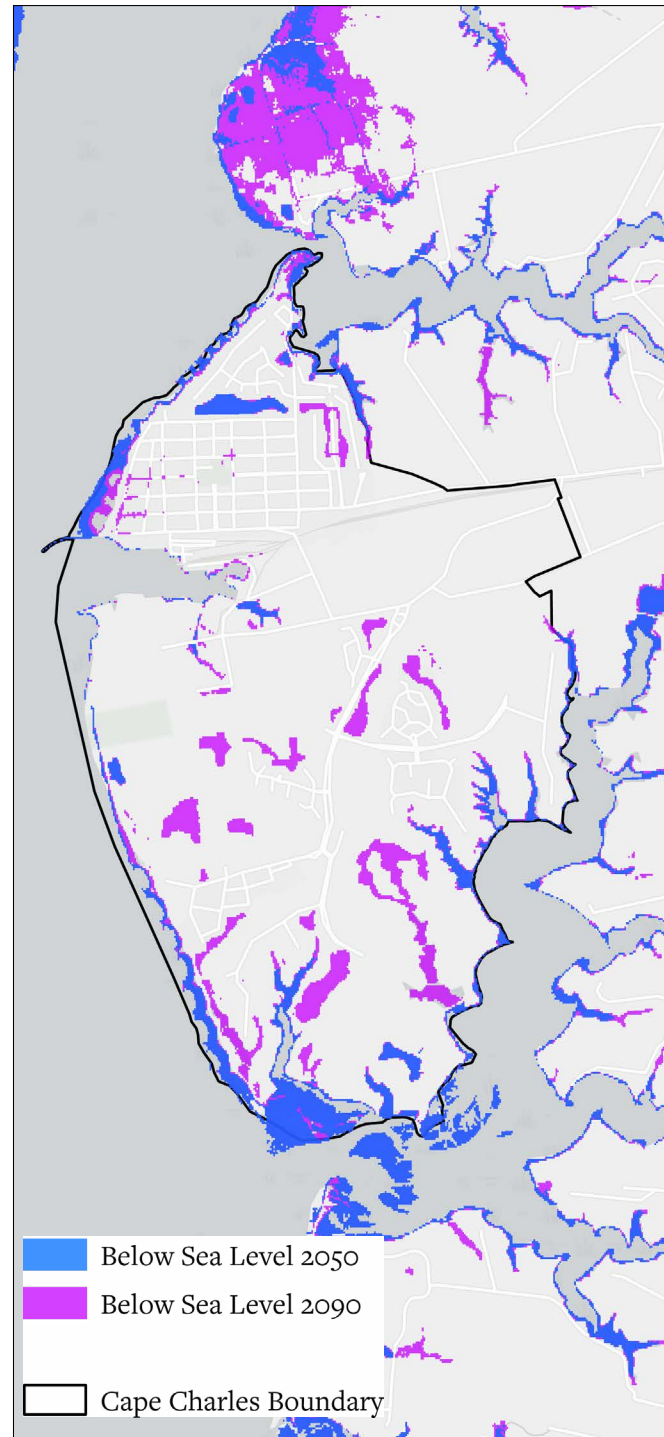
The Resilience Adaptation Feasibility Tool

The Resilience Adaptation Feasibility Tool (The RAFT) was conceived and developed by an academic interdisciplinary collaborative core team, led by the University of Virginia Institute for Environmental Negotiation (IEN), the William & Mary Law School Virginia Coastal Policy Center (VCPC), and Old Dominion University/Virginia Sea Grant (ODU), collectively “The RAFT Team.” Funded by a Restoration and Community Stewardship grant from the National Fish & Wildlife Foundation (NFWF), the core team’s goal was to develop a robust Resilience Scorecard and to test it with three coastal communities. Cape Charles participated as one of these pilot communities. The Resilience Scorecard is designed to be completed independently by the academic collaborative, and provides a comprehensive assessment of the locality’s resilience to flooding while remaining economically and socially relevant. The Scorecard is comprehensive in that it measures environmental, economic and social resilience factors. It covers local policy, infrastructure, budgeting and economics, land use, community engagement, community health and wellness, and ecosystems.

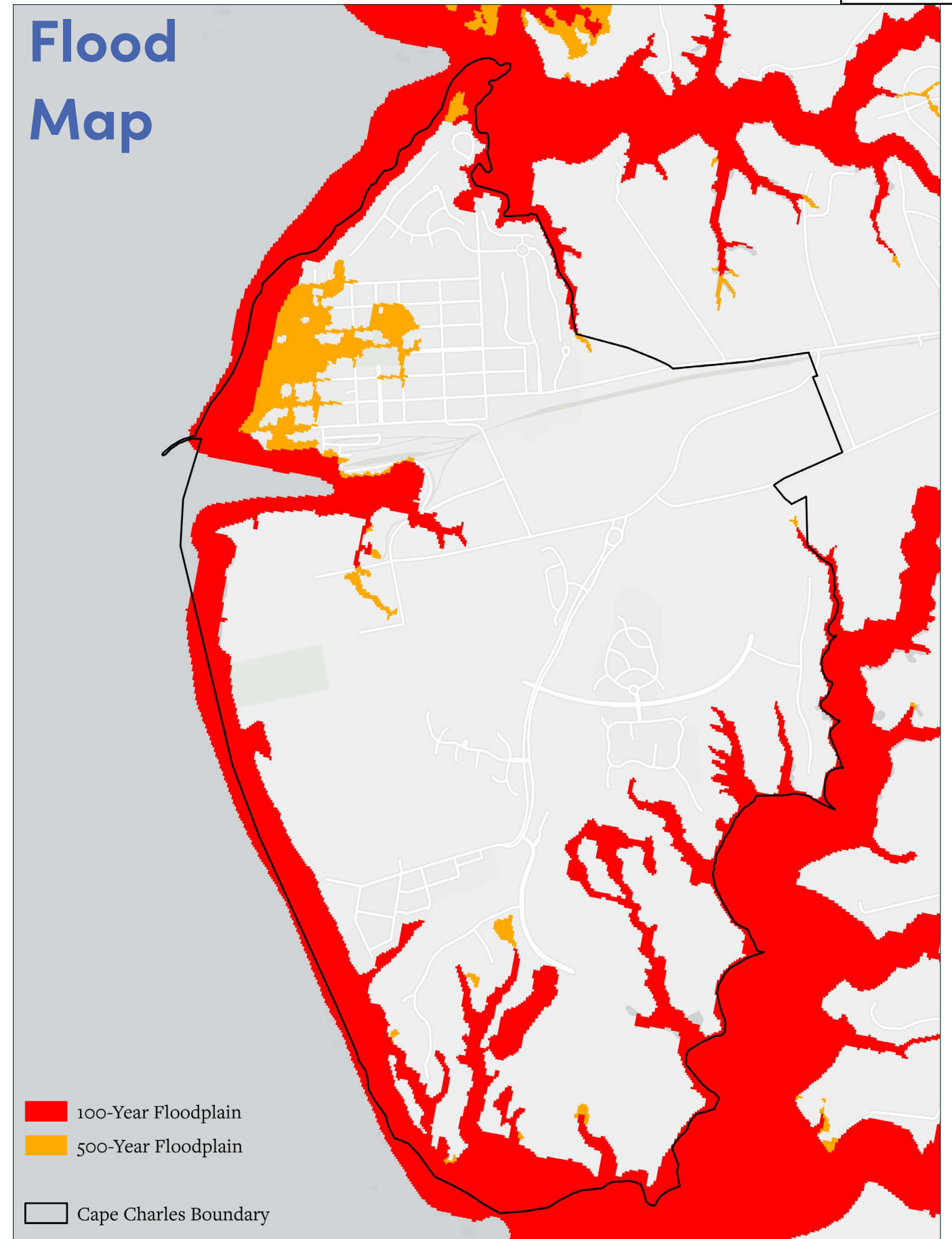
While there are many models and assumptions that are continually being updated as more knowledge is obtained, one model is presented in Map 9 taken from Virginia Eastern Shore Coastal Resilience mapping tool depicting basic inundation from sea level rise for Year 2075 assuming a high projection on level rise. In this model, basic inundation data has been updated based on sea level rise scenarios from the 2017 National Climate Assessment.

The Resilience Action Workshop (June 2017) was conceived as a way to help catalyze meaningful action at the local level to increase a locality’s resilience to coastal hazards. While, on its own, the Resilience Scorecard might increase understanding, community leadership is needed to bring about meaningful change. During the workshop, participants were introduced to the Scorecard and reviewed its findings to identify the locality’s greatest resilience strengths as well as opportunities for improving resilience in the future. To build coastal resilience, Cape Charles needs to understand its vulnerability to coastal hazards, reduce the risks where possible and be prepared to respond to severe weather.

The town needs to renew its commitment for continued study and action in this area, perhaps creating a committee that reviews study results and provides recommendations for addressing its resiliency to flooding.

