THE CODE OF

THE TOWN OF

CHINCOTEAGUE, VIRGINIA

Published by Order of the Town Council

_____

OFFICIALS

of the

TOWN OF

CHINCOTEAGUE, VIRGINIA

AT THE TIME OF THIS CODIFICATION

John H. Tarr
Mayor

Nancy B. Conklin
James T. Frese
Terry Howard
Leonard R. Jester
Ellen W. Richardson
Glenn B. Wolffe
Town Council

James M. West
Town Manager

Jon C. Poulson
Town Attorney

CURRENT

OFFICIALS

of the

TOWN OF

CHINCOTEAGUE, VIRGINIA

John H. Tarr
Mayor

Nancy B. Conklin
John H. Howard
Terry Howard
John N. Jester, Jr.
Ellen W. Richardson
James T. Frese
Town Council

Robert G. Ritter, Jr.
Town Manager

Jon C. Poulson
Town Attorney

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the Town of Chincoteague, Virginia.

Source materials used in the preparation of the Code were the 1977 Code and ordinances subsequently adopted by the town council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1977 Code and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CHARTER CHT:1

CHARTER COMPARATIVE TABLE CHTCT:l

CODE CD1:l

CODE APPENDI CDA:l

STATE LAW REFERENCE TABLE SLT:l

CHARTER INDEX CHTi:l

CODE INDEX CDi:l

Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Milton E. Lefkoff, Senior Code Attorney, and Jody Wilson, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Mr. Jon C. Poulson, Town Attorney, and Ms. Karen Hipple, Administrative Assistant, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of

the publisher have resulted in a Code of Ordinances which will make the active law of the town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the town's affairs.

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE TOWN OF CHINCOTEAGUE, VIRGINIA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CHINCOTEAGUE, VIRGINIA:

Section 1. The Code entitled "The Code of the Town of Chincoteague, Virginia," consisting of chapters 1 through 70, each inclusive, and appendixes A and B, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before May 16, 2002 and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the town Charter, this Code or any ordinance or resolution of the town or rule, regulation or order promulgated by an officer or agency of the town under authority duly vested in him or it shall be punished by a fine not exceeding $500.00 or by imprisonment for a term not exceeding 12 months, or both such fine and imprisonment. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the town may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate the intention of the town council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted May 16, 2002, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provision of the Code.

Section 7. This ordinance shall become effective June 1, 2002.

AT THE CHINCOTEAGUE TOWN COUNCIL RECESSED MEETING HELD ON MAY 16, 2002, ON A MOTION BY COUNCILMAN WOLFFE AND SECONDED BY COUNCILMAN FRESE THIS ORDINANCE WAS PASSED AND ADOPTED.

AYES	NAYS
NANCY B. CONKLIN	NONE
JAMES T. FRESE	
TERRY HOWARD	
LEONARD R. JESTER	
ELLEN W. RICHARDSON	
GLENN B. WOLFFE	

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***Editor's note—-**Printed herein is the town Charter, derived from the 1942 Acts of Assembly, chapter 210, approved March 13, 1942. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

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CHARTER

CHAPTER 1. INCORPORATION AND BOUNDARIES

Sec. 1. The town corporate.

The inhabitants of the territory comprised within the present limits of the Town of Chincoteague, as such limitations are now or may be hereafter altered and established by law, shall constitute and continue a body, politic and corporate, to be known and designated as the Town of Chincoteague, and as such shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to the town under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though such powers are specifically enumerated herein, and no enumeration of particular powers by this Charter shall be held to be exclusive and shall have, exercise and enjoy all the rights, immunities, powers, and privileges and be subject to all the duties and obligations now appertaining to and incumbent on said town as a municipal corporation, and the said Town of Chincoteague, as such, shall have perpetual secession, may sue and be sued, implead and be impleaded, contract and be contracted with, and may have a corporate seal which it may alter, renew, or amend at its pleasure by proper ordinance.

Sec. 2. The town boundary.

The corporate limits of the Town of Chincoteague, Virginia, as heretofore established, are hereby reestablished, and shall be taken and deemed as the Town of Chincoteague as follows:

> Beginning at a point on the Bay Shore, at low water mark, opposite the dividing line between the lands of Daniel J. Watson on the northeast and David R. Watson on the southwest, and running thence in a southwest direction along low water mark in Chincoteague Bay and Channel, to a point opposite the northeast boundary line of the land of Ella Fish; thence along the northeast boundary line of the said Ella Fish to a point two hundred (200) yards, southeast of the Main County Shore road; thence in a northeast direction to the dividing line between the lands of W. N. Conant and Mary A. Daisey; thence along the southwest boundary line of W. N. Conant's said land to the canal; thence in a northerly direction to the dividing line between the lands of Daniel J. Watson on the northeast and David R. Watson on the southwest, aforesaid; thence in a northwesterly direction along said last named dividing line, across the Main County Shore road to the point of beginning on the Bay Shore,—the said description being as of March thirteenth, nineteen hundred and eight, and being also the boundary of the said Town of Chincoteague as set forth in an Act of the General Assembly, approved March thirteenth, nineteen hundred and eight, entitled "An act to incorporate the Town of Chincoteague, Accomack County," and there is included within the corporate limits the following territory:
>
> > 1st. Beginning at the southwestern corner of the above boundary of the Town of Chincoteague and running in a southwesterly direction along low water mark to a point fifty (50) yards to the southwest of the southwest boundary of Fred Bowden's land, on which he now lives, thence south forty-five (45) degrees east, according to the magnetic variations existing today, to a point two hundred (200) yards southeast of the southeast edge of the Main County or Shore road, thence from said point in a straight line in a northeast direction to a point fifty (50) feet northwest of the north corner of Greenwood cemetery, the said point being on the southwest edge of the Bunting County road, thence in a northeast direction across said Bunting road to the

northeast edge thereof, thence in a southeast direction to the north corner of the intersection of Willow street and the said Bunting road, thence in a northeast direction along the northwest edge of Willow street to a point where the present southern corporate limits of the Town of Chincoteague now crosses Willow street, the said point being on the northwest edge of said Willow street, thence following the present southern boundary of the Town of Chincoteague to the point of beginning,-the above description being a verbatim description of the extension of the corporate limits of the Town of Chincoteague as annexed on the __ day of _____, nineteen hundred , by the Circuit Court of Accomack County, Virginia, in the petition of Kendell J. Bunting and others to annex territory, et cetera, to the Town of Chincoteague; and

2nd. Beginning at the northwestern corner of the present boundary of the Town of Chincoteague, at low water mark, it being the dividing line between the lands owned by David Watson and Daniel Watson, thence running in a northeasterly direction along ordinary low water mark to a point opposite the land occupied by the late Joshua W. Whealton, thence in a southeasterly direction along the center of a private roadway across the lands of the late Joshua W. Whealton, as it now exists, the same running between the dwelling houses of the late Joshua W. Whealton and the one now occupied by Sidney Daisey in a straight direction across the Deep Hole County road to the canal; thence in a southwest direction along said canal to the corporate limits of the Town of Chincoteague, it being a point also that separates the land of David Watson and Daniel Watson, thence in a northwest direction following the northern boundary of the present Town of Chincoteague to low water mark, the point of beginning,-the above description being a verbatim description of the territory which was annexed to the Town of Chincoteague in the petition of A. J. Hill and others to annex territory, et cetera, to the Town of Chincoteague.

3rd. Beginning at a point on the centerline of State Route 175, said point being the intersection of the centerline of Route 175 east entering the Island and the present Corporate Limit. From this point in a northern direction along the Corporate Limit to the point of intersection with the northern right-of-way of Route 175 entering the Island. Thence westerly along the northern right-of-way of Route 175 approximately 12,000 feet to a point where the right-of-way crosses the center of Queen Sound Channel. Then following the center of Queen Sound Channel in a northwesterly direction approximately 2,500 feet to a point where the channel divides, from this point in a northeasterly direction across Chincoteague Bay to a point on the Virginia/ Maryland state line, said point being approximately 25,400 feet west of the intersection of the Virginia/Maryland state boundary and the mean low water line on the western side of Assateague Island. Then from said point in an easterly direction along the Virginia/Maryland state boundary, to a point being the intersection of the Virginia/Maryland state boundary and the westernmost mean low water line on Assateague Island. Then from said point in a southerly direction following the mean low water line to the western tip of Fishing Point the line crosses Chincoteague Inlet to a point being the westernmost point of the mean low water line on Chincoteague Point near Hammock Point Light. Then extending this line from said point in a northwesterly direction, approximately 3,000 feet to the middle of Queen Sound Channel, then from said point along the middle of Queen Sound Channel to its

intersection with the southern right-of-way of Route 175. Then following the southern right-of-way eastward to its intersection with the present Corporate Limit, then from this point northward along the Corporate Limit to the point of beginning.

It is the purpose of the three above descriptions to include all lands within the present boundaries of said town according to the Charter of said town and the annexation proceedings of Kendall J. Bunting and others and the annexation proceedings of A. J. Hill and others as found among the records in the clerk's office of the circuit court for the County of Accomack, Virginia.

CHAPTER 2. POWERS OF TOWN

Sec. 1. Generally.

1. To raise annually, by the levy of taxes and assessments in the said town, on all such property, real and personal, as is now or may be subject to taxation by towns by the laws of this Commonwealth, such sums of money as the council thereof shall deem necessary for the purpose of the said town, in such manner as the said council shall deem expedient in accordance with the Constitution of this state and of the United States; provided, however, that it shall impose no taxes on the bonds of the said town.

2. To impose special or local assessments for local improvements and to force payment thereof, subject to such limitations prescribed by the Constitution and laws as may be in force at the time of the imposition of such special or local assessments.

3. To impose a tax not exceeding one dollar per annum upon all persons residing in said town above the age of twenty-one years, not exempt from the payment of state capitation tax.

4. (a) The town may, in the name of and for the use of the town, contract debts and make and issue, or cause to be made and issued, as evidence thereof, bonds, notes or other obligations, upon the credit of the town, or solely upon the credit of specific property owned by the town, or solely upon the credit of income derived from property used in connection with any public utility owned and operated by the town.

(b) Pending the issuance and sale of any bonds, notes or other obligations by this act (Charter) authorized, or in anticipation of the receipt of taxes and revenues of the current fiscal year, it shall be lawful for the town to borrow money temporarily and to issue notes or other evidence of indebtedness therefor, and from time to time to renew such temporary loans or to use current funds to be ultimately repaid from the proceeds of the said bonds, notes or other obligations or from the town taxes and revenues, as the case may be.

(c) The credit of the town shall not, directly or indirectly, under any devise or pretence whatsoever, be granted to or in aid of any person, firm, association or corporation.

(d) Every ordinance authorizing the issuance of bonds shall specify the purpose or purposes for which they are to be issued, the aggregate amount of the bonds, the term for which they shall be issued, and the maximum rate of interest to be paid thereon. Any such ordinance may be amended by ordinance at any time before the bonds to be affected by such amendment have been sold; provided, however, if there shall be omitted from this act (Charter) any provision essential to the valid authorization, sale, execution and issuance of any of the bonds of said town, the provisions of general law with reference to similar bonds shall supply said omission.

(e) Any bonds issued by the town under this act (Charter) shall be signed by the mayor and attested by the clerk under the seal of the town, and shall be made payable in the office of the town treasurer or such other place in or out of the state as the council may provide in the ordinance authorizing the issuance of the particular bonds. Such bonds may be advertised by the mayor and sold by the town treasurer, as may be provided in such ordinance, under supervision of the mayor and clerk, and the sale reported to and approved by the council, and the proceeds from said sale shall be paid to the town treasurer.

5. To expend the money of the town for all lawful purposes.

6. To acquire by purchase, gift, devise, condemnation or otherwise property, real or personal, or any estate therein within or without the town, for any of the purposes of the town; and to hold, improve, sell, lease, mortgage, pledge, or otherwise dispose of the same or any part thereof, including any property now owned by the town.

7. To establish markets in the town and regulate the same, and to enforce such regulations in regards to the keeping and sales of fresh meat, vegetables, eggs and other green groceries and the trade of hucksters and junk dealers as may be deemed advisable; and to make and enforce such regulations as shall be necessary to prevent huckstering, forestalling or regrading.

8. To own, operate and maintain water works and to acquire in any lawful manner in any county of the state, such water, lands, property rights, and riparian rights as the council of the said town may deem necessary for the purpose of providing an adequate water supply to the said town and of piping and conducting the same; to lay, erect and maintain all necessary mains and service lines, either within or without the corporate limits of the said town, for the distribution of water to its customers and consumers, both within and without the corporate limit of the said town and to charge and collect water rents thereof; to erect and maintain all necessary dams, pumping stations and other works in connection therewith; to make reasonable rules and regulations for promoting the purity of its said water supply and for protecting the same from pollution; and for this purpose to exercise full police powers and sanitary patrol over all land comprised within the limits of the watershed tributary to any such water supply wherever such lands may be located in this state; to impose and enforce adequate penalties for the violation of any such rules and regulations; and to prevent by injunction any pollution or threatened pollution of such water supply, and any and all acts likely to impair the purity thereof; and to carry out the powers herein granted, the said town

may exercise within the state all powers of eminent domain provided by the laws of this state.

9. To establish, construct, maintain and operate public landings, public wharves, harbors and docks either within the town, or without the town not exceeding the distance of two miles from the corporate limits thereof; to acquire by condemnation or otherwise all lands, riparian and other rights and easements necessary for the purposes aforesaid; to lay and collect reasonable duties or wharfage fees on vessels coming to or using said landings, wharves, harbors or docks; to dredge or deepen the harbor or river of any branch or portion thereof; to prescribe and enforce reasonable rules and regulations for the protection and use of its said properties, whether within or without the town, and to impose and enforce adequate penalties for the violation of such rules and regulations.

10. To collect and dispose of sewage, offal, ashes, garbage, carcasses of dead animals and other refuse, and to make reasonable charges therefor; to acquire and operate reduction or any other plants for the utilization or destruction of such materials, or any of them; to contract or regulate the collection and disposal thereof and to require and regulate the collection and disposal thereof.

11. To inspect, test, measure and weigh any commodity or commodities or articles of consumption for use within the town; and to establish, regulate, license and inspect weights, meters, measures and scales.

12. To license and regulate the holding and location of shows, circuses, public exhibitions, carnivals, and other similar shows or fairs, or prohibit the holding of the same, or any of them, within the town or within one mile thereof.

13. May require every owner of motor vehicles residing in the said town, on a date to be designated by the council, to annually register such motor vehicles and to obtain a license to operate the same by making application to the treasurer of the said town, or such other person as may be designated by the council of the said town, to issue said license, and to require the said owner to pay an annual license fee therefor to be fixed by the council; provided that the said license fee shall not exceed the amount charged by the state on the said machine.

14. To construct, maintain, regulate and operate public improvements of all kinds, including municipal and other buildings, armories, sewage disposal plants, jails, comfort stations, markets, and all buildings and structures necessary or appropriate for the use and proper operation of the various departments of the town; and to acquire by condemnation or otherwise, all lands, riparian and other rights, and easements necessary for such improvements, or any of them; either within or without the town, and to construct, maintain or aid therein, roads and bridges to any property owned by the said town and situate beyond the corporate limits thereof, and to acquire land necessary for the aforesaid by condemnation or otherwise.

15. To acquire, establish, enter, open, widen, extend, grade, improve, construct, maintain and clean public highways, streets, sidewalks, boulevards, parkways, and alleys, and to alter, vacate, or close the same; to establish and maintain parks, golf courses, playgrounds, and

public grounds; to keep them lighted and in good order; to construct, maintain and operate bridges, viaducts, subways, tunnels, sewers and drains and to regulate the use of all such highways, parks, public grounds and works; to plant and maintain or remove shade trees along the streets and upon such public grounds; to prevent the obstruction of such streets and highways; to regulate the operation and speed of cars and vehicles upon said streets and highways within the town; and to do all other things whatsoever adapted to make said streets and highways safe, convenient and attractive.

16. To construct in such parks, playgrounds, and public grounds, as it may maintain, or upon any town property, stadiums, swimming pools, gymnasiums, and recreation or amusement buildings, structures, or enclosures of every character, refreshment stands, restaurants, et cetera; to charge for admissions, and use of the same, and to rent out or lease the privileges of construction or using such stadiums, swimming pools, recreation or amusement buildings, structures, or enclosures of every character, refreshment stands, or restaurants, et cetera.

17. To establish, impose, and enforce the collection of water and sewage rates, and rates and charges for public utilities, or other services, products, or conveniences, operated, rented or furnished by the town; and to assess, or cause to be assessed, after reasonable notice to the owner or owners, water and sewage rates and charges directly against the owner or owners of the buildings or against the proper tenant or tenants; and in event such rates and charges shall be assessed against a tenant then the council may, by ordinance, require of such tenant a deposit of such reasonable amount as it may by such ordinance prescribe before furnishing such service to such tenant.

18. To establish, construct, and maintain sanitary sewers, sewer lines and systems, and to require the abutting property owners to connect therewith and to establish, construct, maintain and operate sewage disposal plants, and to acquire by condemnation or otherwise, within or without the town, all lands, rights of way, riparian and other rights, and easements necessary for the purposes aforesaid, and to charge, assess, and collect reasonable fees, rentals, assessments or costs of service for connection with and using the same.

19. Subject to the provisions of the Constitution and general laws of Virginia and this Charter to grant franchises for public utilities; provided, however, the town shall at any time have the power to contract for, own, operate, manage, sell, encumber or otherwise dispose of, either within or without the town, any and all public utilities for the town and to sell the services thereof, any existing franchise to the contrary notwithstanding.

20. To charge and to collect fees for permits to use public facilities and for public services and privileges. The said town shall have the power and right to charge a different rate for any service rendered or convenience furnished to citizens without the corporate limits from the rates charged for similar service to citizens within the corporate limits.

21. To compel the abatement and removal of all nuisances within the town or upon property owned by the town beyond its limits at the expense of the person or persons causing the same, or of the owner or occupant of the ground or premises whereon the same may be, and to collect said expense by suit or motion or by distress and sale; to require all lands, lots and other premises within the town, to be kept clean and sanitary and free from stagnant

water, weeds, filth and unsightly deposits, or to make them so at the expense of the owners or occupants thereof, and to collect said expense by suit or motion or by distress and sale; to regulate, or prevent slaughterhouses or other noisome or offensive business within the said town, the keeping of hogs or other animals, poultry or other fowl therein, or the exercise of any dangerous or unwholesome business, trade or employment therein; to regulate the transportation of all articles through the streets of the town; to compel the abatement of smoke and dust and prevent unnecessary noise; to regulate the location of stables and the manner in which they shall be kept and constructed; to regulate the location, construction, operation, and maintenance of billboards, signs, advertising, and generally to define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, aesthetics, safety, convenience and welfare of the inhabitants of the town; and to require all owners or occupants of property having sidewalks in front thereof to keep the same clean and sanitary, and free from all weeds, filth, unsightly deposits, ice and snow.

22. To extinguish and prevent fires, and to establish, regulate and control a fire department or division, to regulate the size, height, materials and construction of buildings, fences, walls, retaining walls and other structures hereafter erected in such manner as the public safety and convenience may require; to remove or require to be removed or reconstructed any building, structure or addition thereto which by reason of dilapidation, defect of structure, or other causes may have become dangerous to life or property, or which may be erected contrary to law; to establish and designate from time to time fire limits, within which limits wooden buildings shall not be constructed, removed, added to, enlarged or repaired and to direct that any or all future buildings within such limits shall be constructed of stone, natural or artificial, concrete, brick iron or other fireproof materials; and may enact stringent and efficient laws for securing the safety of persons from fires in halls and buildings used for public assemblies, entertainments or amusements.

23. To direct the location of all buildings for storing explosives or combustible substances; to regulate the sale and use of gunpowder, nitroglycerin, fireworks, kerosene oil or other like materials; to regulate the exhibition of fireworks, the discharge of firearms, and the making of bonfires in the streets and yards.

24. To authorize and regulate the erection of party walls and fences, and to prescribe how the cost thereof shall be borne by coterminous owners.

25. To provide for regular and safe construction of houses in the town for the future, and to provide a building code for the town, to provide setback lines on the streets beyond which no building may be constructed, to require the standard of all dwelling houses be maintained in residential sections in keeping with the majority of residences therein, and to require the standard of all business houses be maintained in business sections in keeping with the majority of the business houses therein.

26. To provide by ordinance for a system of meat and milk inspection, and regulate the sale of meat and milk, and appoint meat and milk inspectors, agents or officers to carry the same into effect within or without the corporate limits of the said town; to license, regulate, control and locate slaughterhouses within or without the corporate limits of the town; and for such services of inspection to make reasonable charges therefor; and to provide reasonable penalties for the violation of such ordinances.

27. To provide for the preservation of the general health of the inhabitants of said town, make regulations to secure the same, inspect all foodstuffs and prevent the introduction and sale in said town of any articles or thing intended for human consumption, which is adulterated, impure or otherwise dangerous to health, and to condemn, seize and destroy or otherwise dispose of any such article or thing without liability to the owner thereof; to prevent the introduction or spread of contagious or infectious diseases, and prevent and suppress disease generally; to provide and regulate hospitals within or without the town limits, and if necessary to the suppression of diseases, to enforce the removal of persons afflicted with contagious or infectious diseases to hospitals provided for them; to construct and maintain or to aid in the construction and maintenance of a hospital or hospitals for the use of the people of the town; to provide for the organization of a department or bureau of health, to have the powers of a board of health for said town, with the authority necessary for the prompt and efficient performance of its duties, with the power to invest any or all the officials or employees of such department of health with such powers as the police officers of the town have, to establish quarantine ground within or without the town, and establish such quarantine regulations against infectious and contagious diseases as the council may see fit, subject to the laws of the state and of the United States; and to provide for a bureau of vital statistics and require physicians, midwives or parents to make reports thereto.

28. To provide for the care, support and maintenance of children and of sick, aged, insane or poor persons and paupers.

29. To provide and maintain, either within or without the town, charitable, recreative, curative, corrective, detentive or penal institutions.

30. To prevent fowls and animals being kept in or running at large in the town, or any thickly populated portion thereof, and to subject the same to such taxes, regulations and penalties as the council may think proper.

31. To prevent the riding or driving of horses or other animals at an improper speed; to prevent the flying of kites, throwing of stones, or engaging in any sort of employment in the public streets which is dangerous or annoying to passersby, and to prohibit and punish the abuse of animals.

32. Insofar as not prohibited by general law, to control, regulate, limit and restrict the operation of motor vehicles carrying passengers for hire upon the streets or alleys of the town; to regulate the use of automobiles and other automotive vehicles upon the streets; to regulate the routes in and through the town to be used by motor vehicle carriers operating in and through said town and to prescribe different routes for different carriers; to prohibit the use of certain streets by motor trucks; and generally to prescribe such regulations respecting motor traffic therein as may be necessary for the general welfare.

33. To grant aid to military companies and to contribute to the support of a band maintained within the said town; to associations for the advancement of agriculture or the mechanic arts, to scientific, literary, educational or benevolent organizations or institutions and to public libraries, provided such action is not prohibited by the Constitution of the state, and that all such societies, organizations or institutions be located in or near the town, and, provided, further, that no appropriation for any such purpose shall be made, nor shall aid be

otherwise granted through exemption from charge for use of water or light facilities or otherwise, either with or without charge, beyond the city (town) limits, unless two-thirds of all members elected to the council vote therefor.

34. To acquire, by condemnation, purchase or otherwise, provide for, maintain, operate and protect aircraft landing fields either within or without the corporate limits of the town.

35. If any ground in said town shall be subject to be covered with stagnant water, or if the owner or owners, occupier or occupiers thereof shall permit any offensive, unsightly or unwholesome substance or material to remain or accumulate thereon, the town may cause such grounds to be filled, raised, or drained, or may cause such substance to be covered or to be removed therefrom, and may collect the expense of so doing from the owner or owners, occupier or occupiers, or any of them (except in cases where such nuisance is caused by the action of the town authorities or their agents, or by natural causes beyond the control of the owner or occupant, in which case the town shall pay the expense of abating the same), by distress and sale in the same manner in which, taxes levied upon real estate for the benefit of said town are authorized to be collected; provided, that reasonable notice and an opportunity to be heard shall be first given to said owners or their agents. In case of nonresident owners who have no agent in said town, such notice shall be given by publication at least once a week for not less than four consecutive weeks in any newspaper having general circulation in the said town.

36. To establish, organize and administer public libraries, and public schools, subject to the general laws establishing a standard of education for the state; and to provide for a census.

37. To provide in or near the town, lands to be used as burial places for the dead; to improve and care for the same and the approaches thereto, and to charge for and regulate the use of the ground therein; to cooperate with any nonprofit corporation in the improvement and care of burial places and the approaches thereto; and to provide for the perpetual upkeep and care of any plot or burial lot therein, the town is authorized to take and receive sums of money by gift, bequest, or otherwise to be kept invested, and the income thereof used in and about the perpetual upkeep and care of the said lot or plot, for which the said donation, gift, or bequest shall have been made.

38. To prevent any person having no visible means of support, paupers, and persons who may be dangerous to the peace and safety of the town, from coming to said town from without the same; and also to expel therefrom any such person who has been in said town less than twelve months.

39. To exercise full police powers and establish and maintain a department or division of police.

40. To restrain and punish drunkards, vagrants and street beggars, to prevent and quell riots, disturbances and disorderly assemblages; to suppress houses of ill-fame and gambling houses; to prevent and punish lewd, indecent and disorderly exhibitions in said town; and to expel therefrom persons guilty of such conduct who have not resided therein as much as one year.

41. To make and enforce ordinances, insofar as not prohibited by the general laws of this state, to regulate, control, license and/or tax the manufacture, bottling, sale, distribution, transportation, handling, advertising, possession, dispensing, drinking and use of alcohol, brandy, rum, whiskey, gin, wine, beer, lager beer, ale, porter, stout, and all liquids, beverages and articles containing alcohol by distillation, fermentation or otherwise.

42. To prohibit and punish for mischievous, wanton, or malicious damage to school and public property, as well as private property.

43. To prohibit from, and punish minors for, frequenting, playing in or loitering in any public poolroom, billiard parlor, or bowling alley, and to punish any proprietor or agent thereof for permitting same.

44 Where, by provisions of this act [Charter], the town has authority to pass ordinances on any subject, they may prescribe any penalty not exceeding twelve months in jailor a fine not exceeding five hundred dollars, either or both, for a violation thereof, and may provide that the offender, on failing to pay the penalty recovered and costs shall be imprisoned in jailor prison farm of the town for a term of not exceeding ninety days, which penalties may be prosecuted and recovered with costs in the name of the Town of Chincoteague, or shall compel them to work on the streets or other public improvements of the said town. The town shall also have the right to establish a prisoner labor force in which they may require persons convicted of violations of town ordinances, to work on the streets and other public grounds of the town, and the further right to deal with the state for the use and employment of persons convicted of violations of state laws.

45. To offer and pay rewards for the apprehension and conviction of criminals.

46. To give names to or alter the names of streets.

47. To enjoin and restrain the violation of any town ordinance or ordinances, although a penalty is provided upon conviction of such violation.

48. Insofar as not prohibited by general law, to pass and enforce all bylaws, rules, regulations and ordinances which it may deem necessary for the good order and government of the town, the management of its property, the conduct of its affairs, the peace, comfort, convenience, order, morals, health and protection of its citizens or their property and to do such other things and pass such other laws as may be necessary or proper to carry into full effect, all powers, authority, capacity, or jurisdiction, which is or shall be granted to or vested in said town, or in the council, court, or officers thereof, or which may be necessarily incident to a municipal corporation.

49. To do all things whatsoever necessary or expedient and lawful to be done for promoting or maintaining the general welfare, comfort, education, morals, peace, government, health, trade, commerce, or industries of the town, or its inhabitants.

50. To prescribe any penalty for the violation of any town ordinance, rule, or regulation or of any provision of this Charter, not exceeding five hundred dollars or twelve months' imprisonment in jail, or both.

51. To make and adopt a comprehensive plan for the town, and to that end all plats and re-plats hereafter made subdividing any land within the town or within one mile thereof, into streets, alleys, roads, and lots or tracts shall be submitted to and approved by the council before such plats or re-plats are filed for record or recorded in the office of the clerk of Accomack County, Virginia.

52. To own, operate and maintain electric light and gas works, either within or without the corporate limits of the town and to supply electricity and gas whether the same be generated or purchased by said town, to its customers and consumers both without and within the corporate limits of the said town, at such price and upon such terms as it may prescribe, and to that end it may contract and purchase electricity and gas from the owners thereof upon such terms as it may deem expedient.

53. To exercise the power of eminent domain within this state with respect to lands and improvements thereon, machinery and equipment for any lawful purpose of said town.

54. To divert the channels of creeks and flowing streams and for that purpose to acquire property by condemnation.

55. To every case where a street in said town has been, or shall be, encroached upon by any fence, building or otherwise, the town may require the owner to remove the same, and if such removal be not made within the time prescribed by the town, they may impose such penalty as they may deem proper for each and every day it is allowed to continue thereafter, and may cause the encroachment to be removed, and collect from the owner all reasonable charges therefor, with costs by the same process that they are hereinafter empowered to collect taxes.

Except, in any case where there is a bona fide dispute as to the true boundary line or the location of the true street line (and if passage over such street is not seriously impeded) the same shall first be established and determined by an adjudication of a court of competent jurisdiction in a proceeding instituted by either the town or the property owner for that purpose before the said town shall take any steps to remove the said obstruction or encroachment, or to impose any penalty therefor. No encroachment upon any street, however long continued, shall constitute any adverse possession to or confer any rights upon the persons claiming thereunder as against the said town.

56. Dedication of any street, alley or lane in said town may be made by plat or deed. Any street or alley reserved in the division or subdivision into lots of any portion of the territory within the corporate limits of said town, by a plan or plat of record, shall be deemed and held to be dedicated to public use, unless it appears by said record that the street or alley so reserved is designated for private use. The town shall have the right to elect, by resolution entered on its minutes whether it will, or will not accept the dedication of any street or alley.

57. (a) No action shall be maintained against the town for damages for any injury to any person or property alleged to have been sustained by reason of the negligence of the town or any officer, agent, or employee thereof, unless a written statement, verified by the oath of the claimant, his agent or attorney, or the personal representative of any decedent whose death is the result of the

alleged negligence of the town, its officers, agents or employees, of the nature of the claim and the time and place at which the injury is alleged to have occurred or to have been received, shall have been filed with an attorney, appointed by the council for this purpose, within sixty days after such cause of action shall have accrued, and no officers, agents or employees of the town shall have authority to waive such conditions precedent or any of them.

(b) In any action against the town to recover damages against it for any negligence in the construction or maintenance of its streets, alleys, lanes, parks, public places, sewers, reservoirs or water mains, where any person or corporation is liable with the town for such negligence, every such person or corporation shall be joined as defendant with the town in any action brought to recover damages for such negligence, and where there is judgement or verdict against the town, as well as the other defendant, it shall be ascertained by the court or jury which of the defendants is primarily liable for the damages assessed.

(c) If it be ascertained by the judgement of the court that some person or corporation other than the town is primarily liable, there shall be a stay of execution against the town until execution against such person or persons or other corporation or corporations shall have been returned without realizing the full amount of such judgement.

(d) If the town, where not primarily liable, shall pay the said judgement in whole or in part, the plaintiff shall, to the extent that said judgement is paid by the town, assign the said judgement to the town without recourse on the plaintiff, and the town shall be entitled to have execution issued for its benefit against the other defendant or defendants who have been ascertained to be primarily liable, or may institute any suit in equity to enforce the said judgement, or an action at law, or scire facias to revive or enforce said judgement.

(e) No order shall be made, and no injunction shall be awarded, by any court or judge, to stay the proceedings of the town in the prosecution of their works, unless it be manifest that they, their officers, agents or servants are transcending the authority given them by this act [Charter], and that the interposition of the court is necessary to prevent injury that cannot be adequately compensated in damages.

58. Except when prohibited by general law, the town may levy a tax or a license on any person, firm or corporation pursuing or conducting any trade, business, profession, occupation, employment or calling whatsoever within the boundaries of the town, whether a license may be required by the state or not, and may exceed the state license, if any be required, and may provide penalties for any violation thereof.

59. Any payment of delinquent taxes made by the tenant, unless under an expressed contract contained in his lease, shall be credit against the person to whom he owes the rent.

60. A lien shall exist on all real estate within the corporate limits for taxes, levies and assessments in favor of the town, together with all penalties and interest due thereon,

assessed thereon from the commencement of the year for which the same were assessed and the procedure for collecting the said taxes, for selling real estate for town taxes and for the redemption of real estate sold for town taxes shall be the same as provided in the general law of the state to the same extent as if the provisions of said general law were herein set out at length. The said town and its treasurer shall have the benefit of all other and additional remedies for the collection of town taxes which are now or hereafter may be granted or permitted under the general law.

61. All goods and chattels wheresoever found may be distrained and sold for taxes and licenses assessed and due thereon; and no deed of trust or mortgage upon goods and chattels shall prevent the same from being distrained and sold for taxes and licenses assessed against the grantor in such deed while such goods and chattels remain in the grantor's possession.

62. Ordinances making the annual tax levy, appropriation ordinances, ordinances and resolutions pertaining to local improvements and assessments, ordinances and resolutions providing for or directing any investigation of town affairs, resolutions requesting information from administrative bodies, or directing administrative action and emergency measures shall take effect at the time indicated in such ordinances. Except as otherwise prescribed in this Charter, all ordinances and resolutions passed by the council shall take effect at the time indicated in such ordinances, but in event no effective date shall be set forth in any such ordinance, resolution or bylaw passed by the council, the same shall become effective thirty days from the date of its passage.

63. (a) There shall be set apart annually from the revenues of the town a sinking fund sufficient in amount, to be invested as hereinafter set forth, to pay the outstanding indebtedness of the town as it matures and which by its terms is not payable in one year, and the council may in its discretion annually from time to time, set aside such additional sinking funds as may be deemed proper.

(b) When taxes on real and personal property are collected for the year, the town treasurer shall take therefrom the necessary amount and any additional sum, if any, so set apart, and deposit the same in a separate account to the credit of the sinking fund in such bank or banks as the council may designate; and the said council may, if it shall so elect, cause its sinking fund to be loaned on improved real estate situated in the Town of Chincoteague, secured by first mortgage liens thereon, provided such funds shall not be loaned to a greater amount than fifty per centum of the market value of the property, and fire insurance shall be carried on the property during the loan in an amount at least equal to the face amount of the loan, which money shall be loaned at the rate of six per centum per annum, payable semi-annually and for no longer than five years at any one time.

(c) All sinking funds shall be used exclusively in the payment or purchase and redemption of outstanding bonds of the town, and when such sinking funds are not required or may not within a reasonable time be required for payment of any bond of the town, or cannot be used to advantage in the purchase and redemption of any bonds of the town which may be outstanding, the same shall be securely invested in interest bearing municipal, state or government bonds

or loaned upon otherwise unencumbered real estate, within the Town of Chincoteague upon the basis hereinbefore provided, or invested in any securities approved by the general laws of the state for the investment of such funds, or deposited in a bank on a reasonable rate of interest. Such sinking fund may be used in the payment or purchase and redemption of all bonds of the town at the discretion of the council.

(d) The town council shall act as the sinking fund commission and shall provide for the investment, deposit and application of the funds in conformity to the provisions of this Charter; and it may require of any bank or banks receiving on deposit its revenues or any of its sinking fund security satisfactory to the council.

64. Upon the death, resignation, removal or expiration of the term of any officer of the town, the council shall order an annual audit and investigation to be made of the accounts of such officer and report to be made to the council as soon as practicable. After the close of each fiscal year an audit shall be made of the accounts of all town officers; said audit shall be made by a qualified accountant, selected by the council, who shall have no personal interest, direct or indirect, in the financial affairs of the town or any of its officers or employees. The council may at any time provide for an examination or audit of the accounts of any officer or department of the town government.

65. The town council may appoint a trial justice for the said town who shall serve for two years from the date of his appointment and until his successor is appointed by the council and qualifies. The mayor, or any other qualified voter of the Town of Chincoteague whom the council deems qualified, may be appointed by it as such trial justice. If the mayor is appointed as trial justice, he shall discharge such duties as the trial justice of the town under this Charter and not as the mayor of the town, in addition to the execution of the duties of mayor imposed upon him by this Charter; and his powers, duties, authority and jurisdiction as such trial justice shall be as hereinafter provided for the trial justice. Should the mayor be appointed trial justice, he shall receive the salary of mayor provided by the council for the discharge of his duties as mayor as well as such salary of trial justice as may be provided by the council, if any.

Said trial justice is hereby vested with all the power, authority and jurisdiction and charged with all the duties within and for the Town of Chincoteague, and in criminal matters for one mile beyond the corporate limits thereof, which are, or may hereafter be, conferred upon trial justices by the laws of the State of Virginia, so far as the same may be applicable and not in conflict with the provisions of this Charter; and any amendments of the trial justice laws of this state shall be considered as amendments also of this section of this Charter if the same are applicable hereto.

Fees and costs shall be assessed by the trial justice and shall be collected as provided by the laws of the State of Virginia relating to trial justices as the same shall now be or as hereafter amended. All fees and costs collected by the said trial justice and all fines collected for violations of all laws and ordinances of the town shall be paid into the town treasury for the use and benefit of the town.

Removals may be taken, and appeals from the decisions of the trial justice may be taken, to the Circuit Court of Accomack County in the same manner, upon the same terms and shall be tried in the same way as removals, or as appeals from the decision of trial justices, as the case may be, are provided to be taken and tried by the laws of the State of Virginia, relating to trial justice as the same shall now be or as hereafter amended.

The council may also appoint such clerk or clerks as may in their discretion be necessary, provide for just compensation therefor and provide necessary records.

The council of said town shall provide a salary to compensate such trial justice in such amount and payable at such times as the council shall deem proper, and the council may provide also for a vacation period, either with or without pay, and for such duration, as in the judgement of the council may be proper.

Like provisions may be made for a substitute justice, and when such substitute acts, he shall receive the compensation which would have been paid him had the principal acted, and which compensation shall be deducted from the salary or allowance made to the principal.

Nothing contained herein shall prevent the Town of Chincoteague from combining with the County of Accomack for the use of one trial justice and one substitute trial justice for such combined town and county, in such manner as may be provided by the laws of the State of Virginia relating to trial justices; and if the Town of Chincoteague and County of Accomack shall at any time combine for the use of one trial justice and one substitute trial justice for the said town and the said county, the laws of the State of Virginia relating to trial justices, so far as applicable, shall control and not this section of this Charter; provided, however, that the combination of the said town with the said county for the use of one trial justice and one substitute trial justice shall not prevent the council of the town at any time thereafter it shall desire so to do from withdrawing the Town of Chincoteague from such combination by a vote of the council and appointing a trial justice and a substitute trial justice for the Town of Chincoteague under the provisions of this Charter, notwithstanding anything in the trial justice laws of Virginia to the contrary; and likewise nothing herein contained shall prevent the town, after withdrawing from such combination, to adopt again the combination with the county.

The powers and jurisdiction provided for in this subsection sixty-five (65) of this act [Charter] as to matters other than those pertaining or relating to violations of ordinances of the town may be exercised only to the extent permitted by general law.

66. The town shall have the power to extend or contract the corporate limits of the town as provided by the Constitution and general laws of Virginia in force at the time.

67. The Town of Chincoteague shall have authority to impose taxes or assessments upon abutting landowners for making and improving the walkways upon then existing streets, and improving and paving then existing alleys, and for either the construction, or for the use of sewers, and the same when imposed, shall not be in excess of the peculiar benefits resulting therefrom to such abutting landowners; and the procedure for making such assessments and the method of collecting such taxes and assessments, shall be in accordance with general law.

68. The Town of Chincoteague is hereby constituted a separate road taxing district. The said town shall have the power to own, layout, and maintain its street system. The County of Accomack shall not levy any tax on the said town, or any property or residents therein for road purposes. Nor shall said town be embraced in any road district of the County of Accomack.

69. The Town of Chincoteague may levy a tax on all subjects of taxation not prohibited to it by, nor exempted in, the Constitution and general laws of Virginia.

70. The council hereinafter created shall have full power and authority, except as herein otherwise specifically provided, to exercise herein all of the powers conferred upon the town, and pass all laws and ordinances relating to its municipal affairs, subject to the Constitution and general laws of the state and of this Charter, and shall have full and complete control of all fiscal and municipal affairs of said town and all of its real and personal properties, and may from time to time, amend, re-amend and/or repeal any or all of the said ordinances, for the proper regulation, management, and government of the said town and may impose fines and penalties for the violation or nonobservance thereof.

71. The enumeration of specific powers, privileges, and authority in this Charter shall not be deemed exclusive, but in addition to the powers and privileges herein mentioned, implied or appropriated, the said town shall have and may exercise, all other powers, which are or may hereafter be, possessed, or enjoyed, by any towns under the Constitution and laws of the Commonwealth of Virginia, or not denied by the same, as fully and completely as if herein set out at length.

Sec. 2. Daylight saving time.

The council may by resolution require, provide for and enforce daylight saving time in the town. Such time when so prescribed shall govern the conduct of all businesses and town elections within the corporate limits of the town. (Acts 1958, ch. 135, § 1)

CHAPTER 3. TOWN PLAN

Sec. 1. Adoption.

The council may adopt a town plan, showing the streets, highways, and parks heretofore laid out, adopted, and established, and such town plan shall be final with respect to the location, length, and width of such streets and highways, and the location and dimensions of such parks. Such town plan is hereby declared to be established for the promotion of the health, safety, and general welfare. Upon the adoption of the town plan, or any amendment thereto, a certificate to that effect, together with a plat, shall be filed immediately with the clerk of every county affected by such town plan and amendment.

Sec. 2. Appointment, etc., of planning commission.

The council is hereby authorized to appoint a town planning commission, fix the number and term of members, remove any member for cause, fill any vacancies, which may occur, and

provide for the powers and duties of such commission, not in conflict with the provisions of this act [Charter].

Sec. 3. Amendments.

The council may at any time, after a public hearing, amend the town plan, by widening, relocating, or closing existing streets and highways, and by altering any existing part or by laying out new streets and highways and establishing new parks. Before amending the town plan, the council shall refer the proposed amendment to the town planning commission for a report thereon, and shall not act on such amendment until a report has been received from said commission, unless a period of thirty days has elapsed after the date of reference to the commission. Any amendment of the town plan, upon its adoption by the council, shall be final unless changed as herein provided as to the location, length, and width of any street or highway, and the location and dimensions of any park. Any widening, relocating, closing or laying out of streets and highways proposed under the provisions of law other than those contained in this article shall be deemed an amendment of the town plan, and shall be subject in all respects to the provisions of this chapter.

Sec. 4. Approval of plats for streets and highways—Generally.

No plat showing a new street or highway within the town, shall be filed or recorded in the office of the clerk of the town or of any county until such plat has been approved by the council. Before giving any approval, the council shall refer every such plat to the town planning commission for a report, and shall not act on any plat so referred until a report has been received from the commission, unless a period of forty-five days has elapsed after the date of reference to the commission. Before reporting to the council on any plat, the commission shall hold a public hearing thereof. If any plat is disapproved by the commission, it shall report the reasons for such disapproval to the council. The council shall not approve any plan unless the streets and highways provided in such plats are of sufficient width, of proper grades, and suitably located to meet the probable traffic needs; to afford adequate light, air, and access of fire apparatus to such buildings as may be erected along the proposed streets and highways; and to insure healthful conditions on the land adjacent to such streets and highways. The council may, in appropriate cases, require that a plat, before being approved, shall provide adequate open spaces for parks, playgrounds, or other recreational uses; but the inclusion of such open spaces upon a plat does not require their dedication to public use. After a plat has been approved by the council, the streets, highways, parks, and other open spaces shall be a part of the town plan. The council, after a public hearing, may adopt general regulations in regard to the filing of plats.