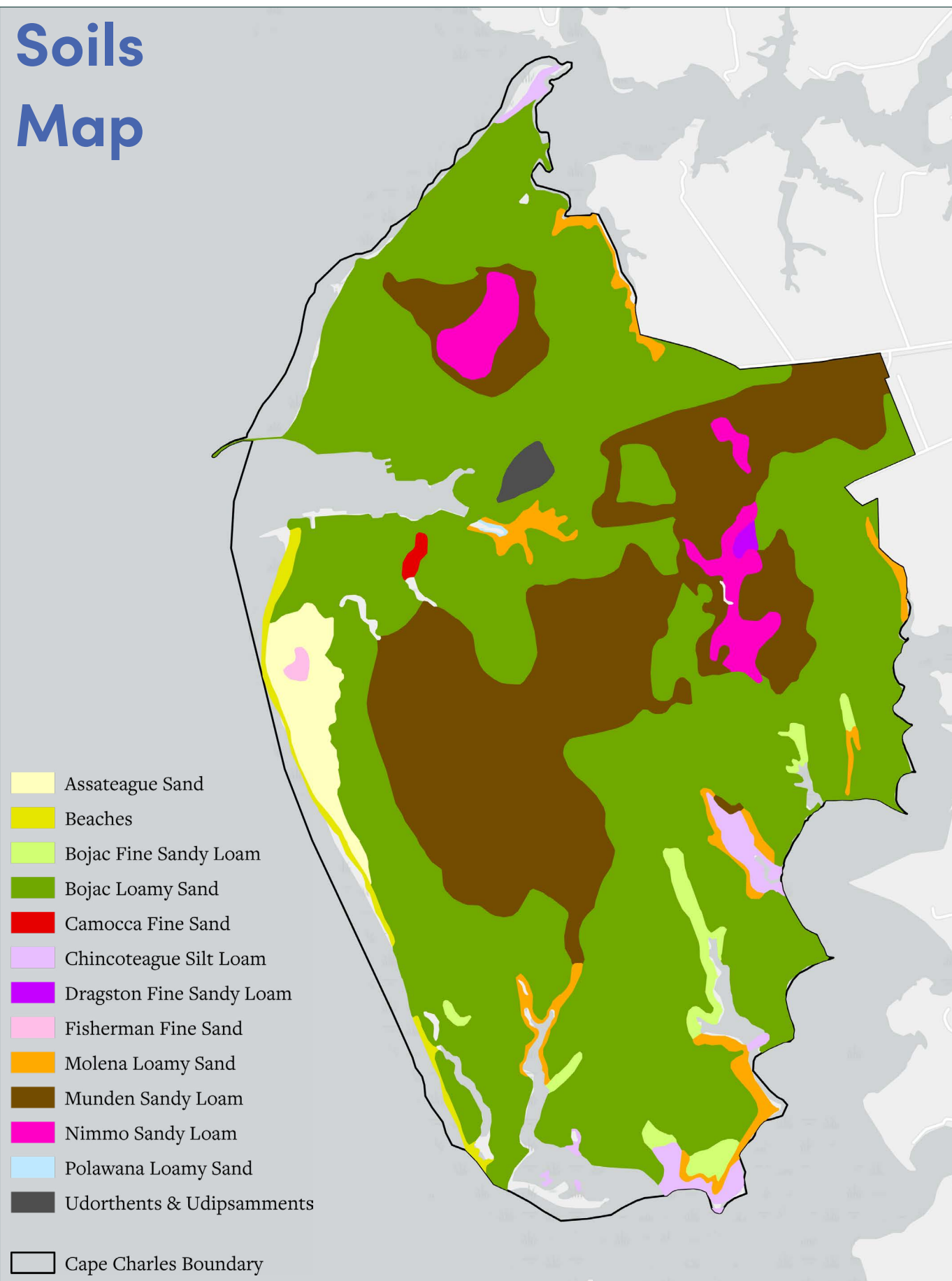


Map 8. Sea Level Rise Projections (NOAA Intermediate Projections for 2050 and 2090)



Map 9. Flood Hazard Areas

Soils Map



Map 10. Soils

Soils

As shown in the Soils Map on the opposite page, Bojac and Munden soils are the predominant soils in Cape Charles. Bojac soils are considered very suitable for development, while Munden soils are considered fair. Poor soils, which are generally unsuitable for development, are found along the edges of the Town's shorelines and in isolated areas inland. All of the soils in Town are either hydric or highly permeable, with ground water being a relatively shallow distance underneath. Highly permeable soils are extremely susceptible to pollutant leaching and create a high potential for ground water pollution. Hydric soils are primarily wet and drain poorly. Soils are identified with a three character symbol. The first letter is the first letter in the soil's name. The second letter distinguishes between classifications that begin with the same letter. The third letter indicates the class of the slope. The A class has the lowest slope, while the E class has the steepest slope present in this area. Soil types within Cape Charles are discussed below:

Assateague Sand (AsE):

Gently sloping to very steep, very deep, and excessively drained. On and between dunes along the Bay. Very rapid permeability and low water capacity. Used mainly for wildlife habitats and recreation areas. High permeability, slope, sandy texture, and the hazards of seepage and instability limit development.

Beaches (BeB):

Sandy marine sediments deposited by wave action. Used mainly for wildlife habitats and recreation areas. Tidal flooding, severe erosion, and accretion of sediments limit most other uses.

Bojac Fine Sandy Loam (BoA):

Nearly level, very deep, and well-drained farmland. Moderately rapid permeability and instability of the soil are limitations to development.

Bojac Loamy Sand (BhB):

Gently sloping, very deep, and well drained. Moderately rapid permeability and instability of the soil are limitations to development.

Camocca Fine Sand (CaA):

Nearly level, very deep, and poorly drained. Very rapid permeability. Used for wildlife habitats and

recreation areas. Seasonal high water table, flooding, sandy texture, and instability hazard limit soil for development.

Chincoteague Silt Loam (ChA):

Nearly level, very deep, and very poorly drained soil located primarily in tidal marshes. Tidal flooding, the seasonal high water table, ponding, low strength, and salt are major limitations for development.

Dragston Fine Sandy Loam (DrA):

Nearly level, very deep, and somewhat poorly drained. Used mainly for cultivated crops and woodland. Seasonal high water table, rapid permeability, poor filtering capacity, and seepage limit development.

Fisherman Fine Sand (FhB):

Nearly level, gently sloping, very deep and moderately well drained.

Molena Loamy Sand (MoD):

Moderately sloping to steep, very deep, and somewhat excessively drained. Rapid permeability. Slope, high permeability, and droughtiness limit soil for development. Used mainly for woodland and wildlife.

Munden Sandy Loam (MuA):

Level, deep, and moderately well drained. Seasonal high water table and rapid permeability limit development.

Nimmo Sandy Loam (NmA):

Nearly level, deep, and poorly drained. Used for farmland when drained. Seasonal high water table, seepage, and rapid permeability are limitations for development. Limited for roads and streets.

Polawana Loamy Sand (PoA):

Nearly level, very deep, and very poorly drained. Used mainly for woodland. Seasonal high water table, rapid permeability, flooding, and wetness are major limitations for development.

Udorthents & Udipsamments (UPD):

Mainly fill and spoil materials and sandy materials in excavated areas. Characteristics are so variable that on-site investigation is necessary to determine suitability for most uses.

Surface Water

Surface water in Cape Charles includes the Chesapeake Bay to the east, King’s Creek to the north, and Old Plantation Creek to the south and east. All surface water has a high saline content, except for several small ponds located within the Town, which are fresh or brackish water. Cape Charles is characterized by extensive shorelines, ranging from sandy beaches on the Chesapeake Bay to marsh fringes on King’s Creek and Old Plantation Creek. Approximately 19,200 feet (3.6 miles) of shoreline front directly onto the Chesapeake Bay. The entire Town lies within the Chesapeake Bay watershed, draining either directly into the Bay, or into Old Plantation Creek and King’s Creek, and then into the Bay.

The Chesapeake Bay has played an important role in the history and identity of Cape Charles and the Eastern Shore, providing valuable economic, environmental and recreational resources, and serving as the nation’s largest and most productive estuary. However, pollution is causing the Bay’s water quality to decline. Pollution can be classified as either point source or nonpoint source. Point source pollution results from discharge at a specific point, such as the Town’s wastewater treatment plant. Nonpoint source pollution is not attributable to distinct, identifiable source, but enters water indirectly. Nonpoint source pollution includes stormwater runoff from developed land and impervious surfaces, runoff from agricultural land, and erosion of soil and shorelines. Under natural conditions, water running off the land soaks into the ground and is filtered by soils and vegetation root systems. Disturbing sensitive areas can increase the speed and volume of surface runoff, resulting in erosion, sedimentation, and siltation of ship channels — a particularly devastating process to a Town with economically vital harbors and marinas. In settled areas where much of the land is paved or “impervious,” stormwater cannot soak into the ground and runs off very rapidly. The runoff carries pollutants such as oil, sediment, chemicals, pesticides, and excess nutrients from fertilizer, which eventually reach the waters of the Chesapeake Bay unless filtered or retained by some structural or nonstructural technique. Pollution of the water column and a reduction in the amount of light reaching submerged aquatic vegetation choke important parts of the aquatic food chain.

Ultimately, spawning grounds and benthic habitats are destroyed, resulting in serious problems for commercial fishermen. Land management techniques that minimize the amount of impervious surfaces and increasing the filtering capacity of the land can be used to reduce nonpoint source pollution. The Town has enacted a Chesapeake Bay Preservation Act Program, which enables the Town to protect water quality through local land use regulations. The Bay Act is a Virginia Law, which provides a legislatively mandated approach to protect and improve the waters of the Chesapeake Bay and its tributaries by reducing nonpoint source pollution through wise resource management practices. The Town has designated Chesapeake Bay Preservation Areas (CBPAs), and has applied certain development standards to these areas. The Town’s CBPAs consist of Resource Protection Areas (RPAs), Resource Management Areas (RMAs) and Intensely Developed Areas (IDAs).



A golf cart drives past pooled stormwater.

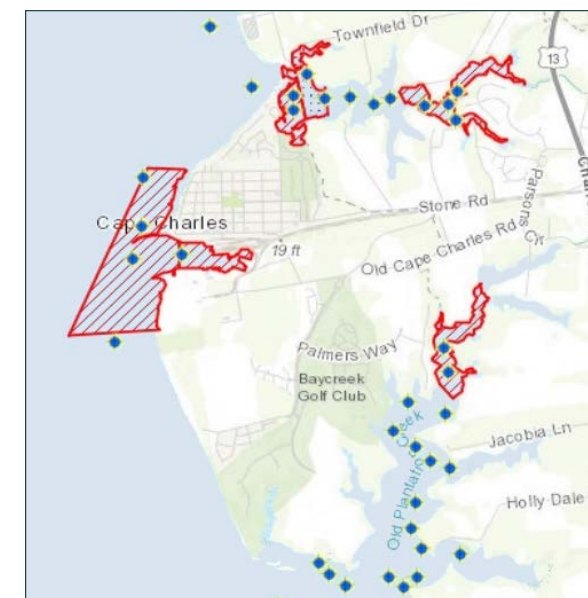
Future development activities in these preservation areas are guided by the Town’s Zoning Ordinance, which establishes standards to mitigate development impacts on water quality.

RPAs consist of sensitive lands at or near the shoreline which have important water quality value to the Bay, such as tidal shorelines and wetlands. RPAs also include a 100- foot vegetated buffer area landward of these features, where development activities are restricted. RMAs consist of sensitive land types which have the potential for causing significant water quality degradation if they are improperly developed. RMAs in Cape Charles include the 100-year floodplain and non-tidal wetlands. Development within RMAs should be planned in a manner which reduces the impact of nonpoint source pollution. IDAs consist of densely developed areas that are largely devoid of natural vegetation. The Town’s IDAs are located adjacent to the Cape Charles harbor and at the Bay Creek Marina. IDAs are designated to focus development in areas where it is already concentrated and supported by existing infrastructure while improving water quality. New development and redevelopment in IDAs must achieve a 10% reduction in nonpoint source pollution from storm water runoff. Opportunities for water quality improvement through redevelopment of IDAs include re-establishing natural vegetation and establishing a vegetated buffer over time to promote the water quality benefits of natural vegetation.

Another element of nonpoint source pollution includes boating activity. Due to its location on

the Chesapeake Bay, Cape Charles is popular with recreational boating and fishing enthusiasts. In addition, commercial fishing is a small yet visible activity in Cape Charles. While boating-related activity has a positive impact on the local economy, it can adversely impact Bay water quality if not handled properly. Several boat-related facilities are located in the Town, including a public marina and harbor as well as a commercial marina. Boating activity can potentially degrade water quality through inappropriate discharge of human waste and trash, fuel spills, oil spills, and toxic bottom paints. In order to lessen the impact of water pollution through proper waste disposal, the Virginia Department of Health requires marinas to have restroom facilities, pump-out facilities, and sewage dumping stations for portable toilets.

An extremely clean environment is needed for shellfish to thrive and be consumed safely. Shellfish require water fourteen times cleaner than where humans can safely swim. The Virginia Department of Health (VDH) monitors water quality to determine where shellfish can be safely harvested. Unclean areas are condemned by VDH and cannot be harvested. Map 11 provides locations of shellfish grounds that have been condemned in areas near Cape Charles. In addition to shellfish grounds, a substantial amount of submerged aquatic vegetation is located in the waters surrounding Town. Boating activity can impact fisheries in the area by causing increased water turbidity, which can choke shellfish grounds and decrease the amount of sunlight reaching submerged aquatic vegetation.



Map 11. Shellfish Areas

The crosshatched areas represent condemned shellfish areas. The dots represent seasonally condemned shellfish areas. See the Virginia Department of Health website for more information.

Ground Water

Cape Charles, along with the entire Eastern Shore of Virginia, depends entirely upon ground water for its water supply needs. Ground water on the Eastern Shore is made up of a series of aquifers — bodies of sediments capable of yielding water. The uppermost aquifer is called the Columbia aquifer, also known as the water table. In the Cape Charles area, the Columbia aquifer is approximately 40 to 70 feet thick. Below the Columbia aquifer is the Yorktown aquifer system, consisting of upper, middle and lower units. The Town’s water supply is withdrawn from the upper and middle Yorktown aquifer units. The Yorktown aquifer system is separated from the Columbia aquifer by confining layers of clay, which help protect it from contamination, but also impede the amount and rate of recharge.

Fresh water is supplied into the aquifer system by rainfall, which penetrates the soil and recharges ground water aquifers. The Eastern Shore ground water flow system is characterized by brackish water of the Bay to the west and salt water of the Atlantic Ocean to the east, with limited occurrence of freshwater. Most water in the Columbia aquifer flows laterally from the center of the Eastern Shore peninsula, discharging into the Atlantic Ocean and Chesapeake Bay. A much smaller portion of water flows down through the clays and silts that separate the Columbia aquifer from the underlying Yorktown aquifers. Ground water recharge occurs near the center spine of the peninsula, forming an island-type freshwater lens. The Town is not located within the spine recharge area. Ground water modeling studies indicate approximately 11 million gallons of water are recharged to the Yorktown aquifer each day.

Because ground water is a limited resource, water conservation is critical in protecting and managing this valuable resource. Over pumping of ground water is a concern for the Eastern Shore, and could lead to well interference, saltwater intrusion, and a deterioration of water quality. In Cape Charles, water conservation measures are crucial for maximizing the available water supply and meeting future demands.

The Eastern Shore of Virginia is divided into five wellhead protection areas, based on ground water divides created by pumping patterns of the major ground water withdrawers on the Eastern Shore. Cape Charles is located in Wellhead Protection Area E - Cape Charles Area. This wellhead protection area

is the southern-most wellhead protection area on the peninsula.

In 1997, the Environmental Protection Agency (EPA) designated the Eastern Shore’s aquifer system as the Columbia and Yorktown-Eastover Multiaquifer System Sole Source Aquifer. A sole source aquifer is defined as an aquifer that supplies at least 50 percent of the drinking water to its overlying area. This designation helps protect ground water quality by requiring EPA review of all projects receiving federal funding.

The Eastern Shore of Virginia was declared a Critical Ground Water Area in 1976. Any party needing to withdraw 300,000 gallons per month or more in the Eastern Shore Ground Water Management Area must obtain a permit from the Virginia Department of Environmental Quality (DEQ). All permit holders are required to report ground water use and implement a water conservation and management plan.

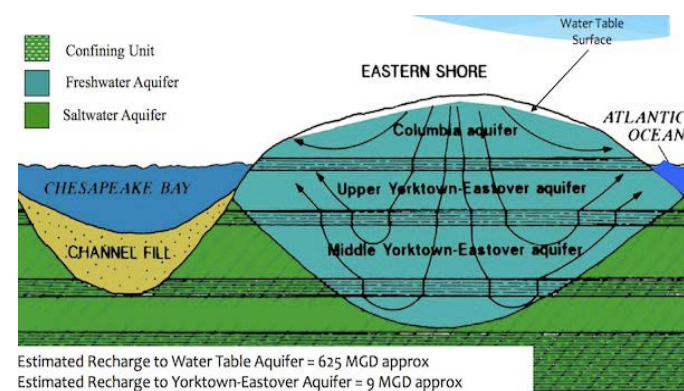
Cape Charles has been approved for a Ground Water Withdrawal Permit from the DEQ allowing a withdrawal capacity of 7.9 million gallons per month. A ground water impact assessment was conducted for the Town to study possible effects of the withdrawal, and found that over the 10-year permit period, no measurable saltwater intrusion or other water quality changes are expected to occur. However, it is possible that some saltwater intrusion may occur in the lower Yorktown aquifer in the long term (100 years) as a result of the Town’s withdrawal, in which case treatment of potable water by reverse osmosis can be used as a contingency.

Ground water contamination due to septic filter fields is not a major issue in Cape Charles because most residents and businesses in the Town are served by public utilities, however, nine septic systems still exist. When demand is created by future development, public sewer services will be extended to parts of Cape Charles that are not currently served. Property owners receiving the new services will pay for the cost of extending public utilities to these areas, as provided for in the Town Code.

The Eastern Shore of Virginia Ground Water Committee has overseen the development of regional ground water plans and studies since 1990. The mandate of the committee is to “assist local governments and residents of the Eastern Shore in understanding, protecting and managing ground water resources, to prepare a ground water resources protection and management plan, to serve as an educational and informational resource to local governments and residents of the Eastern Shore, and to initiate special studies concerning the protection and management of the Eastern Shore ground water resource.” Cape Charles recognizes the regional nature of the ground water issue and supports the committee in its efforts.



Eastern Shore Ground Water Committee’s Logo.



Eastern Shore Aquifer diagram.