Sec. 5. Same—Conditions.

(a) Before approving such plat, and thereby accepting the dedication of the streets, alleys, parks and public places thereon, the council shall require that the streets and alleys thereon shall be properly laid out and located with reference to the topography of the land so platted and the adjoining lands, both as to connections and widths, which widths of such streets and alleys shall be plainly marked in figures or written on such plat, and which streets and alleys shall be laid out in harmony with the general plan of the town.

(b) And, before approving such plat, and thereby accepting the dedication of the streets and alleys thereon, the council shall require the owner thereof to execute and deliver to the Town of Chincoteague a release and waiver of any claim or claims for damages which such owner, his heirs, successors or assigns may have or acquire against the Town of Chincoteague by reason of establishing proper grade lines on and along such streets and alleys and by reason of doing necessary grading or filling for the purpose of placing such streets and alleys upon the proper grade and releasing the Town of Chincoteague from building any retaining wall or walls along the streets and alleys and property lines; and the council may require such release and waiver to be written and executed on said plat and recorded therewith or by an instrument of writing to be executed and recorded in the clerk's office of the Circuit Court of Accomack County.

And the council may, in its discretion, require the owner of such platted lands to submit profiles of such streets and alleys, showing the contour thereof, together with proper grade lines laid thereon, and if and when the council is satisfied that the proper grade lines are laid on such profiles, the profiles shall be approved by the council and recorded by the owner or at his expense in the record of the profiles of the streets and alleys of the town, and the council may in its discretion, require such release and waiver to be made with reference thereto.

(c) Before approving any such plat of any subdivision of lots or lands the town council may, at its discretion, require the owner of such lot or lands to grade the streets and alleys therein, according to grade lines approved and established by the council.

Sec. 6. Issuance of building permits.

For the purpose of preserving the integrity of the plan, no permit shall hereafter be issued for the construction of any building within the street lines of any mapped street or highway, as laid down in the town plan, within the town. Provided, however, if the land within any mapped street or highway is not yielding a fair return to the owner, the board of appeals, provided for herein, by a majority vote of all its members, may issue a permit for a building within the street line of such street or highway, upon such conditions as will increase as little as possible the cost of opening such street or highway, and will protect as far as possible the rights of the public and the integrity of the town plan. The board of appeals, hereinafter authorized, before taking any action under the provisions of this section, shall hold a public hearing, of which adequate notice shall be given to all persons deemed to be affected. Any decision by the board of appeals, rendered under the provisions of this section, shall be subject to the same court review as provided for zoning decisions of the board.

Sec. 7. Conformity with plan.

If such town plan is adopted, no public sewer, water pipe, or other public utility shall be laid and no grading or paving shall be done by the town in any street or highway in the town, unless such street or highway has been placed upon the town plan by the council. No permit shall be issued for any building in the town unless such building is located adjacent to a street or highway, which has been placed upon the town plan by the council. Provided, however, where the literal enforcement of the provisions of this section would result in practical difficulty or unnecessary hardship, or where the nature or use of the proposed building does not require its location to be adjacent to a street or highway, the board of

appeals, by a majority vote of all its members, may issue a permit for a building, upon such condition as the board may deem necessary to preserve the integrity of the town plan and to insure the proper location of future streets and highways in the town and the surrounding area. Any decisions of the board of appeals, rendered under the provisions of this section, shall be subject to the same court review as provided for zoning decisions of the board.

CHAPTER 4. ZONING

Sec. 1. Generally.

For the purpose stated in chapter one hundred and ninety seven of the Acts of Assembly, approved March 18, 1926, the town council is hereby empowered to pass zoning ordinances in conformity with the said act, as amended, subject, however, to the following modifications thereto:

(a) The council shall not adopt any zoning ordinance or map until it shall have appointed a town planning commission, as provided for in this act [Charter] and shall have received from said commission its recommendations as to a zoning ordinance and map, and shall have held a public hearing thereon.

(b) Any zoning ordinance, regulations, restrictions, and boundaries of districts may be changed from time to time by the council, either upon its own motion or upon petition, under such conditions as the council may prescribe, after a public hearing and adequate notice to all owners and parties affected. If a protest or protests be filed with the council, signed by the owners of twenty per centum or more of the area of the land included in the proposed change, or by the owners of twenty per centum or more of the area of the land immediately adjacent to the land included in the proposed change, within a distance of one hundred feet therefrom, or by the owners of twenty per centum or more of the area of the land directly opposite across any street or streets from the land included in the proposed change, within a distance of one hundred feet from the street lines directly opposite, then no such change shall be made except by the majority vote of all of the members of the council. No change shall be made by the council in any zoning ordinance or map until such change has been referred to the town planning commission for a report thereon, and no action shall be taken by the council until a report has been received from the commission, unless a period of thirty days has elapsed after the date of reference to the commission.

(c) Within thirty days after the adoption of any zoning ordinance and map, the council shall appoint a board of appeals, consisting of seven members, none of whom shall hold any other positions with the town. (Ord. of 7-1-1994)

The council may remove any member of the board for cause, after a public hearing. If a vacancy occurs otherwise than by the expiration of the term of the different members, it shall be filled by the council for the unexpired term.

Unless the council designates some member of the board as a chairman, the board shall select a chairman from among its own members, and may create and fill such

other offices as it may choose. The board may employ such persons as the council may approve, and may expend such sums as are appropriated by the council for its work.

CHAPTER 5. ADMINISTRATION AND GOVERNMENT

Sec. 1. Town council generally.

(a) The present mayor and council of the Town of Chincoteague shall continue in office until the expiration of the terms for which they were respectively elected.

(b) The administration and government of the Town of Chincoteague shall be vested in one body to be called the council of the Town of Chincoteague, which shall consist of seven members, six of whom shall be known as councilmen and one to be known as mayor, all of whom shall be residents and qualified voters of the said town. No person shall be a candidate simultaneously for the office of mayor and council member. No council member shall be eligible for qualification or election to the office of mayor unless (i) the council member's term of office will expire on June 30 of the year of the election for mayor or (ii) the council member's term of office will expire after June 30 of the year of the election for mayor, the council member submits his written resignation to the council at least 120 days before the day of the election for mayor, and such resignation shall become effective on June 30 of the year of the election for mayor. The council may create, appoint, or elect such departments, bodies, boards, and other officers, or assessors or attorneys, as are hereinafter provided for, or as are permitted or required by law to be appointed by the council, or as may be deemed necessary or proper, and may fix their compensation and define their duties.
(Ord. of 7-1-1993)

Sec. 2. Mayor and vice-mayor.

(a) The mayor shall preside at the meetings of the council and perform such other duties as may be prescribed by this Charter and by general law, and such as may be imposed by the council, consistent with his office. He shall be recognized as the official head of the town for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the Governor for military purposes. In time of public danger or emergency, he may take command of the police, maintain order and enforce the law. Such course of action shall be subject to review by the council.

The mayor shall have no right to vote in the council except that in every case of a tie vote of the council, the mayor shall be entitled to vote and his vote in case of a tie only shall have the same weight and effect as the vote of a councilman.

The mayor shall have no power to suspend, remove or discharge any officer, agent or employee of the town nor shall he have any power or authority to appoint or employ any officer, agent or employee of the town nor to fix the term of office or employment, or the compensation, or to increase or decrease the power and authority of any officer, agent, or employee of the town, unless such power shall have been given him by the council, but the mayor shall have such powers with respect to the chief of police, the police, the policemen and employees of the police force when and if the mayor is given the control and supervision of the chief of police.

(b) Every ordinance, or resolution having the effect of an ordinance, shall, before it becomes operative be presented to the mayor. If he approves, he shall sign it, but if not, he may return it, with his objections in writing, to the town manager who shall enter the mayor's objections at length on the minute book of the council. The council shall thereupon proceed to reconsider such ordinance or resolution. If, after such consideration, two-thirds of all the members elected to the council shall agree to pass the ordinance or resolution, it shall become operative notwithstanding the objection of the mayor. In all such cases the votes of members of the council upon such reconsideration shall be determined by "yeas" and "nays," and the names of the members voting for and against the ordinance or resolution shall be entered on the minute book of the council. If any ordinance or resolution shall not be returned by the mayor within five days (Sunday excepted) after it shall have been presented to him, it shall become operative in like manner as if he has signed it, unless his term of office or that of the council, shall expire within said five days.

(c) The council shall at its first meeting in July following every regular municipal election, choose one of its members as vice-mayor. The vice-mayor shall perform the duties of the mayor during his absence or disability.

The member of the council who shall be chosen vice-mayor, shall continue to have all of the rights, privileges, powers, duties and obligations of councilmen even when performing the duties of mayor during the absence or disability of the mayor of the town.
(Acts 1981, ch. 84, § 1)

Sec. 3. Election of mayor and council; terms of office; meetings of council; vacancies.

(a) At the regular municipal election to be held in the town in 1982, and every two years thereafter, there shall be elected, in the manner prescribed by law, three councilmen for terms of four year(s) .A mayor shall be elected for a term of four years in 1984 and every four years thereafter.

Municipal elections shall be held at the time and in the manner provided for by general law. Terms of office shall begin on the first day of July next following the election. Each councilman and the mayor elected as herein above provided shall serve for the term stated or until his successor shall have been elected and qualified. The council shall be a continuing body, and no measure pending before such body shall abate or be discontinued by reason of expiration of the term of office or removal of the members of said body or any of them.

(b) The council shall, by ordinance, fix the time for their stated meetings. Special meetings shall be called by the clerk of the council upon the request of the mayor, or any three members of the council; no business shall be transacted at a special meeting but that for which it shall be called, unless the council be unanimous. The meetings of the council shall be open to the public, except when the public welfare shall require executive sessions.

If any member of the said council shall be voluntarily absent from three regular meetings of the council consecutively, his seat may be deemed vacant by resolution of the council and thereupon his unexpired term shall be filled according to the provisions of this act [Charter].
(Acts 1958, ch. 135, § 1; Acts 1981, ch. 84, § 1)

Sec. 4. Town clerk [manager].

The town clerk [manager] shall be appointed by the council, and shall attend the meetings of the council and shall keep permanent records of its proceedings; he shall be custodian of the town seal and shall affix it to all documents and instruments requiring the seal, and shall attest the same; he shall keep all papers, codes, documents, and records pertaining to the town, the custody of which is not otherwise provided for in this Charter; he shall give notice to all parties presenting petitions, or communications to the council of the final action of the council on such communications or petitions; he shall give to the proper department or officials ample notice of the expiration or termination of any franchise, contracts or agreements; he shall publish such reports and ordinances as the council is required to publish, and such other records and ordinances as it may direct; he shall upon final passage transmit to the proper departments or officials copies of all ordinances or resolutions of the council relating in any way to such departments or to the duties of such officials, and he shall perform such other acts and duties as the council may, from time to time, allow or require.

See. 5. Town treasurer.

(a) The town treasurer shall, before entering upon the duties of his office, give bond with sufficient surety to be approved by the council, in a penalty of such amount as may be fixed by the council from time to time, payable to the Town of Chincoteague, conditioned for the true and faithful performance of the duties of his office. The treasurer shall be responsible for the collection of all taxes, licenses and levies and charges for services furnished by the public utilities of the town. The council shall have authority to place in the hands of a town collector to be appointed by it, the collection of any taxes, licenses and other levies at any time if in the discretion of the council it shall be proper so to do.

(b) The town treasurer shall receive all moneys belonging to the town which it is his duty to collect from persons owing the same to the town, or which it is the duty of other officers of the town to collect and pay over to him, and pay the same out as the ordinances of the town may prescribe; to keep such moneys safely and account therefor; and to pay all drafts or orders made on him in conformity with the ordinances of the town.

(c) The funds of the town shall be deposited by the treasurer in such bank or banks as the council may direct, and such bank or banks may be required to give security in such sum or sums as the council shall fix. He shall keep books showing accurately the state of his accounts and the money of the town shall be kept distinct and separate from his own money and he is hereby expressly prohibited from using directly or indirectly the town's money, checks, or warrants in his custody and keeping for his own use and benefit, or that of any person or persons whomsoever, and any violation of this provision shall subject him to immediate removal from office.

(d) The books and accounts of the town treasurer and all papers relating to the accounts and transactions of the town, shall be at all times subject to the inspection of the mayor, the town council, and such other persons as the council may appoint, to examine the same, and all such books and accounts, together with any balance or moneys on hand, shall be transferred by the treasurer to his successor at every new appointment, or delivered up as the council may at any time require.

(e) The town treasurer shall, when required by the council, render an account to the council showing the state of the treasury and the balance of money on hand. He shall also, if required so to do by the council, accompany such account with a statement of all money received by him and on what account, with a list of all checks paid by him during the month then closed, and shall furnish such other information, accounts and statements as the town council may direct.

(f) The town treasurer shall annually submit to the town council, at such time as directed by the council, a full and detailed account of all receipts and disbursements made during the fiscal year just closed.

(g) All taxes, levies or other sums of money of whatever nature received by the town treasurer belonging to the Town of Chincoteague shall be credited by the treasurer on his books to the Town of Chincoteague and shall be paid out by him only on a warrant of the clerk of the council, countersigned, by the mayor.

(h) The treasurer shall keep a separate account of each fund and appropriation and the debts and credits belonging thereto; provided, however, that the council shall have the right to require all town funds to be deposited to the credit of the town and may prescribe by resolution or ordinance such other method of disbursement as it shall from time to time deem proper.

(i) All moneys received on all special assessments shall be held by the treasurer as a special fund, to be applied to the payment of the matter for which the assessment was made and said moneys shall be used for no other purpose.

(j) The treasurer shall perform such additional duties as may be required of him by the council not inconsistent with the laws of the state.

(k) The town treasurer shall receive for his services such compensation, if any, as the council may deem proper.

Sec. 6. Chief of police.

There shall be appointed by the council a chief of police who shall qualify and give bond in such amount as the council may require. He shall be vested with powers of a conservator of the peace, and shall have the same powers and discharge the same duties as a constable within the corporate limits of the town and to a distance of one mile beyond the same, and shall perform such other duties as may be from time to time prescribed by the council.
(Acts 1958, ch. 135, § 1)

Sec. 7. Town officers generally.

(a) The town council may combine offices when not expressly prohibited, except that the assessing and collecting officers shall not be the same person.

(b) The town council shall grant and pay to all town officers and employees such salaries or compensation, if any, as the said council may from time to time deem just and

proper, or which shall be fixed by this act [Charter], except as such salaries or compensation may be fixed by general law.

(c) If any person, having been an officer of such town, shall not within ten days after he shall have vacated, or removed from office, and upon notification or request of the clerk of the council, or within such time thereafter as the town council shall allow, deliver over to his successor in office all property, books, and papers belonging to the town, or appertaining to such office in his possession or under his control, he shall forfeit and pay to the town the sum of five hundred dollars, to be sued for in the name of the town and recovered with costs; and all books, records, and documents used in any such office by virtue of any provision of this act [Charter], or of any ordinance or order of the town council or any superior officer of the said town, shall be deemed the property of the said town and appertaining to said office, and the chief officer thereof shall be responsible therefor.

(d) All officers hereafter elected under this act [Charter], shall be elected at the times and for the terms, as hereinbefore provided, and shall enter upon the discharge of their duties, in accordance with the provisions of the general laws of this state concerning town officers.

(e) The Town of Chincoteague and the officers thereof, elected or appointed in accordance with the provisions of this act [Charter], shall be clothed with all the powers, and be subject to all the provisions of law not in express conflict with the provisions of this act [Charter].

(f) The mayor, the town councilmen, the chief of police and the members of the police force of the town shall have jurisdiction, power and authority in criminal and police matters for one mile from the corporate limits of the said town.

(g) All officers elected or appointed under the provisions of this Charter, shall, unless otherwise provided under general law or by this Charter, or by ordinance of the council execute such bond with such approved security as may be required by general law, by this Charter, or by ordinance or resolution of the council, and file the same with the town clerk [manager] before entering upon the discharge of their duties; and in event of default on the part of any bonded municipal officer, the town shall have the same remedies against him and his sureties as are provided for the state in enforcing the penalty of any official bond given to it.

(h) All officers elected or appointed under the provisions of this Charter shall take the oath of office required by general laws before entering upon the discharge of his duties, and if these requirements have not been complied with within thirty days after the term of office shall have begun or after his appointment to fill a vacancy, then such office shall be considered vacant.
(Acts 1958, ch. 135, § 1)

CHAPTER 6. GENERAL PROVISIONS

Sec. 1. Officers authorized to administer oaths.

The mayor, town clerk [manager] and town treasurer shall have power to administer oaths, and to take and sign affidavits in the discharge of their respective official duties.

Sec. 2. Investigations.

The council, mayor, and any officer, board or commission authorized by the council, shall have power to make investigations as to town affairs and for that purpose to subpoena witnesses, administer oaths and compel the production of books and papers.

Any person refusing or failing to attend or to testify or to produce such books and papers may, by summons issued by such officer or board or the town council, be summoned before the mayor of said town by the board, official, or council making such investigation and upon his failure to give satisfactory explanation of such failure or refusal, may be filled by the mayor not exceeding one hundred dollars or imprisoned not exceeding thirty days, and such person shall have the right to appeal to the Circuit Court of Accomack County. Any person who shall give false testimony under oath at any such investigation shall be liable to prosecution for perjury.

Sec. 3. Changes in form of government.

The plan of government provided by this Charter may be changed to any other plan provided for the government of incorporated towns in the manner provided by general law therefor; and if and when the Town of Chincoteague shall become a city of the second class in the manner provided by general law, the plan of government provided by this Charter shall continue so far as applicable, but such plan of government may be changed to any other plan provided for the government of cities of the second class at any time in the manner provided by general law.

Sec. 4. Prior contracts and obligations.

All contracts and obligations heretofore or hereafter made by the council of the Town of Chincoteague, while in office, not inconsistent with this Charter, or the Constitution, or the general laws of this state shall be, and are hereby declared to be valid and legal.

Sec. 5. Continuation of ordinances.

All ordinances now in force in the Town of Chincoteague, not inconsistent with this Charter shall be and remain in force until altered, amended or repealed by the council of the said town.

Sec. 6. Vacancies in office.

Vacancies in all elective or appointive offices may be filled by a majority vote of the council. No appointive officer shall be appointed for a term longer than two years at anyone time. Such provision shall not prevent the council from appointing such officer for as many unexpired or full terms as the council may desire. A vacancy in the elective offices of the town shall be filled by the council within thirty days of such vacancy, and upon a failure of a majority of the remaining members of council to so act, the judges of the Circuit Court of the County of Accomack shall make such appointment in accordance with the provisions of Code of Virginia, § 24.1-76 [24.2-225 et seq.]. Any such person so appointed shall be fully

eligible to hold such office. The person so appointed shall hold office until the qualified voters shall fill the vacancy in a special election in accordance with [Code of Virginia,] § 24.1-76 and such person so elected qualifies, or until such time as otherwise provided by [Code of Virginia,] § 24.1-76. Upon the occurrence of any such vacancy, the town council shall forthwith advise the judges of the Circuit Court of said County who shall, subject to the provisions of [Code of Virginia,]
§ 24.1-76, issue a writ of election to fill such vacancy.
(Ord. of 7-1-1993)

Sec. 7. Severability of Charter provisions.

If any clause, sentence, paragraph, or part of this act [Charter], shall for any reason be adjudged by any court of competent jurisdiction to be invalid, said judgement shall not affect, impair or invalidate the remainder of the said act [Charter], but shall be confined in its operations to the clause, sentence, paragraph or part thereof directly involved in the controversy in which said judgement shall have been rendered.

Sec. 8. Citation of Charter.

This act [Charter] may for all purposes be referred to or cited as the Chincoteague Charter of 1942.

CHARTER COMPARATIVE TABLE

ACTS

This table shows the location of Acts in the basic Charter.

Year	Chapter	Section	Section this Charter
1958	135	1	Ch. 2, § 2 Ch. 5, § 3 Ch. 5, § 6, Ch. 5, § 7
1981	84	1	Ch. 5, § 2, Ch. 5, § 3

CHARTER COMPARATIVE TABLE

ORDINANCES

This table shows the location of the ordinances in the basic Charter.

Date	Section this Charter
7- 1-1993	Ch. 5, § 1
	Ch. 6, § 6
7- 1-1994	Ch. 4, § 1

PART II

CODE

Chapter 1

GENERAL PROVISIONS*

Sec. 1-1. Designation and citation of Code.
Sec. 1-2. Definitions and rules of construction.
Sec. 1-3. Section catchlines and other headings.
Sec. 1-4. History notes.
Sec. 1-5. Notes and references.
Sec. 1-6. Repeal of prior ordinances; provisions saved from repeal.
Sec. 1-7. Continuation of existing ordinances.
Sec. 1-8. Severability of parts of Code.
Sec. 1-9. Classification of and penalties for violations; continuing violations.
Sec. 1-10. Amendments to Code.
Sec. 1-11. Supplementation of Code.

***Charter references —**Incorporation and boundaries, ch. 1; general provisions, ch. 6.

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of the Town of Chincoteague, Virginia," and may be so cited. Such ordinances may also be cited as "The Chincoteague Town Code."
(Code 1977, § 1-1; Ord. of 11-2-1992, § 1-1)

State law reference —Authority of town to codify ordinances, admissibility of Code as evidence in courts, Code of Virginia, § 15.2-1433.

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances and resolutions of the town, the following rules shall be observed, unless otherwise specifically provided or unless such construction would be inconsistent with the manifest intent of the council:

Charter. The term "Charter" shall mean the Charter of the town, as it now exists or as it may be amended in the future.

Code. Whenever the term "Code" or "this Code" is referred to, without further qualification, it shall mean The Code of the Town of Chincoteague, Virginia, as designated in section 1-1.

Code of Virginia. The term "Code of Virginia" shall mean the Code of Virginia of 1950, as amended.

Computation of time. When a provision of this Code requires a notice to be given or any other act to be done, a certain time before any proceeding, there must be that time, exclusive of the day for such proceeding, but the day on which such notice is given or such act is done may be counted as part of the time; but when a provision of this Code requires a notice to be given or any other act to be done within a certain time after any event, that time shall be allowed in addition to the day on which the event occurred.

State law reference —Computation of time, Code of Virginia, § 1-13.3.

Council; town council. Whenever the term "council" or "town council" is used, it shall be construed to mean the council of the Town of Chincoteague.

County. The term "county" or "the county" shall mean the County of Accomack in the State of Virginia.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations, as well as to males.

State law reference —Gender, Code of Virginia, § 1-13.7.

Health officer: The term "health officer" shall mean the health director of the county health department or his duly authorized agent.

May. The term "may" is permissive.

Number: A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing, and a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.

State law reference —Number, Code of Virginia, § 1-13.15.

Oath. The term "oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath.

State law references —Oath, Code of Virginia, § 1-13.16; when affirmation may be made, Code of Virginia, § 49-9.

Officers, employees, departments, boards, commissions or agencies. Any reference to an officer, an employee, a department, a board, a commission or an agency shall be construed as if followed by the phrase "of the Town of Chincoteague, Virginia".

Person. The term "person" shall include any individual, firm, corporation, partnership, association, joint stock association, company, business, trust, joint venture or other legal entity or any assemblage, group or combination of individuals.

State law reference—"Person" defined, Code of Virginia, § 1-13.19.

Preceding; following. The terms "preceding" and "following" mean next before and next after respectively.

State law references—"Following" defined, Code of Virginia, § 1-13.6; "preceding" defined, Code of Virginia, § 1-13.23.

Shall. The term "shall" is mandatory.

Sidewalk. The term "sidewalk" shall mean any portion of a street between the curbline, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians.

State; commonwealth. The term "state" or "commonwealth" shall be construed as if the phrase "of Virginia" followed it.

Street. The term "street" shall mean any passageway in the stated right-of-way that is maintained by the town and/or the commonwealth.

Swear; sworn. The term "swear" or "sworn" shall be equivalent to the term "affirm" or "affirmed" in all cases in which by law an affirmation may be substituted for an oath.

State law references—Similar provisions, Code of Virginia, § 1-13.28; when affirmation may be made, Code of Virginia, § 49-9.

Tense. Words used in the past or present tense shall include the future, as well as the past and present.

Town. The term "town" shall be construed as if the phrase "of Chincoteague" followed it. (Code 1977, § 1-2)

Sec. 1-3. Section catchlines and other headings.

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No

provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.
(Code 1977, § 1-3)

State law reference—Headlines of sections in state law, Code of Virginia, § 1-13.9.

Sec. 1-4. History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the sections.

Sec. 1-5. Notes and references.

The notes, Charter references, cross references and state law references in this Code are not intended to have any legal effect, but are merely intended to assist the user of this Code.

Sec. 1-6. Repeal of prior ordinances; provisions saved from repeal.

(a) All ordinances and parts of ordinances inconsistent with the provisions of this Code are, except as otherwise provided, repealed to the extent of such inconsistency.

(b) The repeal of the former town Code, effective as of the effective date of this Code, shall not affect:

(1) Any act or offense done or committed or any penalty or forfeiture incurred or any right established, accrued, or accruing on or before such date or any prosecution, suit or action pending on that day. Except as otherwise provided, neither the repeal of the former town Code nor the enactment of this Code shall apply to offenses committed prior to the effective date of this Code, and prosecutions for such offenses shall be governed by the former town Code, which is continued in effect for that purpose. For the purposes of this subsection, an offense was committed prior to the effective date of this Code if any of the essential elements of the offense occurred prior thereto.

(2) Any ordinance or resolution promising or guaranteeing the payment of money for the town, authorizing the issuance of any bonds of the town, or any evidence of the town's indebtedness, or any contract established, or obligation assumed, by the town.

(3) Any annual tax levy.

(4) Any franchise conferred by ordinance or resolution of the town on any person or corporation.

(5) Any ordinance adopted for purposes which have been consummated.

(6) Any ordinance which is temporary, although general in effect, or special, although permanent in effect.

(7) Any ordinance relating to the salaries of the town officers, officials or employees or any other policies, procedures, rules and regulations pertaining to personnel.

(8) Any ordinance annexing territory to the town.

(9) Any ordinance naming, renaming, opening, accepting or vacating streets or alleys in the town.

(10) Any ordinance relating to zoning, rezoning or zoning maps or subdivisions or plats or subdivisions and amendments and additions thereto.

(11) Any ordinance pertaining to traffic or parking regulations applicable to specific locations.

(12) Any retirement plan.

(13) Any fees and charges consistent with this Code.

(14) Any judgment rendered prior to the effective date of this Code.

(c) All such provisions shall remain in full force and effect as if set out fully in this Code.

State law reference—Similar provisions, Code of Virginia, §§ 19.2-1, 19.2-2.

Sec. 1-7. Continuation of existing ordinances.

The provisions appearing in this Code, so far as they are the same in substance as ordinances previously adopted by the town council, shall be considered as continuations thereof and not as new enactments. (Code 1977, § 1-4)

Sec. 1.8. Severability of parts of Code.

It is declared to be the intention of the town council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code, or its application to any persons or circumstances, shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Code, or their application.
(Code 1977, § 1-5)

Sec. 1-9. Classification of and penalties for violations; continuing violations.

(a) Whenever in the Charter, this Code or in any town ordinance or resolution or rule, regulation or order promulgated by any town officer or agency under authority duly vested in him or it, it is provided that a violation of any provision thereof shall constitute a class 3 or 4 misdemeanor, such violation shall be punished as follows:

(1) Class 3 misdemeanor by a fine of not more than $500.00.

(2) Class 4 misdemeanor by a fine of not more than $250.00.

(b) Whenever in the Charter, this Code or in any town ordinance or resolution or rule, regulation or order promulgated by any town officer or agency under authority duly vested in him or it any act is prohibited or is declared to be unlawful or a misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of the Charter, this Code or of any such ordinance, resolution, rule, regulation or order shall be punished by a fine not exceeding $500.00 or by imprisonment for a term not exceeding 12 months or by both such fine and imprisonment.

(c) Each day any violation of the Charter, this Code or any such ordinance, resolution, rule, regulation or order shall continue shall constitute, except where otherwise provided, a separate offense.

(d) Such penalties shall not exceed those penalties prescribed by general law for like offenses.
(Code 1977, § 1-6)

Charter references—Penalties for violation of ordinances, ch.2, § 1(44), (50); authority of town to enjoin ordinance violations, ch. 2, § 1(47).

State law references—Charter powers not affected by local government law, Code of Virginia, § 15.2-100; penalties for violations of ordinances, Code of Virginia, § 15.2-1429; penalties for conviction of misdemeanors, Code of Virginia, §§ 18.2-11,18.2-12.

Sec. 1-10. Amendments to Code.

(a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of The Code of the Town of Chincoteague, Virginia (or The Chincoteague Town Code), is hereby amended to read as follows:…. " The new provision shall then be set out in full as desired.

(b) If a new section not existing in the Code is to be added, the following language shall be used: That The Code of the Town of Chincoteague, Virginia (or The Chincoteague Town Code), is hereby amended by adding a section, to be numbered _____, which said section reads as follows: " The new section shall then be set out in full as desired.

(c) All sections, divisions, articles, chapters or other provisions desired to be repealed shall be specifically repealed by section, division, article or chapter number, as the case may be.

Sec. 1-11. Supplementation of Code.

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the council. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where

necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In the preparation of a supplement to this Code, all portions of the Code which have been replaced shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier, meaning the person, agency or organization authorized to prepare the supplement, may make formal, non substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them in a unified Code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ through _____," inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated in the Code; and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted in the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

(d) Each supplement will indicate the adoption date of the latest ordinance included in the supplement.

State law reference—Authority to supplement Code at direction of council, Code of Virginia, § 15.2-1433.

Chapter 2

ADMINISTRATION*

Article I. In General

Sec. 2-1 Town seal.
Sec. 2-2. Signature and seal on deeds, bonds, notes, contracts and other instruments.
Sec. 2-3. Emergency management organization.

Secs. 2-4—2-30. Reserved.

Article II. Council

Sec. 2-31. Date of regular meetings; calling of special meetings.
Sec. 2-32. Ordinances granting right or privilege to private person.
Sec. 2-33. Presentation of proposed franchise to council.
Secs. 2-34—2-60. Reserved.

Article III. Officers and Employees

Sec. 2-61. Town manager.
Sec. 2-62. Town clerk.
Sec. 2-63. Financial officer.
Sec. 2-64. Chief of police.
Secs. 2-65—2-105. Reserved

Article IV. Boards and Commissions

Division 1. Generally

Secs. 2-106—2-130. Reserved.

***Charter references—**Powers of town, ch. 2; audits of accounts, ch. 2, § 1(64); town plan, ch. 3; administration and government, ch. 5; general provisions, ch. 6.

Cross references—Any retirement plan saved from repeal, § 1-6(a)(12); law enforcement, ch. 34; taxation, ch. 54; administration of property taxes regulations, § 54-92; utilities, ch. 62; administration and interpretation of zoning regulations, app. A, § 11.1 et seq; administration and enforcement of land subdivision and development regulations, app. B, §9.

State law references—The Virginia Freedom of Information Act, Code of Virginia, § 2.1-340 et seq.; State and Local Government Conflict of Interests Act, Code of Virginia, § 2.1-639.1 et seq.; Virginia Public Procurement Act, Code of Virginia, § 11-35 et seq.; counties, cities and towns, Code of Virginia, tit. 15.2; Virginia Public Records Act, Code of Virginia, § 42.1-76 et seq.

Division 2. Planning Commission

Sec. 2-131. Created.
Sec. 2-132. Appointment, terms of office and removal of members; vacancies.
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Secs. 2-181—2-205. Reserved.

Division 2. Procurement

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Sec. 2-234. Retainage on construction contracts.
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Sec. 2-382. Disposal of unclaimed property.
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Sec. 2-386. Worthless property.

ARTICLE I. IN GENERAL

Sec. 2-1. Town seal.

The seal of the town shall be represented by a design formed within two concentric circles, the outer circle having a diameter of 1 3/4 inches. Between the circles shall be a legend "TOWN OF CHINCOTEAGUE, VIRGINIA" in Roman characters. Within the inner circle the word "SEAL" shall be inscribed. No other seal shall be used as the seal of the town, and no paper issued with municipal authority which requires the town seal shall be valid, unless the seal described in this section shall be affixed to such paper. The town manager shall be the keeper of the town seal.
(Code 1977, § 1-8)

Charter reference—Corporate seal, ch. 1, § 1.

Sec. 2-2. Signature and seal on deeds, bonds, notes, contracts and other instruments.

All deeds, bonds, notes, leases, contracts, conveyances and instruments of whatever nature or description authorized to be made or entered into by the town shall, unless otherwise specially provided by the council, be signed and, when necessary, acknowledged by the mayor, sealed with the corporate seal of the town, and attested by the town manager. Such deeds, bonds, notes, leases, contracts, conveyances and instruments, when so signed and sealed, shall be taken as and for the true act of the town.
(Code 1977, § 2-1)

Sec. 2-3. Emergency management organization.

The town shall operate an emergency management organization separate from the county. The town's emergency management organization shall be responsible for local disaster mitigation, preparedness, response and recovery.

State law reference—Emergency Services and Disaster Law, Code of Virginia. § 44-146.14 et seq.

Secs. 2-4—2-30. Reserved.

ARTICLE II. COUNCIL*

Sec. 2-31. Date of regular meetings; calling of special meetings.

The regular meetings of the council shall be on the first Monday night of each month at such an hour as the council may from time to time designate. If the night for the meeting shall fall on a legal holiday, the meeting shall be held the following night. Special meetings may be

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***Charter references**—Town council generally, 5, § 1; mayor and vice-mayor, ch. 5, § 2; election of mayor and council, ch. 5, § 3.

State law reference—Governing bodies of localities, Code of Virginia, § 15.2-1400 et seq.

called by the mayor or any three members of the council. For a called meeting, every member shall be notified, either verbally or by a written notice left at his domicile, but no notice shall be required for regular meetings unless requested by a citizen of the commonwealth.
(Code 1977, § 2-4; Ord. of 4-7-1980, § 2-4)

Charter reference—Meetings of council, 5, § 3.

State law reference—Meetings of local governing bodies, Code of Virginia, § 15.2-1415 et seq.

Sec. 2-32. Ordinances granting right or privilege to private person.

Whenever any ordinance granting any right or privilege to any corporation, receiver or private person named therein shall be published in a paper published in the county which has a general circulation in the town, in the manner prescribed by law, the expense of such publication shall be borne entirely by such corporation, receiver or private person, who shall be deemed to have assumed such expenses by the acceptance of the provisions of such ordinance. Any officer or other person violating this section shall pay to the town the cost of advertising or publishing such notice.
(Code 1977, § 2-5)

Charter references—Effective date of ordinances, ch. 2, § 1(62); enactment of ordinances, ch. 5, § 2.

State law reference—Ordinance proposing grant of franchise, etc., to be advertised, Code of Virginia, § 15.2-2101.

Sec. 2-33. Presentation of proposed franchise to council.

Every proposed franchise asked for from the council shall be presented in printed or typewritten form, at the expense of the petitioner, and a copy of such proposed franchise shall be provided for each member of the council at the meeting when such franchise is so presented. No request for a franchise shall be considered after having been presented to the council until so printed or typewritten.
(Code 1977, § 2-6)

Charter reference—Authority of town with regard to franchises, ch. 2, § 1(19).

Secs. 2-34—2-60. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES*

***Charter references—**Mayor and vice-mayor, ch. 5, § 2; town clerk, ch. 5, § 4; town treasurer, ch. 5, § 5; chief of police, ch. 5, § 6; town officers generally, ch. 5, § 7; general provisions, ch. 6; vacancies in town offices, ch. 6, § 6.

Cross references—Any ordinance relating to the salaries of the town officers, officials or employees, or any other policies, procedures rules and regulations pertaining to personnel saved from repeal, § 1-6(a)(7); building administrator, app. A, § 2.3; zoning administrator, app. A, § 2.4, app. A, § 2.180.

State law reference—Local government personnel, Code of Virginia, § 15.2-1500 et seq.

Sec. 2-61. Town manager.

The town council may appoint a town manager in accordance with Code of Virginia § 15.2-1540 to serve as the administrative head of government, whose duties shall be in accordance with § 15.2-1541 and as otherwise prescribed by council. The town manager shall serve at the pleasure of council.

Unless otherwise specifically prohibited, the town manager position may be combined with other positions as deemed necessary by the council.

Sec. 2-62. Town clerk.

The town council shall appoint a town clerk in accordance with Code of Virginia § 15.2-1538 whose duties shall be in accordance with § 15.2-1539 of the Code of Virginia and as otherwise prescribed by council. The town clerk shall serve at the pleasure of the council.

Unless otherwise specifically prohibited, the town clerk position may be combined with the town manager position or other positions as deemed necessary by the Council.

Sec. 2-63. Financial Officer.

The town council shall appoint an officer to be responsible for its financial affairs in accordance with Code of Virginia § 15.2-1537. The duties of the financial officer shall be as assigned by the council.

The town council may appoint a town treasurer to serve as the financial officer and be responsible for its financial affairs. Unless otherwise specifically prohibited, the financial officer position may be combined with the other positions as deemed necessary by the council.

Sec. 2-64. Chief of police.

The town council may appoint a chief of police whose duties shall be as prescribed by law and as otherwise determined by the council. The chief of police shall serve at the pleasure of council.

Secs. 2-65—2-105. Reserved.

ARTICLE IV. BOARDS AND COMMISSIONS*

DIVISION 1. GENERALLY

***Cross references—**Control committee for weeds, § 66-51; harbors and wharves committee, § 70-56 et seq.; board of zoning appeals, app. A, § 2.16; building administrator, app. A, § 2.21,app.A,§ 8.1.

†Charter reference—Planning commission, ch. 3, § 2.

Cross references—Planning commission, app. A, § 2.120; zoning, app. A.

State law reference—Local planning commissions, Code of Virginia, § 15.2-2210 et seq.

Secs. 2-106—2-130. Reserved.

DIVISION 2. PLANNING COMMISSION

Sec. 2-131. Created.

A town planning commission is created pursuant to Code of Virginia, §§ 15.2-2210-15.2-222.
(Code 1977, § 2-10)

Sec. 2-132. Appointment, terms of office and removal of members; vacancies.

(a) The planning commission shall consist of seven members, appointed by the town council, all of whom shall be residents of the town, qualified by knowledge and experience to make decisions on questions of community growth and development, provided that at least one-half of the members so appointed shall be freeholders. The town council may require each member of the commission to take an oath of office.

(b) One member of the commission may be a member of the town council, and one member may be a member of the administrative branch of the town government. The term of each of these two members shall be coextensive with the term of office to which he has been elected or appointed, unless the town council, at the first regular meeting each year, appoints others to serve as its representatives. The remaining members of the commission shall serve for staggered terms of four years each. The town council may establish different terms of office for subsequent appointments. Vacancies shall be filled by appointment for the unexpired term only. Members may be removed for malfeasance in office.
(Code 1977, § 2-11)

State law reference—Similar provisions, Code of Virginia, § 15.2-2212.

Sec. 2-133. Powers and duties.

The planning commission shall exercise such powers and shall have such duties as are conferred upon such commissions by state law. (Code 1977, § 2-12)

State law references—Duties of planning commission, Code of Virginia, § 15.2-2221; comprehensive plan, Code of Virginia, § 15.2-2223.

Secs. 2-134—2-180. Reserved.

ARTICLE V. FINANCE*

DIVISION 1. GENERALLY

Secs. 2-181—2-205. Reserved.

***Cross references—**Any ordinance or resolution promising or guaranteeing the payment of money for the town, authorizing the issuance of any bonds of the town, or any evidence of the town's indebtedness, or any contract established or obligation assumed, by the town saved from repeal, § 1-6(a)(2); any fees and charges consistent with this Code saved from repeal- § 1-6(a)(13); taxation, ch. 54.

DIVISION 2. PROCUREMENT

Subdivision I. In General

Sec. 2-206. Definitions.

The following words, terms, phrases and abbreviations, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

IFB means invitation for bids.

PO means purchase order.

PR means purchase requisition.

Purchasing agent means the town manager or his designee who is authorized and responsible for the procurement of supplies and services for town use.

RFQ means request for quotations.

Vendor means any person who or company that sells supplies or services.
(Code 1977, § 2-13)

Cross reference—Definitions generally, § 1-2.

State law reference—Definitions, Code of Virginia, § 11-37.

Sec. 2-207. Authority.

This division is enacted pursuant to the authority granted in Code of Virginia, § 11-35 et seq. (Code 1977, § 2-13)

Sec. 2-208. Objectives.

The objectives of this division shall be to:

(1) Establish an ongoing centralized purchasing function capable of providing daily service and support on an organization-wide basis.

(2) Introduce a greater measure of responsibility and accountability over implementation of the annual budget, specifically as related to the procurement of contractual services, materials, supplies, and capital outlay items.

(3) Ensure realization of the principles of competitive purchasing and best buy at the least cost.

(4) Assist management at all levels in reaching responsible, cost-effective decisions in the procurement of quality supplies and services for town use.

(5) Formulate policies and procedures designed to systematize and enhance the efficiency of the town's procurement process and ensure procurement in a timely and proper manner.

(6) Promote good will and clear communication in town-vendor relations and intra organization relations relative to purchasing.

(7) Promote the realization of equal opportunity policies through procurement relations with vendors.

(Code 1977, § 2-14)

State law reference—Purpose of public procurement law, Code of Virginia, § 11-35.

Sec. 2-209. Implementation.

The town manager shall develop a purchasing procedure based on the policies and procedures established in this division and shall promulgate such administrative regulations necessary for the implementation of the standards established by this division.

(Code 1977, § 2-17-1)

Sec. 2-210. Centralized purchasing.

It shall be the policy of the town to maintain a centralized purchasing process with the town manager or his designee as purchasing agent. It shall be the purchasing agent's responsibility to administer purchasing performance, negotiate and approve term contracts in connection with town departments, consolidate purchases of like or common items, analyze prices paid for materials and equipment and generally define how to obtain savings and to coordinate purchasing procedures.

(Code 1977, § 2-15-2)

Sec. 2-211. Sources of supply.

The purchasing agent shall select sources of supply in connection with the appropriate town department. As a general policy, purchases shall be awarded, with local vendor preference, on the basis of availability, best price, delivery and quality, taking into consideration the reputation and performance capability of the suppliers.

(Code 1977, § 2-15-3)

Sec. 2-212. Commitments.

In connection with town departments, the purchasing agent shall conduct and conclude all negotiations affecting vendor selection, price, terms, delivery, etc. No one other than the purchasing agent shall commit the town to any purchase, vendor, or product. Exceptions to this include emergencies and purchases made from the petty cash fund.

(Code 1977, § 2-15-4)

Sec. 2-213. Interdepartment relations.

It shall be the policy of the town to promote an intelligent and harmonious relationship between the purchasing agent and other town departments relative to procurement.

(Code 1977, § 2-15-5)

Sec. 2-214. Vendor relations.

The purchasing agent will develop and promote a program of fairness with all vendors and salespersons.

(Code 1977, § 2-15-6)

Sec. 2-215. Expediting.

Expediting or "followup" on the delivery of materials or orders will be accomplished by the purchasing agent. Any information other town departments may acquire or be requested to acquire concerning the delivery status of ordered material should be passed on to the purchasing agent.
(Code 1977, § 2-15-17)

Sec. 2-216. Tax exemption.

The town is exempt from all state and federal sales and excise taxes.
(Code 1977, § 2-15-18)

Sec. 2-217. Compliance with federal grants.

The town may comply with mandatory federal requirements in grants or contracts not in conformance with this division only upon a written determination of the town council that acceptance of the applicable provisions is in the public's interest.
(Code 1977, § 2-15-19)

Sec. 2-218. Vendor selection.