Drinking Water

The Town of Cape Charles water system receives its water from two wells located within 100 yards to the East and West of the Water Treatment Plant. Both are screened in the Upper and Middle Yorktown-Eastover Aquifer. In addition, the Town has another 2 wells that are in the process of being connected to the Water Treatment Plant. Currently 300,000 to 350,000 gallons per day (24 hours) are treated during tourist season and 100,000-150,000 (approximately 125 gallons per day per household) in the offseason. The plant itself has a design capacity of 500,000 gallons per day if both wells are run simultaneously; however, the Town’s current water withdrawal permit limits production to 360,000 gallons per day. The town is in the process of applying for new permits with higher limits. The water tower has a holding capacity of 300,000 gallons. The potable water distribution pipes have been replaced. Contaminants in the Cape Charles drinking water are routinely monitored according to Federal and State regulations. In order to ensure that tap water is safe to drink, EPA prescribes regulations which limit the number of contaminants in water provided by public water systems. The December 2021 Drinking Water Consumer Confidence Report issued by the Town has shown no violations in the Water Quality Results, in disinfection and disinfection by-products, and in lead and copper contaminants.



Cape Charles water tower.

Wastewater

The wastewater treatment facility built in 2010 and operational in 2012 is handling less than its maximum capacity and was built to be easily expanded when the need arises. Current treatment capacity averages 250,000 gallons per day in-season (although more can be pushed through on any given day) and closer to 125,000 gallons per day off-season. This 250,000 gallons per day capacity average is determined by the State based on controlling the amount of pollution pumped into the Chesapeake Bay. The treatment facility has the capacity for expansion to 500,000 gallons per day. Pumping stations located within the Town have been updated except for Washington Avenue and a filtering field for the pumping station at Bay and Mason Avenues to decrease the odor. Currently all treated wastewater is pumped into the Chesapeake Bay.

Storm Water

Storm water goes directly into the Chesapeake Bay and treatment is not required. However, the poor condition of the storm water and wastewater collection systems results in a portion of the storm water going through the wastewater system and being treated on its way into the Bay using treatment capacity that is needed for wastewater. The amount of storm water infiltration into the sewer collection system is a serious concern that should be evaluated so that a corrective action plan can be developed.



Storm water at Randolph Ave & Plum St intersection.



Storm water at a Mason Ave. crosswalk.

Wetlands

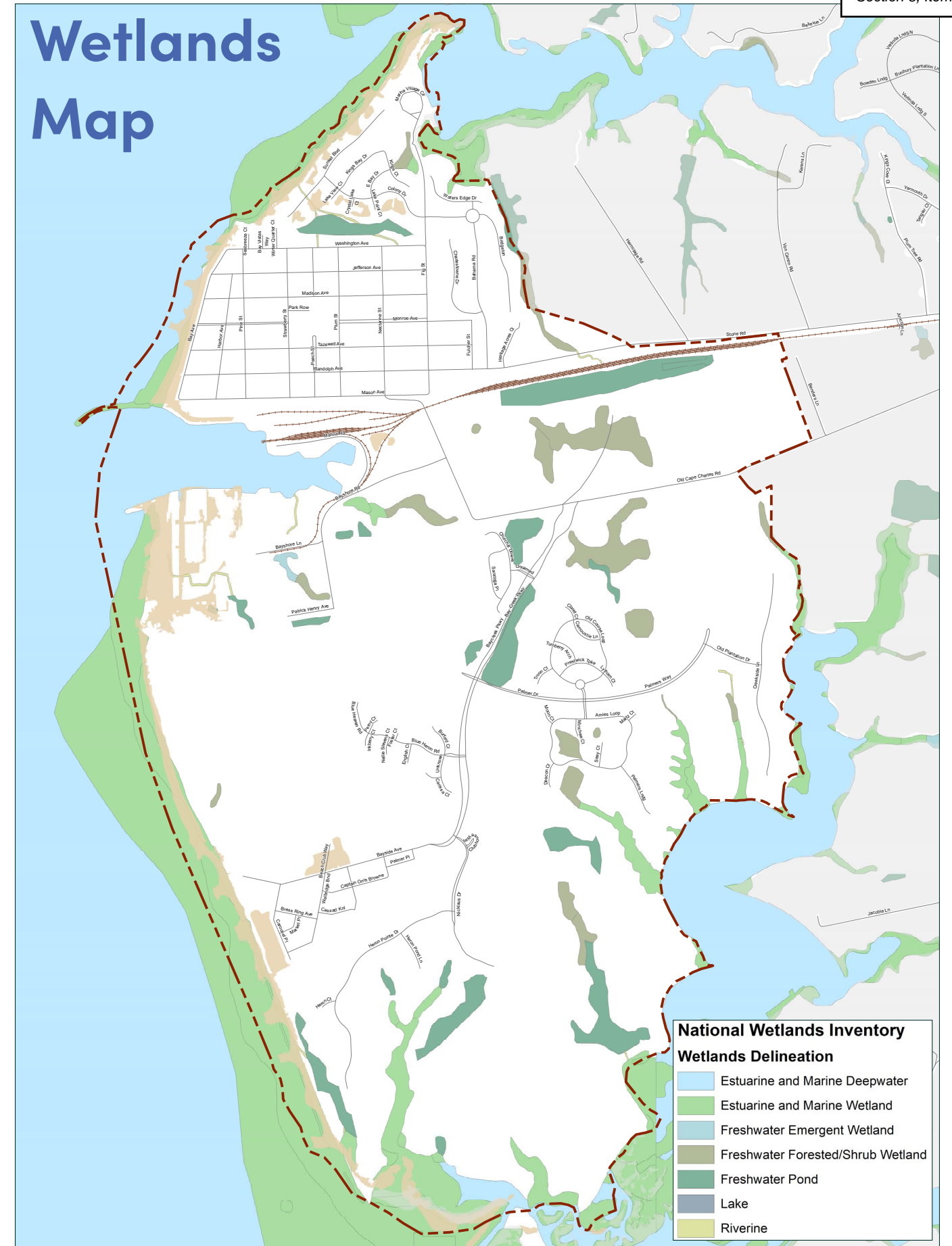
Several parts of Cape Charles are considered wetlands. Wetlands can be defined as areas that are wet or have wet soils during some part of the growing season. Tidal wetlands are influenced by tidal fluctuations and exist along the coastline. Tidal wetlands may include vegetated marshes and swamps or non-vegetated mud and sand flats. Non-tidal wetlands are usually found inland and are not impacted by tidal changes, but still meet the definition of a wetland. Local land that is included in the U.S. Fish and Wildlife Service’s National Wetlands Inventory can be viewed in the Wetlands Map on page 83.

Wetlands have historically been considered wastelands, because they are usually not suitable for farming or building due to their unstable and wet nature. Often these areas are also breeding grounds for insects. In the past, wetlands were frequently drained or filled to make the land developable. This negative view overlooks several important characteristics of wetlands. Wetlands are home to a diverse population of mammals, waterfowl, and marine organisms. In addition to providing homes for species that are of direct benefit to humans, many other plant and animal species are exclusively present in wetlands, making the areas an important part of regional ecosystems. Wetlands also offer a natural means of protecting water quality. Densely vegetated wetlands act as a natural filter by trapping sediments and nutrients before they reach nearby waterways. The filter feeding organisms present in non-vegetated wetlands also protect water quality by removing suspended solids from the water column. Because of their location near coastlines, wetlands can also protect an area from flooding and erosion. The dense root systems present in vegetated wetlands can help slow erosion caused by unusually high tides and wave action. The sponge-like quality of the soils present in wetlands can also protect the upland against flooding by absorbing some flood water resulting from a rise in sea level.

Cape Charles recognizes the multitude of important characteristics wetlands possess. Many regional wetlands have been filled or drained in recent decades, making it imperative to preserve the existing wetlands. The Town has adopted a Wetlands Ordinance to regulate the use of these areas, and has a Wetlands Board that oversees activities in wetlands.



Wetlands in Cape Charles.

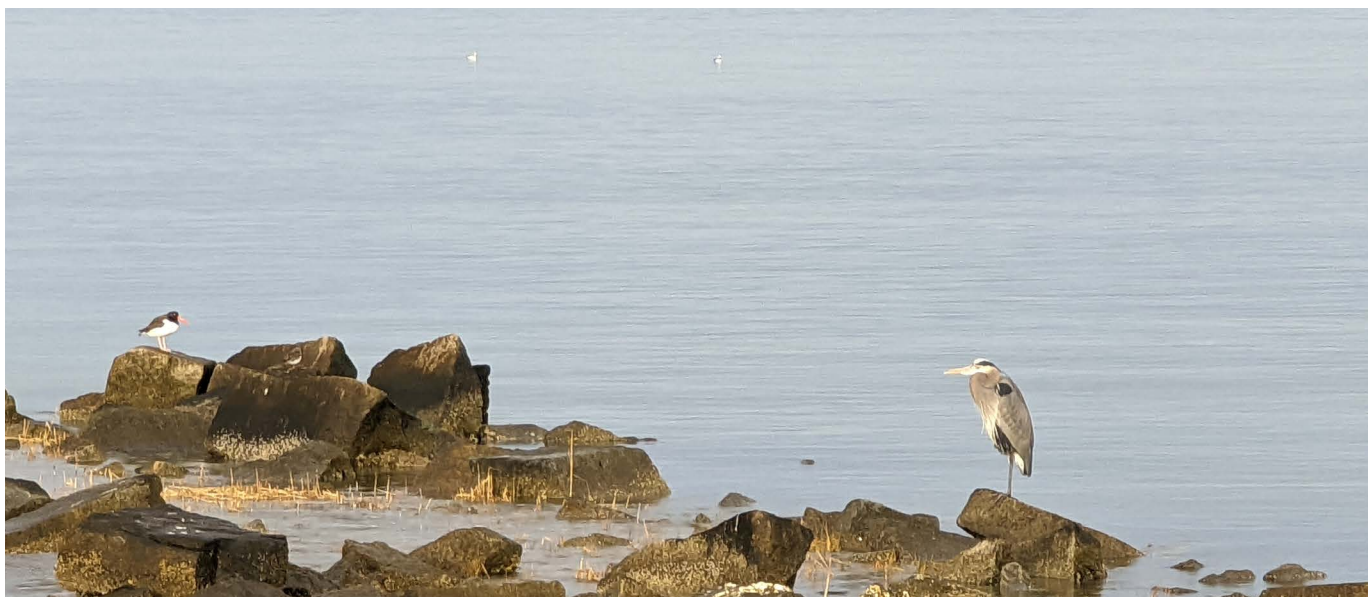


Map 12. Wetlands

Habitat

Cape Charles encompasses diverse and significant ecosystems which support a variety of wildlife and plant species. Forested upland areas are located in the southern portion of Town along the edges of Bay shoreline, and in several large tracts further inland. These forested areas, particularly near the Bay shoreline, provide important habitat for a variety of wildlife. As previously mentioned, the Town’s wetlands also support a variety of species. The Virginia Department of Game and Inland Fisheries lists several species of animals as threatened in the Town and its vicinity. These species include, but may not be limited to, the Northeastern Beach Tiger Beetle and the Bald Eagle. Cape Charles is located along one of the most significant flyways on the eastern seaboard for migratory birds, including waterfowl, shorebirds, and migratory songbirds, which are declining worldwide. The eastern coastline of the Bay is vulnerable to forest fragmentation and other disturbances. Habitats required for transient, breeding, and resident bird species, and particularly the vegetation upon which they depend, have been greatly reduced. Protection of these areas is critical to insure the healthy continuance of local and regional ecosystems. Future development could potentially place further stress on migratory and other land bird species, as well as the large variety of wildlife and plant species found in the area. Located south of Coastal Precast Systems is the Coastal Habitat

Natural Area Preserve, a 50-acre habitat protection area (expanded by 20.7 acres in 2020). This preserve, found on the Bay side of the Eastern Shore, is within the Audubon Lower Delmarva Important Bird Area (IBA) and considered internationally significant for migratory birds according to Virginia Coastal Zone Management Program’s Geospatial and Educational Mapping System (Coastal GEMS). It is also part of the DWR Virginia Birding and Wildlife Trail. Most of the Preserve acreage protects forested uplands that may be viewed from a wheelchair accessible boardwalk. A small amount of very sensitive dune and shoreline habitat, along with several rare species, are also protected here but access to these is restricted. The preserve provides habitat for the federally threatened northeastern beach tiger beetle (*Cicindela dorsalis dorsalis*). Coast bedstraw (*Galium hispidulum*), an herbaceous plant, grows on the dunes at the interface between open grassy areas and shaded areas where shrubs and trees dominate. During fall migration, the forest abounds with migratory songbirds and raptors resting and feeding before continuing their journey across the Chesapeake Bay. A long boardwalk takes visitors through several forested natural communities, including a globally-rare Maritime Dune Woodland, and ends at a low bluff overlooking the Chesapeake Bay. The preserve is owned and managed by the Department of Conservation and Recreation.



Birds perched at the eroding jetty.

Waterfront Access

By providing public waterfront access, the Town encourages the public to experience firsthand the importance of water quality in Cape Charles through recreational pursuits such as sightseeing, fishing, and swimming. Numerous public waterfront access areas exist in Cape Charles, including the harbor, Cape Charles beach, the municipal pier, and the Coastal Habitat Natural Area Preserve. King’s Creek Marina (formerly Bay Creek Marina) also provides waterfront access. Preserving the quality of the Bay and its tributaries is a high priority in Cape Charles. Development pressure in waterfront areas threatens environmentally sensitive habitats which are critical to Bay wildlife and water quality. The high demand for waterfront property has increased land values, making public acquisition of these lands difficult or impossible. This makes it critical that the Town maintain, improve, and preserve all public lands which provide waterfront access as well as collaborate with private landowners to ensure protection of the environment.

Shoreline Erosion

The Town has approximately 19,200 feet of shoreline fronting directly on the Chesapeake Bay. The mean tide range is 2.4 feet and the spring tide range is 2.9 feet. Prevailing winds along the shoreline have an average velocity of 10 miles per hour and are from the south to southwest. The effective fetch from Cape Charles to the south/southwest is about 16 miles, with an average depth of 25 feet. Cape Charles Beach, which begins at the Cape Charles harbor and extends north approximately 2,800 feet (1/2 mile), consists of a narrow sandy beach, bordered by a boardwalk and public street. North of Cape Charles Beach is approximately 4,400 feet (3/4 mile) of natural shoreline bordering the Bay, extending to the mouth of King’s Creek. At the mouth of King’s Creek, the shoreline extends for 9,500 feet (1.8 miles), forming the eastern boundary of the Town. The shoreline of King’s Creek is characterized by wetlands, consisting of fringe and embayed marsh. South of Cape Charles Beach and the Cape Charles harbor is a 12,000 foot (2.2 mile) stretch of natural shoreline fronting the Bay, characterized by a sandy beach. The northern half of this beach is wide and sandy, with sand dunes. The southern half of the beach is sandy and narrow, with tree stumps and woody debris, and an elongated pond running behind and parallel to the south end

of the beach. The beach extends to the mouth of Old Plantation Creek, where the shoreline turns inland, extending approximately 14,500 feet (2 3/4 miles) and forming the southeastern boundary of the Town. The shoreline of Old Plantation Creek is characterized by wetlands consisting of fringe and embayed marsh.

Cape Charles Beach has been used as a recreational area since the early 1900’s. In 1982, Brown and Root, Inc. transferred the title of the public beach to the Town. The transfer stipulated that the beach would remain public and would be maintained by the Town. The beach has been steadily deteriorating for thirty years before the transfer. Portions of this shoreline are still eroding. A study conducted by Byrne and Anderson in 1978 found that the historic erosion rate in Cape Charles had been 1.5 feet per year. Erosion accelerated in the 1980’s. A study by the U.S. Army Corps of Engineers in 1991 indicated that erosion rates from 1986 to 1990 were four to five feet per year. Current documentation of erosion rates in Cape Charles do not exist. However, based on visual assessment of the beach, it is likely that the Town’s erosion rate has remained high. This trend may continue, as there is belief in the scientific community that overall erosion rates in the Chesapeake Bay area have accelerated in the past several years.

The most significant cause of shoreline erosion in the Chesapeake Bay system is the combined action of wind and waves on the shoreline. Storm winds generate large waves which cause much of the damage. During storms and hurricanes, strong winds push additional water against the ocean coast and into the Chesapeake Bay, resulting in higher water levels of tides, which generally range between one and three feet, but may reach several feet in magnitude. Aside from the obvious hazard of flooding low-lying areas, these higher tides permit the erosive action of the waves to directly attack the fastland above the usual buffer provided by the beach. Offshore shoals help protect Cape Charles by reducing the height of waves that are greater than three feet in height. However, the impact of these waves is still significant.

According to the Public Beach Assessment Report for Cape Charles Beach, prepared by VIMS in 1993, the shoreline in Cape Charles is typically affected by northwest winds which occur from late fall to early spring, as well as southwest and westerly winds that are most frequent from early spring to late fall. Waves created by northeast storms do not impact the Cape Charles shoreline directly, but usually produce significant storm surge. As the post-storm winds often shift to the northwest, the water level is elevated for a short period of time. This scenario can produce high waves acting on the Cape Charles shoreline.

Erosion activity is further influenced by short-term fluctuation of lunar and storm tides and long-term sea level rise. The average sea level rise in the Bay is about .01 foot per year, or one foot per century. Although this rate seems small, its effect is dramatic considering that the fringes of the Bay have very gentle slopes, where a small increase vertically covers appreciable horizontal distance. Thus, each decade brings constant encroachment against the fastland.

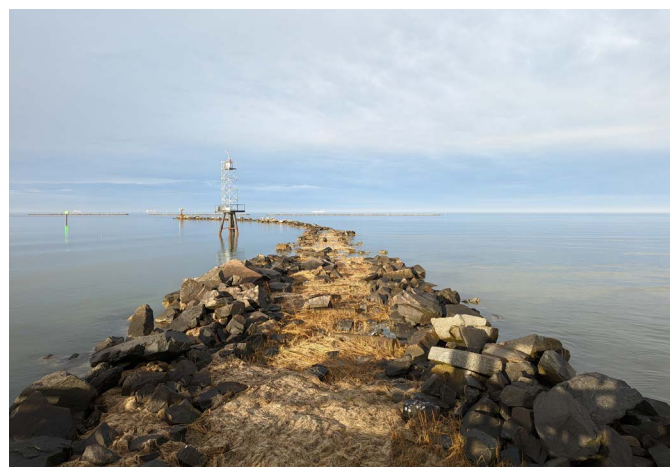
Several shoreline protective measures have been taken in recent decades. The public beach contains a seawall, consisting of a walkway and bulkheading which extends 2,300 feet along the back of the beach from the stone jetty. In 1982, groins were constructed at the public beach, which were 150 feet long and 300 feet apart. A severe storm in November, 1985 resulted in extensive damage to the beach. The beach was significantly widened in 1987 as a result of beach nourishment with 87,000 cubic yards of sand dredged from the harbor channel by the Army Corps of Engineers. The beach fill project was of major beneficial impact to the public beach. In 2016, Virginia Marine Resource Commission notified the town that the dredging for the Cape Charles Navigation Project was completed. The total quantity of material removed was 142,623 cubic yards. 113,078 cubic yards was sent to the Cape Charles Harbor Upland Placement Site and 29, 545 cubic yards was pumped onto the beach as beach replenishment.