Vendors will be selected on a competitive basis. Bids, quotations and proposals will be solicited by newspaper advertisement, by direct mail request to prospective suppliers, and/or by telephone. Purchase orders or contracts will be awarded to the lowest and best responsible vendor. All bids, etc., may be rejected if it is in the public's interest to do so. In determining the lowest and best responsible vendor, in addition to price, the following will be considered:

(1) The character, integrity, reputation, judgment, experience and efficiency of the vendor.

(2) The ability, capacity and skill of the vendor to perform the contract, fill the order or provide the service.

(3) The ability of the vendor to provide material or service promptly or within the time specified, without delay or interference-

(4) The quality of performance by the vendor on previous contracts, orders or services.

(5) The ability of the vendor to provide future maintenance and service for all equipment purchased from the vendor.

(Code 1977, § 2-16-1)

Sec. 2-219. Invitation for bids; opening of bids; award of bids generally.

(a) When the cost of a contract, lease or other agreement for materials, supplies, equipment or contractual services other than professional exceeds $30,000.00 (Code of Virginia, § 11-41(F)), an invitation for bids (IFB) notice will be prepared. This notice will be published at least once in at least one official newspaper of general circulation within the community. This newspaper notice must appear not less than seven days and not more than 21 days before the due date for bid proposals. The IFB will include a general description of the items to be purchased and the bid deposit and performance bond required and shall state where bid blanks and specifications may be secured and the time and place for opening bids.

The purchasing agent may also solicit sealed bids from responsible prospective suppliers by sending them a copy of such notice.

(b) Sealed bids will be opened in public by the town manager at the time and place stated in the IFB. The bids will be tabulated by the town manager. The results of the tabulation and the bid material will be examined by the town manager, the appropriate department head and the appropriate appointed committee to determine the best bid. Recommendations for the bid award will be submitted by the town manager to the town council at a public meeting. After the bid award is made by the town council, a purchase order and/or contract shall be prepared for execution by the successful bidder. After the purchase order is issued and/or the contract signed, all bid deposits will be returned to all unsuccessful bidders.
(Code 1977, § 2-16-2)

Sec. 2-220. Request for quotations.

(a) Purchases of supplies, equipment and services of less than $30,000.00 (Code of Virginia, § 11-41(F)) but of $500.00 or more will require a request for quotations (RFQ). An RFQ is similar to an IFB except that legal advertising is not required and detailed specifications may not be appropriate.

(b) The following procedures will be followed in obtaining a request for quotations:

(1) Complete a request for quotations and distribute copies to vendors.

(2) File unopened sealed quotations received, together with a machine copy of the original request for quotations.

(3) On the designated date, remove the quotes received from the file.

(4) Open the quotes and determine which vendor offers the item at the lowest price and issue a purchase order to the successful vendor.

(Code 1977, § 2-16-3)

Sec. 2-221. Open market purchases.

Purchases of less than $500.00 will be made in the open market without necessary resort to an IFB or RFQ. Every effort will be made, however, to get the lowest and best price and to share the business among responsible vendors.
(Code 1977, § 2-16-4)

Sec. 2-222. Emergency purchases.

Emergency purchases shall be exempt from this division, provided that an emergency exists which affects the public health, safety or welfare. The mayor shall certify that an emergency exists.
(Code 1977, § 2-16-7)

Sec. 2-223. Bidders' list.

With the aid of other town departments, the town manager shall compile and maintain a bidders' list. Vendors desiring to be listed shall advise the town manager, in writing, of the following:

(1) Type of business;

(2) Names of officers, owners or partners;

(3) Persons authorized to sign bids, offers and contracts;

(4) Type of equipment, supplies, materials sold and/or services provided; and

(5) How long in the present business.

(Code 1977, § 2-15-10)

Sec. 2-224. Competitive bidding on state-aid projects.

No contract for the construction of any building or for an addition to or improvement of an existing building by the town or any subdivision of the town for which state funds of not more than $30,000.00 in the aggregate or for the sum of all phases of a contract or project either by appropriation, grant-in-aid or loan are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation as provided under subsection 2-296(c). The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this division.

State law reference—Similar provisions, Code of Virginia, § 11-41.1.

Sec. 2-225. Withdrawal of bid due to error.

(a) A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. One of the following procedures for withdrawal of a bid shall be selected by the town and stated in the advertisement for bids: (i) the bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice; or (ii) the bidder shall submit to the town or designated official his original work papers, documents and materials used in the preparation of the bid within one day after the date fixed for submission of bids. The work papers shall be delivered by the bidder in person or by registered mail at or prior to the time fixed for the

opening of bids. In either instance, such work papers, documents and materials may be considered as trade secrets or proprietary information subject to the conditions of Code of Virginia, § 11-52(D). The bids shall be opened one day following the time fixed by the town for the submission of bids. Thereafter, the bidder shall have two hours after the opening of bids within which to claim in writing any mistake as defined in this subsection and withdraw his bid. The contract shall not be awarded by the town until the two-hour period has elapsed. Such mistake shall be proved only from the original work papers, documents and materials delivered as required in this subsection.

(b) The town may establish procedures for the withdrawal of bids for other than construction contracts.

(c) No bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

(d) If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.

(e) No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

(f) If the town denies the withdrawal of a bid under this section, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.
(Code 1977, § 2-15-12)

State law reference—Withdrawal of bid due to error, Code of Virginia, § 11-54.

Sec. 2-226. Bid deposits.

Bid deposits or surety may be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to the return of that deposit or surety. A successful bidder, upon failure on his part to enter into a contract within the time specified after written notification of the bid award, shall forfeit, as liquidated damages, any surety deposited with the town.
(Code 1977, § 2-15-8)

State law reference—Bid bonds, Code of Virginia, § 11-57.

Sec. 2-227. Bid bonds.

(a) Except in cases of emergency, all bids or proposals for construction contracts in excess of $100,000.00 shall be accompanied by a bid bond from a surety company selected by the bidder which is legally authorized to do business in the commonwealth, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

(b) No forfeiture under a bid bond shall exceed the lesser of the following:

(1) The difference between the bid for which the bond was written and the next low bid; or

(2) The face amount of the bid bond.

(c) Nothing in this section shall preclude the town from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than $100,000.00.
(Code 1977, § 2-15-14)

State law reference—Bid bonds, Code of Virginia, § 11-57.

Sec. 2-228. Alternative forms of security.

(a) In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check or cash escrow in the face amount required for the bond.

(b) If approved by the town, a bidder may furnish a personal bond, property bond, or bank or savings institution's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the town equivalent to a corporate surety's bond.
(Code 1977, § 2-15-14)

State law reference—Similar provisions, Code of Virginia, § 11-61.

Sec. 2-229. Prequalification for construction.

(a) Any prequalification of prospective contractors for construction by the town subsequent to July 1, 1995, shall be pursuant to a prequalification process for construction projects adopted by the town. Such process shall be consistent with this section.

(b) The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. Such form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this section shall be considered a trade secret or proprietary information subject to Code of Virginia, § 11-52(D).

(c) In all instances in which the town requires prequalification of potential contractors for construction projects, advance notice shall be given of the deadline for the submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in this section to be accomplished.

(d) At least 30 days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the town shall advise in writing each contractor who submitted an application whether that contractor has been prequalified. If a contractor is denied prequalification, the written notification to such

contractor shall state the reasons for such denial of prequalification and the factual basis of such reasons.

(e) A decision by the town denying prequalification under this section shall be final and conclusive unless the contractor appeals the decision as provided in Code of Virginia, § 11-63.

(f) The town may deny prequalification to any contractor only if the town finds one of the following:

(1) The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the town shall be sufficient to establish the financial ability of such contractor to perform the contract resulting from such procurement;

(2) The contractor does not have appropriate experience to perform the construction project in question;

(3) The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including but not limited to design-build or construction management;

(4) The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with a public body without good cause. If the town has not contracted with a contractor in any prior construction contracts, the town may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The town may not utilize this subsection to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto given to the contractor at that time, with the opportunity to respond;

(5) The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including but not limited to a violation of (i) Code of Virginia, § 11-72 et seq., (ii) the Virginia Governmental Frauds Act (Code of Virginia, § 18.2498.1 et seq.), (iii) Code of Virginia, § 59.1-68.6 et seq., or (iv) any substantially similar law of the United States or another state;

(6) The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and

(7) The contractor failed to provide to the town in a timely manner any information requested by the public body relevant to subsections (f)(1) through (6) of this section.

(g) If the town has a prequalification ordinance which provides for minority participation in municipal construction contracts, the town may also deny prequalification based on minority participation criteria; provided, however, that nothing in this subsection shall authorize the adoption or enforcement of minority participation criteria except to the extent that such criteria, and the adoption and enforcement thereof, are in accordance with the Constitution and laws of the United States and the commonwealth.

State law reference—Similar provisions, Code of Virginia, § 11-46.

Sec. 2-230. Use of brand names.

Unless otherwise provided in the invitation for bids, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named—it conveys the general style, type, character, and quality of the article desired—and any article which the town in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.
(Code 1977, § 2-15-11)

State law reference—Use of brand names, Code of Virginia, § 11-49.

Sec. 2-231. Award of bid-based contracts.

The town council will award bid-based contracts on the recommendation of the appointed reviewing committee, which is to be created in each case, and the town manager. The award will usually be to the lowest and best responsible bidder. A full and complete statement of the reasons shall be prepared by the committee and town manager and shall be filed along with other papers relating to the transaction.
(Code 1977, § 2-15-16)

Sec. 2-232. Performance and payment bonds.

(a) Upon the award of any public construction contract exceeding $100,000.00 awarded to any prime contractor, such contractor shall furnish to the town the following bonds:

(1) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract.

(2) A payment bond in the sum of the contract amount. Such bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded or to any subcontractors, in the prosecution of the work provided for in such contract, and shall be conditioned upon the prompt payment for all such material furnished or labor supplied or performed in the prosecution of the work. The term "labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

(b) Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in the commonwealth.

(c) Such bonds shall be payable to the town.

(d) Each of the bonds shall be filed with the town or a designated office or official thereof.

(e) Nothing in this section shall preclude the town from requiring payment or performance bonds for construction contracts below $100,000.00.

(f) Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.
(Code 1977, §§ 2-15-9, 2-15-14)

State law reference—Similar provisions, Code of Virginia, § 11-58.

Sec. 2-233. Employment discrimination by contractor prohibited.

The town shall include in every contract of over $10,000.00 the following:

(1) During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

(2) The contractor will include the provisions of subsections (l)a, (l)b and (l)c of this section in every subcontract or purchase order of over $10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

(Code 1977, § 2-15-15)

State law reference—Employment discrimination by contractor prohibited, Code of Virginia, § 11-51.

Sec. 2-234. Retainage on construction contracts.

(a) In any public contract for construction which provides for progress payments in installments based upon an estimated percentage of completion, the contractor shall be paid at least 95 percent of the earned sum when payment is due, with not more than five percent being retained to ensure faithful performance of the contract. All amounts withheld may be included in the final payment.

(b) Any subcontract for a public project which provides for similar progress payments shall be subject to the same limitations.
(Code 1977, § 2-15-13)

State law reference—Retainage on construction contracts, Code of Virginia, § 11-56.

Sec. 2-235. Deposit of certain retained funds; failure to timely complete contract.

(a) When contracting directly with contractors for public contracts of $200,000.00 or more for construction of highways, roads, streets, bridges, parking lots, demolition, clearing, grading, excavating, paving, pile driving, miscellaneous drainage structures, and the installation of water, gas, sewer lines and pumping stations where portions of the contract price are to be retained, the town shall include in the bid proposal an option for the contractor to use an escrow account procedure for utilization of the town's retainage funds by so indicating in the space provided in the proposal documents. If the contractor elects to use the escrow account procedure, the escrow agreement form included in the bid proposal and contract shall be executed and submitted to the town within 15 calendar days after notification. If the escrow agreement form is not submitted within the 15-day period, the contractor shall forfeit his rights to the use of the escrow account procedure.

(b) In order to have retained funds paid to an escrow agent, the contractor, the escrow agent, and the surety shall execute an escrow agreement form. The contractor's escrow agent shall be a trust company, bank or savings institution with its principal office located in the commonwealth. The escrow agreement and all regulations promulgated by the town shall be substantially the same as that used by the commonwealth department of transportation.

(c) This section shall not apply to public contracts for construction for railroads; public transit systems; runways; dams; foundations; installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter; the installation or maintenance of telephone, telegraph or signal systems for public utilities; and the construction or maintenance of solid waste or recycling facilities and treatment plants.

(d) Any such public contract for construction, which includes payment of interest on retained funds, may require a provision whereby the contractor, exclusive of reasonable circumstances beyond the control of the contractor stated in the contract, shall pay a specified penalty for each day exceeding the completion date stated in the contract.

(e) Any subcontract for such public project which provides for similar progress payments shall be subject to this section.

State law reference—Similar provisions, Code of Virginia, § 11-56.1.

Sec. 2-236. Public construction contract provisions barring damages for unreasonable delays declared void.

(a) Any provision contained in any public construction contract entered into on or after July 1, 1991, that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay in performing such contract, either on his behalf or on behalf of his subcontractor, if and to the extent such delay is caused by acts or omissions of the town, its agents or employees and due to causes within their control is against public policy and is void and unenforceable.

(b) Subsection (a) of this section shall not be construed to render void any provision of a public construction contract that:

(1) Allows the town to recover that portion of delay costs caused by the acts or omissions of the contractor or his subcontractors, agents or employees;

(2) Requires notice of any delay by the party claiming the delay;

(3) Provides for liquidated damages for delay; or

(4) Provides for arbitration or any other procedure designed to settle contract disputes.

(c) A contractor making a claim against the town for costs or damages due to the alleged delaying of the contractor in the performance of its work under any public construction contract shall be liable to the town and shall pay it for a percentage of all costs incurred by the town in investigating, analyzing, negotiating, litigation and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim which is determined through litigation or arbitration to be false or to have no basis in law or in fact.

State law reference—Similar provisions, Code of Virginia, § 11-56.2.

Secs. 2-237—2-265. Reserved.

Subdivision II. Purchase Orders

Sec. 2-266. When required; contents; procedures for approval.

(a) Purchase orders are required for all purchases over $25.00. The purchase must be approved in advance of the actual purchase, except in emergency situations.

(b) The purchase order shall include the following:

(1) Items required;

(2) Quantity required;

(3) Price of each item;

(4) Date required;

(5) Tax exempt number;

(6) Short reason for the items required; and

(7) Classification of expense; budget line item account number shall be shown for each line if the items are not all the same on one purchase order.

(c) Authorization levels for purchase order approval shall be as follows:

(1) A purchase order of $0.00 to $500.00 may be approved by the following:

a. Town manager.

b. Finance director.

c. Chief of police.

d. Assistant chief of police (may approve only in the absence of primary authorized personnel for each department).

e. Public works director.

(2) A purchase order of $501.00 to $1,000.00 may be approved by the following:

a. Town manager.

b. Public works director.

c. Chief of police.

(3) A purchase order of $1,001.00 to $10,000.00 may be approved by the town manager.

(4) A purchase order of $10,001.00 and over may be approved by the town manager and the mayor with prior approval by the town council.

(Code 1977, § 2-18)

Sec. 2-267. Notice to vendors; tax exempt number.

All regular vendors shall be notified that an approved purchase order is required before giving credit for any item or purchase over $25.00. The tax exempt number shall also be sent to each vendor where regular charge accounts are maintained. The tax exempt number is also printed on the purchase order, to ensure that no tax is charged to the town.

(Code 1977, § 2-18-6)

Sec. 2-268. Purchasing procedures.

As each purchase is made, the following must be accomplished:

(1) The purchase order shall be approved if the purchase is going to be over $25.00,

(2) When the purchase is made, whether over or under $25.00, the invoice must be approved.

(3) After the purchase is made, the invoice must be turned in for payment.

(Code 1977, § 2-18-3)

Sec. 2-269. Payment approval procedures.

(a) *Responsibilities of office staff.* In the approval of payment for purchase orders, the office staff will be responsible for the following:

(1) Matching the purchase order to the appropriate invoice if the item/purchase is over $25.00, posting invoices to accounts payable on a daily basis and ensuring that invoices are scheduled for payment prior to the due date or earlier in order to obtain prompt payment discounts.

(2) Checking the actual purchases on the invoice to the items authorized for purchase on the purchase order, to ascertain that only authorized items were received for all purchases over $25.00.

(3) Mathematical verification of each invoice before approval by the town manager for all invoices whether over or under $25.00.

(4) No sales tax appears on the invoice.

(b) *Responsibilities of approving official*: The approving official shall verify that the following items of control have been accomplished before approving invoices for payment:

(1) The attached purchase order was appropriately authorized.

(2) The office staff member has verified items, quantities, and mathematical calculations on the invoices to the appropriate purchase order and the purchase order is in fact attached to the invoice.

(Code 1977, § 2-18-4)

Secs. 2-270—2-295. Reserved.

Subdivision III. Competitive Negotiation

Sec. 2-296. Procedures generally.

(a) Upon a determination made in advance by the town and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods, services, or insurance may be procured by competitive negotiation. The writing shall document the basis for this determination.

(b) Upon a written determination made in advance by the town council that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services in subdivision 3 b of the definition of "competitive negotiation" in Code of Virginia, § 11-37. The basis for this determination shall be documented in writing.

(c) Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the town and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

(1) For the alteration, repair, renovation or demolition of buildings when the contract is not expected to cost more than $500,000.00;

(2) For the construction of highways and any draining, dredging, excavating, grading or similar work upon real property; or

(3) As otherwise provided in Code of Virginia, § 11-41.2:2.

(Code 1977, § 2-16-5)

State law reference—Methods of procurement, Code of Virginia, § 11-41.

Sec. 2-297. Award of a service generally.

The town manager or his designee shall engage in individual discussions with all offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project. These discussions may encompass nonbinding estimates of total projects costs, including where appropriate design, construction and life cycle costs. Methods to be utilized in arriving at price for services may also be discussed. At the conclusion of discussion on the basis of evaluation factors published in the request for proposals and all information developed to this point, the town manager shall select in the order of preference two or more offerors whose professional qualification and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.

(Code 1977, § 2-16-6)

Sec. 2-298. Procurement of professional services.

Where the cost of a professional service is expected to exceed $30,000.00 in the aggregate or for the sum of all phases of a contract or project, the town shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The request for proposal shall not, however, request that offerors furnish estimates of man hours or cost for services. At the discussion stage, the town may discuss nonbinding estimates of total project costs, including but not limited to life-cycle costing, and, where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this section, on

the basis of evaluation factors published in the request for proposal and all information developed in the selection process to this point, the town shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the town can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the town determine in writing and in its sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

State law reference—-Similar provisions, Code of Virginia, § 11-37.

Secs. 2-299—2-325. Reserved.

Subdivision IV: Ethics in Public Contracting

Sec. 2-326. Purpose.

The sections of this subdivision supplement, but do not supersede, other provisions of law, including but not limited to the State and Local Government Conflict of Interests Act (Code of Virginia, § 2.1-639.1 et seq.), the Virginia Governmental Frauds Act (Code of Virginia, § 18.2-498.1 et seq.), and Code of Virginia, §§ 18.2-438 et seq. and 18.2-446 et seq. The sections of this subdivision apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.

State law reference—Similar provisions, Code of Virginia, § 11-72.

Sec. 2-327. Definitions.

The words defined in this section shall have the meanings set forth throughout this subdivision.

Immediate family means a spouse, children, parents, brothers and sisters, and any other person living in the same household as the employee.

Official responsibility means administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction, or any claim resulting therefrom.

Pecuniary interest arising from the procurement means a personal interest in a contract as defined in the State and Local Government Conflict of Interests Act (Code of Virginia, § 2.1-639.1 et seq.).

Procurement transaction means all functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Public employee means any person employed by the town, including elected officials or appointed members of the town council.

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 11-73.

Sec. 2-328. Penalty for violation.

Willful violation of any section of this subdivision shall constitute a misdemeanor. Upon conviction, any public employee, in addition to any other fine or penalty provided by law, shall forfeit his employment.

State law reference—Similar provisions, Code of Virginia, § 11-80.

Sec. 2-329. Proscribed participation by public employees in procurement transactions.

(a) Except as may be specifically allowed by Code of Virginia, § 2.1-639.11(A)(2) and (3), no public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the town when the employee knows that:

(1) The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or

(2) The employee, the employee's partner, or any member of the employee's immediate family:

a. Holds a position with a bidder, offeror or contractor, such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent;

b. Has a pecuniary interest arising from the procurement transaction; or

c. Is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or contractor.

(b) This section prohibits officers and employees who have dealt in a procurement capacity with a particular firm from accepting employment with that firm for a period of one year from cessation of the public employment, unless the officer or employee provides written notification to the town council prior to the start of employment with such private firm.

(Code 1977, § 2-15-7)

State law reference—Similar provisions, Code of Virginia, § 11-74.

Sec. 2-330. Solicitation or acceptance of gifts.

(a) No public employee having official responsibility for a procurement transaction shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The town may recover the value of anything conveyed

in violation of this section.

(b) Accordingly, the town may terminate, at no charge to the town, any purchase order or contract if it is found that substantial gifts or gratuities were offered to a town employee. The town may also take disciplinary action, including dismissal, against a town employee who solicits or accepts gifts or gratuities of any value whatsoever.
(Code 1977, § 2-15- 7)

State law reference—Similar provisions, Code of Virginia, § 11-75.

Sec. 2-331. Disclosure of subsequent employment.

No public employee or former public employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the town unless the employee or former employee provides written notification to the town or a public official if designated by the town or both prior to commencement of employment by that bidder, offeror or contractor.

State law reference—Similar provisions, Code of Virginia, § 11-76.

Sec. 2-332. Gifts by bidders, offerors, contractors or subcontractors.

No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

State law reference—Similar provisions, Code of Virginia, § 11- 77.

Sec. 2-333. Kickbacks.

(a) No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged.

(b) No subcontractor or supplier shall make or offer to make kickbacks as described in this section.

(c) No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a public contract.

(d) If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the town and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

State law reference—Similar provisions, Code of Virginia, § 11-78.

Sec. 2-334. Participation in bid preparation; submitting bid for same procurement.

No person who, for compensation, prepares an invitation to bid or request for proposal for or on behalf of a town shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement which is not available to the public. However, the town may permit such person to submit a bid or proposal for that procurement or any portion thereof if the town determines that the exclusion of such person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the town.

State law reference—Similar provisions, Code of Virginia, § 11-78.1.

Sec. 2-335. Purchase of building materials, supplies or equipment from architect or engineer.

(a) No building materials, supplies or equipment for any building or structure constructed by or for the town shall be sold by or purchased from any person employed as an independent contractor by the town to furnish architectural or engineering services, but not construction, for such building or structure or from any partnership, association or corporation in which such architect or engineer has a personal interest as defined in Code of Virginia, § 2.1-639.2.

(b) No building materials, supplies or equipment for any building or structure constructed by or for the town shall be sold by or purchased from any person which has provided or is currently providing design services specifying a sole source for such materials, supplies or equipment to be used in such building or structure to the independent contractor employed by the town to furnish architectural or engineering services in which such person has a personal interest as defined in Code of Virginia, § 2.1-639.2.

(c) Subsections (a) and (b) of this section shall not apply in cases of emergency or for transportation-related projects conducted by the department of transportation and the Virginia Port Authority.

State law reference—Similar provisions, Code of Virginia, § 11-79.

Sec. 2-336. Certification of compliance; false statements.

(a) The town may require public employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with this subdivision.

(b) Any public employee required to submit a certification as provided in subsection (a) of this section who knowingly makes a false statement in such certification shall be punished as provided in section 2-328.

State law reference—Similar provisions, Code of Virginia, § 11-79.1.

Sec. 2-337. Misrepresentations.

No public employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or

document knowing it to contain any false, fictitious or fraudulent statement or entry.

State law reference—Similar provisions, Code of Virginia, § 11-79.2.

Secs. 2-338—2-380. Reserved

ARTICLE VI. UNCLAIMED PERSONAL PROPERTY

Sec. 2-381. Definition.

Unclaimed personal property shall mean any personal property belonging to another which has been acquired by a law-enforcement officer pursuant to his duties, which is not needed in any ciminal prosecution, which has not been claimed by its rightful owner and which the state treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act of the Code of Virginia.

Sec. 2-382. Disposal of unclaimed property.

Any unclaimed personal property which has been in the possession of the town police department and remains unclaimed for a period of more than sixty (60) days may be publicly sold or retained for use by the police department.

Sec. 2-383. Disposal of bicycles, mopeds, etc.

Any unclaimed bicycle, electric power-assisted bicycle, moped, or electric personal assistive mobility device which has been in the possession of the town police department and remains unclaimed for a period of more than thirty (30) days may be publicly sold or donated to a charitable organization.

Sec. 2-384. Requirements prior to sale.

Prior to the sale of any unclaimed item, the chief of police or his duly authorized agent shall make reasonable attempts to notify the rightful owner of the property, obtain from the commonwealth's attorney in writing a statement advising that the item is not needed in any criminal prosecution and cause to be published in a newspaper of general circulation in the town once a week for two (2) successive weeks, notice that there will be a sale of unclaimed personal property. Such property shall be described generally in the notice, together with the date, time and place of the sale.

Sec. 2-385. Proceeds of sale.

(a) The chief of police or his duly authorized agent, shall hold the proceeds of the sale of unclaimed personal property or any bicycle, electric power assisted bicycles, moped, and electric personal assistive mobility devices. Expenses for the sale shall be deducted from the proceeds of the sale; the cost of advertisement, removal, storage, investigation as to ownership and lien, and notice of sale. The balance of the funds shall be held for the owner and paid to the owner upon satisfactory proof of ownership.

If no claim has been made by the owner for the property or proceeds of such sale within sixty days of the sale, the remaining funds shall be deposited in the general fund of the town and the retained property may be placed into use by the police department.

(b) Any such owner shall be entitled to apply to the town within three years from the date of the sale and, if timely application is made therefore and satisfactory proof of ownership of the funds or property is made, the locality shall pay the remaining proceeds of the sale or return the property to the owner without interest or other charges or compensation. No claim shall be made nor any suit, action or proceeding be instituted for the recovery of such funds or property after three years from the date of the sale.

Sec. 2-386. Worthless property.

Notwithstanding any other provisions of this article, if any goods, ware, merchandise, clothing, or chattels are found to be worthless and at any time remain unclaimed in the custody of the police department, the chief of police may dispose of such items in any manner which to him may seem proper.
(Adopted 09-03-02)

ADMINISTRATION

Chapters 3—5

RESERVED

Chapter 6

AMUSEMENTS AND ENTERTAINMENTS*
(RESERVED)

***Charter references—**Regulation of shows, fairs, etc., ch. 2, § 1(12); amusement buildings, ch. 2, § 1(16); minors in pool room or bowling alley, ch. 2, § 1(43).

Cross reference—Businesses, ch. 18.

State law references—Charitable gaming, Code of Virginia, § 18.2-340.15 et seq.; minors in public places of amusement, Code of Virginia, §§ 18.2-432,40.1-100; public dance halls, Code of Virginia, § 18.2-433.

Chapters 7—9

RESERVED

Chapter 10

ANIMALS*

Article I. In General

Secs. 10-1—10-25. Reserved.

Article II. Dogs

Sec. 10-26. Definitions.
Sec. 10-27. Enforcement.
Sec. 10-28. Prohibited acts; penalty.
Secs. 10-29—10-55. Reserved.

Article III. Livestock

Sec. 10-56. Hog pens; keeping hogs.
Sec. 10-57. Selling livestock on streets.
Sec. 10-58. Livestock running at large.
Sec. 10-59. Enclosures.
Secs. 10-60—10-85. Reserved.

Article IV. Animal Wastes

Sec. 10-86. Penalty.
Sec. 10-87. Prohibited acts.

***Charter reference—**Keeping of animals, ch. 2, § 1(21), (30), (31).

Cross references—Environment, ch. 22; persons riding bicycles or riding or driving animals, § 58-6; agricultural district A, app. A, § 3.10 et seq.

State law references—Livestock and poultry, Code of Virginia, § 3.1-723 et seq.; comprehensive animal laws, Code of Virginia, § 3.1-796.66 et seq.; cruelty to animals, Code of Virginia, § 3.1-796.122 et seq.; dogs and cats deemed personal property, rights relating thereto, Code of Virginia, § 3.1-796.127; penalties for offenses involving animals, Code of Virginia, §§ 3.1-796.128, 18.2-403.1 et seq.; diseased animals, dead animals, etc., Code of Virginia, §§ 18.2-323,18.2-510; game, inland fisheries and boating, Code of Virginia, tit. 29.1; hunting near public schools and public parks, Code of Virginia, § 29.1-527; estrays, Code of Virginia, § 55-202 et seq.

ARTICLE I. IN GENERAL

Secs. 10-1—10-25. Reserved.

ARTICLE II. DOGS

Sec. 10-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dog means every dog, regardless of sex or age.

Owner means any person having a right of property in a dog and who keeps or harbors a dog or has it in his care or who acts as its custodian, and any person who permits a dog to remain , on or about any premises occupied by him.

Run at large or *running at large* means to roam, run or self-hunt off the property of its owner or custodian and not under its owner's or custodian's immediate control.
(Code 1977, § 4-4)
Cross reference—Definitions generally, § 1-2.
State law reference—Similar provisions, Code of Virginia, § 3.1-796.93.

Sec. 10-27. Enforcement.

The town grants the county animal control officer the authority to enforce this article within the town limits.
(Code 1977, § 4-6; Ord. of 4-2-1979, § 4-6)
State law reference—Animal control officers, Code of Virginia, § 3.1-796.104.

Sec. 10-28. Prohibited acts; penalty.

(a) It shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the town limits, even though the dog is both lawfully licensed and vaccinated.

(b) It shall be unlawful for the owner of any dog to allow, cause or permit such dog to enter any public building, office or store during the time that such business establishment is open for public business, unless the dog is on a leash or otherwise under the immediate control of such owner.

(c) Any person violating this section, upon conviction, shall be guilty of a class 4 misdemeanor for each violation.
(Code 1977, § 4-5)
State law reference—Dogs confined or restrained, Code of Virginia, §§ 3.1-796.93, 3.1-796.95.

Sec. 10-29—10-55. Reserved.

ARTICLE III. LIVESTOCK

Sec. 10-56. Hog pens; keeping hogs.

Within the corporate limits, it shall be unlawful for any person to:

(1) Have a hog pen.

(2) Keep one or more hogs.

(Code 1977, § 4-1)

Sec. 10-57. Selling livestock on streets.

It shall be unlawful for any person to sell or offer for sale, publicly or privately, livestock on the town streets.

(Code 1977, § 4-2)

Cross reference—Streets, sidewalks and other public places, ch. 50.

Sec. 10-58. Livestock running at large.

If any horse, mule, cow, hog, sheep, goat, colt, pony or goose is found at large within the town limits, it shall be the duty of the chief of police to put every such animal in a suitable and convenient pound or lot for safekeeping, supplying it with suitable food and water while there at the expense of the owner of such animal. Such animal shall be retained by the chief of police until the fine and expenses in caring for it are paid. It shall also be the duty of the chief of police to advertise any such animal immediately, in two or more public places in the town, describing it as near as may be in such advertisements. If such animal is not redeemed within ten days, it shall be sold at public auction for cash, and the proceeds, after paying expenses, shall be held for the benefit of the owner. The owner of any such animal or goose found at large shall be guilty of a class 4 misdemeanor for each horse, mule, cow, hog, sheep, colt, pony or goose.

(Code 1977, § 4-2.1)

State law reference—Estrays, Code of Virginia, § 55-202 et seq.

Sec. 10-59. Enclosures.

It shall be unlawful for any person to keep horses, ponies, mules, donkeys, cattle, sheep, goats or similar animals in the town unless they are safely and securely enclosed by a fence and provided they are properly housed. Such housing shall not be nearer than ten feet to any adjoining property line and no nearer than 30 feet to the principal building on any adjoining property. The enclosure shall be kept in such sanitary condition as to comply with all provisions of law.

(Code 1977, § 4-3; Ord. of 4-15-1999)

Secs. 10-60—10-85. Reserved.

ARTICLE IV. ANIMAL WASTES*

Sec. 10-86. Penalty.

Any person who violates this article shall be deemed guilty of a class 4 misdemeanor. (Code 1977, § 4-8)

Sec. 10-87. Prohibited acts

(a) It shall be unlawful for any person to allow animal wastes to be deposited on public land or private property other than that of the animal's owner.

(b) It shall be unlawful for the owner of property to allow the accumulation of animal wastes on the premises of the owner.
(Code 1977, § 4-7)

***Cross reference—**Solid waste, ch. 46.

Chapters 11—13

RESERVED

Chapter 14

BUILDINGS AND BUILDING REGULATIONS*

Article I. In General

Secs. 14-1—14-25. Reserved.

Article II. Building Code

Division 1. Generally

Sec. 14-26. Enforcement of Uniform Statewide Building Code.
Secs. 14-27—14-55. Reserved.

Division 2. Permit Fees

Sec. 14-56. Established.
Sec. 14-57. Exceptions
Sec. 14-58. Repealed.
Secs. 14-59—14-85. Reserved.

Article III. Unsafe Buildings

Sec. 14-86. Removal, repair or securing of buildings and other structures.
Sec. 14-87. Buildings exempt from Uniform Statewide Building Code.

***Charter references—**Regulation of buildings, ch. 2, § 1(22), (25); issuance of building permits in conformity with town plan, ch. 3, §§ 6, 7.

Cross references—Environment, ch. 22; fire prevention and protection, ch. 26; floods, ch. 30; solid waste, ch. 46; streets, sidewalks and other public places, ch. 50; building numbers, § 50-176 et seq.; utilities, ch. 62; vegetation, ch. 66; waterways, ch. 70; zoning, app. A; land subdivision and development, app. B.

State law references—Access to and use of buildings by handicapped, Code of Virginia, § 2.1-517; removal, repair, etc., of buildings and other structures, Code of Virginia, § 15.2-906 et seq.; light, ventilation, sanitation and use and occupancy of buildings, Code of Virginia, § 15.2-1117; limitation of prosecutions of building code violations, Code of Virginia, § 19.2-8; Virginia Industrialized Building Safety Law, Code of Virginia, § 36-70 et seq.; Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.; effect of building code on other building regulations, Code of Virginia, § 36-98; enforcement of building code, appeals from decisions of local building department, inspection of buildings, Code of Virginia, § 36-105; voluntary apprenticeship, Code of Virginia, § 40.1-117 et seq.; contractors, Code of Virginia, § 54.1-1100 et seq.; local licensing of certain contractors, Code of Virginia, § 54.1-1117.

BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. IN GENERAL

Secs. 14-1—14-25. Reserved.

ARTICLE II. BUILDING CODE

DIVISION 1. GENERALLY

Sec. 14-26. Enforcement of Uniform Statewide Building Code.

The town shall enforce the Uniform Statewide Building Code in the town and shall provide its own inspectors. (Code 1977, § 5-1)

State law reference—Enforcement of Uniform Statewide Building Code, Code of Virginia, § 36-105.

Secs. 14-27—14-55. Reserved.

DIVISION 2. PERMIT FEES

Sec. 14-56. Established.

The Town council shall establish a schedule of fees and charges for building and zoning permits and related costs. Such schedule of fees and charges shall be posted in the office of the building and zoning administrator and may be amended only by action of the town council upon recommendation of the budget and personnel committee.
(Code 1977, § 5-2; Ord. of 3-14-1994, § 5-2 a-d; Ord. of 5-17-2001, § 5-2 e)
(Amended 01/02/07)

Sec. 14-57. Exceptions.

No building permit fee shall be required for the following:

(1) Repealed.

(2) Structures or buildings owned by a nonprofit organization, approved by the United States Internal Revenue Service, or local, state or federal governments. A building permit is still required.

(3) Repealed.

(4) Repealed.

(5) Repealed.

(6) Repealed.

(7) A fence. A zoning permit is still required.

(8) Repealed.

(Code 1977, § 5-2; Ord. of 4-01-1991 (4); Ord. of 11-5-1990 (5); Ord. of 12-03-1990 (6-7); Ord. of 5-17-2001 (8))
(Amended 01/02/07)

Sec. 14-58. Repealed.

(Code 1977, § 5-2; Ord. of 6-25-1992 § 5-2 (1-7))
(Amended 01/02/07)

Secs. 14-59—14-85. Reserved.

ARTICLE III. UNSAFE BUILDINGS*

Sec. 14-86. Removal, repair or securing of buildings and other structures.

(a) The owners of property in the town shall, at such time as the town council may prescribe, remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other town residents.

(b) The town, through its own agents or employees, may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other town residents if the owner and lien holder of such property, after reasonable notice and a reasonable time to do so, have failed to remove, repair or secure the building, wall or other structure. For purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published once a week for two successive weeks in a newspaper having general circulation in the locality. No action shall be taken by the town to remove, repair or secure any building, wall or other structure for at least 30 days following the later of the return of the receipt or newspaper publication.

(c) If the town, through its own agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice given under this section, the cost or expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the town in the manner taxes are collected.

(d) Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia, §§ 58.1-3940 et seq. and 58.1-3965 et seq. The town may waive such lien in order to facilitate the sale of the property. Such lien may be waived only as to a

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***Cross reference—**Environment, ch. 22.

purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.
(Code 1977, § 5-3; Ord. of 9-16-1981)

State law references—Authority for above section, Code of Virginia, § 15.2-906; authority of town council to require removal, repair, etc., of buildings and other structures, Code of Virginia, § 15.2-906.

Sec. 14-87. Buildings exempt from Uniform Statewide Building Code.

(a) This section shall apply to buildings and structures which are or may be determined to be unsafe under the terms of this section, notwithstanding that buildings and structures erected after the enactment of the Uniform Statewide Building Code shall be regulated under the provisions of that code. However, if the construction of such buildings or structures were exempt from that code, this section shall apply.

(b) All buildings or structures that are or shall become unsafe, unsanitary or deficient in adequate exit way facilities or that constitute a fire hazard or are otherwise dangerous to human life or the public welfare or that, because of illegal or improper use, occupancy or maintenance, shall be deemed unsafe buildings or structures. All unsafe buildings shall be taken down and removed or made safe and secure, as the town building official may deem necessary and as provided in this section. A vacant building, unguarded or open at door or window, shall be deemed a fire hazard and unsafe within the meaning of this section.

(c) Whenever the building official shall find any building or structure or portion thereof to be unsafe, he shall give the owner, agent or person in control of such building or structure written notice stating the defects thereof. This notice shall require the owner, within a stated time, either to complete specified repairs or improvements or to demolish or remove the building or structure or portion thereof. Such notice shall require the person thus notified to immediately declare to the building official his acceptance or rejection of the terms of the order. If no such person can be found within the town, the notice shall be sent by registered or certified mail to the owner of such real estate, as shown on the town tax records or, if the property is not assessed for taxation, to the last known address of the owner, agent or person in control of such building or structure, and a copy of such notice shall be posted in a conspicuous place on the premises, and such procedure shall be deemed the equivalent of personal notice.

(d) If necessary, such notice shall also require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the building official. The building official shall cause to be posted at each entrance to such building a notice stating: "This building is unsafe and its use or occupancy has been prohibited by the town building official." Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person or his agents or other servants to remove such notice without written permission of the building official or for any person to enter the building except for the purpose of making the required repairs or of demolishing the building, structure or portion thereof.

(e) The owner, agent or person in control shall have the right, except in cases of emergency, to appeal from the decision of the building official, as provided in this section, and to appear before the board of building code appeals at a specified time and place to show cause why he should not comply with the notice. Such appeal shall be made by notification to the building official in writing within 30 days of receipt of the notice required by this section or within 30 days of the mailing of such notice if such person cannot be found.

(f) If the owner, agent or person in control cannot be found within the stated time limit or if such owner, agent or person in control shall fail, neglect or refuse to comply with the notice to repair, to rehabilitate or to demolish and remove the building or structure or portion thereof, the building official, after having ascertained the cost, shall cause such building or structure or portion thereof to be demolished, secured or required to remain vacant.

(g) The decision of the building official shall be final in cases of emergency, which, in his opinion, involve imminent danger to human life or health. He shall promptly cause such building, structure or portion thereof to be made safe or removed. For this purpose, he may at once enter such structure or land on which it stands or abutting land or structures, with such assistance and at such cost as he may deem advisable. He may vacate adjacent structures and protect the public by an appropriate fence or such other means as may be necessary and for this purpose may close a public or private way.

(h) Any cost or expenses in connection with the enforcement of this section shall be the responsibility of the owner of such real estate, and any portion which shall have been billed to such owner and which remains unpaid after having been billed for 30 days shall constitute a lien against such real estate and may be collected by the town in the same manner as taxes are collected. A bill mailed to the last mailing address of the owner shall constitute billing for the purpose of this section.
(Code 1977, § 5-4; Ord. of 9-16-1981)

Chapters 15—17

RESERVED

Chapter 18

BUSINESSES*

Article I. In General

Sec. 18-1. Precious metals dealers.
Sec. 18-2. Tattooing; operating tattoo business.
Sec. 18-3. Going out of business sales.
Secs. 18-4—18-30. Reserved.

Article II. Licenses

Division 1. Generally

Sec. 18-31. Statement of policy.
Sec. 18-32. Definitions.
Sec. 18-33. Rules of construction and interpretation; adoption of state laws.
Sec. 18-34. Applicability to business, employment or profession not included.
Sec. 18-35. Violations; penalties.
Sec. 18-36. Required.
Sec. 18-37. Application; issuance.
Sec. 18-38. Separate license required for each place of business.
Sec. 18-39. Businesses, trades or occupations prohibited by zoning.
Sec. 18-40. Display.
Sec. 18-41. Transferability.
Sec. 18-42. Suspension.
Sec. 18-43. Expiration.
Sec. 18-44. Nonresident businesses, trades or occupations.
Sec. 18-45. Tax imposed on privilege of doing business.
Sec. 18-46. Levy, collection; term; use of money received.
Sec. 18-47. Determination of taxes of new businesses.
Sec. 18-48. Proration of taxes.
Sec. 18-49. Corporations, partnerships and sole proprietors.
Sec. 18-50. Due date of tax.
Sec. 18-51. Interrogatories, other evidence used in determining amount of tax.

***Charter reference—**Business licenses, ch. 2, § 1(58).

Cross references—Amusements and entertainments, ch. 6; commercial garbage, § 46-69; taxation, ch. 54; utilities, ch. 62; home occupation, app. A, § 2.76; light industry, app. A, § 2.84; limited home occupation, app. A, § 2.85; commercial districts, app. A, § 4.1 et seq.

State law references—Sale of ice cream and similar products, state preemption, Code of Virginia, § 3.1-562.4; going-out-of-business sales, Code of Virginia, §§ 18.2-223, 18.2-224; licensing of bail bondsmen, Code of Virginia, § 19.2-152.1; professions and occupations, Code of Virginia, tit. 54.1; regulation of precious metals dealers, Code of Virginia, § 54.1-4111; records of firearms dealers, Code of Virginia, § 54.1-4200 et seq.; local license taxes, Code of Virginia, § 58.1-3700 et seq.; enforcement, collection, refunds, remedies and review of local taxes, Code of Virginia, § 58.1-3900 et seq.

Sec. 18-52. Oath of applicant.
Sec. 18-53. Assessment of additional license taxes.

Sec. 18-54. Records required on gross receipts.
Sec. 18-55. Gross receipts records.
Sec. 18-56. Penalty for late payment and/or late application.
Sec. 18-57. Appeals and rulings.
Sec. 18-58. Exemptions.
Secs. 18-59—18-85. Reserved.