In 1988, the Town initiated a project to install sand fencing and dune grasses, to help stabilize the public beach and control blowing sand. Fences were installed by the Department of Transportation and the Youth Conservation Corps, and dune grasses were planted by volunteers. Extensive dunes have

developed as a result of these efforts. The current dune system has reached elevations between five and ten feet above sea level.

In 1993, VIMS prepared the Public Beach Assessment Report for Cape Charles Beach, which assessed the rates and patterns of beach change on Cape Charles' public beach. According to the Report, the public beach had been reduced in volume approximately 19% since the beach nourishment project of 1988. By 1995, severe erosion along the north end of the beach had exposed the face of the bulkhead. Approximately 1,200 cubic yards of sand were used in 1995 to fill the area in front of the bulkhead, and in 1996 dune walkovers were constructed to prevent erosion due to foot traffic.

Several other shoreline protective structures exist in Cape Charles, located at the harbor and the public beach. A stone jetty is located at the northside of the harbor entrance, extending 1,200 feet into the Bay. The jetty protects the harbor somewhat from waves and limits sedimentation in the harbor from longshore drift. The jetty also helps protect the public beach by serving as a significant barrier to littoral transport of nourished beach sand. At the southside of the harbor entrance is a 200 foot earthen jetty, or mole, which anchors the end of the beach and helps keep the harbor mouth open. Approximately 4,500 feet of bulkheads line the periphery of the harbor and eliminates most shoreline erosion in the harbor. As time goes on, the jetty is slowly deteriorating and will need eventual investment and repairs as part of the Town's Capital Improvement Plan.



The deteriorating jetty on the north side of the harbor.

The storm drain outfall has also had a local impact on the very north end of the beach. The public beach is bordered on the north by a large storm water outfall pipe that extends about 300 feet from the bulkhead into the Bay. The pipe was installed as part of the 1988 beach nourishment project and subsequently has been reinforced with gabions including gabion spurs on either side. Presently, the outfall has a local effect on the public beach by partially blocking sand moving south along the shoreline from King's Creek. The outfall and associated spur are also causing an alteration in the beach platform to the immediate south. Artificial nourishment is needed periodically on the beach, due to lack of sufficient natural sand supply for replenishment. Sand retaining devices are also needed beneficial to prevent sand from eroding. The Town hired Vanasse Hagen Brustlin, Inc. (VHB) to design shoreline stabilization for Cape Charles Beach. Four near shore breakwater structures were constructed to control erosion along approximately 1,700 linear feet of shoreline, with the last structure installed over 2019 and 2020. As of 2022, the Town is monitoring the shoreline to determine if a fifth breakwater structure that was designed as part of the shoreline stabilization project will be necessary. A Beach and Dune Management Plan was developed by the Wetlands and Coastal Dune Board at the request of the Cape Charles Town Council in 2018. This plan encompasses the public beach and the dunes, which are an integral part of the public beach area. Under Commonwealth of Virginia regulations, publicly-owned land is excluded from the permitting authorities of wetlands and coastal dune boards. However, the town requested advice and recommendations from this board to help guide town management of this vital public resource. In this context, Cape Charles board recommendations are advisory, that is, non-binding. The board's recommendations are consistent with town ordinances, which represent the Town's policy. Town Council adopted the plan In February 2019, and town staff utilize it to govern replenishment and protective activities.



Shifting sands cover a walkway along the beach.

Recycling

Cape Charles assesses the feasibility and environmental impact of recycling annually to determine if curbside service should be provided locally. Currently, the community can take their recyclable waste to centers located throughout Northampton County. While it is often requested, the cost and environmental impacts associated with providing it may prevent the service from being feasible for the Town.

Tree Canopy Coverage

Master Tree Plan and a Tree Conservation and Preservation Ordinance were created by an appointed committee by the Town Council. The Master Tree Plan (<https://www.capecharles.org/pview.aspx?id=9713&catid=605>) and is adopted as an addendum to the Comprehensive Plan policies. The Tree Conservation and Preservation Ordinance has been adopted as an amendment to the Zoning Ordinance. As a result of these adopted regulations, site plan submissions for any site development activity must include provisions for planting of trees to meet canopy coverage requirements. Commercial site plans must include provisions for ten percent tree canopy coverage, and residential site plans must include provisions for twenty percent tree canopy coverage. Canopy coverage is calculated based on projected canopy after twenty years of growth. The new regulations are also intended to implement a no net loss policy for trees within the streetscape. A permit is required to remove a tree within the streetscape. In most cases, removed trees must be replaced with another tree.

Environment Objectives and Strategies

1. Enhance water quality of the Chesapeake Bay.
 - a. Support intensifying the monitoring of all measures of the bay's health.
 - b. Update the Town's ordinance to reduce the amount of impervious surfaces in town to slow stormwater and contaminant runoff.
 - c. Increase the amount of vegetation and other bioretention infrastructure to filter stormwater before it enters the bay. This could be achieved either through individual projects or with new development.
2. Continue to promote the strong aesthetics of the town and limit pollution from litter.
 - a. Ensure easy access to refuse and recycling bins at town facilities and in public right-of-way.
 - b. Educate residents and visitors of best practices through signage and other materials as necessary.
 - c. Engage with seasonal vendors, such as food trucks, to ensure that they have adequate access to waste receptacles.
 - d. Ensure that stormwater passageways are in good working order and clean from debris.
3. Utilize best practices, along with infrastructure improvements, to ensure high quality drinking water.
 - a. Encourage water conservation measures to ease the load on water treatment equipment.
 - b. Review water quality improvement initiatives from other localities to develop and identify which strategies may be effective in Cape Charles.
4. Maintain the beach and harbor to protect the long-term viability of their ecological services and economic benefits.
 - a. Control dune, beach, and shoreline erosion through regulation and best practices.
 - b. Improve vehicular access from Mason Avenue to town harbor as part of new development to the waterfront.
 - c. Preserve the integrity of and accessibility to the water's edge.
5. Promote coastal resiliency through policy, development regulation, and enforcement.
 - a. Consider setting new sustainability targets regarding materials, construction practices, etc.
 - b. Consider incentives to promote the use of sustainable development practices.
 - c. Continue active participation in the Resilience Adaptation Facility Tool (RAFT).
6. Protect natural resources, especially wetlands and other sensitive ecosystems.
 - a. Prevent development in environmentally sensitive areas.
 - b. Consider establishment of wetlands bank.
 - c. Conduct annual educational campaigns directed at coastal and creek tributary property owners regarding the Resource Protection Area and the Resource Management Area applicable to their properties. Provide information on best practices regarding landscaping: the maintenance of trees, shrubs, bushes, and other vegetation, as well as appropriate species and sizes to use for replacement, if necessary.
7. Working with the Town Wetlands and Coastal Dune Board, continue to implement Coastal Resources Management guidance from the Virginia Institute of Marine Science.
 - a. Refer to the guidance presented in the locality's Comprehensive Coastal Resource Management Portal (CCRMP) prepared by VIMS to guide regulation and policy decisions regarding shoreline erosion control.
 - b. Utilize VIMS Decision Trees for on site review and subsequent selection of appropriate erosion control/shoreline best management practices: <http://ccrm.vims.edu/decisiontree/index.html>.
 - c. Utilize VIMS' CCRMP Shoreline Best Management Practices for management recommendation for all tidal shorelines in the jurisdiction.
 - d. Consider a policy where the above Shoreline Best Management Practices become the recommended adaptation strategy for erosion control, and where a departure from these recommendations by an applicant wishing to alter the shoreline must be justified at a hearing of the board(s).
 - e. Encourage staff training on decision making tools developed by the Center for Coastal Resources Management at VIMS.
 - f. Follow the development of the state-wide General Permit being developed by VMRC. Ensure that local policies are consistent with the provisions of the permit.
 - g. Evaluate and consider a locality-wide permit to expedite shoreline applications that request actions consistent with the VIMS recommendation.
 - h. Seek public outreach opportunities to educate citizens and stakeholders on new shoreline management strategies including Living Shorelines.
 - i. Follow the development of integrated shoreline guidance under development by VMRC.
 - j. Evaluate and consider a locality-wide regulatory structure that encourages a more integrated approach to shoreline management.
 - k. Consider preserving available open spaces adjacent to marsh lands to allow for inland retreat of the marshes under rising sea level.
 - l. Evaluate and consider cost share opportunities for construction of living shorelines.
8. Consider the creation of a committee to provide recommendations for increasing the Town's resiliency to storm events or delegate these responsibilities to the Dunes and Wetlands committee.
9. Assess the feasibility of providing recycling in the Town from year to year. Promote use of the Northampton County recycling drop off service.
10. Study and support efforts to protect Cape Charles existing tree canopy while encouraging new plantings. Follow the guidance found in the Master Tree Plan (see <https://www.capecharles.org/pview.aspx?id=9713&catid=605>).
11. Evaluate the amount of storm water infiltration into the sewer collection system and develop a corrective action plan.



Footprints in the sand on Cape Charles Beach.

Implementation

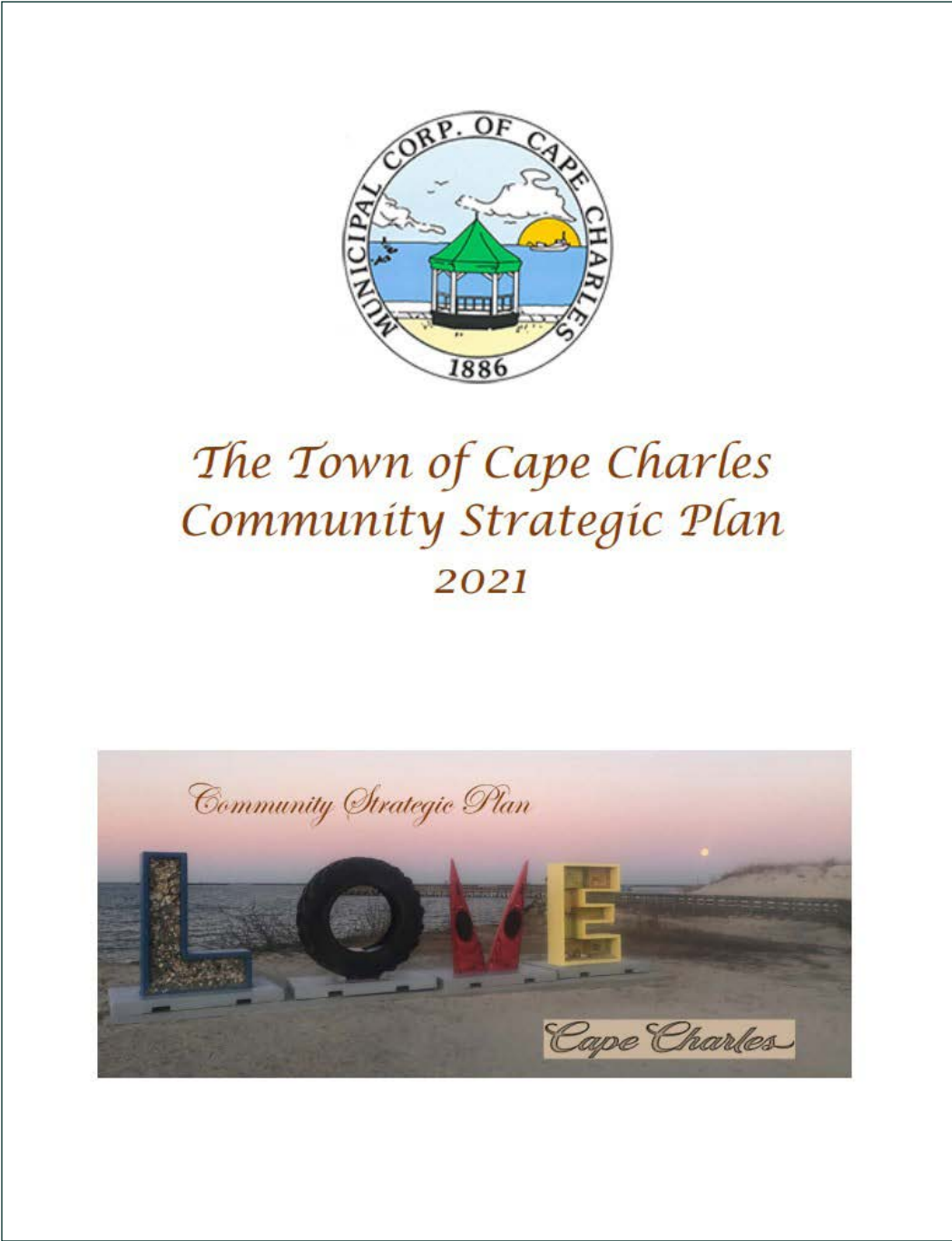
- Relationship to the Community Strategic Plan
- Objectives & Strategies Matrix

Relationship to the Town’s Strategic Plan

The most important part of any plan is its implementation strategy. It is acknowledged that as time passes, and decision makers change, priorities may also change. Therefore, it is critical to develop an implementation strategy that can react in real time. For Cape Charles, the annual review/update of the Community Strategic Plan will draw from the objectives and strategies of the Comprehensive Plan and be used as an implementation tool.

The Strategic Plan and the Comprehensive Plan complement one another and share the same vision. The Strategic Plan will implement the Comprehensive Plan over time by determining which of the Comprehensive Plan’s strategies to focus on in the upcoming year. The Strategic Plan is a shorter, simpler, document that can be reviewed and updated every year, with objectives that can be removed as they are implemented and replaced with new ones.

The annual review/update of the Strategic Plan typically occurs between November – February of each year. This process often includes community surveys. The intent is to finalize the Strategic Plan in time for it to inform the development of the Town’s annual budget, which includes capital projects associated with the Capital Asset Management Plan. Once adopted, the annual budget then becomes the work plan for the following fiscal year.



Housing Objectives & Strategies:

- Pursue character appropriate additional supply and diversity of housing, including smaller single-family homes, duplexes, town homes, and condos to increase the availability of affordable housing.
 - a. Review the Zoning Ordinance to identify barriers to the development of mixed-income housing, as well as housing diversity that is naturally more affordable by assessing the findings in the report ‘Overcoming Land Use Ordinance Barriers to Housing Development in Northampton County including Town of Cape Charles’ (published May 27, 2022). This would include a review of opportunities to decrease parking minimums and/or setbacks in certain zoning districts to increase the amount of developable land on each parcel.
 - b. Review the findings and recommendations from Eastern Shore of Virginia Regional Housing Study (published March 2022) to inform future land use and housing policy.
- 2. Encourage development of affordable workforce housing.
 - a. Engage local businesses about the housing needs of their employees and distribute said information to County and Regional/State Housing officials.
- 3. Subject to staff resources, participate in housing financing programs.
 - a. Consider participating in programming, loan, and grant initiatives that support affordable housing, such as Tax-Exempt Bond Financing, the Housing Choice Voucher Program, and the Low-Income Housing Tax Credit Program.
 - b. Disseminate housing assistance information focused on available financing for housing rehabilitation (e.g. Livable Home Tax Credits through DHCD, Rehabilitation Tax Credits through USDA); provide and promote these programs with targeted marketing materials on the Town website and in the offices of the Planning & Zoning and Building Departments.
- 4. In accordance with the Code of Virginia Sec 15.2-2223.5, Cape Charles shall incorporate into its comprehensive plan strategies to promote manufactured housing as a source of affordable housing. Such strategies may include (i) the preservation of existing manufactured housing communities, (ii) the creation of new manufactured home communities, and (iii) the creation of new manufactured home subdivisions.
- 5. Address the impacts of short-term rentals (STR) on the existing housing stock. (See also Economy Objective Strategy 1.a)
 - a. Develop and maintain a Town inventory of short-term rental units in collaboration with local real estate/property management groups. Identify whether rentals are located within the Historic District or Bay Creek Planned Unit Development area.
 - b. Coordinate with stakeholders to identify how and when short-term rental units are used.
 - c. Encourage long-term rental conversions through legislation or regulation.

Economy Objectives & Strategies:

- 1. Seek a healthy balance between year-round residents, tourists, and second homeowners in Cape Charles.
 - a. Develop short-term rental (STR) regulations to help protect the quality of life for year-round residents.
 - b. Collaborate with Eastern Shore of Virginia Tourism (ESVA), Cape Charles Main Street, and others to promote Cape Charles as a destination.
 - c. Work with other Eastern Shore localities to develop shared strategies for tourist attraction.
 - d. Strengthen and promote available broadband service to increase viability of Cape Charles as a destination for telecommuters and increase broadband hotspot offerings at areas including the Cape Charles Beach, Central Park, and the harbor area.
 - e. Develop and promote events, such as those in outdoor recreation, to attract tourists.
- 2. Attract families with children to Cape Charles.
 - a. Support Northampton County administration and School Board efforts to strengthen local schools.
 - b. Pursue the construction of new playgrounds and recreational facilities, to include facilities for adolescent and teenaged children.
 - c. Collaborate with local organizations to increase the amount of youth programming.
 - d. Provide opportunities for organizations and community members to plan and host events on town facilities, the public right-of-way, etc.
 - e. Promote the development of year-round, family-supporting jobs in appropriate areas.
- 3. Provide opportunities for households to strengthen their economic wellbeing.
 - a. Collaborate with local and regional partners to develop workforce development programs with connections to local industries.
 - b. Partner with colleges and universities, in collaboration with the Northampton County Board of Supervisors, the School Board, and the Eastern Shore Community College, to develop educational opportunities for residents.
 - c. Partner with public/private entities to promote workforce housing development.
- 4. Promote and expand businesses in a business-friendly environment.
 - a. Promote a healthy balance of light industrial and commercial activity around the harbor.
 - b. Engage professional planning and economic consultants to develop concept plans for the Harbor area and railroad property, as well as associated design guidelines for the Harbor area that complement the Historic District.
 - c. Develop public/private collaboration efforts to guide business development, help remove obstacles, and improve access to workforce resources.
- 5. Promote diverse economic benefits for the Harbor area.
 - a. Integrate the area with existing bike and pedestrian networks.
 - b. Promote best management practices for stormwater management and flood protection.
 - c. Provide high-quality public spaces and active street frontages.
- 6. Preserve and expand the local manufacturing base to ensure diverse employment opportunities.
 - a. Collaborate with existing companies to explore opportunities for community events and/or projects that raise the profile of company benefits to the community.