Division 2. Specific Businesses and Occupations

Sec. 18-86. Subcontracts.
Sec. 18-87. Bail bonds.
Sec. 18-88. Billposters.
Sec. 18-89. Savings institutions; credit unions.
Sec. 18-90. Bus and freight terminals.
Sec. 18-91. Carnivals, circuses.
Sec. 18-92. Itinerant vendors.
Sec. 18-93. Pawnbrokers.
Sec. 18-94. Peddlers.
Sec. 18-95. Special event vendors, carnivals, and circuses.
Secs. 18-96—18-120. Reserved.

Division 3. Businesses and Professions Measured by Gross Receipts

Sec. 18-121. Minimum license tax.
Sec. 18-122. Maximum license tax.
Sec. 18-123. Amusements.
Sec. 18-124. Business service occupations.
Sec. 18-125. Contractors and contracting.
Sec. 18-126. Loan companies.
Sec. 18-127. Personal service occupations.
Sec. 18-128. Professional occupations.
Sec. 18-129. Repair service occupations.
Sec. 18-130. Retail merchants.
Sec. 18-131. Wholesale merchants.
Sec. 18-132. Coin-operated machines.
Secs. 18-133—18-160. Reserved.

Division 4. Public Service Corporations and Telecommunications

Sec. 18-161. Public service corporation license tax.
Sec. 18-162. Cable television service.
Secs. 18-163—18-190. Reserved.

Article III. Massage Businesses

Sec. 18-191. Definitions.
Sec. 18-192. Legislative authority; purpose.
Sec. 18-193. Policy.
Sec. 18-194. Compliance.
Sec. 18-195. Permits.

BUSINESSES

Sec. 18-196. Training requirements for masseur or masseuse.
Sec. 18-197. Standards for equipment and facilities.
Sec. 18-198. Building structure and layout.
Sec. 18-199. Sanitation and hygiene.
Sec. 18-200. Sleeping quarters.
Sec. 18-201. Massages or baths administered by person of opposite sex.
Sec. 18-202. Prohibited acts.

ARTICLE I. IN GENERAL

Sec. 18-1. Precious metals dealers.

The provisions of Code of Virginia, §§ 54.1-4100-54.1-4110 are adopted as if set out at length in this section, except that the words "class 1 misdemeanor" and "class 2 misdemeanor" in such provisions shall be changed to the word "misdemeanor."
(Code 1977, § 10-36)

Sec. 18-2. Tattooing; operating tattoo business.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Tattoo means to mark or color the skin by pricking in coloring matter so as to form indelible marks or figures or by the production of scars.

Tattoo artist means any person who actually performs the work of tattooing.

Tattoo establishment means any room or space where tattooing is practiced or where the business of tattooing is conducted or any part thereof.

Tattoo operator means any person who controls, operates, conducts or manages any tattoo establishment, whether actually performing the work of tattooing or not.

(b) It shall be unlawful for any person in the town to operate a tattoo establishment or engage in the practice or business of tattooing, as a tattoo operator or as a tattoo artist.

(c) Any person who shall violate this section shall be guilty of a misdemeanor.
(Code 1977, § 13-4)

Sec. 18-3. Going out of business sales.

(a) No person shall sell or offer or advertise for sale any goods, wares or merchandise, falsely representing or pretending, orally or by advertisement, sign or otherwise, that such goods, wares or merchandise are, in whole or in part, a bankrupt or insolvent stock or damaged goods or goods saved from fire or that such person is going out of business or make any false statement or issue any false advertisement as to the purchase, history or character of such goods, wares or merchandise.

(b) Before advertising any going out of business sale; such person desiring to so advertise shall secure a permit from the town, which permit shall be issued by the town manager upon application and payment of a fee of $50.00 for such permit. The permit shall be issued for such period as may be reasonably necessary to enable the applicant to close out his business, not exceeding 30 days, and may be renewed for two additional periods not exceeding 30 days each upon application therefore, payment of the fee of $50.00 for the renewal permit and the production of evidence satisfactory to the council that the applicant is bona fide going out of business. Renewal permits shall only be issued upon approval of a majority vote of the council.

(c) Failure to go out of business within the time limited by such permit or renewal of

the permit shall constitute a prima facie case of violation of this section, and the burden shall be upon such person so advertising a going out of business sale to show that such advertisement was made in good faith.
(Code 1977, § 13-3)

State law reference—Going out of business sales, Code of Virginia, §§ 18.2-223,18.2-224.

Secs. 18-4—18-30. Reserved.

ARTICLE II. LICENSES

DIVISION 1. GENERALLY

Sec. 18-31. Statement of policy.

It is the purpose of the town in enacting this article to pursue the collection of license taxes and the enforcement therefore required in a most uniform, strenuous and honest manner and to equalize as far as practicable the burden of license taxation among those liable therefore, by adopting a system of license taxes measured by the gross receipts of the business, trade or occupation in respect of which the tax is levied, except as may be otherwise provided. All information, estimates and records provided in compliance with this article shall be considered privileged information entitled to all the protection provided by the Privacy Protection Act of 1976 (Code of Virginia, § 2.1-377 et seq.) except as specifically excluded in this article.
(Code 1977, § 10-2)

Sec. 18-32. Definitions.

As used in this article and as applied to the business, trade or occupation subject to the license taxes set forth in this article and not specifically otherwise taxed, the following words and terms shall have the respective meanings ascribed to them:

Amusement means every business or trade enumerated in section 18-123.

Builder. Every person who shall build, erect or construct a house or building for the purpose of selling or renting the house or building and who shall not employ therefore in writing a contractor or person who shall act as superintendent of the whole construction and who has paid the license tax required by this article shall, himself, be deemed a contractor and shall be subject to all the applicable sections of this article. Any person who shall erect or construct a house or building and later sell or offer to sell or rent the house or building without having himself resided in the house or building for not less than 90 days shall be prima facie deemed to have erected or constructed that house or building for the purpose of selling or renting the house or building.

Business service means every business or trade enumerated in section 18-124.

Contractor means any person:

(1) Accepting or offering to accept orders or contracts for doing any work on or in any building or structure, requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, or other metal

or any other building material;

(2) Accepting or offering to accept contracts to do any paving, curbing or other work on sidewalks, streets, alleys or highways or public or private property, using asphalt, brick, stone, cement, concrete, wood or any composition;

(3) Accepting or offering to accept an order for or contract to excavate earth, rock, or other material for foundation or any other purpose or for cutting, trimming or maintaining rights-of -way;

(4) Accepting or offering to accept an order or contract to construct any sewer of stone, brick, terracotta or other material;

(5) Accepting or offering to accept orders or contracts for doing any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing, or maintaining electric wiring, devices or appliances permanently connected to such wiring or the erecting, repairing or maintaining of lines for the transmission or distribution of electric light and power; or

(6) Engaging in the business of plumbing and steam fitting.

Gross receipts means the whole, entire, total receipts, without deduction, for the preceding year from any business, profession, trade, occupation, vocation, calling or activity, including fees, commissions, brokerage charges and rentals on property of any kind (excluding any property consisting of land, house or mobile home used as a permanent residence), nature or description from either sales made or services rendered without any deduction there from on account of cost of property sold and the cost of materials, labor or services or other costs, interest or discounts paid or any expense whatsoever and includes for merchants the amount of the sale price of supplies and goods furnished or to be used by the licensee or his family or other persons for which no charge is made. However, the term "gross receipts" with respect to licensees dealing in articles or services upon which there is levied a direct excise tax payment to the United States government and any local sales or excise tax collected for the state or town may be excluded from gross receipts.

The term "gross receipts" shall be used in connection with or in respect to financial transactions for the preceding year involving the sale of notes, stocks, bonds or other securities or the loan, collection or advance of money or the discounting of notes, bills or other discount, gross commission or the other gross receipts earned by means of or resulting from such financial transactions, but the term "gross receipts" shall not include amounts received as payments of debts. The calculation of gross receipts for license tax purposes shall be on either a cash accrual basis; provided, however, that the basis used must coincide with the system of accounts used by the taxpayer and with the method employed by the taxpayer for federal and state income tax purposes. The preceding year's gross receipts may be either the fiscal year used by the business or the calendar year, provided that the year employed must also coincide with the year used for federal and state income tax purposes.

Merchant means any person who is both a retail merchant and a wholesale merchant, as they are defined in this section, and who is required to obtain both classes of license. However, any retail merchant who desires to do a wholesale business, also, may elect to do such wholesale business under his retailer's license by paying license taxes as a retailer on both his retail and wholesale business, but this shall not apply to any retail merchant, the

greater part of whose business at the licensed place during the preceding year was wholesale, nor to a beginner, the greater part of whose business it is estimated will be wholesale for the period covered by the license.

Personal service means every business or trade enumerated in section 18-127.

Professional occupation means every person engaged in an occupation enumerated in section 18-128.

Purchases mean all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term also includes the cost of manufacture of all goods, wares and merchandise manufactured by any wholesale merchant and sold or offered for sale. A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if he cannot determine the cost of manufacture or chooses not to disclose the cost of manufacture.

Repair service means the business of repairing, renovating or servicing any or several of those items or articles enumerated in section 18-129.

Retail merchant means every person engaged in the conduct of business enumerated in section 18-130. The term "retail merchant" is further defined to mean every merchant who sells to others for retail, only, and not for resale. Every person engaged in the business of selling goods, wares or merchandise through the use of coin-operated vending machines shall be classified as a "retail merchant."

Superintendent. Every person other than the owner of a house or building who shall act as superintendent of the erection, construction or repair of buildings for which a building or other permit is required shall be deemed a contractor and shall pay the annual license tax required of a contractor by this article.

Wholesale merchant means every person engaged in the conduct of a business enumerated in section 18-131. The term "wholesale merchant" is further defined to mean every merchant who sells to others for resale, only, or who sells to institutional, commercial or industrial users. (Code 1977, § 10-3)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, §§ 58.1-3700.1,58.1-3714.

Sec. 18-33. Rules of construction and interpretation; adoption of state laws.

As to all questions in regard to the duty and conduct of town officers in collecting and enforcing the license taxes imposed by this article and in regard to questions of construction, for definitions of terms used in this article and the rules and regulations applicable to putting them in operation, reference is made to the laws of the state for the assessment, levy and collection of license taxes for the current year or to so much thereof as is applicable to this article and is not inconsistent with this article and this Code. For the conduct and guidance of the town officers and other parties affected by this article and for fixing their powers, rights, duties and obligations, the provisions of such laws, so far as applicable, are adopted without being specifically quoted in this article.
(Code 1977, § 10-4)

Sec. 18-34. Applicability to business, employment or profession not included.

Nothing contained in this article shall be construed to repeal any license tax imposed by this article upon persons, property, admissions or any subject not mentioned in this article. In every case in which a license is imposed by the state on any business, employment or profession not specifically mentioned, a town license tax equal to the amount of the state tax is imposed for the privilege of conducting such business, employment or profession in the town.
(Code 1977, § 10-5)

Sec. 18-35. Violations; penalties.

It shall be unlawful and shall constitute a misdemeanor for any person to conduct a business or to engage in a profession, trade or occupation before procuring a license as required under this article or then and there having a valid license. It shall also be unlawful and shall constitute a misdemeanor for any person to violate any of the sections of this article.
(Code 1977, § 10-6; Ord. of 8-5-1996)

Sec. 18-36. Required.

Every person shall apply for a license for each business or profession when engaging in a business in this jurisdiction if:

(1) The person has a definite place of business in this jurisdiction;

(2) There is no definite place of business anywhere and the person resides in this jurisdiction; or

(3) There is no definite place of business in this jurisdiction but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, or contractor subject to Code of Virginia, § 58.1-3715 or a public service corporation.

(Code 1977, § 10- 7; Ord. of 8-5-1996)

Sec. 18-37. Application; issuance.

(a) Every person desiring to obtain a license to pursue any business, trade or occupation or to do anything for which a license is required shall make application therefore in writing to the town manager. The application shall state the residence of the applicant; the social security number or tax identification number of the applicant; the nature of the business, employment, profession or thing to be done; and the place where it is proposed to be prosecuted. Where the license tax is to be measured by gross receipts, the applicant shall make a statement under oath as required by subsection (b) of this section. The town manager shall assess such applicant or other person of whom a license is required with the license tax required by law and shall issue a license to the applicant to practice the business, trade or occupation or other thing therein named, which license shall not be valid or effective unless and until the license tax required shall be paid to the town. If it is a business for which a license can be granted only on the certificate of a court or other officer, such license shall not be valid or effective until such certificate shall be obtained.

(b) When the license tax is based upon gross receipts, the town manager shall require a signed statement from the applicant as to the amount of such gross receipts, except for a beginner. After computing the amount of the license tax in each case, the town manager shall

retain one copy of the license tax form and shall furnish the applicant with one copy. Upon payment of the required license tax by the licensee, the manager shall receipt the payment upon both the original and the copy presented by the licensee, after which the manager shall give the original to the licensee and retain the copy of the receipted form.

(c) Any business owned and operated by a full-time student under the age of 23 having gross receipts, as defined in section 18-32, for the preceding year of less than $5,000.00 shall require a license but shall be exempt from payment of license tax.

(d) No business license shall be issued, new or renewal, until the applicant has produced satisfactory evidence that all delinquent business license, personal property, meals, transient occupancy, severance and admissions taxes owed by the business to the town have been paid which have been properly assessed against the applicant by the town.
(Code 1977, § 10-8; Ord. of 5-17-2001, (c); Ord. of 8-5-1996, (d))

Sec. 18-38. Separate license required for each place of business.

A separate license shall be required for each place of business and for each business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied:

(1) Each business or profession is subject to licensure at the location and has satisfied any requirement imposed by state law or other sections of this Code or provisions of town ordinances.

(2) All of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate.

(3) The taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

(Code 1977, § 10-9; Ord. of 8-5-1996)

Sec. 18-39. Businesses, trades or occupations prohibited by zoning.

The town manager shall not issue a license for conducting any business, trade or occupation at a location where the conducting of such business, trade or occupation at such location is prohibited by the town zoning ordinance.
(Code 1977, § 10-10)

Sec. 18-40. Display.

Every person required to pay a license tax or to obtain any tag or sign under this article shall keep the license tag or sign in a convenient place and, whenever required to do so, shall exhibit the license, tag or sign to any authorized town representative. No license measured by volume of business shall be required to be publicly displayed.
(Code 1977, § 10-11)

Sec. 18-41. Transferability.

Licenses issued under this article shall be transferable, except where otherwise provided, but in no case shall any transfer of a license be legal or valid unless and until notice in writing of such transfer shall have been given to the town manager, who shall have approved the transfer in writing on the license. The notice shall state the time of the transfer, the place of business and the name of the person to whom transferred. The town manager shall keep a record of such transfers and shall submit a copy of each such transfer to the proper enforcement officer.
(Code 1977, § 10-12)

Sec. 18-42. Suspension.

The enforcement officer, unless otherwise specified, is authorized and empowered to suspend any license issued under this article for violation of the terms of the license granted, and such suspension shall continue until the cause is removed. Such action shall be reported immediately to the town council. Such suspension, when written notice thereof is received by the licensee or any person in charge of the place of business, shall place the licensee in the same position as if he had never obtained a license. Any such license shall, further, be immediately suspended upon the failure of the licensee to comply with section 54-259 of article IV of chapter 54 pertaining to the transient occupancy tax or section 54-301 of article V of chapter 54 pertaining to the meals tax.
(Code 1977, § 10-13; Ord. of 8-5-1996)

Sec. 18-43. Expiration.

All licenses issued pursuant to this article shall expire on December 31 of each year, except where it is otherwise specifically provided.
(Code 1977, § 10-14)

Sec. 18-44. Nonresident businesses, trades or occupations.

It is the declared intent of the town to avoid either discrimination or protective license taxation as it affects any business, trade or occupation, regardless of location or type of transaction, and to this end businesses, trades or occupations carried on in part within the town, but having no regularly constituted place of business in the town, shall be subject to equal conditions and equal rates of license taxation as those businesses, trades or occupations having a regularly constituted place of business within the town. For nonresident businesses, trades or occupations, the license tax liability shall be measured by only that portion of the business, trade or occupation carried on within the town.
(Code 1977, § 10-15)

Sec. 18-45. Tax imposed on privilege of doing business.

Each and all of the license taxes imposed pursuant to this article are in all cases imposed upon the privilege of doing business in the town, including all phases and activities of the business, trade or occupation conducted in the town.
(Code 1977, § 10-17)

Sec. 18-46. Levy, collection; term; use of money received.

For each and every year beginning with January 1 of each year and ending December 31 following, until otherwise changed, there are levied and there shall be collected the annual license taxes set forth in this article, except as otherwise provided in this article, on persons, firms, corporations, companies and associations conducting or engaging in the businesses,

trades or occupations in the town for the support of the town government, the payment of the town debt and for other municipal purposes.
(Code 1977, § 10-18)

Sec. 18-47. Determination of taxes of new businesses.

Whenever any person begins a business, trade or occupation on or after January 1 of the license year, that person shall pay a licensing fee for the year of application of $50.00. Each following year shall be measured in accordance with this article as specified.
(Code 1977, § 10-19) ***(Amended 6/17/10) (Effective 7/1/10)***

Sec. 18-48. Proration of taxes.

There shall be no abatement from or proration of any license tax imposed under this article, except that any person who pays a flat-rate license tax and who shall begin business after the beginning of the license tax year shall pay to the town a license tax for the whole of the year. However, such portion of the license tax as the period between the first day of the year and the date of issuing the license shall bear to the whole year shall be deducted from the license tax to be assessed against the person for the privilege of doing the same business for the ensuing year when the tax becomes payable, and in computing the license tax, no deduction shall be made there from for any fractional part of a month. This section shall not apply to any gross receipts licenses issued under this article or to any license tax computed upon the amount of sales or contracts made or done by the licensee during the preceding year, nor shall this section apply to any such license taxes, the proration of which is expressly prohibited under other sections of this article.
(Code 1977, § 10-20)

State law reference—Proration of license taxes, Code of Virginia, § 58.1-3710.

Sec. 18-49. Corporations, partnerships and sole proprietors.

When the business, trade or occupation is conducted by a corporation, partnership or sole proprietor, the license tax shall be imposed upon the gross receipts of the corporation, partnership or sole proprietor and paid by it. When so paid and, also, when paid by an individual employing persons who otherwise would be liable for a license, it shall be deemed to discharge the license tax liability of the officers and partners of such corporation or firm and of such persons employed by any employer who otherwise would be liable for such tax, insofar as the licensed business is concerned.
(Code 1977, § 10-21)

Sec. 18-50. Due date of tax.

All license taxes imposed by this article shall be deemed to be due and payable on or before Apri130 of each license year by persons who had a license for the preceding year. A person who did not have a license for the preceding year shall pay the license tax at the time of the application for the license.
(Code 1977, § 10-22)

Sec. 18-51. Interrogatories, other evidence used in determining amount of tax.

As one of the means of ascertaining the amount of any license tax, the town council may propound interrogatories to each applicant and use such other evidence as it may procure. Such interrogatories shall be answered under oath.
(Code 1977, § 10-23)

Sec. 18-52. Oath of applicant.

Every person liable for a license tax under this article, based upon the amount of his actual gross receipts or graduated in any other way, shall, before he shall be granted a certificate for obtaining such license, be required to make oath in writing before a notary public or the town manager upon the forms to be prepared by the town manager, stating his business, occupation or profession or any other matter that may be pertinent to the assessment of the tax on such license. For an incorporated company, such oath shall be made by the chief officers or agent resident in the town or in charge of the business of the company, and for firms by any member thereof.
(Code 1977, § 10-24)

Sec. 18-53. Assessment of additional license taxes.

Whenever the town manager shall ascertain that any person shall be assessed with an additional license tax pursuant to this article, it shall be his duty to assess such person with such additional license tax. The town manager shall mail a copy of such assessment to the person against whom assessed and distribution of copies shall be further made as provided in subsection 18-37(b). If the additional license tax so assessed shall not have been paid within 30 days after such assessment, the town manager shall proceed to collect the license tax as delinquent taxes.
(Code 1977, § 10-25)

Sec. 18-54. Records required on gross receipts.

(a) Every person liable for a license tax under this article, which is based on gross receipts, shall keep all records necessary to show and compute such gross receipts, and the report of the gross receipts shall be taken from such records. All such records and general books of account shall be open to inspection and examination by any authorized town representative.

(b) Each person subject to a license shall apply no later than March 1 of the license year to the town manager if he had been issued a license for the preceding year and shall at such time submit a report of his gross receipts of the preceding year if such license is based upon gross receipts.

(c) If any licensee shall fail to maintain the records required in this section, the proper town enforcement officer is authorized and directed to estimate the taxpayer's gross receipts on the basis of the best evidence he can obtain, and the town manager shall make an assessment on the basis of such determination.
(Code 1977, § 10-26; Ord. of 8-5-1996 (b))

Sec. 18-55. Gross receipts records.

(a) *Town's authority to audit and examine.* The town shall have the right and authority to audit and examine any return or report of gross receipts and/or purchases from any business, occupation or profession. In connection with such audit, the town is further authorized and empowered to examine the records, books and papers of any person required by this article to have a license.

(b) *Failure to produce.* The penalties for failure to produce gross receipts records as required shall be as follows:

(1) Any person who shall be liable for a license tax measured upon gross receipts shall, upon request of the town council, produce and exhibit to the manager at the manager's office his records, books and papers pertaining to the gross receipts of such person. Any person failing to produce his records, books and papers upon request of the town council shall, in addition to any other liability imposed, suffer an immediate revocation of his license, if already issued, and, if not already issued, no such license shall be issued unless or until such person shall have produced and exhibited to the town manager at the manager's office his records, books and papers pertaining to his gross receipts and unless or until such person shall have fully complied with the other sections of this article.

(2) Any person who shall refuse to permit the town to examine and audit his records, books and papers pertaining to the gross receipts of such person shall be guilty of a violation of this article.

(Code 1977, §§ 10-27, 10-28; Ord. of 8-5-1996, § 10-27)

Sec. 18-56. Penalty for late payment and/or late application.

A penalty of ten percent of the license tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. For an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud or reckless or intentional disregard of the law by the taxpayer, there shall be no late penalty assessed with the additional tax. If any assessment of the tax by the assessing official is not paid within 30 days, the treasurer or other collecting official may impose a ten-percent late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed or, if imposed, shall be abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control. (Code 1977, § 10-29; Ord. of 8-5-1996)

Sec. 18-57. Appeals and rulings.

(a) Any person assessed with a local license tax as a result of an audit may apply within 90 days from the date of such assessment to the assessor for a correction of the assessment. The application must be filed in good faith and shall sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer, if requested by the taxpayer, or require submission of additional information and documents, a further audit, or other evidence deemed necessary for a proper equitable determination of the application. The assessment shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and shall issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to

seek correction and the specific procedure to be followed in the jurisdiction (e.g., the name and address to which an application should be directed).

(b) Provided a timely and complete application is made, collection activity shall be suspended until a final determination is issued by the assessor, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of Code of Virginia, § 58.1-3703.1(A)(2)e, but no further penalty shall be imposed while collection action is suspended. The term 'Jeopardized by delay" includes a finding that the application is frivolous or that a taxpayer desires to (i) depart quickly from the locality, (ii) remove his property there from, (iii) conceal himself or his property therein, or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(c) Any person assessed with a local license tax as a result of an audit may apply within 90 days of the determination by the assessing official on an application pursuant to subsection (a) of this section to the tax commissioner for a correction of such assessment. The tax commissioner shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The application shall be treated as an application pursuant to Code of Virginia, § 58.1-1821, and the tax commissioner may issue an order correcting such assessment pursuant to Code of Virginia, § 58.1-1822. Following such an order, either the taxpayer or the assessing official may apply to the appropriate circuit court pursuant to Code of Virginia, § 58-1-3984. However, the burden shall be on the party making the application to show that the ruling of the tax commissioner is erroneous. Neither the tax commissioner nor the state department of taxation shall be made a party to an application to correct an assessment merely because the tax commissioner has ruled on it.

(d) On receipt of a notice of intent to file an appeal to the tax commissioner under subsection (c) of this section, the assessing official shall further suspend collection activity until a final determination is issued by the tax commissioner, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of Code of Virginia, § 58.1-3703.1(A)(2)e, but no further penalty shall be imposed while collection action is suspended. The term 'jeopardized by delay" shall have the same meaning as set forth in subsection (b) of this section.

(e) Any taxpayer may request a written ruling regarding the application of a local license tax to a specific situation from the assessor. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or the guidelines issued by the state department of taxation upon which the ruling was based on; or (ii) the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling, which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

(Code 1977, § 10-29.1; Ord. of 8-5-1996)

Sec. 18-58. Exemptions.

Notwithstanding any of the sections of this division, the license tax applications may be declared exempt as to any business or individual by order of the town council, for good cause shown.
(Code 1977, § 10-55; Ord. of 8-5-1996)

Secs. 18-59—18-85. Reserved.

DIVISION 2. SPECIFIC BUSINESSES AND OCCUPATIONS

Sec. 18-86. Subcontracts.

It shall be the duty of every contractor who subcontracts any portion of the work contracted for to notify the town manager of such subcontract, giving the amount so subcontracted, the names and addresses of all persons, firms or corporations to whom any portion of the work is subcontracted, and for failure to do so shall be guilty of a class 4 misdemeanor.
(Code 1977, § 10-3)

Sec. 18-87. Bail bonds.

For every license for persons furnishing bail bonds for cash or by any other method and making a charge for such services there shall be paid a license tax of $500.00 per year, which shall not be prorated or transferred.
(Code 1977, § 10-31)

State law references—Bondsmen's certificate, Code of Virginia, § 19.2-152.1; local licensing of bondsmen, Code of Virginia, § 58.1-3724.

Sec. 18-88. Billposters.

For every billposter license, there shall be license tax of $500.00 per annum. All persons who post or distribute notices, bills, labels, etc., for compensation shall be construed as billposters; provided, however, that persons advertising goods to be sold and delivered by merchants doing business in the town shall not be considered billposters.
(Code 1977, § 10-33)

Sec. 18-89. Savings institutions; credit unions.

The specific license tax on every savings institution or state-chartered credit union for the privilege of doing business in the town shall be $50.00. The license tax shall be levied only when the main office of the savings institution or credit union is located in the town.
(Code 1977, § 10-34)

Sec. 18-90. Bus and freight terminals.

(a) The license tax for the privilege of maintaining and operating a bus terminal in the town for the purpose of receiving or discharging passengers or freight shall be $85.00, not proratable.

(b) The license tax for the privilege of maintaining and operating a motor freight terminal in the town for the purpose of receiving or discharging freight shall be $85.00, not proratable. (Code 1977, § 10-35)

Sec. 18-91. Carnivals, circuses.

(a) For the purposes of this section, the definition of a carnival shall include any type of show or exhibition mentioned and described in Code of Virginia, § 58.1-3728.

(b) For every license to operate a carnival or circus or other similar organization, there shall be paid a license tax of $500.00 for each day an exhibition is given in the town;

(c) No carnival or circus which is produced or operated or owned primarily by amateurs who are town residents and the gross income of which inures exclusively to the benefit of a school, church or fire department or of any locally sponsored nonprofit organization operated for charitable and benevolent purposes shall be subject to any license tax.

(d) A circus or carnival, which is sponsored by a local nonprofit organization, operated for charitable and benevolent purposes shall not be subject to a license tax.
(Code 1977, § 10-37)

Sec. 18-92. Itinerant vendors.

(a) The term "itinerant vendors," as used in this section, shall be construed to mean and include all persons, whether as principal, agent or salesman, who engage in temporary or transient business in this town in one or more places and who, for the purpose of carrying on such business, hire, lease or occupy any building or structure for the exhibition or sale of such fruits, goods or merchandise for a period of less than one year.

(b) A license tax of $500.00 per annum shall be assessed on all persons bringing to and exhibiting for sale to consumers at retail in the town, in temporary places or fixed places of sale, fruits and goods or merchandise as bankrupt, consigned trustee, railroad wreck, fire, slaughter stock, leftover exposition stock sale or sale of like character and on all itinerant vendors doing business in the town.
(Code 1977, § 10-39)

Sec. 18-93. Pawnbrokers.

(a) *License fee.* On every license to a pawnbroker, the license tax shall be $100.00, not proratable, plus gross receipts.

(b) *Scope of license.* Such license shall not authorize the holder thereof to sell any goods or things, except unredeemed pledges at a statutory action sale thereof. A pawnbroker desiring to purchase and sell, at retail, shall secure and pay for, in addition to the pawnbroker's license, a retail merchant's license as provided for in his article.

(c) *Records required.* Pawnbrokers doing business in the town shall, in addition to the duties required of them under state law, keep a book and file a copy of the book daily with the town sergeant at his office, in which book shall be plainly written the following information:

(1) A complete and accurate description of the goods, articles or things purchased, including the number of items;

(2) The time and date of receiving the goods, articles or things;

(3) The amount of money paid for the goods, articles or things; and

(4) The name and complete and accurate address of the person selling the goods, articles or things, which information shall be taken from a valid driver's license or special identification card issued by the state department of motor vehicles, together with a particular physical description of such person.

(d) *Availability of records.* The register required to be maintained by this section shall be open to inspection by any federal, state or local law enforcement officer during business hours.

(e) *Search by law enforcement officers.* Every pawnbroker and every person in the employ of a pawnbroker shall admit to his premises during business hours any federal, state or local law enforcement officer to examine any item purchased and to search for and to take into possession any article known by him to be missing or known or believed by him to have been stolen. However, the officer shall not take possession of any article without providing to the pawnbroker a receipt.
(Code 1977, § 10-40)

State law reference—Pawnbrokers, Code of Virginia, §§ 15.2-1114, 54.1-4000 et seq.

Sec. 18-94. Peddlers.

(a) *Generally.* Any person who shall carry from place to place any goods, wares or merchandise and offer to sell or barter the goods, wares or merchandise or who actually sells or barters the goods, wares or merchandise shall be deemed to be a peddler. Any delivery made on the day of the sale shall be construed as equivalent to delivery at the time of the sale. Any person claiming exemption from this section on the grounds that he is delivering goods, wares or merchandise previously sold to the customer shall, upon request of any police, tax or revenue officer, furnish evidence of his claim, other than his mere statement, voiced or signed order describing the goods, wares or merchandise involved and the amount and price thereof. Failure to furnish such evidence shall be sufficient grounds for charging the person operating the vehicle with a violation of this section. In any prosecution for a violation of this section, the claim must be corroborated by satisfactory evidence. The license tax for peddlers shall be as follows:

(1) *Wholesale peddlers.* By virtue of the authority conferred in Code of Virginia, § 58.1- 3718, there shall be a license tax of $100.00 for each truck or vehicle used by any peddler who may sell and deliver at the same time to licensed dealers and retailers, except a farmer, a dealer in forest products, a producer or a manufacturer taxable on capital by this state. This license tax shall not apply to persons properly licensed and doing business in the town.

(2) *Retail peddlers.* The license tax for retail peddlers shall be as follows:

a. Peddlers of goods, wares or merchandise, on foot, $225.00.

b. Peddlers of goods, wares or merchandise, other than on foot, $500.00.

c. Peddlers of meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature, not grown or produced by the peddler, for each vehicle, $75.00.

(b) *Exemptions generally.* No peddler's license shall be required of a dealer in ice, wood or charcoal, who peddles the ice, wood or charcoal from a vehicle, provided such dealer has taken out a merchant's licenses.

(c) *Farm or family supplies of perishable nature.* Nothing contained in this section shall be construed as imposing any license tax upon a person selling farm or family supplies of a perishable nature within the town when the products to be sold are grown or produced by such person, but proof shall be shown that such products are so raised by the party offering them for sale. Before any license shall be issued to any person to be a grower, producer or manufacturer, the licensee shall first file with the town manager a written statement duly sworn to and attested to by a notary public or magistrate of his community, setting out in full and in detail the facts claimed to make the applicant a grower, producer or manufacturer. No license shall be issued by the town manager until such certificate, duly sworn, shall first be produced and filed. The name, address and occupation of the applicant and the witness who executed the certificate shall be given in full.

(d) *Time limits and locations of sales.* No licensee under this section shall park his truck, wagon, cart or vehicle within the business district or at any location upon any street or public place in the town for a longer period than 15 minutes or within 100 feet of any store, shop or stand from which similar merchandise is sold or in any block for a longer period than one hour in any day to sell and deliver any article which he might offer for sale from house to house, except in such defined areas as may be specifically set aside by the town council for sale of such merchandise.

(e) *Enforcement.* It shall be the duty of the police officers and other town officers to fully enforce this section and to have warrants issued against any person violating this section. (Code 1977, § 10-41)

Cross reference—Streets, sidewalks and other public places, ch. 50.

Sec. 18-95. Special event vendors, carnivals, and circuses.

(a) Notwithstanding the provisions of Sec. 18-91 and Sec. 18-92 and the license requirements enumerated therein, any person, firm, or corporation engaged as an itinerant vendor or operating a carnival or circus at a special event conducted or sponsored by a local "charitable nonprofit organization" or a local nonprofit organization, as herein defined, or the Chincoteague Recreation and Convention Center Authority shall be exempted from such license tax, unless such person, firm, or corporation is otherwise required to be licensed in accordance with Chapter 18.

(b) A "Special Event" for purposes of this section shall be an event which is conducted for a limited number of days not exceeding fourteen (14) in any calendar year.

(c) A local "charitable nonprofit organization" for purposes of this section shall mean an organization which is described in Internal Revenue Code §501(c)(3) and to which contributions are deductible by the contributor under Internal Revenue Code §170, except that educational institutions shall be limited to schools, colleges, and other similar institutions of learning, and a majority of such organization's receipts are utilized, directly or indirectly, within the Town of Chincoteague.

(d) A local nonprofit organization means an organization exempt from Federal Income Tax under Internal Revenue Code §501 other than a charitable nonprofit organization, and the majority of such organization's receipts are utilized, directly or indirectly within the Town of Chincoteague.
(Adopted 02-07-05, Amended 03-06-06)

Secs. 18-96-18-120. Reserved.

DIVISION 3. BUSINESSES AND PROFESSIONS MEASURED BY GROSS RECEIPTS

Sec. 18-121. Minimum license tax.

The minimum license tax on all businesses and professions measured by gross receipts or gross purchases in the case of wholesale merchants shall be $50.00, which amount shall be absorbed into the total tax when such tax exceeds $50.00 at the applicable rate.
(Code 1977, § 10-42) ***(Amended 6/17/10) (Effective 7/1/10)***

Sec. 18-122. Maximum license tax.

The maximum license tax on all businesses and professions measured by gross receipts or gross purchases in the case of wholesale merchants as detailed in this division shall be $500.00 per licensing year unless otherwise provided.
(Code 1977, § 10-51-1)

Sec. 18-123. Amusements.

Every person conducting, operating or engaging in any of the following amusement businesses, trades or occupations shall pay an annual license tax of $0.13 for each $100.00 of gross receipts in such business, trade or occupation for the preceding calendar year:

Arcade or building devoted to general amusement or entertaining.

Auditorium, to a maximum annual tax of $1,000.00, in excess of 10,000 seats.

Billiard and poolrooms.

Bowling alley.

Coliseum, to a maximum annual tax of $1,000.00 in excess of 10,000 seats.

Dance hall.

Garden, display or amusement.

Golf driving range.

Miniature golf.

Movie theater.

Park athletic field, operated for profit.

Riding academy.

Shooting gallery.

Swimming pool open to the public.

Other amusements and entertainments.

(Code 1977, § 10-43)

Sec. 18-124. Business service occupations.

Every person conducting, operating or engaging in any part of the following service businesses, trades or occupations shall pay an annual license tax of $0.13 for each $100.00 of gross receipts in such business, trade or occupation for the preceding calendar year:

Airport.

Canvassers, solicitors and vendors.

Erecting, installing, removing or storing awnings.

Hauling or transfer.

Impounding lot.

Job printing, printing shop, bookbinding, duplicating processes.

Leasing films for compensation.

Packing, crating, shipping, hauling or moving goods or chattels for others.

Parking lot.

Public garage.

Radio station.

Renting airplanes.

Renting bicycles.

Storage, all types.

Taxicab.

Theater.

Title plant or abstracting, other than licensed attorney.

U-drive-it firm or business.

Vehicular advertising, electric advertising, bus advertising, other advertising.

Other business service occupations.
(Code 1977, § 10-44)

Sec. 18-125. Contractors and contracting.

Subject to the limitation of Code of Virginia, § 58.1-3715, every person conducting, operating or engaging in any of the following contractor or contracting businesses, trades or occupations shall pay an annual license tax of $0.13 for each $100.00 of gross receipts in such business, trade or occupation for the preceding calendar year:

Air conditioning.

Brick contracting, stone and other masonry.

Building.

Cement.

Dredging, sand and gravel.

Electrical.

Exterminating rats, vermin, termites, etc.

Floor scraping or finishing.

Foundations.

Fumigating or disinfecting.

Interior decorating.

Paint, paper decorating.

Plastering.

Plumbing, heating, steam fitting, gas fitting.

Road, street, bridge, sidewalk, curb and gutter.

Sewer drilling and well digging.

Structural metal.

Tile, glass, flooring, floor covering.

Wrecking, moving, excavating.

Other contractors and contracting.

(Code 1977, § 10-45)

Sec. 18-126. Loan companies.

Every person, except the savings institutions and credit unions subject to section 18-89 and national banks, who shall lend money shall pay a license tax of $0.13 per $100.00 on gross receipts.
(Code 1977, § 10-46)

Sec. 18-127. Personal service occupations.

Every person conducting, operating or engaging in any of the following personal service businesses, trades or occupations shall pay an annual license tax of $0.13 for each $100.00 of gross receipts in such business, trade or occupation for the preceding calendar year:

Addressing letters or envelopes.

Barbershop.

Beauty parlor.

Bottle exchange.

Chartered club.

Cleaning chimneys, furnaces.

Correspondent establishment or bureau.

Dental laboratory.

Embalmer, undertaker.

Furnishing ambulance service, except by the volunteer fire company.

Furnishing clean diapers.

Furnishing house cleaning service.

Furnishing messenger service, except telegraph or telephone messenger service.

Furnishing statistical service.

Hairdressing establishment.

Hotel, motel, motor lodge, auto court, tourist court, travel trailer park, lodging house, rooming house, boardinghouse.

Laundering, cleaning, pressing or dyeing establishment.

Nurses' registry.

Operating a kennel or small animal hospital.

Operating a scalp-treating establishment.

Photographer.

Physicians' registry.

Picture framing or gilding.

Private school, other than religious and nonprofit.

Renting any kind of tangible personal property.

Renting or furnishing automatic washing machines.

Supplying clean linens, coats, aprons, towels, uniforms.

Other personal service occupations.
(Code 1977, § 10-47)

Sec. 18-128. Professional occupations.

Every person conducting or engaging in any of the following professional occupations shall pay an annual license tax of $0.13 for each $100.00 of gross receipts in the occupation for the preceding calendar year:

Accountant, public.

Advertising agent or firm.

Air conditioning engineer.

Appraiser or evaluator of real estate for others for compensation.

Architect, landscaper.

Artist.

Assayer.

Attorney at law.

Auctioneer, all types.

Auditing company or firm.

Broker, any type other than pawnbroker.

Blueprinter.

Bookkeeper, public.

Chemical engineer.

Chemist.

Chiropractor.

Civil engineer.

Collection agent or agency.

Consulting engineer.

Contracting engineer.

Dentist.

Detective.

Doctor of medicine.

Electrical engineer.

Furnishing of domestic help or clerical help, labor or employment.

Homeopath.

Industrial engineer.

Land agent, rental agent.

Lumber measurer.

Mechanical engineer.

Mercantile agent or agency.

Metallurgist.

Mining engineer.

Naturopath.

Neurologist.

Ophthalmologist.

Optometrist or optician.

Orthodontist.

Osteopath.

Patent attorney or patent agent.

Physician.

Physiotherapist.

Public relations counselor.

Public stenographer.

Publicity service, booking agent, concert manager.

Radio engineer.

Recorder of proceedings in any court, commission or other organization.

Refrigerator engineer.

Sales agent or agency.

Sculptor.

Surgeon.

Surveyor.

Veterinarian.

Other professional occupations.

(Code 1977, § 10-48)

Sec. 18-129. Repair service occupations.

Every person conducting, operating or engaging in any of the following repair service businesses, trades or occupations shall pay an annual license tax of $0.13 for each $100.00 of gross receipts in such business, trade or occupation for the preceding calendar year:

Auto repair, engine repair of all types.

Bicycle repair.

Business and office machines repair.

Clothes, hat, carpet or rug repair.

Furniture and upholstering repair.

Gunsmith, gun repair.

Machine shop, boiler shop.

Mattress repair.

Nickel and chrome plating.

Paint shop, other than contractor.

Piano tuning.

Radio, refrigerator, electrical appliance, home appliance repair.

Reweaving.

Road machinery and farm machinery repair.

Saw and tool repair.

Scales, repair of.

Shades, repair of.

Shoe repair.

Television repair.

Tire repair.

Toy repair.

Umbrella, harness, leather goods repair.

Washing or cleaning of automobiles.

Watch and clock repair.

Welding shop.

Other repair services not otherwise taxed.
(Code 1977, § 10-49)

Sec. 18-130. Retail merchants.

BUSINESSES

Every person conducting, operating or engaging in any of the following retail businesses, trades or occupations shall pay an annual license tax of$0.13 for each $100.00 of gross receipts in such business, trade or occupation for the preceding calendar year:

Aircraft or aircraft parts.

Antiques.

Auto accessories, tires or batteries.

Bakery, caterer.

Bicycles.

Boats, motors.

Books, stationery.

Building materials.

Candy, nut stores.

Cigar, tobacco stand, newsstand.

Clothing not specified elsewhere.

Coin-operated vending machines.

Commission merchant.

Confectionery.

Custom tailor.

Dairy products.

Delicatessen.

Dentures.

Department store.

Draperies, curtains, upholstery.

Drugs.

Dry goods store.

Eggs, poultry.

Family clothing.

Farm equipment.

Filling station.

Fish, seafood market.

Floor covering.

Florist.

Fruit store, vegetable market.

Fuel, ice.

Furniture.

Furrier.

Garden supplies.

General store.

Gifts, novelties, souvenirs.

Grocery.

Hardware.

Heating, plumbing, electric equipment.

Hog, grain, feed, seed.

Hosiery.

Jewelry.

Livestock dealer.

Luggage.

Lumber goods.

Meat market.

Men's and boys' clothing.

Millinery.

Motorcycles.

Musical instruments.

Office, store, appliance supplies.

Optical.

Paint, glass, wallpaper.

Photographic supply, equipment.

Radio or household appliances.

Ready-mixed concrete.

Restaurants, catering places, nightclubs.

Secondhand stores, other than junk.

Scientific, medical supplies.

Shoes.

Soda fountain.

Sporting goods.

Used cars.

Variety store.

Workers' clothing.

Other retail stores and retail merchants.
(Code 1977, § 10-50)

Sec. 18-131. Wholesale merchants.

Every person conducting or operating any of the following wholesale businesses, trades or occupations shall pay an annual license tax of $0.05 for each $100.00 of his purchases in such business, trade or occupation for the preceding calendar year:

Automotive.

Chemicals.

Clothing, furnishings.

Coal, coke.

Drugs.

Dry goods.

Electrical, plumbing goods.

Farm products or supplies.

Furniture and house furnishings.

Groceries and foods.

Hardware.

Jewelry.

Lumber, paint and construction materials.

Machinery, equipment and supplies.

Metals and metalwork.

Other goods, wares, merchandise.

Paper and paper products.

Seafood.

Soft drinks.

Sporting goods.

Tobacco and tobacco products, except leaf tobacco.

Waste materials.

Other wholesale merchants.
(Code 1977, § 10-51)

Sec. 18-132. Coin-operated machines.

(a) There is imposed an annual license tax of $200.00 on every operator of ten or more coin-operated or coin-in-the-slot-type vending machines and an annual license tax of $175.00 on every operator of fewer than ten such machines. The term "operator" means any person selling, leasing, renting or otherwise furnishing or providing a coin-operated machine or device operated on the coin-in-the-slot principle; provided, however, the term "operator" shall not include a person owning less than three coin machines or operating such machines on property owned or leased by such person.

(b) The coin machine operator's license tax imposed in subsection (a) of this section shall not be applicable to operators of the following:

(1) Weighing machines;

(2) Automatic baggage or parcel checking machines or receptacles;

(3) Vending machines that are so constructed as to do nothing but vend goods, wares and merchandise or postage stamps or provide service only;

(4) Viewing machines or photomat machines; or

(5) Devices or machines affording rides to children or for the delivery of newspapers.

(c) In addition, there is imposed a gross receipts tax on the gross receipts actually received from any coin-operated machines or devices that are operated within the town. Reference is made to the sections in this division for applicable rates.

(d) No license shall be issued to any person for permission to use slot or vending machines for any purpose which is prohibited by law. Any license issued under this section shall stand forthwith revoked upon legal proof that such machines are being used in any illegal manner whatsoever; the order of revocation of the license to be entered by the town council after investigation. No license issued pursuant to this section shall be transferable, except that a transfer of such license shall be legal when the business is sold by a person to another, provided the machines remain at the same place, stall or stand for which the license was originally issued and there is compliance with this article.

(e) Any person providing any such coin machines or other devices and failing to procure a town license shall be subject to a fine of not more than $500.00 for each offense, and the machine or other device shall become forfeited to the town.
(Code 1977, § 10-52)

State law reference—Similar provisions, Code of Virginia, § 58.1-3723.

Secs. 18-133—18-160. Reserved.

DIVISION 4. PUBLIC SERVICE CORPORATIONS AND TELECOMMUNICATIONS

Sec. 18-161. Public service corporation license tax.

(a) Pursuant to Code of Virginia, § 58.1-3731, every person engaged in the business of providing telephone and telegraph communications in the town shall pay for the privilege an annual license tax equal to one-half of one percent of the gross receipts during the preceding calendar year accruing from sales to the ultimate consumer in the town; provided, however, charges for long distance telephone calls shall not be considered receipts of business in the town.

(b) Pursuant to Code of Virginia, § 58.1-3731, every person furnishing heat, light, power and gas for domestic, commercial and industrial consumption in the town shall pay for the privilege an annual license tax equal to one-half of one percent of the gross receipts accruing from sales to the ultimate consumer within the town during the preceding calendar year, excluding such service furnished to other electric utilities for resale.
(Code 1977, § 10-53)

Sec. 18-162. Cable television service.

All persons furnishing cable television service shall pay for the privilege an annual license tax equal to two percent of the gross income.
(Code 1977, § 10-54)

State law reference—Licensing, etc., and regulation of cable television systems, Code of Virginia, § 15.2-2108.

Secs. 18-163—18-190. Reserved.

ARTICLE III. MASSAGE BUSINESSES*

Sec. 18-191. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certified massage therapist means a person at least 18 years old who has:

(1) Successfully completed a minimum of 500 hours of training from a massage therapy program, having received programmatic approval from the state board of education, division of proprietary schools, or certified or approved by the state board of education, division of proprietary schools; the state council of higher education; or an agency in another state, the District of Columbia or a United States territory which approves educational programs, notwithstanding the provisions of Code of Virginia, § 22.1-320;

(2) Passed the National Certification Exam for Therapeutic Massage and Bodywork or an exam deemed acceptable to the board of nursing leading to national certification; and

(3) Not committed any acts or omissions that would be grounds for disciplinary action or denial of certification as set forth in Code of Virginia, § 54.1-3000 et seq.

Massage means a method of treating the external parts of the body for remedial or hygienic purposes, consisting of rubbing, kneading or tapping with the hand or any instrument.

Massage parlor means an establishment having a fixed place of business where any person

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***State law reference—**Licensing of massage parlors, Code of Virginia, § 58.1-3706(A).

engages in, conducts or carries on or permits to be engaged in, conducted or carried on any business of giving Turkish, vapor, sweat, electric, salt, magnetic or any other kind or character of massage, bath, alcohol rub, fomentation, manipulation of the body or similar procedures. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a duly licensed physician, surgeon, physical therapist, chiropractor, osteopath or a certified massage therapist.

Masseur or *masseuse* means a person who practices any one or more of the arts of body massage, whether by hand or mechanical apparatus, oil rubs, corrective gymnastics, mechanotherapy, including color therapy, dietetics, hot packs, cabinet, tub, shower, sitz, vapor, steam or any other special type of bath.
(Code 1977, § 13-6-1)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 54.1-3029.

Sec. 18-192. Legislative authority; purpose.

This article is enacted pursuant to the provisions of chapter 2, section 1(48) and (49) of the Charter for the purpose of securing and promoting the health, safety and general welfare of the people of the town.
(Code 1977, § 13-6-2; Ord. of 8-5-91)

Sec. 18-193. Policy.

It is declared that the business of operating a massage parlor, as defined in this article, is a business affecting the public health, safety and general welfare.
(Code 1977, § 13-6-3)

Sec. 18-194. Compliance.

It shall be unlawful for any person to engage in the business of a massage parlor without a permit or to be in violation of any requirements or prohibitions set forth in this article or in applicable sections of chapter 38 or any regulation issued pursuant thereto.

Hospitals, nursing homes, medical clinics, or the offices of a duly licensed physician, surgeon, physical therapist, chiropractor, osteopath or a certified massage therapist are exempt from this section.
(Code 1977, § 13-6-4; Ord. of 5-17-2001)

Sec. 18-195. Permits.

(a) Except as otherwise provided in section 18-191, it shall be unlawful for any person to:

(1) Own or manage a massage parlor or give a massage for compensation within the town or offer to give a massage for compensation within the town or offer to give a massage for compensation elsewhere if such offer is made within the town or for any masseur or masseuse to give or offer a massage for compensation without a valid nonsuspended permit issued pursuant to this section. The permit must be conspicuously posted in the massage parlor, so that the permit may be readily seen by persons entering the premises in the public room.

(2) Establish, maintain or operate a massage parlor in which he or a masseur or masseuse who does not have a valid nonsuspended permit issued pursuant to this section performs or offers to perform or where it is offered to perform massages, for compensation, in the town.

(b) Any person desiring a permit under this section shall make application of the chief of police on forms provided by him. Each permit application shall be accompanied by an application fee of $50.00 payable to the town treasurer. Each application shall contain the name, address, social security number, height, weight and current and last previous employment of the applicant. In addition, such application shall include a sworn statement as to whether or not the applicant has been, within the last five years, convicted, pleaded nolo contendere or suffered a forfeiture on any felony charge or on a charge of violating any provision included in Code of Virginia, §§ 18.2-344—18.2-371 and 18.2-372—18.2-387, which laws relate to sexual offenses, or on a charge of violating a similar law of any other jurisdiction or on a charge of violating any section of this article or a similar ordinance in any other jurisdiction. The application shall state thereon, "It is unlawful for any person to make a false statement on this application, and discovery of a false statement shall constitute grounds for denial of an application or revocation of a permit." Each applicant shall be photographed and shall have his fingerprints taken, which fingerprints and photograph shall constitute part of the application. The permit shall be valid for a period of one year, and it may be renewed for additional one-year periods upon the filing of a new application and payment of the application fee of $50.00. All sections of this article shall apply to renewals in the same manner as they apply to applications for and granting of initial permits.

(c) Upon receipt of the application fee as provided for in subsection (b) of this section, the chief of police shall make or cause to be made a thorough investigation relative to the application. The chief shall deny or revoke any application for a permit under this section after notice and hearing if the chief finds that the applicant has been, during the previous five years, convicted, pleaded nolo contendere or suffered a forfeiture on any felony charge or on a charge of violating any provision included in Code of Virginia, §§ 18.2-344—18.2-371

and 18.2-372—18.2-387, which laws relate to sexual offenses, or on a charge of violating any similar law of any other jurisdiction or on a charge of violating any provision of this section or similar ordinance in any other jurisdiction. The making of a false statement on the application as provided for in this section shall also be grounds for denial of this permit. Notice of the hearing before the chief of police for denial of this application shall be given in writing, setting forth the grounds of the proposed denial of permit and the time and place of the hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five days prior to the date set for the hearing. The chief of police shall submit his decision to the applicant within five days of his decision or within 30 days of his receipt of the application, whichever is the sooner.

(d) It shall be unlawful for any person to purport to hold a valid permit when he does not or to fail to display, upon request by any police officer, corroborating identifying evidence that he is, in fact, the person displaying the permit or to fail to display the permit upon request by a police officer. It shall likewise be an automatic cause for revocation of the permit of any owner or manager of a massage parlor if he has two or more violations of this section in his establishment within a 12-month period.

(e) A person applying for a permit under this section shall include a partnership or association and any partner or member thereof, or, if the applicant is a corporation, it shall include any officer, director or manager thereof or shareholder owning ten percent or more of its stock and shall likewise include members of both sexes.

(f) If the chief of police should deny or revoke any permit under this section, the applicant shall have an automatic right to appeal such denial or revocation to the town manager. The town manager shall hold a hearing, with the same procedural guidelines as set out in this section for the chief of police, within 30 days of the date of the denial or revocation. The town manager shall render his decision after a review of the findings of the chief of police and any other evidence submitted to him. The town manager shall submit his decision to the applicant or permit holder within five days of his decision or within 30 days of the hearing, whichever is sooner.
(Code 1977, § 13-6-5; Ord. of 8-6-1991 (c-d))

Sec. 18-196. Training requirements for masseur or masseuse.

(a) No person shall give or offer or hold oneself out to offer a massage as a masseur or masseuse within the meaning of this article or employ or engage as an independent contractor any masseur or masseuse who gives or offers or holds oneself out to offer a massage unless such person shall have satisfactorily completed a course of study in body massage in an approved school of instruction or training within the following criteria and guidelines:

(1) The courses shall pertain to anatomy, physiology, hygiene, first aid, exercise therapy, massage techniques and related aspects of the art and science.

(2) A course of study in body massage shall constitute 1,000 hours of study in connection with an approved school, as follows:

a. Five hundred hours shall be accredited instructional hours pertaining to the following:

1. Classroom or clinical training in therapeutic massage and reflexology techniques.

2. Classroom or clinical instruction on contraindications for massage.

3. Classroom or clinical or laboratory instruction to develop a knowledge of the anatomy and physiology of the systems of the body with emphasis on the muscular and skeletal systems.

b. The additional 500 hours may be accomplished simultaneously with the academic, clinical or classroom or laboratory training by virtue of what is commonly known as on-the-job training or they can be certified to by an employer of a masseur or masseuse by sworn affidavit as having been accomplished during or before the effective date of the ordinance from which this article derives. Such training shall pertain to understanding the benefits of massage and assisting the students in developing an awareness of massage as a therapeutic process.

(b) Approved schools shall include the following:

(1) Any school or educational institution licensed to do business as a school or educational institution in the state in which it is located and providing requisite training provided for in this section shall constitute an approved school.

(2) Any school recognized by or approved by or affiliated with the American Massage and Therapy Association, Inc. shall constitute an approved school.

(c) Compliance with this section shall first be determined by the chief of police, with the same rights of appeal to and the holding of a hearing by the town manager as elsewhere granted in this article.

(d) Employment shall be established by sworn affidavit from the employer, after which time such person must be actively engaged, enrolled or participating in a course of study designed to fulfill the requirements of this section and which is certified to by an official of the approved school. The burden of establishing such active engagement, enrollment or participation shall be upon the person seeking a permit.

(e) In no event shall any person within the purview of this article act as provided in this section without satisfying the training requirement set forth within the Town.
(Code 1977, § 13-6-6)

Sec. 18-197. Standards for equipment and facilities.

(a) All tables, tubs, shower stalls and floors of a massage parlor, except reception and administrative areas, shall be made of nonporous materials which may be readily disinfected.

(b) Closed containers shall be provided for wet towels and waste material.
(Code 1977, § 13-6-7)

Sec. 18-198. Building structure and layout.

(a) No massage parlor shall begin operations until the building occupied or to be occupied shall have been approved by the town manager, who shall establish procedures for investigation and report by the administrative officers of the building, plumbing, electrical and fire prevention codes.

(b) An applicant for a permit to operate a massage parlor shall submit to the town manager plans and specifications of the quarters proposed to be occupied. Such plans shall show details of entrances, partitions, windows, openings, ventilation, plumbing fixtures, water supply and vent connections.

(c) Each massage parlor shall be equipped with readily available toilet and lavatory facilities for patrons and separate readily available toilet and lavatory facilities for personnel. Each operating area shall be equipped with a hand lavatory.

(d) Either the massage parlor quarters or the floor of the building on which the quarters are located shall be equipped with a service sink for custodial services.
(Code 1977, § 13-6-8)

Sec. 18-199. Sanitation and hygiene.

(a) All equipment, shower stalls, toilets, lavatories and any other such accoutrements of the massage establishment shall be regularly treated with disinfectants and shall be maintained in a clean and sanitary condition at all times.

(b) Health, plumbing, electrical and other inspectors shall be given access to any part of the quarters of a massage parlor for purposes of inspection at all reasonable times.

(c) No person shall practice any of the services of a massage parlor without a certificate of good health issued by a duly licensed physician, commensurate with the type of the services rendered. Such certificate shall be renewed every six months.

(d) No massage parlor shall knowingly serve any patron infected with any fungus or other skin infection, nor shall services be performed on any patron exhibiting skin inflammation or eruptions, provided that a duly licensed physician may certify that a person may be safely served, prescribing the conditions thereof.

(e) All personnel shall wash their hands in hot running water, using a proper soap or disinfectant, before giving any service or treatment to each separate patron.

(f) All towels and tissues and all sheets or other coverings shall be used singularly for each patron and discarded for laundering or disposal immediately after use.

(g) Nondisposable tools of the trade shall be disinfected after use upon one patron.
(Code 1977, § 13-6-9)

Sec. 18-200. Sleeping quarters.

No part of any quarters of any massage parlor shall be used for or connected with any bedroom or sleeping quarters, nor shall any person sleep in such massage parlor, unless it shall be for limited periods incidental to and directly related to a massage or bath. This section shall not preclude the location of a massage parlor in separate quarters of a building housing a hotel or other separate businesses or clubs.
(Code 1977, § 13-6-10)

Sec. 18-201. Massages or baths administered by person of opposite sex.

It shall be unlawful for any establishment, regardless of whether it is a public or private facility, to operate as a massage parlor, bath parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex. Any person violating this section shall, upon conviction, be punished as provided in this Code. In addition to such penalty, it shall be the duty of the town manager to revoke the license of the owner or manager of the establishment, wherein the provisions of this section shall have been violated.
(Code 1977, § 13-6-11)

Sec. 18-202. Prohibited acts.

(a) No owner or manager of a massage parlor shall tolerate in his establishment any activity or behavior prohibited by the laws of the commonwealth, particularly, but not exclusive of, Code of Virginia, § 18.2-344 et seq. proscribing prostitution, crimes against nature, a bawdy place, adultery, fornication and any lewd and lascivious cohabitation, etc., and Code of Virginia, § 18.2-372 et seq., being the state statutes on obscenity, dealing with shameful or morbid interest in nudity or sex, which appeals to the prurient interest in sex, and which covers obscene items, exhibitions, performances, indecent exposure, illicit photographs or photographic activity and illicit modeling; nor shall any owner or manager tolerate in the establishment any activity or behavior which violates this Code, particularly, but not exclusive of, those sections which parallel the state statutes on immorality and obscenity detailed in this subsection.

(b) Any conviction of any employee of a massage parlor of a violation of the statutes and codes mentioned in subsection (a) of this section shall devolve upon the owner or manager of such establishment, it being specifically declared that, following such a conviction of an employee, the owner or manager of the club shall be prosecuted as an accessory to such violation.
(Code 1977, § 13-6-12; Ord. of 11-3-1997)

Chapters 19—21

RESERVED

Chapter 22

ENVIRONMENT*

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State law references—Erosion and sediment control, Code of Virginia, § 10.1-560 et seq.; stormwater management, Code of Virginia, § 10.1-603.3; local air pollution ordinances, Code of Virginia, § 10.1-1321; abatement or removal of nuisances, Code of Virginia, §§ 15.2-900, 15.2-1115.

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ARTICLE I. IN GENERAL

Secs. 22-1—22-25. Reserved.

ARTICLE II. NOISE

Sec. 22-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ANSI means the American Standards Institute or its successor bodies.

Daytime hours means 7:00 a.m. to 12:00 a.m. midnight, local time.

dB(A) is the abbreviation for the sound level in decibels determined by the A-weighting network of a sound-level meter or by calculation from octave band or one-third octave band data.

Decibel (dB) means a unit of measure, on a logarithmic scale, or the ratio of a particular sound pressure squared to a standard reference pressure squared. For the purpose of this article, 20 micropascals shall be the standard reference pressure.

Nighttime hours means 12:00 a.m. midnight of one day through 7:00 a.m.

Noise means the intensity, frequency, duration and character of sound, including sound and vibration of subaudible frequencies.

Person, firm or entity means any individual, group of individuals, lessee, lessor, guest, licensee, firm, partnership, voluntary association or private or public corporation, specifically including any person in charge of or supervising any property owned or possessed by any such person, firm or entity.

Sound level means, in decibels, the weighted sound-pressure level measured by the use of a sound-level meter satisfying the requirements of ANSI SI.4, 1971, Specifications for Sound-Level Meters. The terms "sound level" and "noise level" are synonymous.

Sound-level meter means an instrument meeting ANSI SI.4, 1971, Specifications for Sound-Level Meters, comprising a microphone, an amplifier, an output meter and frequency weighting networks, that is used for the measurement of sound-pressure levels in a specified manner.

Source means any person or property, real or personal, contributing to noise.
(Code of 1977, § 12-10; Ord. of 6-21-2001)

Cross reference—Definitions generally, § 1-2.

Sec. 22-27. Authority.

This article is adopted pursuant to the authority contained in the Charter, chapter 2, section 1(48), (49) and (5), and Code of Virginia, § 15.2-1102.
(Code 1977, § 12-22; Ord. of 5-15-1999)

Sec. 22-28. Exemptions for nonprofit organizations.

This article shall not apply to any function or activity and the noise emanating therefrom conducted by any nonprofit organization which secures a permit from the town manager, who may issue such a permit if, in his reasonable discretion, the public health and safety will not be impaired by the function or activity.
(Ord. of 5-15-1999, § 12-14)

Sec. 22-29. Exemptions for governmental functions.

This article shall not apply to the use of any machines or the noise emanating from the use thereof when operated or utilized by the town while performing municipal functions, such activities and noises being expressly exempted from this article.
(Ord. of 5-15-1999(1), § 12-15)

Sec. 22-30. Measurement of noises.

(a) Wherever in this article any noise level is prohibited by or is to be determined by decibel level, the measurement of such emanating sound shall be conducted at the nearest corner of the main structure on the real estate owned, possessed, or being lawfully used by any affected party who makes complaint thereof. Such measurement shall be conducted at a height of at least three feet above ground and at least three feet from any reflecting surface. Any such prohibited decibel level will be exceeded when the sound level meter set for FAST response, using the A-weighting network, exceeds the specified level
(Amended 02/19/04)

(b) Measurement equipment shall be sound-level meters complying with ANSI SI.4, 1983, American National Standard Specifications for Sound-Level Meters, ANSI SI.4a-1985, and amendment to ANSI SI.4, or IEC 651-1979, "Sound Level Meters", of at least type 2 quality and sensitivity, comprising a microphone, amplifier, output meter and frequency weighting network. The meter operation shall be as prescribed by the equipment manufacturer, from time to time.
(Amended 02/19/04)

(c) Measurement equipment operators shall be officers of the police department who have been trained in the proper use of the sound-level meter by the equipment manufacturer. Representatives of the manufacturer may also train those department officers who are certified instructors, as designated by the Commonwealth Department of Criminal Justice Services, who may then train other officers within the department.
(Ord. of 5-15-1999(1), § 12-16)

Sec. 22-31. Cease and desist.

No prosecution shall be initiated under this article unless and until there has been a complaint by any affected person, firm or entity, excepting noises emanating from publicly used and/or owned property and as described in Sec. 22-35(3)(b) and (4), and such violating person, firm or entity has been advised of the violation of this article and such person, firm or entity has failed to cease and desist such unlawful noise. For the purposes of this section, any such warning to any such violating person, firm or entity shall be continuous and sufficient for the 30-day period then following as to the same noise or the same type or similar or like noise, and no further warning shall be required during such period.
(Ord. of 5-15-1999(1), § 12-17) ***(Amended 02/19/04)***

Sec. 22-32. Violation and penalties.

Any violation of this article shall constitute a misdemeanor and shall be punishable by confinement in jail for a period not to exceed 12 months and/or a fine of not more than $500.00. (Ord. of 5-15-1999(1), § 12-18)

Sec. 22-33. Injunctive relief.

In addition to any criminal penalty for the violation of this article, the town manager is further authorized on behalf of the town to initiate and seek injunctive relief in the circuit court of the county to prohibit any such unlawful noises as provided for in this article.
(Ord. of 5-15-1999(1), § 12-19)

Sec. 22-34. Unreasonably loud noises prohibited.

(a) It shall be unlawful for any person to make, continue or cause to be made any unreasonably loud noise or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the corporate limits.

(b) It shall be unlawful for any person, firm or entity to knowingly permit the making of any such unreasonably loud noise or any noise which annoys, disturbs, injures or endangers the comfort, health, peace or safety of others upon any premises owned, possessed or under the control of any such person, firm or entity within the corporate limits.
(Ord. of 5-15-1999(1), § 12-11)

Sec. 22-35. Certain prohibited noises enumerated.

The following acts and/or noises are declared to create and/or constitute unreasonably loud noises prohibited by this article, and it is expressly provided that such enumeration shall not be exclusive, and the failure to enumerate a specific act and/or noise shall not be deemed to exclude any such act and/or noise from this article:

(1) Generally, district levels. The making of any noise at a sound/noise level exceeding that level permitted in decibels in the applicable zoning district of the town within the specified period, measured as follows, excepting such noises as are either expressly regulated by other sections of this article or exempted:

District	*Daytime Level (dBA)*	*Nighttime Level (dBA)*
R-1	65	55

R-2	65	55
R-3	65	55

District	*Daytime Level (dBA)*	*Nighttime Level (dBA)*
C-l	70	60
C-2	70	60

(Amended 02-19-04)

(2) *Horns, signaling devices, etc.*

a. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any town street, way, avenue or alley, or other public place, except as a danger warning;

b. The creation by means of any such horn or signaling device of any unreasonably loud or harsh sound;

c. The sounding of any such horn or signaling device for an unnecessary or unreasonable length of time;

d. The use of any horn or signaling device operated by engine exhaust; and

e. The use of any horn or signaling device when traffic is for any reason stopped and such horn or signaling device is not being reasonably utilized as a danger warning.

(3) *Radios, phonographs, musical instruments, loudspeakers, etc.*

a. Use of, operation of or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound on private property that is above the permitted decibel level as measured in a zoning district as specified in this section.

b. Use of, operation of or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the producing of sound on the public streets or other public ways in such a manner as is unreasonably loud so as to disturb the peace, quiet and comfort of other persons or at a louder volume than is necessary for the convenient hearing of the individual carrying the instrument, machine or device or those individuals immediately adjacent thereto and who are voluntary listeners thereto.

c. Using, operating or permitting to be played, used or operated any radio, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any location.

(4) *Yelling, shouting, hooting, whistling and singing.* Yelling, shouting, hooting, whistling, or singing on the public streets or public areas or from private property

at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, motel, hotel, residence, business, or in the vicinity of any such noise.

(5) *Operation of boats and other water vessels.* The operation of any boat or other water vessel with an outboard motor or with an inboard motor, unless equipped with an adequately mufl1ed exhaust system. The use of any siren or other noise-producing or noise-amplifying instrument or mechanical device on a boat in such a manner as the peace and good order of the neighborhood is disturbed; provided, however, that nothing in this article shall be construed to prohibit the use of whistles, bells, or horns as signals as required by any state or federal law for the safe navigation of motorboats or vessels.

(6) *Animals, birds, etc.* The maintaining of any animal or bird which, by causing frequent or long noise, shall disturb the comfort or repose of any person in the vicinity.

(7) *Steam whistles.* The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper town authorities.

(8) *Exhausts.* The discharge in the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(9) *Defect in vehicle or equipment.* The operation of any automobile, motorcycle or vehicle so out of repair, so equipped, or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(10) *Loading or off-loading of vehicle or vessel.* The loading or off-loading of any vehicle or vessel creating loud and disturbing noise between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and between 6:00 p.m. and 7:00 a.m. on weekends, with the exception of the loading or off-loading of perishable products, and except when a permit is granted by the town manager, in a bona fide emergency to life or property, and the public health and safety will not be impaired by such work, as reasonably determined by the town manager.

(11) *Schools, courts, churches, hospitals, etc.* The creation of excessive noise on any street adjacent to any school, institution of learning, church, hospital, clinic, or public building, when such is in use, which unreasonably interferes with the workings of such institution or building, provided that conspicuous signs are displayed on such streets indicating that such is a school, church, hospital, clinic or other public building.

(12) *Hawkers, peddlers, etc.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(13) *Grasscutters, tillers or other similar mechanical devices.* The operation of any grasscutter, tiller or other similar mechanical device utilizing a gasoline or diesel powered engine creating an emanating sound plainly audible beyond the property line of the property at which the device is being utilized, except between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday, inclusive.

(Ord. of 5-15-1999(1), § 12-12)

Sec. 22-36. Construction noises.

(a) The erection, excavation, demolition, alteration, or repair of any building or other improvement other than between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, inclusive, is prohibited, except when a permit is granted by the town manager, in a bona fide emergency to life or property, and the public health and safety will not be impaired by such work, as reasonably determined by the town manager.

(b) The making of any noises at a sound/noise level exceeding 89 decibels from any construction site, as measured as provided in this article, is prohibited at any time.
(Ord. of 5-15-1999(1), § 12-13)

Secs. 22-37—22-60. Reserved.

ARTICLE III. NUISANCES*

DIVISION 1. GENERALLY

Sec. 22-61. Prohibited generally.

It shall be unlawful for any person to cause, harbor, commit or maintain or to suffer to be caused, harbored, committed or maintained any nuisance as defined by the statutes or common law of this state or as defined by this Code or other town ordinance at any place within
the town.
(Code 1977, § 12-1)

Sec. 22-62. Certain nuisances enumerated.

(a) The following acts when committed or conditions when existing within the town are defined and declared to be nuisances:

(1) An act done or committed or aided or assisted to be done or committed by any person or any substance, being or thing kept, maintain, placed or found in or upon any public or private place which is injurious or dangerous to the public health or safety.

(2) All buildings, bridges, streets, roadways, or other structures of whatever character owned or maintained or which are permitted by any person owning or person having control thereof to be kept and maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the occupants or users thereof, or the general public.
(Amended 02/01/10)

***Cross reference—**Nuisance declared on Johnson grass, § 66-52.

State law reference—Abatement or removal of nuisances, Code of Virginia, §§ 15.2-900,
15.2-1115.

(3) All trees and other appendages of or to realty kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or disturbing to the public.

(4) All ponds or pools of stagnant water and all foul or dirty water or liquid when discharged through any drain, pipe or spout or thrown into or upon any street, public place or lot to the injury or disturbance of the public.

(5) All obstructions caused or permitted on any street or sidewalk to the danger or disturbance of the public and all stones, rubbish, dirt, filth, slops, vegetable matter or other article thrown or placed by any person on or in any street, sidewalk or other public place which in any way may cause any injury or disturbance to the public.

(6) All sidewalks, gutters or curbstones permitted to remain in an unsafe condition or out of repair.

(7) All stables, kennels, cattle yards, sheep or cow pens or yards or structures for poultry or other animals permitted by the owner thereof or the person responsible therefor to be a harboring or breeding place for rodents or which accumulate animal wastes or which are otherwise to be in such a condition as to become offensive, disturbing or injurious to the public or to persons in the neighborhood thereof.

(8) All houses or buildings used for special storage of powder, dynamite or other explosive substances, except those maintained pursuant to a permit issued by competent authority.

(9) All septic tanks, privies, cesspools and privy vaults of a type prohibited by state law or by rules and regulations promulgated by authority of state law or which are maintained in any manner contrary to state law or rules and regulations promulgated by authority of state law or which otherwise constitute a menace to the health of or are offensive to persons in the neighborhood thereof.

(10) a. The filling or placing, or permitting the filling or placing, or allowing to remain and/or the maintaining of, any material or substance, whether manmade or natural, in any creek, basin, canal, ditch, or any other drainage way, whether on public property or private property, which in any way impedes, obstructs, blocks, adversely alters, or otherwise detrimentally affects the volume or flow of water through such creek, basin, canal, ditch, or other drainage way.

As to any such creek, basin, canal, ditch, or other drainage way on private property, this provision shall only apply to those creeks, basins, canals, ditches, or other drainage ways which, when connected to other such creeks, basins, canals, ditches or other drainage ways constitute the system, or a part thereof, that drains public lands or improvements within the town, or otherwise assists in the removal of stagnant water from such private property whereon such creek, basin, canal, ditch, or other drainage way is situated. Prior to performing any work, such private owner shall seek a determination by the director of public works as to whether such creek, basin, canal, ditch, or other drainage way is subject to or exempt from this provision.

(Ord. of 5-6-2002)

b. Not withstanding the provisions hereinabove any private land owner, if otherwise in compliance with all other provisions of law, may place piping and suitable fill in any such canal, ditch, or other drainage way situated on such owner's private property, expressly provided such is installed in accordance with a plan approved by the town director of public works, which plan shall specify such pipe size and type, the fill material, and all other specifics required by the director of public works to ensure that the existing volume or flow of water is not adversely affected, or adversely affects the drainage of any adjacent properties. The director of public works shall issue a permit for the work and such work shall be completed in strict accordance therewith. Such work shall be inspected by the director of public works upon its completion. The fee for any such permit shall be as specified by the town council from time to time.

(Ord. of 5-6-2002)

c. Whenever any such material or substances is caused to be deposited into any such creek, basin, canal, ditch, or other drainage way on private property by Acts of God, or other natural causes, such material or substance may be removed by the town at no cost to the landowner.

(Ord. of 5-6-2002)

(b) The provision of Section 15.2-900 of the Code of Virginia of 1950, as amended, including the definition of the term "nuisance" and the remedies provided therein are hereby adopted mutatis mutandis.
(Amended 02/01/10)

(c) The nuisances described in this section shall not be construed as exclusive, and any act of commission or omission and any condition which constitutes a nuisance by statute or common law of the state, when committed, omitted or existing within the town limits, is declared to constitute a nuisance.
(Code 1977, § 12-2)

Sec. 22-63. Responsibility of property owners, occupants and others.

Each owner, lessee, tenant, occupant or other person in charge of any real property within the town and each agent or representative of any such person is charged with responsibility for the maintenance and use of such real property in such manner that no use of or activity or condition upon or within such real property shall constitute a nuisance, and all such persons shall comply with all of the sections of this article, but such responsibility shall not be construed to permit any other person not charged with such responsibility to commit or maintain any nuisance upon or within any real property in the town.
(Code 1977, § 12-3)

Sec. 22-64. Penalty.

The failure of the person or entity to abate any such nuisance in accordance with section 22 - 94 shall constitute a violation and be punishable by a fine not to exceed Five Hundred Dollars ($500.00) or twelve (12) months in jail, either or both. Each day in violation shall constitute a separate offense.
(Code 1977, § 12-2; Ord. of 10-19-2000) ***(Amended 02/01/10)***

Secs. 22-65—22-90. Reserved.

DIVISION 2. ABATEMENT

Sec. 22-91. Inspections, investigations and complaints.

It shall be the duty of the chief of police and the town manager to cause inspections to be made from time to time of all portions of the town to determine whether any condition exists or activity is being practiced which constitutes a nuisance, and they shall cause an investigation to be made upon complaint made by any responsible person.
(Code 1977, § 12-4)

Sec. 22-92. Right to enter private premises.

Town officers shall have the right to enter upon private premises for the purposes specified in section 22-91 as permitted by law.
(Code 1977, § 12-5)

Sec. 22-93. Notice to cease and desist.

If at any time a town officer shall find that an activity or practice which constitutes a nuisance is occurring within the town, he shall promptly and by the most expeditious means notify the violator to cease and desist forthwith.
(Code 1977, § 12-6)

Sec. 22-94. Notice to abate condition; appeal.

If at any time a town officer shall find that a condition which constitutes a nuisance exists within the town, he shall give notice in writing to the owner, occupant or person in charge of the premises upon which such condition exists. The notice shall state the condition which constitutes a nuisance and shall direct such addressee to remedy the condition within the time stated in the notice, which shall be not more than ten days. It shall be unlawful for any such owner, occupant or person in charge to fail to comply with the terms of such notice. However, any owner, occupant or person in charge may, within two days from the service of the notice, appeal to the town council, in which case the terms of such notice shall be stayed pending action of the town council, which shall be final. If the officer giving notice shall state in such notice that the condition which constitutes a nuisance is such as to be an imminent hazard to the health, safety or welfare of the public or any person within or near the premises upon which such nuisance exists, the addressee shall comply with the terms of such notice.
(Code 1977, § 12-7)

Sec. 22-95. Failure to comply with notice to abate.

(a) Upon failure of any person to whom notice has been given pursuant to section 22-94 to comply with the terms of such notice or with the terms imposed by the town council on appeal, as the case may be, the officer giving such notice shall forthwith direct the appropriate town officer to remedy the condition which is the subject of such notice, and the expense incurred by the town in so doing shall be charged to the addressee of such notice, to be collected as town taxes or in any other manner authorized by law.

(b) Abatement by the town of any condition which constitutes a nuisance and reimbursement to the town of expenses incurred thereby shall not bar prosecution for maintenance of a nuisance and shall not bar the town attorney from seeking an injunction for the abatement of the nuisance.
(Code 1977, § 12-8)

Sec. 22-96. Arrest for committing or maintaining nuisance.

Nothing in this article shall be construed to prohibit any police officer from arresting any person for committing or maintaining a nuisance when such arrest is made pursuant to law.
(Code 1977, § 12-9)

Secs. 22-97—22-125. Reserved.

ARTICLE IV. EROSION AND SEDIMENT CONTROL*

Sec. 22-126. Town subject to county ordinance.

Pursuant to Code of Virginia, § 10.1-526, the town shall be subject to the erosion and sediment control ordinance of the county, as such ordinance may be in full force and effect from time to time. Such ordinance shall be enforced by the county within the geographical boundaries of the town.
(Code 1977, §§ 5-6-1—5-6-12)

Secs. 22-127—22-150. Reserved.

ARTICLE V. CEMETERIES

Sec. 22-151. Definitions.

Cemetery means any place presently utilized for the internment of human remains, whether publicly, privately, or charitably owned, including existing grave site(s) on private property and family burial grounds. For purposes of this article the term "cemetery" shall include the land adjacent to any physical grave site situated within an area extending fifteen feet from any part of the physical grave site, or the area designated by any fence or other boundary, natural or manmade, indicating the actual area designated by any fence or other boundary, natural or manmade, indicating the actual area set aside for cemetery purposes, whichever is the greater area.

Person, firm or entity means any individual, group of individuals, lessee, lessor, guest, licensee, firm, partnership, voluntary association or private or public cooperation, specifically including any person in charge of or supervising any property owned or possessed by any such person, firm or entity.

***State law reference—**Erosion and sediment control, Code of Virginia, § 10.1-560 et seq.

Sec. 22-152. Purposes and authority.

The stated purpose of this article is to regulate cemeteries within the Town of Chincoteague so as to insure that cemeteries and grave sites contained therein are not disturbed nor used other than for the purposes of the internment of human remains, and that such remains will be afforded the perpetual dignity to which entitled.

This article is adopted pursuant tot he authority contained in §15.2-1102 and §15.2-1111 of the Code of Virginia of 1950 as amended.

Sec. 22-153. Prohibited acts.

No person, firm, or entity shall disturb, alter, remove, excavate, destroy, injure, deface, or erect and/or maintain any improvement, or otherwise use, except as permitted herein, any cemetery as herein defined.

Sec. 22-154. Non prohibited acts.

The provisions hereof shall not prohibit the internment of any other human remains in any cemetery, if otherwise lawfully permitted, nor shall it prohibit any person, firm, or entity from removing brush, weeds, or debris or otherwise maintaining a cemetery, nor the erection and/or maintenance of customary markers, monuments, remembrances, or fencing.

Sec. 22-155. Inspection.

The town manager, or his designee shall have the authority during normal business hours to enter on to any cemetery, whether public, private, or charitable for the purpose of inspection and the insuring of compliance with the provisions hereof, provided however that the town manager, or designee, may inspect any such cemetery at any time if he or she has a reasonable suspicion that any provision of this article is being violated.

Sec. 22-156. Violation and penalties.

Any violation of this article shall constitute a misdemeanor and shall be punishable by confinement in jail for a period not to exceed 12 months and/or a fine of not more than $500.00.

Sec. 22-157. Injunctive relief.

In addition to any criminal penalty for the violation of this article, the town manager is further authorized on behalf of the town to initiate and seek injunctive relief in the Circuit Court of Accomack County to prohibit any such unlawful acts as provided in this article.

Chapters 23—25

RESERVED

Chapter 26

FIRE PREVENTION AND PROTECTION*

Article I. In General

Sec. 26-1. Age requirement for volunteer fire company.
Sec. 26-2. Storage tanks for inflammable or explosive substances.
Secs. 26-3—26-30. Reserved

Article II. Fireworks

Sec. 26-31. Penalty for violation.
Sec. 26-32. Unlawful manufacture, transportation, sale, purchase, use.
Sec. 26-33. Permits for display; sales for use thereunder.
Sec. 26-34. Exemptions.

***Charter reference—**Fire prevention and protection, ch. 2, § 1(22), (23).

Cross reference—Buildings and building regulations, ch. 14.

State law references—Smoke detectors, Code of Virginia, § 15.2-922; appropriations for voluntary firefighting organizations, rescue squads, etc., Code of Virginia, § 15.2-953 et seq.; explosive and inflammable substances, fireworks, Code of Virginia, § 15.2-1113; fuel-burning equipment, Code of Virginia, § 15.2-1116; regulation of the making of fires, Code of Virginia, § 15.2-1118; false fire alarms, Code of Virginia, § 18.2-212; fire protection generally, Code of Virginia, tit. 27; furnishing fire protection beyond territorial limits, Code of Virginia, § 27-1 et seq.; fire departments and fire companies, Code of Virginia, § 27-6.1 et seq.; ordinances as to fire departments, etc., Code of Virginia, § 27-14; local fire marshals, Code of Virginia, § 27-30 et seq.; relief for firefighters and dependents, Code of Virginia, § 27-39 et seq.; mobilization of firefighters during state of war, Code of Virginia, § 44-152 et seq.; explosives, Code of Virginia, § 59.1-137 et seq.; fireworks, Code of Virginia, § 59.1-142 et seq.

ARTICLE I. IN GENERAL

Sec. 26-1. Age requirement for volunteer fire company.

It shall be lawful for any person 16 years of age or older, with parental or guardian approval, to work with or participate fully in all activities of any volunteer fire company, provided such person has attained certification under National Fire Protection Association 1001, level one, firefighter standards, as administered by the state department office programs. Such parental or guardian approval shall be given to the volunteer fire company in writing.
(Code 1977, § 7-3; Ord. of 9-7-1982)

State law reference—Authority for above section, Code of Virginia, § 40.1-79.1.

Sec. 26-2. Storage tanks for inflammable or explosive substances.

It shall be unlawful for any person to place or erect, either above or below the ground, any tank or container, the capacity of which is more than 1,000 gallons, or to store, cause to be stored, keep or cause to be kept gasoline, fuel oil, kerosene, gas or any inflammable or explosive substance in the amount of more than 1,000 gallons within the corporate limits unless such person has first obtained from the town council permission to place such tank or container or to store, cause to be stored, keep or cause to be kept gasoline, fuel oil, kerosene, gas or any inflammable or explosive substance in the amounts of more than 1,000 gallons within the town. It shall be unlawful for any person to place two or more tanks or containers either above or below the ground within the corporate limits, the total capacity of such two or more tanks or containers, together, shall be more than 1,000 gallons, unless such person has first obtained from the town council permission to place such tanks or containers within the corporate limits.
(Code 1977, § 7-2)

Cross reference—Environment, ch. 22.

Secs. 26-3—26-30. Reserved.

ARTICLE II. FIREWORKS

Sec. 26-31. Penalty for violation.

Any person who violates any section of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished by confinement in jail not to exceed 12 months or by a fine not exceeding $500.00 or by both such fine and imprisonment.

State law reference—Similar provisions, Code of Virginia, § 59.1-145.

Sec. 26-32. Unlawful manufacture, transportation, sale, purchase, use.

(a) Except as otherwise provided in this article, it shall be unlawful for any person to transport, manufacture, store, sell, offer for sale, expose for sale or to buy, use, ignite or explode any firecracker, torpedo, skyrocket, or other substance or thing, of whatever form or construction, that contains any explosive or inflammable compound or substance and that is
intended or commonly known as fireworks and which explodes, rises into the air or travels laterally or fires projectiles into the air, other than sparks, or those fireworks excepted under subsection 26-34(b).

(b) Subsection (a) of this section shall not be applicable to any person who

manufactures, stores, markets and distributes fireworks for the sole purpose of fireworks displays permitted under section 26-33 or the laws of other states.
(Code 1977, § 7-1)

State law reference—Similar provisions, Code of Virginia, § 59.1-142.

Sec. 26-33. Permits for display; sales for use thereunder.

The town council shall have the power to provide for the issuance of permits, upon application in writing, for the display of fireworks by fair associations, amusement parks, or by any organization or group of individuals, under such terms and conditions as the town council may prescribe. After such permit has been issued, sales of fireworks may be made for use under such permit, and the association, organization or group to which it is issued may make use of such fireworks under the terms and conditions of such permit.

State law reference—Similar provisions, Code of Virginia, § 59.1-144.

Sec. 26-34. Exemptions.

(a) This article shall have no application to any officer or member of the armed forces of this commonwealth or of the United States, while acting within the scope of his authority and duties as such, nor to any offer of sale or sale of fireworks to any authorized agent of such armed forces; nor shall it be applicable to the sale or use of materials or equipment, otherwise prohibited by this article, when such materials are or equipment is used or to be used by any person for signaling or other emergency use in the operation of any boat, railroad train or other vehicle for the transportation of persons or property.

(b) This article shall not apply to the use or the sale of sparklers, fountains, Pharaoh's serpents, caps for pistols, or to pinwheels commonly known as whirligigs or spinning jennies. However, the fireworks listed in this subsection may only be used, ignited or exploded on private property with the consent of the owner of such property.

State law reference—Similar provisions, Code of Virginia, §§ 59.1-146, 59.1-147.

Chapters 27—29

RESERVED

Chapter 30

FLOODS*

Article I. General Provisions

Sec. 30-1. Purpose.
Sec. 30-2. Applicability.
Sec. 30-3. Compliance and liability.
Sec. 30-4. Abrogation and greater restrictions.
Sec. 30-5. Severability.
Sec. 30-6. Reserved.

Article II. Floodplain Management

Sec. 30-7. Definitions.
Sec. 30-8. Reserved.