Economy Objectives & Strategies (Continued):

7. Promote traditional water-based economic activities.
 a. Engage with local watermen to explore ways the Town can support their businesses.
 b. Engage with waterfront property owners around the harbor to explore ways the Town can support their businesses.
 c. Study potential municipal barriers to entrepreneurial efforts in or around the harbor area (e.g. local seafood market).

8. Coordinate with Cape Charles Main Street for studying “chains of activity” in Cape Charles to identify any gaps in combinations of how someone can spend their day.
 a. Study these chains during all seasons of the year.
 b. Identify strategies to enhance local economy during winter season.
 c. Attract businesses to fill gaps in chains of activity.

9. Identify placemaking opportunities to test temporary events, installations, or other features that attract people to the area and encourage them to spend longer periods of time, particularly during the off-season, to promote Cape Charles as a vibrant community. Placemaking involves the intentional implementation of art, public space furniture, or event programming in a space to encourage the public to interact and spend time in the space. Encouraging greater activity increases sense of “place” and can make better use of previously inactive spaces.

10. Update the Accawmacke Plantation Planned Unit Development (PUD) Ordinance that governs the Bay Creek Development to be consistent with the goals and objectives of the Comprehensive Plan.

Transportation Objectives & Strategies:

1. Reduce traffic congestion by reducing local vehicle miles traveled (VMT) by automobile. Coordinate with Land Use objectives and strategies.
 a. Plan and implement comfortable, accessible, and convenient multimodal transportation options.
 b. Prioritize increasing the number of people walking and bicycling in town.
 c. Inventory bicycle parking available within the town to ensure that all areas of the town have good access to bicycle parking.
 d. Utilize “ad campaign” style communications about the benefits of prioritizing walking and bicycling in town.
 e. Promote golf cart use in appropriate areas.

2. In cooperation with the Virginia Department of Transportation (VDOT), strive to enhance walkability and complete the sidewalk network, especially in the Historic District.
 a. Provide sidewalks on all urban streets with clear paths (unobstructed by trees, bushes, street lights, etc.) that are at least 5’ wide.
 b. Clearly mark pedestrian crossings.
 c. Use minimal curb radii and/or curb extensions to minimize crossing distances for pedestrians.
 d. Ensure ADA compliance on all sidewalks.
 e. Explore the implementation of mirrors at all alleyways to increase visibility for pedestrians.
 f. Clarify and adopt Town policy regarding sidewalks ensuring the responsible party to implement them is defined.

3. Implement new policies and strategies for maintaining safety around golf cart operation.
 a. Clarify municipal code regarding golf cart operation, ensure that signs are posted with the ordinance notifying golf cart operators that they must use the street and follow other rules of the road.

4. Increase the availability of parking while maintaining character.
 a. Review benefits of providing clearly marked parking spaces on Bay Avenue.
 b. Expand the existing parking facility south of the Mason Ave corridor to mitigate the impacts of parking on walkability in the area.
 c. Study parking and create a strategic parking plan to recommend any infrastructure or policy changes.

5. Identify ownership and alignment of all of the alleys and access easements in town to ensure accuracy and that maintenance is performed by rightful owner.
 a. Create plan to clearly identify ownership of all alleys and inform owners of their maintenance responsibilities.
 b. Determine if existing alignments are correct.
 c. Determine if additional alleys are needed, or if existing alleys need to be moved, especially behind commercial buildings, and develop a plan to enhance access.

Transportation Objectives & Strategies (Continued):
<p>6. Collaborate with the Accomack-Northampton Transportation District Commission to promote accessible and affordable public transit in Cape Charles and throughout the region.</p> <ul style="list-style-type: none"> a. Collaborate with STAR Transit to pursue convenient, safe, and frequent bus service to key commercial, residential, and recreational destinations.
<p>7. Complete the construction of the multi-use path connecting the Historic District, the harbor area, and the Bay Creek development.</p> <ul style="list-style-type: none"> a. Make future improvements to the path, including resting areas and bicycle/golf cart parking.
<p>8. Integrate the Harbor area with existing bike, golf cart, and pedestrian networks.</p>
<p>9. Support the Rails to Trails project connecting Cape Charles to the Route 13 multi-use path.</p>

Environment Objectives & Strategies:
<p>1. Enhance water quality of the Chesapeake Bay.</p> <ul style="list-style-type: none"> a. Support intensifying the monitoring of all measures of the bay’s health. b. Update the Town’s ordinance to reduce the amount of impervious surfaces in town to slow stormwater and contaminant runoff. c. Increase the amount of vegetation and other bioretention infrastructure to filter stormwater before it enters the bay. This could be achieved either through individual projects or with new development.
<p>2. Continue to promote the strong aesthetics of the town and limit pollution from litter.</p> <ul style="list-style-type: none"> a. Ensure easy access to refuse and recycling bins at town facilities and in public right-of-way. b. Educate residents and visitors of best practices through signage and other materials as necessary. c. Engage with seasonal vendors, such as food trucks, to ensure that they have adequate access to waste receptacles. d. Ensure that stormwater passageways are in good working order and clean from debris.
<p>3. Utilize best practices, along with infrastructure improvements, to ensure high quality drinking water.</p> <ul style="list-style-type: none"> a. Encourage water conservation measures to ease the load on water treatment equipment. b. Review water quality improvement initiatives from other localities to develop and identify which strategies may be effective in Cape Charles.
<p>4. Maintain the beach and harbor to protect the long-term viability of their ecological services and economic benefits.</p> <ul style="list-style-type: none"> a. Control dune, beach, and shoreline erosion through regulation and best practices. b. Improve vehicular access from Mason Avenue to town harbor as part of new development to the waterfront. c. Preserve the integrity of and accessibility to the water’s edge.
<p>5. Promote coastal resiliency through policy, development regulation, and enforcement.</p> <ul style="list-style-type: none"> a. Consider setting new sustainability targets regarding materials, construction practices, etc. b. Consider incentives to promote the use of sustainable development practices. c. Continue active participation in the Resilience Adaptation Facility Tool (RAFT).
<p>6. Protect natural resources, especially wetlands and other sensitive ecosystems.</p> <ul style="list-style-type: none"> a. Prevent development in environmentally sensitive areas. b. Consider establishment of wetlands bank. c. Conduct annual educational campaigns directed at coastal and creek tributary property owners regarding the Resource Protection Area and the Resource Management Area applicable to their properties. Provide information on best practices regarding landscaping: the maintenance of trees, shrubs, bushes, and other vegetation, as well as appropriate species and sizes to use for replacement, if necessary.

Environment Objectives & Strategies (Continued):

- 7. Working with the Town Wetlands and Coastal Dune Board, continue to implement Coastal Resources Management guidance from the Virginia Institute of Marine Science.
 - a. Refer to the guidance presented in the locality’s Comprehensive Coastal Resource Management Portal (CCRMP) prepared by VIMS to guide regulation and policy decisions regarding shoreline erosion control.
 - b. Utilize VIMS Decision Trees for on site review and subsequent selection of appropriate erosion control/shoreline best management practices:
<http://ccrm.vims.edu/decisiontree/index.html>.
 - c. Utilize VIMS’ CCRMP Shoreline Best Management Practices for management recommendation for all tidal shorelines in the jurisdiction.
 - d. Consider a policy where the above Shoreline Best Management Practices become the recommended adaptation strategy for erosion control, and where a departure from these recommendations by an applicant wishing to alter the shoreline must be justified at a hearing of the board(s).
 - e. Encourage staff training on decision making tools developed by the Center for Coastal Resources Management at VIMS.
 - f. Follow the development of the state-wide General Permit being developed by VMRC. Ensure that local policies are consistent with the provisions of the permit.
 - g. Evaluate and consider a locality-wide permit to expedite shoreline applications that request actions consistent with the VIMS recommendation.
 - h. Seek public outreach opportunities to educate citizens and stakeholders on new shoreline management strategies including Living Shorelines.
 - i. Follow the development of integrated shoreline guidance under development by VMRC.
 - j. Evaluate and consider a locality-wide regulatory structure that encourages a more integrated approach to shoreline management.
 - k. Consider preserving available open spaces adjacent to marsh lands to allow for inland retreat of the marshes under rising sea level.
 - l. Evaluate and consider cost share opportunities for construction of living shorelines.
- 8. Consider the creation of a committee to provide recommendations for increasing the Town’s resiliency to storm events or delegate these responsibilities to the Dunes and Wetlands committee.
- 9. Assess the feasibility of providing recycling in the Town from year to year. Promote use of the Northampton County recycling drop off service.
- 10. Study and support efforts to protect Cape Charles existing tree canopy while encouraging new plantings. Follow the guidance found in the Master Tree Plan (see Appendix and/or <https://www.capecharles.org/files/documents/document1463052401090513.pdf>)
- 11. Evaluate the amount of storm water infiltration into the sewer collection system and develop a corrective action plan.

Community Facilities & Services Objectives & Strategies:

- 1. Pursue adequate lighting and other amenities (seating, trash receptacles, water fountains, signage, etc.) for Town designated facilities.
- 2. Plan for the creation of modernized, accessible, and welcoming municipal facilities.
- 3. Plan for the creation of amenities, such as a multi-use recreation field or other play areas.
- 4. Ensure efficient, cost-effective management, maintenance, and operation of water and sewer utilities, in conformance with all regulatory requirements.
- 5. Establish a policy for paying for capital facility expansion needs over time.
- 6. Develop proffer policies so that future development helps pay for the additional impacts and public facility costs that it generates.
- 7. Pursue funding opportunities for art, public events, markets, et cetera.