Article III. Establishment of Zoning Districts

Sec. 30-9. Description of districts.
Sec. 30-10. Official floodplain map.
Sec. 30-11. District boundary changes.
Sec. 30-12. Interpretation of district boundaries.
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Article IV. District Provisions

Sec. 30-14. Permit and application requirements.
Sec. 30-15. General standards.
Sec. 30-16. Specific standards.
Sec. 30-17. Standards for subdivision proposals.
Sec. 30-18. Standards for the coastal high hazard district.
Sec. 30-19. Anchoring fuel tanks.

Article V. Variances

Sec. 30-20. Factors to be considered.

Article VI. Enactment

***Cross references—**Buildings and building regulations, ch. 14; environment, ch. 22; streets, sidewalks and other public places, ch. 50; utilities, ch. 62; waterways, ch. 70; zoning, app. A; land subdivision and development, app. B.

State law reference—Flood Damage Reduction Act, Code of Virginia, § 10.1-600 et seq.

ARTICLE I. GENERAL PROVISIONS

Sec. 30-1. Purpose.

The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

(a) regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.

(b) restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding.

(c) requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage.

(d) protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

Sec. 30-2. Applicability.

These provisions shall apply to all lands within the jurisdiction of the town and identified as being in the 100-year floodplain by the Federal Insurance Administration.

Sec. 30-3. Compliance and liability.

(a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

(b) The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district, or that land uses permitted within such district, will be free from flooding or flood damages.

(c) Records of actions associated with administering this ordinance will be kept on file and maintained by the zoning administrator.

(d) This ordinance shall not create liability on the part of the town or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Sec. 30-4. Abrogation and greater restrictions.

This ordinance supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extend that its provisions are more restrictive than this ordinance.

Sec. 30-5. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

Sec. 30-6. Reserved.

ARTICLE II. FLOODPLAIN MANAGEMENT

Sec. 30-7. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Base flood, means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation means the Federal Emergency Management Agency designated one hundred (100)-year water surface elevation.

Basement means any area of the building having its floor sub-grade (below ground level) on all sides.

Board of Zoning Appeals means the board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Coastal high hazard area means a special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

Flood or flooding means:

(1) A general or temporary condition of partial or complete inundation of normally dry land areas from:

(a) the overflow of inland or tidal waters; or,

(b) the unusual and rapid accumulation or runoff of surface waters from any source.

(2) The collapse or subsistence 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 paragraph 1(a) of this definition.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

Fuel oil tank means any container greater than 10 gallons used for storage of fuel oil.

Historic structure 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 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 the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed one a site for greater than 180 consecutive days.

New construction means for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map on or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Propane or liquefied petroleum gas tank means a container greater than 50 pounds used for the storage of propane.

Recreational vehicle means a vehicle which is:

(1) built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projection;

(3) designed 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 temporary living quarters for recreational camping, travel, or seasonal use.

Special flood hazard area means the land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article III, Section 30-10 of this ordinance.

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 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 stage 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 on the property of 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 the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent 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, however, 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's continued designation as a historic structure.

Sec. 30-8. Reserved.

ARTICLE III. ESTABLISHMENT OF ZONING DISTRICTS

Sec. 30-9. Description of districts.

(a) Basis of Districts - The various floodplain districts shall include areas subject to inundation by waters of the one hundred (100)-year flood. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) for the Town prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated June 1, 1984, as amended.

(1) The Coastal Floodplain District shall be those areas identified as coastal AE or A1-30 Zones on the maps accompanying the Flood Insurance Study. Flood elevations are provided in these tidal floodplains; however, floodway data is not applicable.

(2) The Coastal High Hazard District shall be those areas identified as V1— V30, VE, or V Zones on the maps accompanying the Flood Insurance Study.

(b) Overlay Concept

(1) The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the

provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

(2) Any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

(3) In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

Sec. 30-10. Official floodplain map.

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Boundary and Floodway Map and/or Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the town offices.

Sec. 30-11. District boundary changes.

The delineation of any of the Floodplain Districts may be revised by the town where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

Sec. 30-12. Interpretation of district boundaries.

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

Sec. 30-13. Reserved.

ARTICLE IV. DISTRICT PROVISIONS

Sec. 30-14. Permit and application requirements.

(a) Permit Requirement - All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of the ordinance and with all other applicable codes and ordinances, as amended and the town subdivision regulations. Prior to the issuance of any such permit, the zoning officer shall require all applications to include compliance with all applicable state and federal laws.

(b) Site Plans and Permit Applications - All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

(1) For structures to be elevated, the elevation of the lowest floor (including basement).

(2) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.

(3) The elevation of the one hundred (100)-year flood.

(4) Topographic information showing existing and proposed ground elevations.

Sec. 30-15. General standards.

In all special flood hazard areas the following provisions shall apply:

(a) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(b) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(d) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(e) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

Sec. 30-16. Specific standards.

In all special flood hazard areas the following provisions shall apply:

(a) Residential Construction - New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than base flood elevation.

(b) Non-Residential Construction - New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than base flood elevation.

(c) Elevated Buildings - Enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

(1) not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;

(2) be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

(3) in the Coastal High Hazard District, follow the standards for elevation outlined in Article IV, Section 30-18.

(4) include, in Zones AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of flood waters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:

(a) Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

(b) The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.

(c) If a building has more than one enclosed area, each area must have openings to allow flood waters to automatically enter and exit.

(d) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.

(e) Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of flood waters in both directions.

(f) Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(d) Standards for Manufactured Homes and Recreational Vehicles

(1) All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in substantially improved manufactured home parks or subdivisions, must meet all the requirements for new construction, including elevation and anchoring.

(2) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:

(a) the lowest floor of the manufactured home is elevated no lower than base flood elevation; or,

(b) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the grade;

(c) the manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement;

(d) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage," any manufactured home placed or substantially improved must meet the standards of Article IV, Section 30-16(d)(2)(a), (b) and (c) above.

(3) All recreational vehicles placed on sites must either:

(a) be on the site for fewer than 180 consecutive days;

(b) be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,

(c) meet all the requirements for new construction, including anchoring and elevation requirements of Article IV, Section 30-16(d)(1) or (2)(a) and (c), above.

Sec. 30-17. Standards for subdivision proposals.

(a) All subdivision proposals shall be consistent with the need to minimize flood damage;

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

Sec. 30-18. Standards for the coastal high hazard district.

The following provisions shall apply within the Coastal High Hazard District:

(a) All new construction and substantial improvements in Zones V1—V30 and VE (V if base flood elevation is available) shall be elevated on pilings or columns so that:

(1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level (recommend $\geq$ one foot freeboard); and,

(2) the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (one-percent annual chance).

(b) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of Article IV, Section 30-18(a).

(c) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1—V30 and VE. The Floodplain Management Administrator shall maintain a record of all such information.

(d) All new construction shall be located landward of the reach of mean high tide.

(e) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

(1) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and

(2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any give year.

(f) The enclosed space below the lowest floor shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation.

(g) Prohibit the use of fill for structural support of buildings. When fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit.

(h) Prohibit man-made alteration of sand dunes which would increase potential flood damage.

(i) All manufactured homes to be placed or substantially improved within Zones V1—V30, V, and VE on the town's Flood Insurance Rate Map on sites must meet the standards of Article IV, Section 30-18(a) through (h) and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision with Zones V1—V30, V, and VE on the Flood Insurance Rate Map meet the requirements of Article IV, Section 30-16(e)(1) and (2), if they are located:

(1) outside of a manufactured home park or subdivision,

(2) in a new manufactured home park or subdivision,

(3) in an expansion to an existing manufactured home park or subdivision, or

(4) in an existing manufactured home park or subdivision in which a manufactured home has incurred "substantial damage."

(j) Recreational vehicles placed on sites within Zones V1—V30, V, and VE on the community's Flood Insurance Rate Map must either:

(1) be on the site for fewer than 180 consecutive days,

(2) be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

(3) meet the requirements of Article IV, Section 30-14 and Article IV, Section 30-18(a) through (h).

Sec. 30-19. Anchoring fuel tanks.

(a) The owner of any new, replaced, or existing oil, and propane tanks must be anchored fuel tanks against floatation, collapse and lateral movement under flood conditions by means of an approved anchorage system or shall be installed at or above base flood elevation and shall be set upon a firm foundation and supports to prevent floatation, collapse and lateral movement under flood conditions. It shall be unlawful to fill or refill any such tank that is not so anchored or elevated.
(Amended 04/04/11)

(b) All new, replaced, or existing oil tanks shall have their vent pipe extended at least three feet above the top most portion of the body of the tank. This provision shall also apply to substantial improvement buildings and buildings experiencing repetitive loss.

(c) All new, replaced, or existing oil tanks must all be fitted with a fill tube screw-on tight-fit cap with gasket.

(d) The installation requirements for strapping and anchoring fuel tanks shall follow FEMA recommended guidelines.

(e) If ownership of a fuel tank is unknown or unclaimed, the property owner shall be responsible.
(Amended 04/04/11)

(f) This section shall be effective November 4, 2012 for existing or replaced fuel tanks.
(Amended 4/7/08, 09/16/10)

(g) Any person or legal entity violating the provision of this section shall, upon conviction, be guilty of a class 4 misdemeanor and be punished by a fine of not more than two hundred and fifty dollars ($250.00). Each day in violation shall constitute a separate offense.
(Adopted 11/5/07, 04/04/11)

ARTICLE V. VARIANCES

Sec. 30-20. Factors to be considered.

In passing upon applications for variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

(a) The showing of good and sufficient cause.

(b) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.

(c) The danger that materials may be swept on to other lands or downstream to the injury of others.

(d) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(e) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(f) The importance of the services provided by the proposed facility to the community.

(g) The requirements of the facility for a waterfront location.

(h) The availability of alternative locations not subject to flooding for the proposed use.

(i) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(j) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(k) The safety of access by ordinary and emergency vehicles to the property in time of flood.

(l) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(m) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(n) Such other factors which are relevant to the purposes of this ordinance.

All applicants must obtain documentation pertaining to the request for a variance from a Virginia certified engineer to evaluate the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters prior to referring such to the board of zoning appeals.

Variances shall be issued only after the board of zoning appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief from exceptional hardship to the applicant.

The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

ARTICLE VI. ENACTMENT

This ordinance shall became effective upon passage on September 21, 2006.

Chapters 31—33

RESERVED

CHINCOTEAGUE CODE

Chapter 34

LAW ENFORCEMENT*

Sec. 34-1. Issuance and service of summons in place of warrant.

***Charter references—**Jails, ch. 2, § 1(14); police department, ch. 2, § 1(39).

Cross references—Administration, ch. 2; offenses and miscellaneous provisions, ch. 38; traffic and vehicles, ch. 58.

State law references—Police and public order, Code of Virginia, § 15.2-1700 et seq.; powers of governor as to local law enforcement agencies, Code of Virginia, § 18.2-410.

Sec. 34-1. Issuance and service of summons in place of warrant.

(a) Whenever any person is detained by or is in the custody of an arresting officer for any violation committed in such officer's presence, which offense is a violation of any town ordinance or of any section of this Code punishable as a class 2 misdemeanor or any other misdemeanor for which he may receive a jail sentence, except as otherwise provided in Code of Virginia, tit. 46.2 or Code of Virginia, § 18.2-266, or an arrest on a warrant charging an offense for which a summons may be issued, and when specifically authorized by the judicial officer issuing the warrant, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving by such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the officer may proceed according to the provisions of Code of Virginia, § 19.2-82.

(b) Anything in this section to the contrary notwithstanding, if any person is believed by the arresting officer to be likely to disregard a summons issued under subsection (a) of this section or if any person is reasonably believed by the arresting officer to be likely to cause harm to himself or to any other person, a magistrate or other issuing authority having jurisdiction shall proceed according to the provisions of Code of Virginia, § 19.2-82.

(c) Whenever any person is detained by or is in the custody of an arresting officer for a violation of any town ordinance or of any section of this Code, punishable as a class 3 or class 4 misdemeanor or any other misdemeanor for which he cannot receive a jail sentence, except as otherwise provided in Code of Virginia, tit. 46.2, the arresting officer shall take the name and address of such person and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving of such person of his written promise to appear at such time and place, the officer shall forthwith release him from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the officer may proceed according to the provisions of Code of Virginia, § 19.2-82.

(d) Any person so summoned shall not be held in custody after the issuance of such summons for the purpose of complying with the requirements of Code of Virginia, § 19.2-387 et seq. Reports to the central criminal records exchange concerning such persons shall be made after a disposition of guilt is entered as provided for in Code of Virginia, § 19.2-390.

(e) Any person refusing to give such written promise to appear under this section shall be taken immediately by the arresting or other police officer before a magistrate or other issuing authority having jurisdiction, who shall proceed according to provisions of Code of Virginia, § 19.2-82.

(f) Any person who willfully violates his written promise to appear, given in accordance with this section, shall be treated in accordance with the provisions of Code of Virginia, § 19.2-128, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.

(g) The summons used by a law enforcement officer pursuant to this section shall be in form the same as the uniform summons for motor vehicle law violations as prescribed pursuant to Code of Virginia, § 46.2-388.
(Code 1977, § 1-7)

State law reference—Similar provisions, Code of Virginia, § 19.2-74.

Chapters 35—37

RESERVED

Chapter 38

OFFENSES AND MISCELLANEOUS PROVISIONS*

Article I. In General

Secs. 38-1—38-25. Reserved.

Article II. Weapons

Sec. 38-26. Selling to or purchase by minors.
Sec. 38-27. Possession by minors.
Sec. 38-28. Discharging firearms.
Secs. 38-29—38-55. Reserved.

Article III. Obscenity

Division 1. Generally

Sec. 38-56. Definitions.
Sec. 38-57. Exceptions from division.
Sec. 38-58. Violations of article.
Sec. 38-59. Obscene items enumerated.
Sec. 38-60. Production, publication, sale, possession or distribution of obscene items.
Sec. 38-61. Obscene exhibitions and performance generally.
Sec. 38-62. Advertising obscene items, exhibitions or performances.
Sec. 38-63. Obscene placards, posters, bills, writings or pictures.
Sec. 38-64. Coercing acceptance of obscene articles or publications.
Sec. 38-65. Photographs, slides and motion pictures.
Sec. 38-66. Public nudity generally.
Sec. 38-67. Indecent exposure.
Sec. 38-68. Urination or defecation in public.
Sec. 38-69. Employing or permitting minor to assist in violation of division.
Sec. 38- 70. Proceeding against obscene book or motion picture film.
Secs. 38-71—38-95. Reserved.

Division 2. Juveniles

Sec. 38-96. Definitions.
Sec. 38-97. Violations of division.
Sec. 38-98. Unlawful sales or loans generally.
Sec. 38-99. Admitting juveniles to premises exhibiting obscene films or other presentations or exhibiting motion pictures visible to public way.

***Charter reference—**Police powers, ch. 2, § 1(39) et seq., (42), (48) et seq.

Cross references—Law enforcement, ch. 34; traffic and vehicles, ch. 58.

State law references—Crimes and offenses generally, Code of Virginia, tit. 18.2; local ordinances prohibiting obscenity, Code of Virginia, § 18.2-389. Prohibiting loitering; curfew for minors, Code of Virginia, § 15.2-926.

Sec. 38-100. Misrepresentation as to juvenile.

Sec. 38-101. Display of obscene materials at business establishments open to juveniles.
Sec. 38-102. Exceptions from division.
Secs. 38-103—38-130. Reserved.

Division 3. Nude or Partially Nude Models

Sec. 38-131. Information to be filed with chief of police.
Sec. 38-132. Registration of customers.
Sec. 38-133. Closing of studios during certain hours.
Sec. 38-134. Presence of third person when model being photographed or painted.
Sec. 38-135. Obscene photographs or paintings.
Secs. 38-136—150. Reserved

Article IV. Curfew

Sec. 38-151. Curfew-minors.
Sec. 38-152. Enforcement.
Sec. 38-153. Penalty for violation.
Secs. 38-154—174. Reserved.

Article V. Trespass Violations

Sec. 38-175. Trespassing.

ARTICLE I. IN GENERAL

Secs. 38-1—38-25. Reserved.

ARTICLE II. WEAPONS*

Sec. 38-26. Selling to or purchase by minors.

It shall be unlawful for any person to sell in the town any firearm, ammunition or switchblade knife to any person under the age of 16 years or for any person under the age of 16 years to purchase in the town any firearm, ammunition or switchblade knife. Any person violating this section shall, upon conviction, be fined not less than $5.00 and not more than $100.00 for each offense.
(Code 1977, § 13-7)

Sec. 38-27. Possession by minors.

It shall be unlawful for any person under the age of 16 years, unless accompanied by some person over the age of 18 years, to have in his possession in the town any firearm, ammunition or switchblade knife at any place other than his usual place of residence. Any person violating this section shall, upon conviction, be fined not less than $5.00 and not more than $100.00 for each offense.
(Code 1977, § 13-8)

Sec. 38-28. Discharging firearms.

(a) It shall be unlawful for any person to shoot any gun, rifle, pistol, revolver, air rifle, or any firearm of any kind on Chincoteague Island. It shall also be unlawful for any person to use a bow and arrow or other similar device or weapon for hunting on Chincoteague Island. Surrounding marshy islands are not included in this prohibition. This section shall not apply to any police officer, town sergeant, sheriff, conservator of the peace, or collecting officer while in the discharge of his official duty nor to any person destroying a rabid animal nor for a similar necessity.

(b) The prohibitions in subsection (a) of this section shall not apply to any person while participating in any shooting event organized and supervised by any bona fide nonprofit organization which has secured a license from the town acting through the town manager. The license shall only be issued after investigation by the chief of police or other officer in charge as to whether appropriate safeguards are being undertaken to reasonably ensure the safety of the participants and general public and such officer's recommendation for issuance. As a condition of the issuance of the license, such organization shall agree to indemnify and save harmless the town and/or its agents from any and all claims or liability resulting from the
activity and/or any license issued to conduct the event. Any such license shall further bear the notation that the town assumes no responsibility for the safety and welfare of the participants and general public by the issuance of such license. The town manager shall develop an

***State law references—**Control of firearms, Code of Virginia, § 15.2-915; furnishing certain weapons to minors, penalty, Code of Virginia, § 18.2-309.
application and license form with an appropriate indemnification provision to accomplish the purposes of this subsection.
(Code 1977, § 13-2; Ord. of 11-18-1993)

Secs. 38-29—38-55. Reserved.

ARTICLE III. OBSCENITY

DIVISION 1. GENERALLY

Sec. 38-56. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Obscene means that which, considered as a whole, has as its dominant theme or purpose an appeal to the prurient interest in sex, that is, a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or products thereof or sadomasochistic abuse, and which goes substantially beyond customary limits of candor in description or representation of such matters and which, taken as a whole, does not have serious literary, artistic, political or scientific value.
(Code 1977, § 13-5-2)
Cross reference—Definitions generally, § 1-2.
State law reference—Similar provisions, Code of Virginia, § 18.2-372.

Sec. 38-57. Exceptions from division.

Nothing contained in this division shall be construed to apply to the following:

(1) The purchase, distribution, exhibition or loan of any book, magazine or other printed or manuscript material by any library, school or institution of higher learning, supported by public appropriation.

(2) The purchase, distribution, exhibition or loan of any work of art by any museum of fine arts, school or institution of higher learning, supported by public appropriation.

(3) The exhibition or performance of any play, drama, tableau or motion picture by any theater, museum of fine arts, school or institution of higher learning, supported by public appropriation.

(Code 1977, §§ 13-5-14, 13-5-15)
State law reference—Similar provisions, Code of Virginia, § 18.2-383.

Sec. 38-58. Violations of article.

Except as otherwise specifically provided, a violation of any section of this article shall constitute a misdemeanor.

(Code 1977, § 13-5-1)

Sec. 38-59. Obscene items enumerated.

For the purposes of this division, obscene items shall include the following:

(1) Any obscene book;

(2) Any obscene leaflet; pamphlet; magazine; booklet; picture; painting; bumper sticker; drawing; photographic film, negative, slide; motion picture; videotape recording; or

(3) Any obscene figure, object, article, instrument, novelty, device, or recording or transcription used or intended to be used in disseminating any obscene song, ballad, words or sounds.

(Code 1977, § 13-5-3)

State law reference—Similar provisions, Code of Virginia, § 18.2-373.

Sec. 38-60. Production, publication, sale, possession or distribution of obscene items.

(a) For the purposes of this section, the term "distribute" shall mean delivery in person, by mail, by messenger or by any other means by which obscene items, as defined in this article, may pass from one person to another.

(b) It shall be unlawful for any person knowingly to:

(1) Prepare any obscene item for the purposes of sale or distribution;

(2) Print, copy, manufacture, produce, or reproduce any obscene item for purposes of sale or distribution;

(3) Publish, sell, rent, lend, transport in intrastate commerce, or distribute or exhibit any obscene item or offer to do any of these things; or

(4) Have in his possession with intent to sell, rent, lend, transport, or distribute any obscene item. Possession in public or in a public place of any obscene item, as defined in this article, shall be deemed prima facie evidence of a violation of this section.

(Code 1977, § 13-5-4)

State law reference—Similar provisions, Code of Virginia, § 18.2-374.

Sec. 38-61. Obscene exhibitions and performance generally.

It shall be unlawful for any person knowingly to:

(1) Produce, promote, prepare, present, manage, direct, carry on or participate in any obscene exhibition or performance, including the exhibition or performance of any obscene motion picture, play, drama, show, entertainment, exposition, tableau or scene, provided that no employee of any person or legal entity operating a theater, garden, building, structure, room, or place which presents such obscene exhibition or performance shall be subject to prosecution under this section if the employee is

not the manager of the theater or an officer of such entity and has no financial interest in such theater other than receiving salary and wages; or

(2) Own, lease or manage any theater, garden, building, structure, room or place and lease, let, lend, or permit such theater, garden, building, structure, room or place to be used for the purpose of presenting such obscene exhibition or performance or fail to post prominently therein the name and address of a person resident in the town who is the manager of such theater, garden, building, structure, room or place.

(Code 1977, § 13-5-5)

State law reference—Similar provisions, Code of Virginia, § 18.2-375.

Sec. 38-62. Advertising obscene items, exhibitions or performances.

It shall be unlawful for any person to knowingly prepare, print, publish or circulate or cause to be prepared, printed, published or circulated any notice or advertisement of any obscene item referred to in section 38-59 or of any obscene performance or exhibition referred to in section 38-61, stating or indicating where such obscene item, exhibition or performance may be purchased, obtained, seen, or heard. (Code 1977, § 13-5-6)

State law reference—Similar provisions, Code of Virginia, § 18.2-376.

Sec. 38-63. Obscene placards, posters, bills, writings or pictures.

It shall be unlawful for any person knowingly to expose, place, display, post up, exhibit, paint, print or mark or cause to be exposed, placed, displayed, posted, exhibited, painted, printed or marked, in or on any building, structure, billboard, wall or fence or on any street or in or upon any public place any placard, poster, banner, bill, writing or picture which is obscene or which advertises or promotes any obscene item referred to in section 38-59 or any obscene exhibition or performance referred to in section 38-61 or knowingly to permit such to be displayed on property belonging to or controlled by him.

(Code 1977, § 13-5-7)

State law reference—Similar provisions, Code of Virginia, § 8.2-377.

Sec. 38-64. Coercing acceptance of obscene articles or publications.

No person shall, as a condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication, require that the purchaser or consignee receive for resale any other article, book or other publication which is obscene nor shall any person deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, because of the failure or refusal of any person to accept such articles, books or publications or because of the return thereof.

(Code 1977, § 13-5-8)

State law reference—Similar provisions, Code of Virginia, § 18.2-378.

Sec. 38-65. Photographs, slides and motion pictures.

Every person shall be guilty of a class 3 misdemeanor if the person knowingly:

(1) Photographs himself or any other person, for purposes of preparing an obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution; or

(2) Models, poses, acts or otherwise assists in the preparation of any obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution.

(Code 1977, § 13-5-9)

State law reference—Similar provisions, Code of Virginia, § 18.2-382.

Sec. 38-66. Public nudity generally.

(a) As used in this section, the term "state of nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple.

(b) It shall be unlawful for any person to knowingly, voluntarily and intentionally appear in public or in a public place or in a place open to public view in a state of nudity or to employ, encourage or procure another person to so appear.

(c) Nothing contained in this section shall be construed to apply to the exhibition, presentation, showing or performance of any play, ballet, drama, tableau, production or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher learning or other similar establishment which is primarily devoted to such exhibitions, presentations, shows or performances as a form of expression of opinion, communication, speech, ideas, information, art or drama, as differentiated from commercial or business advertising, promotion or exploitation of nudity for the purpose of advertising, promoting, selling or serving products or services or otherwise advancing the economic welfare of a commercial or business enterprise, such as a hotel, motel, bar, nightclub, restaurant, tavern or dancehall.

(Code 1977, § 13-5-10)

Sec. 38-67. Indecent exposure.

Every person who intentionally makes an obscene display or exposure of his person or the private parts thereof, in any public place or in any place where others are present, or procures another to so expose himself shall be guilty of a misdemeanor. No person shall be deemed to be in violation of this section for breastfeeding a child in any public place or any place where others are present.

(Code 1977, § 13-5-11)

State law reference—Similar provisions, Code of Virginia, § 18.2-387.

Sec. 38-68. Urination or defecation in public.

Any person who urinates or defecates in public or in a place open to public view except in public restroom facilities shall be guilty of a class 4 misdemeanor.

(Code 1977, § 13-5-12)

Sec. 38-69. Employing or permitting minor to assist in violation of division.

It shall be unlawful for any person knowingly to hire, employ, use or permit any person under the age of 18 years to do or assist in doing any act or thing constituting an offense under this division.

(Code 1977, § 13-5-13)

State law reference—Similar provisions, Code of Virginia, § 18.2-379.

Sec. 38-70. Proceeding against obscene book or motion picture film.

Whenever the town has reasonable cause to believe that any person is engaged in the sale or commercial distribution of any obscene book or motion picture film in the town, any citizen or the town attorney may institute a proceeding in the circuit court of the county for adjudication of the obscenity of the book or motion picture film pursuant to Code of Virginia, §§ 18.2-384 and 18.2-385.
(Code 1977, § 13-5-14)

Secs. 38-71—38-95. Reserved.

DIVISION 2. JUVENILES

Sec. 38-96. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Harmful to juveniles means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:

(1) Predominantly appeals to the prurient, shameful or morbid interest of juveniles;

(2) Is patently offensive to prevailing standards in the adult community in the town as a whole with respect to what is suitable material for juveniles; and

(3) Is, when taken as a whole, lacking in serious literary, artistic, political or scientific value for juveniles.

Juvenile means any person less than 18 years of age.

Knowingly means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both the character and content of any material described in this division, which is reasonably susceptible of examination by the defendant, and the age of the juvenile; provided, however, that an honest mistake shall constitute an excuse from liability under this division if the defendant made a reasonable bona fide attempt to ascertain the true age of such juvenile.

Nudity means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

Sadomasochistic abuse means actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the

condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Sexual conduct means actual or explicitly simulated acts of masturbation, homosexuality, sexual intercourse or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person is female, breast.

Sexual excitement means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
(Code 1977, § 13-5-16)

Cross reference—Definitions generally, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 18.2-390.

Sec. 38-97. Violations of division.

Unless otherwise specifically provided, a violation of any section of this division shall constitute a misdemeanor.
(Code 1977, § 13-5-17)

Sec. 38-98. Unlawful sales or loans generally.

It shall be unlawful for any person knowingly to sell, rent or loan to a juvenile or to knowingly display for commercial purpose in a manner whereby juveniles may examine and peruse:

(1) Any picture, photography, drawing, sculpture, motion picture film, electronic file or message containing an image or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles; or

(2) Any book, pamphlet, magazine, printed matter however reproduced, electronic file or message containing words, or sound recording which contains any matter enumerated in subsection (1) of this section or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to juveniles.

(Code 1977, § 13-5-18)

State law reference—Similar provisions, Code of Virginia, § 18.2-391.

Sec. 38-99. Admitting juveniles to premises exhibiting obscene films or other presentations or exhibiting motion pictures visible to public way.

It shall be unlawful for any person knowingly to sell to a juvenile an admission ticket or pass or knowingly to admit a juvenile to premises whereon there is exhibited a motion picture, show or other presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles or to exhibit any such motion picture at any such premises which are not designed to prevent viewing from any public way of such motion picture by juveniles not admitted to any such premises.

(Code 1977, § 13-5-19)

State law reference—Similar provisions, Code of Virginia, § 18.2-391.

Sec. 38-100. Misrepresentation as to juvenile.

(a) It shall be unlawful for any juvenile falsely to represent to any person mentioned in sections 38-98 and 38-99 or to his agent that such juvenile is 18 years of age or older, with the intent to procure any material set forth in section 38-98 or with the intent to procure such juvenile's admission to any motion picture, show or other presentation set forth in section 38-99.

(b) It shall be unlawful for any person knowingly to make a false representation to any person mentioned in section 38-98 or 38-99 or to his agent that he is the parent or guardian of any juvenile or that any juvenile is 18 years of age, with the intent to procure any material set forth in section 38-98 or with the intent to procure such juvenile's admission to any motion picture, show or other presentation as set forth in section 38-99.

(Code 1977, § 13-5-20)

State law reference—Similar provisions, Code of Virginia, § 18.2-391.

Sec. 38-101. Display of obscene materials at business establishments open to juveniles.

It shall be unlawful for any person to exhibit, expose or display in public, at a newsstand or any other business or commercial establishment frequented by juveniles or where juveniles or may be invited as part of the general public:

(1) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles; or

(2) Any book, pamphlet, magazine or printed matter, however reproduced, or sound recording which contains any matter enumerated in subsection (1) of this section or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to juveniles.

(Code 1977, § 13-5-21)

Sec. 38-102. Exceptions from division.

Nothing contained in this division shall be construed to apply to the following:

(1) The purchase, distribution, exhibition or loan of any work of art, book, magazine or other printed or manuscript material by any accredited museum, library, school or institution of higher learning.

(2) The exhibition or performance of any play, drama, tableau or motion picture by any theater, museum, school or institution of higher learning, either supported by public appropriation or which is an accredited institution supported by private funds.

(Code 1977, § 13-5-22)

State law reference—Similar provision, Code of Virginia, § 18.2-391.1.

Secs. 38-103—38-130. Reserved.

DIVISION 3. NUDE OR PARTIALLY NUDE MODELS

Sec. 38-131. Information to be filed with chief of police.

(a) Each person who shall engage in the business in the town of providing live nude or partially nude models to be painted, sketched or photographed, whether by appointment or otherwise, shall file with the chief of police his name, age and current residential address and business address, together with all residential addresses for the previous five years. Such person shall also file with the chief of police the name, age, residential address and occupation of each model employed or to be employed in such business.

(b) Any person who shall fail or refuse to file with the chief of police the information required by subsection (a) of this section shall be guilty of a class 4 misdemeanor.
(Code 1977, § 13-5-24)

Sec. 38-132. Registration of customers.

(a) Each person who shall engage in the business in the town of providing live nude or partially nude models to be painted, sketched or photographed shall at all times keep and maintain therein a book or register in which shall be inscribed, with ink or indelible pencil, the name and address of each customer, in his own handwriting, with a clear and definite showing of the model painted, sketched or photographed, by name. Such book or register shall be maintained for a period of two years from the date of each entry and shall be open to inspection by the town law enforcement officers at reasonable hours.

(b) It shall be unlawful for any person to sign or cause to be signed, in the book or register referred to in subsection (a) of this section, a false or fictitious name when seeking to paint, sketch or photograph a model.

(c) Any person violating this section shall be guilty of a class 4 misdemeanor.
(Code 1977, § 13-5-25)

Sec. 38-133. Closing of studios during certain hours.

It shall be unlawful for any person engaged in the business of providing live nude or partially nude models to be painted, sketched or photographed by the general public to remain open for such business between the hours of 10:00 p.m. and 6:00 a.m. the following day.
(Code 1977, § 13-5-23)

Sec. 38-134. Presence of third person when model being photographed or painted.

In order to protect nude or partially nude models, it shall be unlawful for any person engaged in the business of providing live nude or partially nude models to be painted, sketched or photographed by the general public to allow or permit the painting, sketching

or photographing of live nude or partially nude models in a room unless there is present in the room a responsible adult individual in addition to the model and the customer.
(Code 1977, § 13-5-26)

Sec. 38-135. Obscene photographs or paintings.

(a) It shall be unlawful for any person to operate a business in the town which provides models or facilities for obscene sketching, painting or photographing of the human figure, where the nude or partially nude model's posture or the reproduction of the nude or partially nude model, whether by sketching, painting or photographing, appear in a manner which:

(1) Predominantly appeals to the prurient interests;

(2) Is patently offensive to contemporary community standards; and

(3) Is utterly without redeeming social value.

(b) It shall be unlawful for any person to act as a nude or partially nude model or to present any posture whereby the reproduction thereof shall appear in a manner which:

(1) Predominantly appeals to the prurient interests;

(2) Is offensive to contemporary community standards; and

(3) Is utterly without redeeming social value.

(c) It shall be unlawful for any person to cause to be made, whether by photography, sketching, painting or otherwise, reproductions of any nude or partially nude model which shall appear in a manner which:

(1) Predominantly appeals to the prurient interests;

(2) Is patently offensive to contemporary community standards; and

(3) Is utterly without redeeming social value.

(d) A violation of any subsection of this section shall constitute a class 3 misdemeanor.
(Code 1977, § 13-5-27)

Secs. 38-136—38-150. Reserved.

ARTICLE IV. CURFEW

Sec. 38-151. Curfew-minors.

(a) It shall be unlawful for any minor under the age of 18 to be present on any street, road, alley, avenue, park or other public place, or in any vehicle operating or parked thereon in the Town, between the hours of 12:01 a.m. and 5:00 a.m., unless accompanied by the parent, guardian or other adult person having the care, custody or control of such minor, except as specifically excepted hereunder.

(b) It shall be unlawful for any parent, guardian or other adult person having the care, custody or control of any minor under the age of 18 to permit, allow or encourage such minor to be present on any street, road, alley, avenue, park, other public place, or in any vehicle operating or parked thereon in the Town, between the hours of 12:01 a.m. and 5:00 a.m., unless accompanied by such parent, guardian or other adult person having the care, custody or control of such minor, except as specifically excepted hereunder.

(c) It shall not constitute a violation hereof for any such minor under the age of 18 to be present on any street, road, alley, avenue, park or other public place, or in any vehicle operating or parked thereon in the Town, if not accompanied by a parent, guardian or other adult person having the care, custody or control of such minor, if (1) such minor is on a bona fide emergency errand, or (2) is then engaged in bona fide lawful employment or is going directly to the place of such employment or returning directly to the place of residence, or (3) such minor has the signed written permission of a parent, guardian or other adult person having the care, custody or control of such minor to attend a specified engagement or performance which begins prior to midnight, and ends either after midnight or so close to midnight that it is impractical for such minor to reach his residence before midnight by traveling in a prudent manner and such minor is present at such engagement or performance or is proceeding directly to his place of residence upon conclusion thereof.
(Code 1977, § 13-9; Ord. of 8-7-2000)

Sec. 38-152. Enforcement.

Whenever any police or other officer charged with the duty of enforcing the laws of the state or ordinances of the Town shall discover or has his attention called to the fact that any minor under 18 years of age is present on any street, road, alley, avenue, park, other public place, or in any vehicle operating or parked thereon in the Town, between the hours of 12:01 a.m. and 5:00 a.m. and that such minor is not accompanied by his parent, guardian, or other adult person having the care, custody or control of such minor, such officer shall make an immediate investigation £or the purpose of ascertaining whether or not the presence of such minor on such street, road, avenue, alley, park, other public place or in any vehicle operating or parked thereon in the Town, is in violation of the provisions of this section. If such investigation reveals that the presence of such minor on such street, road, avenue, alley, park, other public place or in any vehicle operating or parked thereon in the Town, is in violation of the provisions of this section, the officer shall cause the minor to be taken to his home or place of residence and the minor and his parent, guardian or other adult person having the care, custody or control of the minor may be summonsed to appear before the juvenile and domestic relations court, or other court of appropriate jurisdiction, to be dealt with in accordance with the provisions of this section. Should the investigation, however, show that the minor is probably not within the purview of the juvenile and domestic relations court law and has not violated this section or any other provision of law or ordinances, the minor shall be immediately released from custody or returned to his home or to the custody of his parent, guardian or person having the care, custody or control of the minor, as appropriate.

Sec. 38-153. Penalty for violation.

Unless otherwise specifically provided, a violation of any prov1s1on of this section shall constitute a class 3 misdemeanor and be punishable by a fine not to exceed $500.00.

Secs. 38-154—38-174. Reserved.

ARTICLE V. TRESPASS VIOLATIONS

Sec. 38-175. Trespassing.

(a) If any person shall, without authority of law, go upon or remain upon the lands, buildings, or premises of another, or any part, portion or area thereof, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian or other person lawfully in charge thereof, or after having been forbidden to do so by a sign or signs posted on such lands, buildings, premises or part, portion or area thereof, at a place or places where it or they may be reasonably seen, or if any person, whether he is the owner, tenant, or otherwise entitled to the use of such land, building or premises, goes upon, or remains upon such land, building or premises after having been prohibited from doing so by a court of competent jurisdiction by an order issued pursuant to Code of Virginia sections 16.1-253, 16.1-253.1, 16.1-278.2 through 16.1-278.6, 16.1-278.8, 16.1-278.14, 16.1-278.15, 16.1-279.1, 19.2-152.8, 19.2-152.9, 19.2-152.10 or an ex parte order issued pursuant to Code of Virginia section 20-103, and after having been served with such order, he shall be guilty of a Class 1 misdemeanor. This section shall be construed to affect in any way the provisions of Code of Virginia section 18.2-132 through 18.2-136.

(b) Any owner, lessee, custodian, or person lawfully in charge of real property may, in writing on a form prescribed by the chief of police, designate the police department as a "person lawfully in charge thereof," as those terms are used in subsection (a) of this section, for the purpose of forbidding another to go or remain upon the lands, buildings, or premises of such owner. Such designation shall include a description of the land(s), building(s), or premises to which it applies; shall reference the period of time during which it is in effect; and shall be kept on file in the police department.
(Adopted 08-05-02)

Chapters 39—41

RESERVED

Chapter 42

PARKS AND RECREATION*

Article I. In General

Secs. 42-1—42-25. Reserved.

Article II. Park Regulations

Sec. 42-26. Authority.
Sec. 42-27. Compliance required.
Sec. 42-28. Penalty for violation.
Sec. 42-29. Rules and regulations.

***Charter references—**Parks, playgrounds, etc., ch. 2, § 1(15), (16); town plan, ch. 3.

Cross references—Environment, ch. 22; streets, sidewalks and other public places, ch. 50; vegetation, ch. 66; waterways, ch. 70; recreational park, app. A, § 2.136.

State Law references—Swimming pools, lakes and other waters, Code of Virginia, § 15.2-1110; local parks, recreation facilities and playgrounds, Code of Virginia, § 15.2-1806 et seq.; Public Recreational Facilities Authorities Act, Code of Virginia, § 15.2-5600 et seq.; Park Authorities Act, Code of Virginia, § 15.2-5700 et seq.

PARKS AND RECREATION

ARTICLE I. IN GENERAL

Secs. 42-1—42-25. Reserved.

ARTICLE II. PARK REGULATIONS.

Sec. 42-26. Authority.

This article is adopted pursuant to the authorities contained, among other things, in Charter chapter 2, section 1(9), (15), (21), (22), (41), (44), (48), (49), (50) and (71) and Code of Virginia, § § 4.1-128 and 15.2-1102.
(Code 1977, § 16-7; Ord. of 11-7-1991)

Sec. 42-27. Compliance required.

All persons using the town-owned recreational facilities, shall fully comply with all rules and regulations provided for in this article or as the rules and regulations may be amended from time to time. It shall be unlawful for any person to violate any such rule or regulation set forth in this article or any section of this article.
(Code 1977, § 16-3)

Sec. 42-28. Penalty for violation.

Any person violating any provision of this article shall, upon conviction, be guilty of a misdemeanor and shall be punished by confinement in jail for not more than 12 months and a fine of not more than $500.00, either or both, except as may be otherwise specifically provided under this article.
(Code 1977, § 16-5)

Sec. 42-29. Rules and regulations.

(a) The following rules and regulations shall be applicable to the uses of all town-owned recreational facilities:

(1) Each facility shall be open from
   a. Robert N. Reed Park shall have the hours of operation from one-half hour before sunrise to midnight each day.
   b. Veterans Memorial Park shall have the hours of operation from on-helf hour before sunrise to 10 p.m. each day, with fishing allowed to midnight.
   c. Donald J. Leonard Park shall have the hours of operation from one-half before sunrise to midnight each day.
   d. Island Nature Trail shall have the hours of operation from one-half hour before sunrise to one-half hour after sunset.

   Such hours of operation may be modified by the town manager, his designee, or the director of public works from time to time. Hours of operation shall be

conspicuously posted. Entering onto the facility between the hours of closure except during the course of a bona fide emergency shall constitute a criminal trespass.

(2) No person shall take a drink of an alcoholic beverage as defined under Code of Virginia, § 4.1-100 et seq. or tender a drink thereof to another, at any such public facility, except as may be expressly permitted under Code of Virginia, tit. 4.1.

(3) No person shall possess any opened container of alcoholic beverage, as defined in subsection (a)(2) of this section, at any such public facility, except as may be expressly permitted under Code of Virginia, tit. 4.1.

(4) Except as otherwise provided by law and giving due consideration to the present and proposed uses of the public facility, no person shall take a drink of or consume any alcoholic beverage, as defined in subsection (b)(2) of this section, or tender a drink thereof to another or possess any opened container of an alcoholic beverage at such public facility.

(5) The above provision for consumption of alcohol will not apply to any person while situated on a boat for which a slip has been leased at the Robert N. Reed Park.

(6) Violation of subsections (a)(2), (3) and (4) of this section shall constitute a class 4 misdemeanor.

(7) No person shall, with the intent to cause public inconvenience, annoyance or alarm or recklessly creating a risk thereof, while at such public facility, engage in conduct having a direct tendency to cause acts of violence by the person at whom, individually, such conduct is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this article.

(8) No open fires or burning shall be permitted at any time except for the purpose of the preparation of food and in cooking grills situated at the facility or provided by such persons. This subsection shall not prohibit the smoking of tobacco products except as may be required by state law.

(9) No person shall destroy, deface or injure any part of such property, real or personal, or otherwise throw or discard or cause to be thrown or discarded on such property or any part thereof any paper, bottle, can, fruit or vegetable peeling, glass, rag or any other refuse or waste, except in a receptacle provided for the disposal of refuse or waste.

(10) No weapons or firearms of any kind are permitted.

(10) No drugs are permitted.

(12) No excessive noise, as provided by article II of chapter 22, shall be permitted.

(13) No pets shall be permitted in the park, except in Donald J. Leonard Park and Phase I (paved section) of the Island Nature Trail.

(14) No fireworks or explosives are permitted unless a special permit is issued by the town.

(b) For the purpose of this subsection the word "group" shall additionally mean either a preplanned assemblage of ten or more persons engaging in one joint activity, or an informal assemblage of ten or more persons coming together and engaging in one joint activity. The following rules and regulations shall be applicable to the use of the facility by groups for Veterans Memorial Park and the Robert N. Reed Downtown Park, so as to ensure that the facility is reasonably accessible to all citizens and guests, no liability is incurred by the town or its agents and employees and the property is preserved and maintained for the benefit of future users:

(1) Any such group or member thereof shall, prior to utilizing the facility, secure a written permit from the office of the town manager.

(2) Such permit shall specify the area of the facility to be used by the group for its activity and the permitted hours, consistent with the planned activity, other groups desiring to use the facility or particular part thereof, and such other reasonable factors that the town manager or his designee may determine. The playground equipment cannot be exclusively reserved.

(3) The permit shall be further executed by the group or a member thereof and shall provide that the group or person executing the permit shall be responsible for any and all damages to the facility committed by such group or any member thereof. The town manager or his designee may require either that such person or the group provides evidence of financial responsibility or appropriate liability insurance.

(4) A copy of the permit shall be maintained in the town office and a copy delivered to the applicant, which shall be exhibited, upon request, to any member of the town manager's staff or any police officer.

(5) The town manager shall, further, provide such group or person acting on behalf of the group a copy of the rules and regulations applicable to the facility. The person scheduling the event is responsible for cleaning the park at the conclusion of the event. If cleaning is not performed to the town's satisfaction, the town will clean the park at the expense of the responsible party.

(6) The town manager shall, further, maintain a scheduling book in such a form as to show the particulars of each permit issued so as to not create unnecessary scheduling conflicts.

(7) Permits shall be generally issued on a first come, first served basis.

(c) The town manager, his designee, or any public officer who has probable cause to believe that any person is not utilizing the facility in accordance with this article shall have

the right to terminate such person's use of the facility and to expel such person from the premises. Any person failing to leave when so instructed by any such person shall be guilty of a separate offense of trespass and punished as provided in this article.

(d) The following only pertains to the Robert N. Reed Downtown Park

(1) A user fee of $50.00 shall be charged for each scheduled event with the exception of a community service event for which the fee may be waived at the discretion of the town manager. The income from user fees is a project program income and as such may only be utilized for park purposes.

(Code 1977, § 16-4; Ord. of 11-7-1991; Ord. of 7-6-1992 h, i, k(2)) ***(Amended 11/02/09)***

Chapters 43—45

RESERVED

Chapter 46

SOLID WASTE*

Article I. In General

Division 1. Generally

Sec. 46-1. Definitions.
Sec. 46-2. Accumulations on property.
Sec. 46-3. Deposits on sidewalks, streets, lanes, alleys.
Secs. 46-4—46-15. Reserved.

Division 2. Fees and Billing

Sec. 46-16. Solid waste collection fees.
Sec. 46-17. Billing and other charges.
Secs. 46-18—46-30. Reserved.

Article II. Collections

Division 1. Generally

Sec. 46-31. Tree trimmings.
Sec. 46-32. Removal of disease-bearing refuse.
Secs. 46-33—46-60. Reserved.

Division 2. Receptacles

Sec. 46-61. Provided by householders; number permitted.
Sec. 46-62. Construction of garbage receptacles; use of plastic bags.
Sec. 46-63. Construction of ash receptacles.
Sec. 46-64. Construction of rubbish receptacles.
Sec. 46-65. Construction of refuse receptacles.

***Charter references—**Collection of refuse, ch. 2, § 1(10); condition of premises, ch. 2, § 1(21), (35).

Cross references—Animal waste, § 10-86 et seq.; buildings and building regulations, ch. 14; environment, ch. 22; utilities, ch. 62.

State law references—Virginia Waste Management Act, Code of Virginia, § 10.1-1400 et seq.; removal of trash, garbage, etc., weeds and other foreign growth, Code of Virginia, § 15.2-901; garbage and refuse disposal, Code of Virginia, § 15.2-927; regulation of garbage and refuse pickup and disposal services, contracts, Code of Virginia, § 15.2-930; contracts for garbage and refuse pickup and disposal services, waste recovery facilities, Code of Virginia, § 15.2-932; delivery of garbage, trash and refuse to certain facilities, Code of Virginia, § 15.2-933; mailing summons for violation of trash ordinance, Code of Virginia, § 19.2-76.2.

Sec. 46-66. Prohibited.
Sec. 46-67. Placement.

Sec. 46-68. Removal from streets.
Sec. 46-69. Commercial garbage.
Sec. 46-70. Overturning; molesting or interfering with contents.

SOLID WASTE

ARTICLE I. IN GENERAL

DIVISION 1. GENERALLY

Sec. 46-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Refuse means all putrescible solid wastes, except garbage and body wastes.

Rubbish means nonputrescible solid wastes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials.

Cross reference—Definitions generally, § 1-2.

(Amended 05/05/03)

Sec. 46-2. Accumulations on property.

(a) *Prohibited.* No person owning real estate shall keep trash, garbage, refuse, litter, and other substances which might endanger the health or safety of other town residents on such real estate for a period of more than seven days.

(b) *Action by town after notice and assessment.* If any such person owning any such real estate shall fail to remove any such trash, garbage, refuse, litter, or other substance which might endanger the health or safety of other residents, the town may give such owner, as shown on the town's real estate tax records, written notice by certified mail at the address shown on such records of the requirements of this section, such owner's violation, and that if such owner does not comply with this section within ten days from the posting of the written notice the town may take legal action as may be required toward the removal of accumulations prohibited by this action.

(Amended 05/05/03)

(c) *Authority.* This section is adopted pursuant to, among other things, authority contained in Code of Virginia, §§ 15.2-901 and 15.2-1429 and chapter 2, section 1(10), (21), (27), (44), (48), (49), (50), and (60) of the Charter.

(d) *Penalty.* Any person violating this section shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail for not more than 12 months and fined up to $500.00, either or both.

(Code 1977, § 8-16; Ord. of 7-18-1991)

Sec. 46-3. Deposits on sidewalks, streets, lanes, alleys.

No person shall throw upon any sidewalk, street, lane or alley any paper, rags, old shoes, tin cans, bottles, fruit or vegetable peelings, glass, decayed fruit, dead animals or any other refuse or waste.
(Code 1977, § 8-2)

Cross reference—Streets, sidewalks and other public places, ch. 50.

Secs. 46-4—46-15. Reserved.

DIVISION 2. FEES AND BILLING

Sec. 46-16. Solid waste collection fees.

The town council shall designate certain reasonable weekly rates to be paid for the collection of solid waste, which the weekly rate shall be set each year at the time of establishing the annual budget, and which weekly rates shall apply for that year. The town manager shall bill residents and commercial businesses in accordance with the weekly rates established by the council and shall be in charge of collecting these charges.
(Amended 6/4/07)

Sec. 46-17. Billing and other charges.

(a) All habitable residential dwelling units shall be assessed per parcel and charged to the property owner and not the tenant(s) of each parcel. Short term rental properties subject to transient occupancy taxes shall be considered commercial entities and charged according to subsection (d) below. A property owner may be granted exemption from charges if the swelling or commercial property is unoccupied on a long term basis (twelve months or greater). Written requests for this exemption must be directed to the town manager for approval.
(Amended 10/18/07)

(b) All solid waste will be billed quarterly and shall be delinquent 30 days after the billing date, with an applicable interest per month charge.
(Amended 6/4/07)

(c) Any parcel that qualifies for exemption from real estate taxes pursuant to Sec. 54-93 shall also be exempt from solid waste collection fees.
(Amended 10/18/07)

(d) Commercial properties shall be assessed per parcel and charged to the property owner and not the tenant(s). Each commercial parcel will be eligible for collection services in volumes and at frequencies determined by the town from time to time. If actual volumes exceed allowed amounts, the property owner shall be responsible for the provision of commercial trash collection services.
(Amended 10/18/07)

Secs. 46-18—46-30. Reserved.

ARTICLE II. COLLECTIONS

DIVISION 1. GENERALLY

Sec. 46-31. Tree trimmings.

All tree trimmings shall be broken into lengths of not more than 40 inches and tied with cord.
(Code 1977, § 8-14)

Sec. 46-32. Removal of disease-bearing refuse.

The removal of wearing apparel, bed clothing or other refuse from homes or other places where highly contagious or infectious diseases have prevailed shall be performed under the direction of the county health department or by the state, and such wearing apparel, bed clothing or other refuse shall not be placed in containers or otherwise for collection by the town.
(Code 1977, § 8-15)

Secs. 46-33—46-60. Reserved.

DIVISION 2. RECEPTACLES

Sec. 46-61. Provided by householders; number permitted.

All householders or other establishments served by the town disposal service shall provide separate receptacles with tight fitting covers for all garbage, waste and refuse set out by them for removal by the town. The number of receptacles collected on each collection day shall be determined by the town from time to time.
(Code 1977, § 8-6; Ord. of 9-3-1991)

Sec. 46-62. Construction of garbage receptacles; use of plastic bags.

Garbage receptacles shall be made of metal or plastic, shall be watertight and shall be fitted with handles and provided with a tight fitting metal or plastic cover. Garbage receptacles shall have a capacity of not more than 30 gallons and shall not exceed 12 pounds empty weight and shall be so constructed that the contents can be removed easily and without delay. Except as may be otherwise permitted by the town from time to time, plastic bags, alone or outside garbage receptacles, shall be permitted only for the collection of grass trimmings and leaves.
(Code 1977, § 8-7; Ord. of 4-4-1988)

Sec. 46-63. Construction of ash receptacles.

Ash receptacles shall be of the same character, size and description as garbage receptacles. (Code 1977, § 8-9)

Sec. 46-64. Construction of rubbish receptacles.

A rubbish receptacle shall not exceed a capacity of 30 gallons and shall not exceed 12 pounds empty weight and shall be fitted with handles, tightly constructed, and provided with a tight fitting metal or plastic cover.
(Code 1977, § 8-10; Ord of 4-4-1988)

Sec. 46-65. Construction of refuse receptacles.

Refuse receptacles shall be of the same character and description as rubbish receptacles.
(Code 1977, § 8-11)

Sec. 46-66. Prohibited.

No wooden boxes, barrels or other wooden receptacles shall be used for garbage or kitchen refuse, and the garbage or waste collectors shall be required to remove all such wooden boxes, barrels or other wooden receptacles if so used. All receptacles must, at all times, be so constructed and maintained and so covered as to prevent the entrance of flies therein.
(Code 1977, § 8-13)

Sec. 46-67. Placement.

The occupant of every house and lot within the corporate limits shall, before 7:00 a.m., and in no case prior to 7 p.m. the day before the scheduled pick up, cause all garbage and waste which is to be removed from the premises by the town during the day to be placed in such receptacles as are prescribed in this article and shall have such receptacles placed on the inside line of the sidewalk in front of the premises.
(Code 1977, § 8-4)

Sec. 46-68. Removal from streets.

No garbage receptacle of any kind shall remain upon or along any public street, lane or alley, but all receptacles used for garbage or household waste of any kind shall be taken into the premises promptly as they have been emptied.
(Code 1977, § 8-5)
Cross reference—Streets, sidewalks and other public places, ch. 50.

Sec. 46-69. Commercial garbage.

As used in this section, the term "commercial businesses" shall mean all businesses licensed by the town. Garbage to be removed from commercial businesses will be picked up by the town only when all trash has been placed in proper containers, as described in section 46-62. Plastic bags must be placed in a vermin-proof bin or enclosure, must be readily accessible and must not be burst or split.
(Code 1977, § 8-8; Ord. of 4-7-1980)
Cross reference—Businesses, ch. 18.

Sec. 46-70. Overturning; molesting or interfering with contents.

No person shall overturn or molest or interfere with the contents of any receptacle set out for removal by the town, except the town employees or any person or his employees who may, by contract with the town, be employed to remove the receptacles unless by permission of the town.
(Code 1977, § 8-12)

Chapters 47—49

RESERVED

Chapter 50

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

Article I. In General

Secs. 50-1—50-25. Reserved.

Article II. Streets

Sec. 50-26. Warning lights on obstructions.
Sec. 50-27. Games in streets prohibited.
Secs. 50-28—50-55. Reserved.

Article III. Sidewalks

Sec. 50-56. Duty to keep clean.
Sec. 50-57. Removal of snow.
Sec. 50-58. Obstructions.
Secs. 50-59—50-85. Reserved.

Article IV. Street and Road Names; Street Signs; Building Numbers

Division 1. Generally

Sec. 50-86. Definitions.
Sec. 50-87. Notice of violation.
Sec. 50-88. Penalty for violation.
Secs. 50-89—50-115. Reserved.

Division 2. Street and Road Names

Sec. 50-116. Road name index.
Sec. 50-117. Authority to assign.
Sec. 50-118. Duplicate or similar names.

***Charter references—**Roads, streets, sidewalks, etc., ch. 2, § 1(14) et seq., (21), (46), (55) et seq., (67) et seq.; town plan, ch. 3.

Cross references—Any ordinance naming, renaming, opening, accepting or vacating streets or alleys in the town saved from repeal, § 1-6(a)(9); selling livestock on streets, § 10-57; buildings and building regulations, ch. 14; peddlers, § 18-94; environment, ch. 22; floods, ch. 30; parks and recreation, ch. 42; deposits of solid waste on sidewalks, streets, lanes, alleys- § 46-3; removal of solid waste from streets, § 46-68; washing, polishing, greasing, vehicle on street or sidewalk, § 58-8; riding bicycles on certain designated sidewalks, § 58-17; parades and processions, § 58-136 et seq.; parking on and driving over sidewalks, § 58-167; land subdivision and development, app. A; street, app. A, § 2.156.

State law references—Local streets and alleys, Code of Virginia, § 15.2-2000 et seq.; state highway plat book, Code of Virginia, § 17.1-238; state highway system, Code of Virginia, § 33.1-25 et seq.; local authority over highways, Code of Virginia, § 33.1-224 et seq.; pipelines and other works in streets, alleys, etc., Code of Virginia, § 56-257 et seq.

Sec. 50-119. Registration of new name on subdivision plat.

Sec. 50-120. Registration of existing name on subdivision plat.
Secs. 50-121—50-145. Reserved.

Division 3. Street Name Signs

Sec. 50-146. Erection.
Sec. 50-147. Erection by owner of subdivision or other development.
Secs. 50-148—50-175. Reserved.

Division 4. Building Numbers

Sec. 50-176. Uniform numbering system.
Sec. 50-177. Adjustments and modifications.
Sec. 50-178. Assignment of number.
Sec. 50-179. Placement.
Sec. 50-180. Standards for residences.
Sec. 50-181. Standards for commercial and industrial structures.
Sec. 50-182. Standards for apartments and similar complexes.
Sec. 50-183. Responsibility of property owner.

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE I. IN GENERAL

Secs. 50-1—50-25. Reserved.

ARTICLE II. STREETS

Sec. 50-26. Warning lights on obstructions.

Any person who shall break or dig up any street, lane or alley or deposit rubbish or other material thereon shall place so many lights as may be necessary to warn passersby of such break or obstruction in the streets, lanes or alleys on each and every night, from sunset until sunrise, so long as such breaks or obstructions shall remain.
(Code 1977, § 14-4)

Sec. 50-27. Games in streets prohibited.

It shall be unlawful for any person to play the games known as football, baseball, or bandy or to use in the streets any skateboard, roller blade, roller skate or nonmototized scooter, or any instrument known as a slingshot or any other noiseless instruments by which leaden shot or pebbles or any other missiles are projected, and it shall be unlawful to fly kites or throw stones, shells or balls in the streets.
(Code 1977, § 14-5)

Secs. 50-28—50-55. Reserved.

ARTICLE III. SIDEWALKS

Sec. 50-56. Duty to keep clean.

(a) It shall be the duty of the occupant or of the owner of any land or premises abutting upon any paved sidewalk in the town to have the sidewalk abutting such property swept and kept clean of all debris, dirt, refuse, grass, weeds, and other forms of overgrowth, including any limbs or other parts of trees or bushes over the sidewalks less than eight feet above the surface of the sidewalks.

(b) If such person occupying or owning such property shall fail, refuse, or neglect to keep the sidewalk as described in subsection (a) of this section, the town shall have the right to enter upon such sidewalk and have such debris, dirt, refuse, grass, weeds, and other forms of overgrowth, including any limbs or other parts of trees or bushes over such sidewalk less than
eight feet above the surface of such sidewalk, removed by its agents and employees. The cost thereof shall be chargeable to and paid by the occupant or the owner of such property and

shall be collected by the treasurer or such other proper official, as an assessment against the property, in the manner that taxes and levies are collected.
(Code 1977, § 14-1)

State law reference—Abatement or removal of nuisances, Code of Virginia, §§ 15.2-900,
15.2-1115.

Sec. 50-57. Removal of snow.

It shall be the duty of each person using or occupying in any manner any house, shop, store, stable, church or tenement of any kind and of persons having charge of churches and public buildings of any description and of owners of unoccupied houses and unimproved lots situated on any paved street, lane or alley in the town, within three hours after the fall of any snow, except when the snow shall have ceased to fall between the hours of 3:00 p.m. and 7:00 a.m., in which case it shall be removed before 11:00 a.m., to remove and clear away or cause to be removed and cleared away the snow from the footpaths fronting the respective stores, houses, shops, stables or churches, in such manner as not to obstruct the passage of the water in the gutters.
(Code 1977, § 14-2)

State law reference—Removal of snow from sidewalks, Code of Virginia, § 15.2-1115.

Sec. 50-58. Obstructions.

No person shall place goods, wares or merchandise on the sidewalks unless such person is receiving or delivering the goods, wares or merchandise, and in no case shall such goods be allowed to remain on the sidewalks longer than is reasonably necessary for the removal of the goods.
(Code 1977, § 14-6)

Secs. 50-59—50-85. Reserved.

ARTICLE IV. STREET AND ROAD NAMES; STREET SIGNS; BUILDING NUMBERS

DIVISION 1. GENERALLY

Sec. 50-86. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Street and *road* mean the same and include avenues, boulevards, highways, lanes, ways, and similar street types.
(Code 1977, § 17-1; Ord. of 7-1-1991)

Cross reference—Definitions generally, § 1-2.

Sec. 50-87. Notice of violation.

Whenever the town manager or his authorized agent has reason to believe that there has been or there exists a violation of this article, he shall give written notice of such violation to the person failing to comply and order the person to take corrective measures within 30 days from the date of notification. If such person fails to comply with the duly issued order, the town manager or his agent shall initiate necessary actions to terminate the violation through criminal or civil measures.
(Code 1977, § 17-18; Ord. of 7-1-1991)

Sec. 50-88. Penalty for violation.

Any violation of this article shall constitute a class 4 misdemeanor.
(Code 1977, § 17-19; Ord. of 7-1-1991)

Secs. 50-89—50-115. Reserved.

DIVISION 2. STREET AND ROAD NAMES*

Sec. 50-116. Road name index.

The Town of Chincoteague Road Name Index, on file in the office of the town manager, is adopted as the official listing of names for streets and roads in the town, and such streets and roads are assigned the names listed therein.
(Code 1977, § 17-1; Ord. of 7-1-1991)

Sec. 50-117. Authority to assign.

The town manager or his duly authorized agent is authorized to assign names to any public or private road or street in the town which provides access to two or more occupied buildings.
(Code 1977, § 17-2; Ord. of 7-1-1991)

Sec. 50-118. Duplicate or similar names.

The town manager or his duly authorized agent is authorized to negotiate with residents along streets or roads bearing duplicate or confusingly similar names in the town and to change the names of such roads or streets to eliminate such duplications.
(Code 1977, § 17-3; Ord. of 7-1-1991)

Sec. 50-119. Registration of new name on subdivision plat.

No street or road within the town shall be assigned a name on a subdivision plat or

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***State law reference—**Localities may name streets, roads and alleys, Code of Virginia, § 15.2-2019.

otherwise until such name is registered with the town manager or his duly authorized agent, approved, and added to the Town of Chincoteague Road Name Index. The town manager shall have authority to refuse registration of any name already in use, confusingly similar to a name already registered, or deemed confusing for purposes of emergency response.
(Code 1977, § 17-4; Ord. of 7-1-1991)

Sec. 50-120. Registration of existing name on subdivision plat.

No street or road name currently shown on a subdivision plat filed with the town or otherwise shall be implemented by a subdivision owner until such name has been registered with the town manager or his duly authorized agent, approved and added to the Town of Chincoteague Road Name Index. However, this section shall not apply to any road or street presently constructed on which street name signs have been placed prior to the effective date of the ordinance from which this section derives. The town manager shall have the right to refuse registration of any name already in use, confusingly similar to a name already registered, or deemed confusing for purposes of emergency response.
(Code 1977, § 17-5; Ord. of 7-1-1991)

Secs. 50-121—50-145. Reserved.

DIVISION 3. STREET NAME SIGNS

Sec. 50-146. Erection.

All new street name signs erected within the town shall be in conformance with the specifications of this section, unless a variance is granted by the state department of transportation, or the town council. The minimum height of each sign blank shall be six inches with four-inch series C letters for the street name and two-inch series C letters for the suffix street type abbreviation. The maximum length of each sign blank shall be 54 inches. Where the length of a street name will not fit the specified size sign blank, the lettering may be reduced by one inch and to a series B letter if necessary. The finish of all signs shall be either engineering grade or high intensity reflective sheeting. Signs at intersections of public roads or streets, subdivision streets, and streets which may become eligible for acceptance as state-maintained roads shall be green with white lettering. Signs for private roads or driveways assigned names under this article shall be brown with white letters. Unless otherwise approved by the town manager or his authorized agent, signs at intersections of public and subdivision roads shall be mounted atop 2 3/8-inch galvanized pipes or galvanized U-channel posts with the signs appearing at a height of not less than nine feet above grade. Signs for private roads or driveways may be optionally mounted on the side of a four-inch by four-inch wood post at a height of not less than seven feet above grade. Nothing in this section shall be interpreted to apply to signs posted by the state department of transportation in conformance with its specifications.
(Code 1977, § 17-6; Ord. of 7-1-1991)

Sec. 50-147. Erection by owner of subdivision or other development.

The owner of any subdivision or other development shall erect or cause to be erected street name signs in conformance with this article at any and all intersections within such subdivision or development upon the construction of any street on or after the effective date of the ordinance from which this section derives. Where any subdivision owner is currently required to erect street signs but has failed to do so, the future erection of street signs shall be in conformance with this article.
(Code 1977, § 17-8; Ord. of 7-1-1991)

Secs. 50-148—50-175. Reserved.

DIVISION 4. BUILDING NUMBERS*

Sec. 50-176. Uniform numbering system.

All properties or parcels of land within the town shall be identified by reference to a uniform numbering system, as shown on maps filed in the office of the town manager. Such maps and the explanatory matter thereon are adopted and made a part of this division.
(Code 1977, § 17-9; Ord. of 7-1-1991)

Sec. 50-177. Adjustments and modifications.

In applying the guidelines specified in this division, the town manager or his authorized agent shall have the authority to make minor adjustments and modifications to ensure a logical and efficient street address system.
(Code 1977, § 17-16; Ord. of 7-1-1991)

Sec. 50-178. Assignment of number.

A house or building number shall be assigned to each dwelling or other building in the town. The combination of such number and the road or street name shall be the official location address of such dwelling or building. Such location shall serve as the official mailing address for postal patrons receiving home, rural, or contract delivery.
(Code 1977, § 17-10; Ord. of 7-1-1991)

Sec. 50-179. Placement.

When each house or building has been assigned its respective address, the owner, occupant, _____

***Cross reference—**Buildings and building regulations, ch. 14.

State law reference—Numbers to be displayed on buildings, Code of Virginia, § 15.2-2024.

or agent shall place or cause to be placed upon each house or building controlled by him the number assigned under the uniform numbering system. Such number shall be placed on existing buildings within 60 days of notification of the assigned address. Such number shall

be placed on a new building prior to occupancy. The cost of posting the address shall be the responsibility of the property owner.
(Code 1977, § 17-11; Ord. of 7-1-1991)

Sec. 50-180. Standards for residences.

Street address numbers for residences shall be at least three inches in height and shall be made of a durable and clearly visible material. The number shall be conspicuously placed on, above, or at the side of the main entrance so that the number is discernible from the street. Whenever a residence is more than 100 feet from the street or when the residence is not visible from the street, the number shall be placed along a walk, driveway, or other suitable location so that the address number is discernible from the street. Street addresses shall be of a contrasting color to the background on which they are mounted.
(Code 1977, § 17-12; Ord. of 7-1-1991)

Sec. 50-181. Standards for commercial and industrial structures.

Street address numbers for commercial and industrial structures shall be at least three inches in height if located within 50 feet of the street or at least six inches in height if located greater than 50 feet from the street. The number shall be placed above or on the main entrance to the structure when possible. If such number is not visible from the street, the number shall be placed along a driveway or on a sign visible from the street.
(Code 1977, § 17-13; Ord. of 7-1-1991)

Sec. 50-182. Standards for apartments and similar complexes.

Apartments and similar complexes assigned a single building number shall display the address numbers on each assigned structure using numbers having a minimum height of six inches. Numbers or letters for individual apartments, suites, or units within these complexes shall be displayed on, above, or to the side of the main doorway of each apartment, suite, or unit and shall be at least three inches in height.
(Code 1977, § 17-14; Ord. of 7-1-1991)

Sec. 50-183. Responsibility of property owner.

Whenever any house, building or structure shall be erected or located after the initial establishment of the uniform numbering system as provided in this division, it shall be the duty of the property owner to procure the correct number for the property and to affix the number to the building in accordance with this division. An application for a building permit for a new building shall be considered an application for an address assignment. The building official shall coordinate the application with the designated agent of the town manager responsible for the assignment of addresses and shall forward the assigned address to the applicant not later than 60 days following issuance of the permit. The applicant shall be required to furnish such measurements in relation to other properties or intersections as shall be deemed necessary for assignment of a valid address.
(Code 1977, § 17-15; Ord. of 7-1-1991)

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

Chapters 51—53

RESERVED

Chapter 54

TAXATION*

Article I. In General

Sec. 54-1. Bank franchise tax.
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Article II. Property Taxes

Division 1. Generally

Sec. 54-31. Due date; use of revenue; enforcement.
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Division 2. Real Estate Tax

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Sec. 54-61. Levied.
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Sec. 54-97. Penalty for violation.
Secs. 54-98—54-125. Reserved.

***Charter reference—**Levy and collection of taxes, ch. 2, § 1(1), (59) et seq., (68) et seq.

Cross references—Any ordinance or resolution promising or guaranteeing the payment of money for the town, authorizing the issuance of any bonds of the town, or any evidence of the town's indebtedness, or any contract established or obligation assumed, by the town saved from repeal, § 1-6(a)(2); any annual tax levy saved from repeal, § 1-6(a)(3); administration, ch. 2; finance, § 2-181 et seq.; businesses, ch. 18.

State law references—Municipal taxes and assessments, Code of Virginia, § 15.2-1104; taxation generally, Code of Virginia, § 58.1-1 et seq.; priority of taxes in distribution of assets of person or corporation, Code of Virginia, § 58.1-6 et seq.; Setoff Debt Collection Act, Code of Virginia, § 58.1-520 et seq.; local sales and use taxes, Code of Virginia, § 58.1-605 et seq.; local bank franchise tax, Code of Virginia, § 58.1-1208 et seq.; local taxes generally, Code of Virginia, § 58.1-3000 et seq.; enforcement, collection, refunds, remedies and review of local taxes, Code of Virginia, § 58.1-3900 et seq.

Subdivision III. Exemption for Certain Rehabilitated Real Estate

Sec. 54-110. Definitions.
Sec. 54-111. Exemption declared.
Sec. 54-112. Schedule.
Sec. 54-113. Administration.
Sec. 54-114. Eligibility.
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Division 3. Personal Property Tax

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Secs. 54-126—54-150. Reserved.

Subdivision II. Motor Vehicles; Mobile Homes, Trailers; Semi-trailers; Boats

Sec. 54-151. Rate.
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Subdivision III. Personal Property Tax Relief Act of 1998

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Article III. Consumer Utility Taxes

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Sec. 54-182. Rate; levy; procedure as to payment.
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Division 2. Electric Service.

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Sec. 54-292. Regulations for administration and enforcement.
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CHINCOTEAGUE CODE

TAXATION

ARTICLE I. IN GENERAL

Sec. 54-1. Bank franchise tax.

A franchise tax of $0.80 shall be levied on each $100.00 of net capital of each and every bank, as defined in Code of Virginia, § 58.1-1201, located in the town, in accordance with Code of Virginia, tit. 58.1.
(Code 1977, § 6-6; Ord. of 9-2-1997)

Secs. 54-2—54-30. Reserved.

ARTICLE II. PROPERTY TAXES

DIVISION 1. GENERALLY

Sec. 54-31. Due date; use of revenue; enforcement.

(a) Real and personal property taxes levied under this article shall be due and payable on or before December 5 of the year for which the taxes are imposed, unless otherwise expressly provided.

(b) Revenue derived from the real estate and personal property taxes levied under this article and all penalties and interest collected pursuant to section 54-32 shall be used for general purposes and credited to the town's general revenue fund.

(c) Enforcement, collection, refunds, remedies and review of the town taxes, penalties and interest imposed by this article shall be in accordance generally with Code of Virginia, § 58.1-3900 et seq.
(Code 1977, § 6-3; Ord. of 6-18-1998)

Sec. 54-32. Penalties, interest, attorneys' fees and administrative fees for delinquent payment.

(a) If any tax due under this article is not paid on or before the due date specified in section 54-31, there shall be added to the tax an assessed penalty for the delinquent payment of taxes equal to the greater of $10.00 or ten percent of the amount of delinquent tax, subject to the exceptions set forth in Code of Virginia, § 58.1-3916. Any such penalty when so assessed shall become a part of the tax.

(b) If any portion of a tax or penalty imposed under this article is not paid on or before the due date, there shall be added to the tax and/or penalty remaining due interest at the rate of ten percent per annum, with daily accruals, such interest commencing on the first day following the due date of such taxes and/or penalty and continuing until the taxes and/or penalties are paid.

(c) If any town taxes, penalties and/or interest imposed under this article are not paid when due and such delinquent account is turned over to an attorney or private collection agency for collection, there shall be added to the town taxes, penalties and interest due an attorney's or collection agency fee in the amount of 20 percent of the amount of taxes, penalties and interest otherwise due.

(d) There is imposed on delinquent taxpayers an administrative cost fee, which shall be in addition to all penalties, interest, attorney's fees and collection agency's fees, in the amount of $20.00 for taxes collected subsequent to the filing of a warrant or other appropriate legal document but prior to judgment and in the amount of $25.00 for taxes collected subsequent to judgment.

(e) This section shall be effective for any taxes and/or penalties remaining due as of June 18, 1998 and for any taxes and/or penalties thereafter becoming due under this article. (Code 1977, § 6-4; Ord. of 6-18-1998)

Secs. 54-33—54-60. Reserved.

DIVISION 2. REAL ESTATE TAX

Subdivision I. In General

Sec. 54-61. Levied.

(a) There is levied an annual tax on real property within the corporate limits at the rate of $0.10 per $100.00 of valuation, which tax shall be administered as provided generally in Code of Virginia, § 58.1-3200 et seq.
(Amended 06-02-03)

(b) There is hereby levied an annual tax on real property and mobile homes within the corporate limits at the rate of three cents per one hundred dollars ($0.03/100) of valuation, which tax shall be used for the control of mosquitoes by drainage, fogging, larvaciding, aerial spraying, etc. within the corporate limits. Revenue received shall be maintained as an enterprise fund of the town. The mosquito control program shall be administered by a two-member committee of council..
(Code 1977, § 6-1; Ord. of 6-18-1998; Ord. of 10-19-2000 (b)) ***(Amended 06-02-03)***

Secs. 54-62—54-90. Reserved.

*Subdivision II. Exemptions for Elderly and Handicapped**

Sec. 54-91. Definitions.

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commissioner of the revenue means the commissioner of the revenue of the county or any of his duly authorized deputies or agents.

Dwelling means the full-time residence of the person claiming exemption.

Exemption means exemption from the town real estate tax according to this subdivision.

Net combined financial worth means all assets of the owners of the dwelling who reside therein and of the spouses of any such owners, including equitable interest, excluding the value of the dwelling and the land in an amount not to exceed one acre upon which it is situated. For determination of value of real estate properties, the fair market value shall be used.

Permanently and totally disabled means unable to engage in any substantial gainful activity because of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.

Property means real property.

Taxable year means the calendar year, from January 1 through December 31, inclusive, for which exemption is claimed.

Total combined income means total income from all sources of the owners of the dwelling who use it as their principal residence and of any relatives of the owners who reside in the dwelling.

Town manager means the town or any of his duly authorized deputies or agents.
(Code 1977, § 6-52)
Cross reference—Definitions generally, § 1-2.

Sec. 54-92. Administration.

The exemption granted under this subdivision shall be administered by the town manager. The town manager is authorized and empowered to prescribe, adopt and enforce rules and regulations, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for exemption. The town manager may require production of certified tax returns and appraisal reports to establish income or financial worth.
(Code 1977, § 6-53)
Cross reference—Administration, ch. 2.

***State law reference—**Exemptions for elderly and handicapped, Code of Virginia, § 58.1-3210 et seq.

Sec. 54-93. Eligibility.

Under this subdivision, the exemption shall be granted to persons subject to the following:

(1) The title to the property for which exemption is claimed is held or partially held, on December 31, immediately preceding the taxable year by the person claiming exemption. If the ownership of the property for which application for exemption is made is not held solely by the applicant or jointly with the applicant's spouse, the amount of the tax exemption shall be in proportion to the applicant's ownership interest in the subject real property, as that ownership may appear.

(2) The head of the household occupying the dwelling and owning title or partial title thereto is 65 years or older on December 31 of the year immediately preceding the taxable year, or such person is permanently and totally disabled as defined in this subdivision and was so on December 31 of the year immediately preceding the taxable year. Such dwelling must be occupied as the sole dwelling of the person claiming exemption.

(3) The total combined income of the owners during the year immediately preceding the taxable year shall be determined by the town manager to be an amount not to exceed $17,500.00. Total combined income shall include from all sources of the owners, spouses, and of the owner's relatives living in the dwelling for which exemption is claimed; provided, however, that the first $6,500.00 of annual income of the owner's relatives living in the dwelling other than the spouse's shall be excluded in computing total combined income.

(4) The net combined financial worth as of December 31 of the year immediately preceding the taxable year of the owners and of the spouse of any owner shall be determined by the town manager to be an amount not to exceed $50,000.00. Net combined financial worth shall include the value of all assets, including equitable interests of the owners and the spouse of any owner, excluding the fair market value of the dwelling and the land, not exceeding one acre, upon which it is situated and for which exemption is claimed.

(5) The person claiming exemption files annually with the commissioner of the revenue an affidavit as required and shall present to the town manager certification of such affidavit as provided in this subdivision.

(6) In making the determinations provided for in this section, the town manager may rely on such determinations as may be made by the commissioner of the revenue for exemptions from county taxes.

(Code 1977, § 6-54; Ord. of 3-15-1993 (3), (4)) ***(Amended 07/07/03)***

Sec. 54-94. Application.

(a) Annually after January 1 and before April 1 of the taxable year, the person claiming an exemption pursuant to this subdivision shall file with the commissioner of the revenue, on forms supplied by the commissioner of the revenue, an affidavit setting forth the location and assessed value of the property, the names of all the related persons occupying such real estate, the total combined income of the persons as specified in section 54-93(3), and the net combined financial worth of the persons as specified in section 54-93(4). If such person is

under 65 years of age, such form shall have attached thereto a certification by the Social Security Administration, the Department of Veterans' Affairs or the railroad retirement board or, if such person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors who are either licensed to practice medicine in the commonwealth or are military officers on active duty who practice medicine with the United States armed forces, to the effect that the person is permanently and totally disabled, as defined in Code of Virginia, § 58.1-3217; however, a certification pursuant to 42 USC 423(d) by the Social Security Administration so long as the person remains eligible for such social security benefits shall be deemed to satisfy such definition in Code of Virginia, § 58.1-3217. The affidavit of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the civil service commission which is relevant to the standards for determining permanent and total disability as defined in Code of Virginia, § 58.1-3217. The commissioner of the revenue shall also make such further inquiry of persons seeking an exemption requiring answers under oath, as may be reasonably necessary to determine qualifications therefor, including qualifications as permanently and totally disabled. The commissioner of the revenue is authorized to require the production of certified tax returns to establish the income or financial worth of any applicant for the exemption.

(b) If, after audit and investigation, the commissioner of the revenue determines that the person is qualified for exemption, he may so certify by letter to the applicant applying for exemption, and the applicant shall present a copy of such certifying letter to the town manager. The town manager may deduct the amount of the exemption from the claimant's real estate tax liability for the taxable year in question or may conduct such further investigation as he may deem necessary as stated in section 54-92.
(Code 1977, § 6-55) ***(Amended 07/07/03)***

Sec. 54-95. Schedule.

Where the person claiming exemption pursuant to this subdivision conforms to the standards and does not exceed the limitation contained in this subdivision, the real estate tax exemption shall be as shown on the following schedule:

Total Combined Income from All Sources	*Tax Exemptions*
$12,501.00 to $17,500.00	50%
$0.00 to $12,500.00	100%

(Code 1977, § 6-56; Ord. of 3-25-1993) ***(Amended 07/07/03)***

Sec. 54-96. Additional considerations.

(a) The fact that persons who are otherwise qualified for tax exemption pursuant to this subdivision are residing in hospitals, nursing homes, convalescent homes or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which exemption is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration.

(b) Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit is filed and having the effect of exceeding or violating the limitations and conditions provided in this subdivision shall nullify any exemption for the remainder of the current taxable year and the taxable year immediately following.

(c) For purposes of this subdivision, a mobile home shall be real estate if the owner's intention that it be permanently affixed is shown by the facts that it is anchored, skirted and connected to permanently installed water and sewer lines or facilities. It can be located on land belonging to persons described in section 54-93 or on rented land.
(Code 1977, § 6-57)

Sec. 54-97. Penalty for violation.

Any person falsely claiming an exemption or knowingly and intentionally furnishing false information under this subdivision or otherwise violating this subdivision shall be guilty of a misdemeanor and, upon conviction, may be punished by a fine not exceeding $1000.00 or by confinement in jail not exceeding 12 months or both.
(Code 1977, § 6-58) ***(Amended 07/07/03)***

Secs. 54-98—54-109. Reserved.

Subdivision III. Partial Exemption for Certain Rehabilitated, Renovated, or Replaced Structures or Improvements on Real Estate

Sec. 54-110. Definitions.

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this subdivision, except where the context clearly indicated a different meaning:

Amount of Exemption means the amount equal to the increase in assessed value resulting form the rehabilitation, renovation, or replacement of qualified real estate as described hereunder as determined by the town assessment officer on January 1 of the year following the completion of the rehabilitation, renovation, or replacement of any structure or improvement on such real estate. An increase in the assessment occurring after the first year subsequent to such rehabilitation, renovation, or replacement, shall not result in an increase in such partial exemption or otherwise affect same.

Partial Exemption means exemption from a portion of the town real estate tax assessment and resulting tax that would otherwise be due by reason of said real estate being otherwise fully assessed and billed for real estate taxation purposes.

Qualifying Real Estate means*:*

1. Any real estate used for residential purposes located within a qualifying zone or district on which any structure or other improvements, at least fifteen (15) years of age, has undergone substantial rehabilitation, renovation or replacement, and which results in an increase in the assessed value of said real estate as a result of such

rehabilitation, renovation, or replacement, such replaced structure or improvement shall not exceed the total square footage of the replaced structure or improvement by more than thirty percent (30%) in order to qualify hereunder. Expressly provided that when rehabilitation is achieved through demolition and replacement of an existing structure, the exemption shall not apply when the structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic district.

2. Any real estate used for commercial or industrial purposes located within a Qualifying Zone or District on which any structure or other improvements, at least twenty (20) years of age, has undergone substantial rehabilitation, renovation or replacement, and which results in an increase in the assessed value of said real estate as a result of such rehabilitation renovation or replacement of at least thirty percent (30%). When such rehabilitation is by replacement, such replaced structure or improvements shall not exceed the total square footage of the replaced structure or improvement by more than one hundred percent (100%) in order to qualify hereunder Expressly provided that when rehabilitation, renovation or replacement is achieved through demolition and replacement of an existing structure, the exemption shall not apply when the structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic district.

Qualifying Zone or District means real estate located within the boundaries of the CDBG Downtown Revitalization Project as delineated in the Downtown Revitalization Plan dated March 2001, on file in the town offices.

Taxable Year means the calendar year from January 1 through December 31, inclusive, for which exemption is claimed.

Sec. 54-111. Partial exemption declared.

There is hereby declared a partial exemption for town real estate taxation purposes for qualifying real estate as delineated herein, in accordance with the schedule provided for under §54-112, effective for taxable years beginning 2002 and completed pursuant to a building permit issued subsequent to the effective date hereof.

Sec. 54-112. Schedule of partial exemption.

Any such real estate taxpayer rehabilitating, renovating, or replacing any structure or other improvements on qualified real estate within any qualifying zone or district as herein above provided shall be entitled to apply for and claim the amount of partial exemption in accordance with the following schedule:

1. One hundred percent (100%) of the increase in assessed value for the first taxable year following the completion of such rehabilitation, renovation, or replacement.

2. Eighty percent (80%) of the increase in assessed value for the second taxable year

following the completion of such rehabilitation, renovation, or replacement.

3. Sixty percent (60%) of the increase in assessed value for the third taxable year following the completion of such rehabilitation, renovation, or replacement.

4. Forty percent (40%) of the of the increase in assessed value for the fourth taxable year following the completion of such rehabilitation, renovation, or replacement

5. Twenty percent (20%) of the increase in assessed value for the fifth taxable year following the completion of such rehabilitation, renovation, or replacement.

The increase in assessed value as a result of the rehabilitation, renovation or replacement of any such structure or improvement shall not cause the assessed value of such real estate to be reduced on the real estate tax records of the town.

Sec. 54-113. Other requirements.

No such real estate taxpayer shall be entitled to apply for and claim such partial exemption unless such real estate taxpayer materially complies with the following additional requirements:

1. Obtain a building permit from the town prior to the initiation of the permitted work.

2. File the application for partial exemption on a form prescribed by the town manager prior to January 1of the first taxable year subsequent to the completion of the work, and for which the partial exemption is to be claimed.

3. Submit an application fee in the amount of fifty dollars ($50.00) with said application. Any application for which the processing fee of fifty dollars ($50.00) is not paid prior to January 1 of the first taxable year subsequent to such rehabilitation, renovation or replacement, shall be deemed to not be timely filed.

Sec. 54-114. Administration.

The partial exemption granted under this subdivision shall be administered by the town manager who is deemed the assessing officer for purposes of this subdivision. The town manager is authorized and empowered to prescribe, adopt and enforce rules and regulations, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for exemption. The town manager may require production of assessments or other documents to establish the increase in assessed value due to the approved rehabilitation. No partial exemption shall be approved until such time as the assessing officer has verified that the rehabilitation, renovation or replacement indicated on the application has been completed. The billing to the taxpayer shall contain sufficient information to show the partial exemption and the computation of the adjusted tax bill.

Sec. 54-115. Penalty.

Failure to remit the required tax payment to the Town for such qualified real estate by the due date of the applicable taxable year shall void partial exemption for such taxable year

and all tax years remaining under the Schedule for such claimed rehabilitation, renovation, or replacement.

Sec. 54-116. Conflict with state law.

In the event of any conflict between the provisions hereof and §58.1-3220 and §58.1-3221 relative to the interpretation and application hereof, state law shall supersede and govern.
(Ord. of 4-18-2002)

Secs. 54-117–125. Reserved.

DIVISION 3. PERSONAL PROPERTY TAX*

Subdivision I. In General

Secs. 54-126—54-150. Reserved

Subdivision II. Motor Vehicles; Mobile Homes; Trailers; Semi-trailers; Boats†

Sec. 54-151. Rate.

(a) There is levied an annual tax on motor vehicles, trailers, semi-trailers, and boats, including boats weighing over five tons or more, with situs, as defined in Code of Virginia, § 58.1-3511, within the corporate limits at the rate established annually as a part of the adopted budget for the town, which tax shall be administered as provided generally in Code of Virginia, § 58.1-3500 et seq.
(Code 1977, § 6-2(a)) ***(Amended 12/05/05)***

(b) There is hereby levied an annual tax on mobile homes within the cooperate limits at the rate established annually as a part of the adopted budget for the town, which tax shall be administered as provided in Code of Virginia, § 58.1-3500 et seq.
(Amended 12/05/06)

Sec. 54-152. Reserved.

Sec. 54-153. Procedures.

(a) *Definitions.* All words and terms used in this section shall, for purposes of this section, have the same meaning as set forth in Code of Virginia, § 58.1-3516, except when the

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***State law references—**General classification of tangible personal property, Code of Virginia, § 58.1-3503; other classifications of tangible personal property for taxation, Code of Virginia, § 58.1-3506.

†**Cross reference–**Traffic and vehicles, ch. 58.

context clearly indicates a different meaning.

(b) *Proration of tax.* Pursuant to Code of Virginia, § 58.1-3516, there shall be a personal property tax at a rate established each year by the town council on automobiles which have

a situs within the town on January 1 of each year and additionally on automobiles (referred to as "prorated property"), which acquires a situs within the town on or after January 2 of each year. When prorated property acquires a situs within the town on or after January 2, the personal property tax for the year shall be assessed to the owner prorated on a monthly basis for the portion of the tax year during which the prorated property has a situs within the town. For purposes of proration, a period of more than one-half of a month shall be counted as a full month, and a period of less than one-half of a month shall not be counted. The owner of any property constituting prorated property acquiring a situs within the town or to which prorated property is transferred shall file a declaration of property ownership with the county commissioner of the revenue within 30 days of the date on which the property acquired a situs within the town or has its title transferred to the new owner.

(c) T*ransfer of property.* Any taxpayer shall be relieved from personal property tax and entitled to a refund of the appropriate amount of any tax paid on any such defined tangible personal property, which shall be prorated on a monthly basis as provided in subsection (b) of this section, when such tangible personal property loses its situs within the town after the tax day or after the day on which it acquires situs as provided in this section. However, no such relief shall be had nor refund shall be made if the defined tangible personal property acquires a situs within the commonwealth in a nonprorating town. When any person sells or otherwise transfers title to any such defined tangible personal property with a situs in the town after the tax day or situs day, the tax shall be relieved, prorated on a monthly basis, and the appropriate amount of tax paid, if any, shall be refunded or credited, at the option of the taxpayer, against the tax due on any such personal property owned by the taxpayer during the same tax year and taxed, provided that the taxpayer makes application to the town and provided that such application is made within three years of the last day of the tax year in which the property lost its situs or was transferred. Any refunds by the town shall be made within 30 days of the date such tax is relieved. No refund of less than $5.00 shall be issued to a taxpayer unless specifically requested by the taxpayer.

(d) *Relocation of taxpayer from nonprorating locality to town during tax year:* Any person who moves from a nonprorating locality in a single tax year shall be entitled to a property tax credit in the town as to any such item of defined tangible personal property if the person was liable for personal property taxes on a motor vehicle and has paid those taxes to the nonprorating jurisdiction. Further, as to any replacement vehicle acquired by any taxpayer who has moved, the taxpayer shall be entitled to a credit against the tax due on any such replacement vehicle to the town in an amount equal to the tax paid to the nonprorating locality on the original motor vehicle replaced for the period of time commencing with the disposition of the original vehicle and continuing through the close of tax year in which the taxpayer incurred tax liability to the nonprorating locality for the original vehicle.

***Cross reference—**Traffic and vehicles, ch. 58.

(e) *Exemption of certain taxed personal property.* No tax shall be imposed on and any such defined tangible personal property shall be exempt for any tax year or portion thereof during which the property was legally assessed by another jurisdiction in the commonwealth and the tax was paid.

(f) *Billing of prorated property taxes.* Notwithstanding any other day provided by law

for the billing and payment of local personal property tax, the town may bill all personal property taxes on prorated defined tangible personal property assessed for a portion of the tax year on or after December 15 of any such year, which tax shall be due and payable in not less than 30 days after the date of the tax bill.

(g) *Conflicting provisions.* If any conflict occurs between any subsection of this section and Code of Virginia, § 58.1-3516, the provisions of Code of Virginia, § 58.1-3516 shall be deemed to supersede such inconsistent provision.
(Code 1977, § 6-2; Ord. of 1-3-2000)

Secs. 54-154—54-170. Reserved.

Subdivision III. Personal Property Tax Relief Act of 1998

Sec. 54-171. Purpose, definitions, relation to other ordinances.

(a) The purpose of this subsection is to provide for the implementation of the changes to the Personal Property Act of 1998 affected by legislation adopted during the 20-04 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.

(b) Terms used in this subsection that have defined meanings set forth in the Personal Property Relief Tax Act of 1998 shall have the same meanings as set forth in Code of Virginia, § 58.1-3523.

(c) To the extend that the provision of this subsection conflicts with any prior ordinance or provision to the town code, this subsection shall control.
(Adopted 12/05/05)

Sec. 54-172. Method of computing and reflecting tax relief.

(a) For tax years commencing in 2006, the town adopts the provisions of item 503E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for the Personal Property Tax Relief Act of 1998 and the reporting of such specific dollar relief in the tax bill.

(b) The council shall, by resolution set the percentage of tax relief at such a level that it is anticipated fully to exhaust Personal Property Tax Relief Act of 1998 funds provided to the town by the Commonwealth.

(c) Each Personal property tax bill shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle together with an explanation of the general manner in which relief is allocated.
(Adopted 12/05/05)

Sec. 54-173. Allocation of relief among taxpayers.

(a) Allocation of relief shall be provided in accordance with the general provisions of this subsection, as implemented by the specific provision of the town's annual budget

relating to relief.

(b) Relief shall be allocated in such a manner as to eliminate personal property taxation on each qualifying vehicle with an assessed value of $1,000 or less.

(c) Relief with respect to qualifying vehicles with assessed values of more than $1,000 shall be provided at a percentage annually fixed and applied to the first $20,000 in value of each such qualifying vehicle, that is estimated fully to all available state relief. The percentage shall be established annually as a part of the adopted budget for the town.
(Adopted 12/05/05)

Secs. 54-174—54-180. Reserved.

ARTICLE III. CONSUMER UTILITY TAXES*

DIVISION 1. TELECOMMUNICATIONS SERVICE

Sec. 54-181. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer means every person who, individually or through agents, employees, officers, representatives or permitees, makes a purchase of electricity in the town.

Non-residential consumer means the owner or tenant of property used primarily for commercial or industrial purposes.

Person Individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form and character.

Residential consumer means the owner or tenant of property used primarily for residential purposes, including but no limited to, apartment house and other multiple-family dwellings.

Service provider means a person who delivers local exchange telephone service to a

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***Cross reference—**Utilities, ch. 62.

State law reference—Consumer utility taxes, Code of Virginia, § 58.1-3812 et seq.

consumer.

Used primarily relates to the larger portion of the use for which telephone service is furnished.
(Code 1977, § 6-8; Ord. of 10-19-2000)

Cross reference—Definitions generally, § 1-2.

Sec. 54-182. Rate; levy; procedure as to payment.

There is hereby imposed and levied by the town upon each and every consumer of telephone service and mobile local telecommunications service, a tax for general purposes in the following amounts:

(a) On residential consumers of telephone service for residential purposes, the tax shall be in the amount of ten percent of the charge billed, exclusive of any federal or state tax thereon, made by the service provider against the residential consumer with respect to such residential telephone service; provided, however, that in any case a monthly bill submitted by the service provider for telephone service for residential purposes shall exceed fifteen dollars, the tax computed on so much of such bill as shall exceed fifteen dollars shall be two percent.

(b) On non-residential consumers of telephone service for commercial or industrial purposes, the tax shall be in the amount of ten percent of the charge billed, exclusive of any federal or state tax thereon, made by the service provider against the non-residential consumer with respect to such commercial or industrial telephone service; provided, however, that in any case any monthly bill submitted by the service provider for telephone service for commercial or industrial purposes shall exceed one hundred dollars, the tax computed on so much of such bill as shall exceed one hundred dollars shall be two percent.

(c) On consumers of mobile local telecommunications service, the tax shall be in the amount of ten percent of the monthly gross charge and shall not be applicable to any amount so charged in excess of thirty dollars per month for each mobile service customer, exclusive of any federal or state tax thereon.
(Code 1977, § 6-9; Ord. of 10-19-2000)

Sec. 54-183. Exemptions from division.

The following consumers of telephone and mobile local telecommunications service shall be exempt for the tax imposed above.

(a) Any public safety agency as defined in Virginia Code §58.1-3813.

(b) Any church or religious body entitled to exemption pursuant to Article 4 of Chapter 36 of Tit. 58.1-3650 et seq.

(c) The United States of America, the Commonwealth and the political subdivisions thereof, including this jurisdiction.
(Code 1977, §§ 6-9-1; Ord. of 10-19-2000)

Sec. 54-184. Billing, collection and remittance.

The service provider shall collect the tax from the consumer by adding the tax to the monthly gross charge for such services. The tax shall, when collected, be stated as a distinct item separate and apart from the monthly gross charge. Until the consumer pays the tax to the service provider, the tax shall constitute a debt of the consumer to the town. If any consumer refuses to pay the tax, the service provider shall notify the town. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by the service provider until remitted to the town. The service provider shall remit monthly to the town the amount of tax billed during the preceding month to consumers with

a service address in the town.
(Code 1977, §§ 6-9-2; Ord. of 10-19-2000)

Sec. 54-185. Records to be kept.

Each service provider shall keep complete records showing all purchasers in the town, which records shall show the price charged against each purchaser with respect to each purchase, the date thereof and the date of payment thereof, and the amount of tax imposed hereunder and such records shall be kept open for inspection by the duly authorized agents of the town during regular business hours on business days, and the duly authorized agents of the town shall have the right, power and authority to make such transcripts thereof during such times as they may desire.
(Code 1977, § 6-13)

Sec. 54-186. Penalty for violation.

Any violation hereof by the service provider shall constitute a misdemeanor and be punishable as provided for in Sec. 1-9 (b) of this code.

Secs. 54-187–54-200. Reserved.

DIVISION 2. ELECTRIC SERVICE.

Sec. 54-201. Definitions.

The following words and terms, when used in this article in relation to utility taxes, shall, for the purpose of this article, have the following respective meanings except where the context clearly indicates a different meaning:

Consumer means every person who, individually or through agents, employees, officers, representatives or permitees, makes a purchase of electricity in the town.

Kilowatt hours (kWh) delivered means 1000 watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called cogenerators) as defined in Virginia Code §56-594, it means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

Non-residential consumer means the owner or tenant of property used primarily for commercial or industrial purposes.

Person Individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form and character.

Residential consumer means the owner or tenant of property used primarily for residential purposes, including but no limited to, apartment house and other multiple-family dwellings.

Service provider means a person who delivers electricity to a consumer.

Used primarily relates to the larger portion of the use for which electric service is furnished.

Sec. 54-202. Rate, levy, procedure as to payment.

In accordance with Virginia Code §58.1-3814, effective January 1, 2001, there is hereby imposed and levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:

(a) *Residential consumers:* such tax shall be $1.50 for 0 to 5 kWh plus the rate of $0.0015 on each kWh thereafter delivered monthly to residential consumers by a service provider

(b) *Non-residential consumers:* such tax on non-residential consumers shall be at the rates per month for the classes of non-residential consumers as set forth below:

(1) *Commercial and Industrial consumers* – such tax shall be $3.50 for 0 to 5 kWh plus the rate of $0.0015 on each kWh thereafter delivered monthly to commercial consumers.

(c) The conversion of tax pursuant to this ordinance to monthly kWh delivered shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by this jurisdiction shall be in effect.
(Code 1977, § 6-10; Ord. of 10-19-2000)

Sec. 54-203. Exemptions.

The following consumers of electricity are exempt from the tax imposed by this section.

(a) Any public safety agency as defined in Virginia Code §58.1-3813.

(b) Any church or religious body entitled to exemption pursuant to Article 4 of Chapter 36 of Tit. 58.1 of the Code of Virginia (§58.1-3650 et seq.).

(c) The United States of America, the Commonwealth and the political subdivisions thereof, including this jurisdiction.
(Code 1977, §§ 6-10-1; Ord. of 10-19-2000)

Sec. 54-204. Billing, collection and remittance.

The service provider shall bill the electricity consumer tax to all users who are subject to the tax and to whom it delivers electricity and shall remit the same to this jurisdiction in accordance with Virginia Code §58.1-3814, paragraph F. and G., and Virginia Code §58.1-2901. If any consumer receives and pays for electricity but refuses to pay the tax imposed by this section, the service provider shall notify the town of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to this

jurisdiction.

Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to this jurisdiction.
(Code 1977, §§ 6-10-2; Ord. of 10-19-2000)

Sec. 54-205. Computation of bills not on a monthly basis.

Bills shall be considered as monthly bills for the purpose of this ordinance if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows:

(a) the kWh will be divided by 2;

(b) a monthly tax will be calculated using the rates set forth above;

(c) the tax determined by (b) shall be multiplied by 2;

(d) the tax in (c) may not exceed twice the monthly "maximum tax".

(Code 1977, §§ 6-10-3; Ord. of 10-19-2000)

Sec. 54-206. Records to be kept.

Each service provider shall keep complete records showing all purchasers in the town, which records shall show the price charged against each purchaser with respect to each purchase, the date thereof and the date of payment thereof, and the amount of tax imposed hereunder and such records shall be kept open for inspection by the duly authorized agents of the town during regular business hours on business days, and the duly authorized agents of the town shall have the right, power and authority to make such transcripts thereof during such times as they may desire.

Sec. 54-207. Penalty for violation.

Any violation hereof by the service provider shall constitute a misdemeanor and be punishable as provided for in Sec. 1-8 (b) of this code.

Secs. 54-208—54-215. Reserved.

DIVISION 3. ENHANCED EMERGENCY TELEPHONE SERVICE

Sec. 54-216. Definitions.

All words and terms as used in this division shall, for the purpose of this division, have the same meaning as set forth in Code of Virginia, § 58.1-3813, except when the context clearly indicates a different meaning.
(Code 1977, § 6-61; Ord. of 11-3-1997)

Cross reference—Definitions generally, § 1-2.

Sec. 54-217. Authority.

The authority for the enactment of this division and the tax imposed under this division is Code of Virginia, § 58.1-3813.
(Code 1977, § 6-60; Ord. of 11-3-1997)

Sec. 54-218. Imposition of tax.

There is levied and imposed, in accordance with and pursuant to Code of Virginia, § 58.1-3813, within the corporate limits a special tax of $1.00 per month per line on local consumers of telephone service or services provided by any corporation coming within the provisions of Code of Virginia, § 58.1-2600 et seq., except as may be expressly excepted under this division, for the establishment, operation, and maintenance of an E-911 system.
(Code 1977, § 6-63; Ord. of 11-3-1997)

Sec. 54-219. Exceptions.

(a) No tax on enhanced emergency telephone service is levied and imposed on any federal, state, or local government agency.

(b) Any subscriber to individual telephone service who resides in a nursing home or similar adult care facility is exempted from payment of the tax. Such determination shall be made by the town council, upon application on forms as prescribed by the town manager.
(Code 1977, § 6-64; Ord. of 11-3-1997)

Sec. 54-220. Utilization of tax.

The tax on enhanced emergency telephone service as imposed by this division shall be first utilized solely for the initial capital, installation, and maintenance costs of the E-911 emergency telephone system. The tax rate shall be reduced by the town council when, in its opinion, capital and installation costs have been fully recovered to the level necessary to offset recurring maintenance, repair, and system upgrade costs and salaries or portions of salaries of dispatchers or call takers.
(Code 1977, § 6-65; Ord. of 11-3-1997)

Sec. 54-221. Compensation of utility.

The tax on enhanced emergency telephone service shall be collected by the telephone utility provider of services, which shall collect and remit the tax monthly to the town council, provided that any such telephone utility company shall be permitted to deduct three percent of the tax due and accounted for from such collections to offset its costs.
(Code 1977, § 6-66; Ord. of 11-3-1997)

Sec. 54-222. Notification and jurisdiction

This division shall be subject to the notification and jurisdictional provisions of Code of Virginia, § 58.1-3812.
(Code 1977, § 6-67; Ord. of 11-3-1997)

Sec. 54-223. Conflicting provisions.

If any section of this division is in conflict with Code of Virginia, § 58.1-3813, such statutory section shall have priority and govern.

(Code 1977, § 6-69; Ord. of 11-3-1997)

Secs. 54-224—54-250. Reserved.

ARTICLE IV. EXCISE TAX (TRANSIENT OCCUPANCY)*

Sec. 54-251. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings
ascribed to them in this section, except where the context clearly indicates a different meaning:

Hotel includes but is not limited to any public or private hotel, inn, apartment, hotel, hostelry, tourist home or house, motel, rooming house or other lodging place within the town offering lodging to any transient, as defined in this section, for compensation.

Lodging includes but is not limited to any space or room furnished any transient.

Person includes but is not limited to any individual, firm, partnership, association, corporation, or any group of individuals acting as a unit, or any corporate or partnership officer or employee who is under a duty on behalf of such entity to collect, report, and/or remit under this article.

Room rental means the total charge, exclusive of any tax imposed on such charge, made by any hotel for lodging furnished any transient. If the charge made by any hotel to a transient includes any charge for services or accommodations in addition to that of lodging and/or use of space, such portion of the total charge as represents only lodging and/or space rental shall be distinctly set out and billed to such transient by such hotel as a separate item.

***State law reference—**Tax on transient room rentals, Code of Virginia, § 58.1-3840.

Transient means the same individual or same group of individuals who, for a period of not more than 29 consecutive days, either at his own expense or at the expense of another, obtains lodging or use of space in any hotel or travel campground, as defined in this section, for which lodging or use of space a charge is made.

Town manager means the town manager or the executive empowered to collect taxes.

Travel campground means any area, site, lot, field or tract of land offering spaces for recreational vehicles or campsites for transient dwelling purposes or temporary dwelling during travel, recreational or vacation uses.
(Code 1977, § 6-19; Ord. of 7-1-1996)

Cross reference—Definitions generally, § 1-2.

Sec. 54-252. Levied and rate.

There is levied and imposed, in addition to all other taxes and fees of every kind imposed by law, on each and every transient a tax at a rate established by council set each year at the time of establishing the annual budget on the total amount paid for room rental by or for any such transient to any hotel or travel campground.
(Code 1977, § 6-20) ***(Amended 6-4-07)***

Sec. 54-253. Exceptions.

(a) No tax shall be payable under this article on room rental paid to any hospital, medical clinic, convalescent home or home for the aged.

(b) No tax shall be payable under this article as to any lodging or room rental which is exempt from taxation under the Virginia Retail Sales and Use Tax Act (Code of Virginia, § 58.1-600 et seq.).
(Code 1977, § 6-21; Ord. of 7-1-1996)

Sec. 54-254. Enforcement.

This article, in addition to enforcement as otherwise permitted by law, may also be enforced by way of injunctive relief to enjoin a violation by the circuit court of county or any other court of competent jurisdiction on complaint by the town acting by and through the town manager.
(Code 1977, § 6-34; Ord. of 7-1-1996)

Sec. 54-255. Penalty for violation.

Any corporate or partnership officer who is under a duty on behalf of such entity to collect, report, and/or remit the tax under this article or any other person required to collect, account for and pay over such tax who willfully fails to collect or truthfully account for and pay over such tax and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof shall, in addition to any other penalties provided by law, be guilty of a misdemeanor.
(Code 1977, § 6-28; Ord. of 7-1-1996)

Sec. 54-256. Collection procedure.

Every person receiving any payment for room rental with respect to which a tax is levied under this article shall collect the amount of such tax so imposed from the transient on whom such tax is levied or from the person paying for such lodging at the time payment for such lodging is made. The taxes required to be collected under this section shall be deemed to be held in trust for the town by the person required to collect such taxes until remitted as required in this article.
(Code 1977, § 6-22; Ord. of 7-1-1996)

Sec. 54-257. Reports and remittance.

(a) The person responsible for collecting, reporting, and remitting the tax levied under this article shall make a report upon such forms and setting forth such information as the town manager may prescribe and require. Such report shall show the amount of room rental

charges collected and the tax required to be collected and shall be signed and delivered to the town manager with a remittance of such tax. Such reports and remittances shall be made monthly on or before the 20th day of each month and shall cover the amount of tax collected during the month immediately preceding the month in which such reports and remittances are required. If the remittance is by check or money order, the check or money order shall be payable to the town.

(b) Every corporation, partnership, firm, association, or group of individuals acting as a unit shall designate in writing to the town an officer or employee of such corporation, partnership, firm, association, or group whose duty it is to collect, report, and remit such tax. Upon the failure of such entity or group to so designate, each officer of any such entity or group shall be deemed to have such duty to collect, report, and remit.
(Code 1977, § 6-23; Ord. of 7-1-1996)

Sec. 54-258. Interest and penalties.

If any person shall fail or refuse to remit to the town the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the town manager a penalty in the amount of ten percent thereof and interest thereon at the rate often percent per annum, which shall be computed upon the taxes and penalty from the date such taxes are due and payable.
(Code 1977, § 6-24; Ord. of 5-6-1991)

Sec. 54-259. Failure or refusal to collect and report.

(a) If any person shall fail or refuse to collect the tax imposed under this article and shall fail or refuse to make, within the time provided for in this article, the reports and remittances required, the town manager shall cause to be prepared a notice thereof to such person, giving such person ten days in which to make the necessary reports and remit the appropriate tax, plus any applicable penalty and interest. The notice shall be posted to such person by registered or certified mail, return receipt requested, to the address on file with the town or to the last known address of such person and/or shall be delivered by the police department. Failure to report and/or remit the appropriate tax, plus any applicable penalty and interest within the ten-day period after posting and/or delivery of such notice shall result in the immediate suspension of the business license of such person or the entity for which such person is charged for the collecting, reporting, and remitting of taxes, as well as the right of such business to operate within the town.

(b) Upon the failure or refusal of any such person to thereafter report and remit the appropriate tax, plus any applicable penalty and interest as required under this article, the town manager shall then proceed in such a manner as he may deem best to obtain facts and information on what to base his estimate of the proper amount of such tax due, plus penalty and interest. The town manager shall then proceed, based on the best information then available to him, to assess the amount of such tax, penalty and interest and shall cause such person to be notified thereof by registered or certified mail, return receipt requested, at the address on record with the town or the last known address of such person and/or delivery by the police department.

(c) Upon the submission of any necessary report and the remitting of the appropriate

tax, plus any applicable penalty and interest, or the payment of the tax if assessed by the town manager, plus any applicable penalty and interest, such business license of the person or entity for which such person is charged for the collection, reporting, and remitting of such taxes shall be deemed to be reinstated.
(Code 1977, § 6-25; Ord. of 7-1-1996)

Sec. 54-260. Records required.

It shall be the duty of every person liable for the collection and payment to the town of any tax imposed by this article to keep and to preserve for a period of four years such suitable records as may be necessary to determine and show accurately the amount of such tax as he may have been responsible for collecting and paying to the town. The town manager may inspect such records at all reasonable times.
(Code 1977, § 6-26)

Sec. 54-261. Duty upon cessation of business.

Whenever any person required to collect and remit to the town any imposed tax by this article shall cease to operate or otherwise dispose of his business, the tax shall become due and payable and the person shall make to the town manager a report and remittance thereof within 30 days following the month in which such business was terminated or disposition made thereof.
(Code 1977, § 6-27)

Sec. 54-262. Allocation of funds.

Beginning July 1, 2007, subject to annual appropriation, an amount at a rate established by council each year on all revenues collected by the Town in accordance with this article shall be distributed to the Chincoteague Recreation and Convention Center Authority for the operation and maintenance of a community center as long as it functions as such.
(Code 1977, § 6-29; Ord. of 10-19-2000) ***(Amended 6-4-07)***

Sec. 54-263. Responsibility for tax funds dedication.

The Chincoteague Recreation and Convention Center Authority pursuant to the Public Recreational Facilities Authorities Act, Chapter 29 of Tit. 15.1 of the Code of Virginia of 1950, as amended, is created for the purpose of the improvement, operation and maintenance of such facility.
(Code 1977, § 6-30; Ord. of 10-19-2000)

Sec. 54-264. County tax permitted.

Any tax by the county permitted by law on transient room rentals and travel campgrounds as defined in this article shall apply after July 1, 1989 within the limits of the town as expanded by a boundary line adjustment effective July 1, 1989.
(Code 1977, § 6-33)

Secs. 54-265—54-290. Reserved.

ARTICLE V. EXCISE TAX (MEALS)*

Sec. 54-291. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cater: The furnishing of food, beverages, or both on the premises of another, for compensation.

Collector: The Town Manager of the Town of Chincoteague or designee.

Food: All food, beverages or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time or place of service.

Food establishment: Any place in or from which food or food products are prepared, packaged, sold or distributed in the town, including but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, café, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shops, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, lounge, or other similar establishment, public or private, and shall include private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

Meal: Any prepared food or drink offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein shall be included, whether intended to be consumed on the seller's premises

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***State law reference—**Excise tax on meals, Code of Virginia, § 58.1-3840.

or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

Purchaser: Any person who purchases food.
(Code 1977, § 6-35; Ord of 10-19-2000)

Cross reference—Definitions generally, § 1-2.

Sec. 54-292. Regulations for administration and enforcement.

The town manager may issue regulations for the administration and enforcement of this article.
(Code 1977, § 6-50(A); Ord. of 4-1-1990)

Sec. 54-293. Enforcement.

This article, in addition to enforcement as otherwise permitted by law, may also be

enforced by way of injunctive relief to enjoin a violation by the circuit court of the county or any other court of competent jurisdictions on complaint by the town acting by and through the town manager.
(Code 1977, § 6-47; Ord. of 7-1-1996)

Sec. 54-294. Penalty for violation.

(a) Any person who willfully fails or refuses to file a return as required under this ordinance shall, upon conviction thereof, be guilty of a class 1 misdemeanor except that any person failing to file such a return shall be guilty of a class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is $1,000.00 or less. Any person violating or failing to comply with any other provision of this ordinance shall be guilty of a class 1 misdemeanor

(b) Except as provided in subsection (a) above, any corporate or partnership officer as defined in Virginia Code §58.1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this ordinance, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a class 1 misdemeanor.

(c) Each violation of or failure to comply with this ordinance shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax as provided in this ordinance.
(Code 1977, § 6-48; Ord. of 10-19-2000)

Sec. 54-295. Levied and rate.

There is hereby imposed and levied by the town on each person a tax at the rate of five (5%) percent on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not. There shall be no tax if the total amount paid is twenty-five cents ($0.25) or less; on larger amounts a fractional cent of tax due shall be rounded to the next higher cent.
(Code 1977, § 6-36; Ord. of 10-19-2000) ***(Amended 6/17/10)***

Sec. 54-296. Exemptions.

The following classes of transactions involving meals shall not be subject to tax under this article:

(1) Food and beverages sold through vending machines.

(2) Factory-prepackaged candy, gum, nuts and other items of essentially the same nature.

(3) Food sold in bulk. For the purposes of this provision, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on premises consumption (e.g. a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.

(4) Meals furnished by a blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Visually Handicapped and located on property acquired and used by the United States for any military or navel purpose.

(5) Alcoholic and non-alcoholic beverages sold in factory sealed containers.

(6) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

(8) A grocery store, supermarket, or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.

(9) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.

(10) Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.

(11) Food and beverages for use or consumption and which are paid for directly by the Commonwealth, any political subdivision of the Commonwealth or the United States.

(12) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, inform, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof.

(13) Food and beverages furnished by a public or private local non-profit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the Commonwealth to offer meals at concession prices to elderly, inform, blind, handicapped or needy persons in their homes or at central locations.

(14) Food and beverages sold on occasional basis, by a local non-profit education, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for non-profit educational, charitable, benevolent, or religious purposes.

(Code 1977, § 6-46; Ord. of 10-19-2000)

Sec. 54-297. Payment and collection.

Every person receiving any payment for food with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this ordinance from the person on whom the same is levied or from the person paying for such food at the time payment for such food is made; provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Visually Handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes.

(Code 1977, § 6-37; Ord. of 10-19-2000)

Sec. 54-298. Collections in trust for town.

All amounts collected as taxes under this article shall be deemed to be held in trust for the town by the seller collecting them, until remitted to the town as provided by this article.
(Code 1977, § 6-38; Ord. of 10-19-2000)

Sec. 54-299. Reports and remittances.

It shall be the duty of every person required by this ordinance to pay to the town the taxes imposed by this ordinance. Every corporation, partnership, firm, association, or group of individuals acting as a unit shall designate in writing to the town an officer or employee of such corporation, partnership, firm, association, or group whose duty it is to collect, report, and remit. The person or entity collecting the tax levied under this article shall make a report upon such forms as may be prescribed by the town manager, which report in any event shall show the amount of charges collected for meals and the amount of tax required to be collected for the designated reporting and collection period. Such report shall be signed and delivered to the Town Manager with the full remittance of such tax due. Such reports and remittances shall be made monthly on or before the 20th day of each said month and shall cover the amount of charges for meals and the tax collected during the month immediately preceding the month in which such report and remittance is required. If the remittance is by check or money order, the same shall be payable to the Town of Chincoteague. Such records shall be kept and preserved for a period of five (5) years. The town manager or his duly authorized agents shall have the power to examine such records at reasonable time and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this ordinance, and to make transcripts of all or any parts thereof.
(Code 1977, § 6-39; Ord. of 10-19-2000)

Sec. 54-300. Penalty and interest.

If any person whose duty it is to do so shall fail or refuse to make the report or remit the tax required under this article, there shall be added to the tax by the town manager a penalty in the amount often percent of the tax and interest thereon at the rate often percent per annum, which shall be computed upon the tax and penalty from the date such were due and payable.
(Code 1977, § 6-40)

Sec. 54-301. Procedure when tax not reported or collected.

(a) If any person shall fail or refuse to collect the tax imposed under this article and to make, within the time provided for in this article, the reports and remittances required, the town manager shall cause to be prepared a notice thereof to such person, giving such person ten days in which to make the necessary reports and remit the appropriate tax, plus any applicable penalty and interest. The notice shall be posted to such person by registered or certified mail, return receipt requested, to the address on file with the town or the last known address of such person and/or shall be delivered by the police department. Failure to report and/or remit the appropriate tax, plus any applicable penalty and interest, within the ten-day period after posting and/or delivery of such notice, shall result in the immediate suspension of the business license of such person or the entity for which such person is charged for the collecting, reporting, and remitting of taxes, as well as the right of such business to operate

within the town.

(b) Upon the failure or refusal of any such person to thereafter report and remit the appropriate tax, plus any applicable penalty and interest as required under this article, the town manager shall then proceed in such a manner as he may deem best to obtain facts and information on what to base his estimate of the proper amount of such tax due, plus penalty and interest. The town manager shall then proceed, based on the best information then available to him, to assess the amount of such tax, penalty and interest and shall cause such person to be notified thereof by registered or certified mail, return receipt requested, at the address on record with the town or the last known address of such person and/or delivery by the police department.

(c) Upon the submission of any necessary report and the remitting of the appropriate tax, plus any applicable penalty and interest, or the payment of the tax if assessed by the town manager, plus any applicable penalty and interest, such business license of the person or entity for which such person is charged for the collection, reporting, and remitting of such taxes shall be deemed to be reinstated.
(Code 1977, § 6-41; Ord. of 7-1-1996)

Sec. 54-302. Preservation of records.

(a) *Generally.* It shall be the duty of every person liable for collection and remittance of the taxes imposed by this article to preserve for a period of four years records showing all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. The town manager shall have the authority and power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing this article and to make transcripts of all or any parts thereof.

(b) *Inspection of records by town manager:* The town manager shall have the authority to inspect the records of any restaurant after notifying the town attorney in writing prior to each examination of the records of any establishment. Such examination shall be for the purpose of administering and enforcing this article and transcripts may be made of any parts thereof or all of such records. Further, such inspections shall be made at reasonable times and without unreasonable interference with the business of such person.
(Code 1977, § 6-42)

Sec. 54-303. Duty upon cessation of business.

Whenever any person required to collect and remit to the town any tax imposed by this article shall cease to operate or otherwise dispose of his business, the tax shall become due and payable, and the person shall make to the town manager a report and remittance thereof within 30 days following which the business was terminated or disposition made thereof.
(Code 1977, § 6-43)

Sec. 54-304. Advertising payment or absorption of tax prohibited.

No seller shall advertise or hold out to the public in any manner, directly or indirectly,

that all or any part of a tax imposed under this article will be paid or absorbed by the seller or by anyone else or that the seller or anyone else will relieve any purchaser of the payment of all or any part of the tax.
(Code 1977, § 6-44)

Sec. 54-305. Tips and service charges.

Where a purchaser provides a tip for an employee of a seller, the tip is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided in the latter case the full amount of the tip is turned over to the employee by the seller. Tips, gratuities and service charges on meals which are left on the table or where added to the bill and otherwise turned over in their entirety by the employer to the employee shall not be subject to this tax.
(Code 1977, § 6-45; Ord. of 7-1-1996)

Sec. 54-306. Disposition of revenue.

(a) A minimum of ten percent of the tax levied under this article shall be used to promote tourism. The first year's ten percent will be spent to repair the town dock and Veterans Memorial Park. In May of 1990, the mayor will create a committee composed of island residents, one each from the Restaurant Association, Chamber of Commerce and town council to recommend expenditures to the town council of revenues collected after January 1, 1991.

(b) A minimum of 5 percent shall be used for drainage-related projects.
(Code 1977, § 6-49; Ord. of 10-19-2000)

Chapters 55—57

RESERVED

Chapter 58

TRAFFIC AND VEHICLES*

Article I. In General

Sec. 58-1. Compliance with chapter; violations and penalties generally.
Sec. 58-2. Adoption of state law; former provisions.
Sec. 58-3. Display of state license plate with current decal.
Sec. 58-4. State inspection sticker required.
Sec. 58-5. Speed limit.
Sec. 58-6. Persons riding bicycles or riding or driving animals.
Sec. 58-7. Authority of fire department officials to direct traffic.
Sec. 58-8. Washing, polishing, greasing, vehicle on street or sidewalk.
Sec. 58-9. Boarding or alighting from moving vehicle.
Sec. 58-10. Unlawful riding.
Sec. 58-11. Noise in the operation of motor vehicles.
Sec. 58-12. Tailgates on vehicles.
Sec. 58-13. Backing.
Sec. 58-14. Blocking intersection.
Sec. 58-15. Allowing escape of load material.
Sec. 58-16. Temporary removal and disposition of vehicles involved in accidents.
Sec. 58-17. Riding bicycles on certain designated sidewalks.
Sec. 58-18. Pedestrians' use of roadways; keeping to left; soliciting rides.
Secs. 58-19—58-45. Reserved.

Article II. Town Vehicle License

Sec. 58-46. Fee levied; amount and exemption from fee.

***Charter references—**Local vehicle license, ch. 2, § 1(13); regulation of traffic, ch. 2, § 1(15), (21), (32).

Cross references—Any ordinance pertaining to traffic or parking regulations applicable to specific locations saved from repeal, § 1-6(a)(11); law enforcement, ch. 34; offenses and miscellaneous provisions, ch. 38; personal property tax on motor vehicles, trailers, semi-trailers and boats, § 54-151 et seq.

State law references—Parking facilities, Code of Virginia, § 15.2-967; limited access streets, Code of Virginia, § 15.2-2026; regulation of traffic, Code of Virginia, § 15.2-2028; regulation of transportation of certain materials, Code of Virginia, § 15.2-2029; identification of disabled parking spaces by above grade signage, Code of Virginia, § 36-99.11; motor vehicles, Code of Virginia, § 46.2-100 et seq.; licensure of drivers, Code of Virginia, § 46.2-300 et seq.; local vehicle license, Code of Virginia, § 46.2-752 et seq.; abandoned vehicles, Code of Virginia, § 46.2-1200 et seq.; removal of vehicles involved in accidents, Code of Virginia, § 46.2-1212; removal or immobilization of motor vehicles against which there are outstanding parking violations, Code of Virginia, § 46.2-1216; regulation of traffic on certain parking lots, Code of Virginia, § 46.2-1219; parking regulations in cities, towns and certain counties, Code of Virginia, § 46.2-1220; general powers of local governments as to motor vehicles, Code of Virginia, § 46.2-1300 et seq.

Sec. 58-47. Payment of personal property taxes prerequisite to obtaining.
Sec. 58-48. Penalties for failure to purchase.

Sec. 58-49. Term.
Sec. 58-50. Application, transferability; display; place of sale.
Secs. 58-51—58-75. Reserved.

Article III. Traffic Control Devices

Sec. 58-76. Placement.
Sec. 58-77. Compliance.
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Article IV. Minimum Sight Distance at Intersections

Sec. 58-106. Authority.
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Article V. Parades and Processions

Sec. 58-136. Permit required.
Sec. 58-137. Driving through processions; driving in funeral processions.
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Article VI. Stopping, Standing and Parking

Sec. 58-166. Parking prohibited in specified places.
Sec. 58-167. Parking on and driving over sidewalks.
Sec. 58-168. Parking on west side of Main Street.
Sec. 58-169. Parking of certain trucks for more than one hour.
Sec. 58-170. Removal and disposition of unattended vehicles.
Sec. 58-171. Violations.
Sec. 58-172. Parking in handicapped only designated areas.
Secs. 58-173—58-195. Reserved.

Article VII. Inoperable Vehicles

Sec. 58-196. Definitions.
Sec. 58-197. Purpose.
Sec. 58-198. Keeping restricted; removal and disposition.
Sec. 58-199. Penalty.
Sec. 58-200. Enabling authority

ARTICLE I. IN GENERAL

Sec. 58-1. Compliance with chapter; violations and penalties generally.

(a) It shall be unlawful for any person to violate or fail to comply with any of the sections of this chapter or of any rule or regulation promulgated pursuant to this chapter.

(b) Every person convicted of a violation of any of the sections of this chapter for which no other penalty is provided shall be punished by a fine of not more than $200.00.
(Code 1977, § 11-21)

State law references—Penalties for motor vehicle violations, Code of Virginia, § 46.2-113; town prohibited from imposing a penalty for violation of motor vehicle ordinance in excess of that imposed by state for a similar offense, Code of Virginia, § 46.2-1300.

Sec. 58-2. Adoption of state law; former provisions.

(a) Pursuant to the authority of Code of Virginia, § 46.2-1313, all of the provisions and requirements of the laws of the Commonwealth contained in Code of Virginia, title 46.2 and in Code of Virginia, § 18.2-266 et seq. in effect July 1, 2011, except those provisions which are contained elsewhere in this chapter and except those provisions and requirements the violation of which constitute a felony and except those provisions and requirements which by their very nature can have no application to or within the town, are adopted and incorporated in this chapter by reference and made applicable within the town. References to "highways of the state" contained in such provisions and requirements adopted in this subsection shall be deemed to refer to the streets, highways and other public ways within the town. Such provisions and requirements hereby adopted, mutatis mutandis, are made a part of this chapter as fully as though set forth at length in this chapter, and it shall be unlawful for any person within the town to violate or fail, neglect or refuse to comply with any provision of Code of Virginia, title 46.2 or of Code of Virginia, § 18.2-266 et seq., which is adopted by this section, provided that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Code of Virginia, title 46.2 or under Code of Virginia, § 18.2-266 et seq.

(b) The provisions of this section, as readopted, shall be effective as 12:01am July 1, 2011. As of such effective date, such readoption shall replace former section 58-2 as it existed prior to the effective date of readoption, provided that such repeal shall not affect any act or offense done or committed or any penalty or forfeiture incurred or any right established or suit or action pending on that day. Except as otherwise provided, neither the repeal of section 58-2 nor the enactment of this readoption shall apply to offenses committed prior to the effective date of this section, and prosecution for such offense shall be governed by prior law, which is continued in effect for that purpose.
(Code 1977, § 11-1; Ord. of 6-21-2001; Readopted 6-3-02, 6-2-03, 7-6-04, 6-16-05, 6-15-06, 6-4-07, 6-2-08, 7-1-09, 6-17-10, 6-6-11)

Sec. 58-3. Display of state license plate with current decal.

It shall be unlawful for any person to operate or for the owner or person in control thereof to knowingly permit the operation of, upon a street or highway of the town, any motor vehicle, trailer or semi-trailer without having displayed thereon the license plate assigned thereto by the state department of motor vehicles for the current registration year, with license plate decals designating the current registration year, whenever such license plate is required by Code of Virginia, § 46.2-711 et seq.
(Code 1977, § 11-17)

Sec. 58-4. State inspection sticker required.

Except as otherwise expressly provided by state law, it shall be unlawful for any person to operate or cause or permit the operation of a motor vehicle, trailer or semi-trailer upon the town streets or highways unless there is properly displayed thereon a valid state inspection sticker showing that such vehicle, trailer or semi-trailer has been inspected and approved under the provisions of Code of Virginia, §§ 46.2-1157-46.2-1175.1.
(Code 1977, § 11-18)

Sec. 58-5. Speed limit.

Except as provided by state law with respect to drivers of specified emergency vehicles, no person shall drive or propel a vehicle upon any town street or public way at a speed in excess of the speed posted on authorized traffic control signs upon such street or public way or, in the absence of any such signs, at a speed in excess of 25 miles per hour.
(Code 1977, § 11-4)

State law references—Speed, Code of Virginia, § 46.2-870; authority of council to increase or decrease speed limits, Code of Virginia, § 46.2-1300.

Sec. 58-6. Persons riding bicycles or riding or driving animals.

Every person riding a bicycle or an animal upon a roadway and every person driving any animal thereon shall be subject to the sections of this chapter applicable to the driver of a vehicle, except those sections which by their very nature can have no application.
(Code 1977, § 11-5)

Cross reference—Animals, ch. 10.

State law reference—Similar provisions, Code of Virginia, § 46.2-800.

Sec. 58-7. Authority of fire department officials to direct traffic.

Members of the fire department may direct or assist the police in directing traffic at or in the immediate vicinity of a fire and, while so acting, shall have all the authority of police officers.
(Code 1977, § 11-6)

State law reference—Authority of council to adopt ordinances relative to powers and duties of fire departments, etc., Code of Virginia, § 27-14.

Sec. 58-8. Washing, polishing, greasing, vehicle on street or sidewalk.

No person shall wash, polish or grease a vehicle upon a public street or sidewalk, nor shall the owner of a vehicle permit it to be washed, polished or greased upon a public street or sidewalk.
(Code 1977, § 11-7)

Cross reference—Streets, sidewalks and other public places, ch. 50.

Sec. 58-9. Boarding or alighting from moving vehicle.

No person shall board or alight from any vehicle while such vehicle is in motion.
(Code 1977, § 11-11)

Sec. 58-10. Unlawful riding.

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This section shall not apply to an employee engaged in the necessary discharge of a duty or to a person riding within a truck body in space intended for merchandise.
(Code 1977, § 11-12)

Sec. 58-11. Noise in the operation of motor vehicles.

(a) No vehicle shall be loaded with materials likely to create loud noises by striking together, without using every reasonable effort to deaden the noise.

(b) The use in, upon or attached to any motor vehicle operating on any town street of any radio, phonograph, musical instrument, bell, whistle, loudspeaker, amplifier or device of any kind whatsoever whereby sound therefrom is cast upon any street to promote or advertise the sale of goods, wares or merchandise or for the purpose of advertising auction sales, sporting events or other businesses or things advertised thereby is prohibited. This subsection shall not apply to motor vehicles driven in a duly authorized parade. The use of a loudspeaker on a motor vehicle for making auction sales in streets directly in front of the property then being sold, and entirely outside of the town business districts, shall not be construed as a violation of this subsection when such use is limited strictly to the selling at auction of such property.

(c) It shall be unlawful for any person in operating a motorcycle or other motor vehicle within the town to create in the operation thereof any unreasonably loud, disturbing or unnecessary noise.

(d) In operating a motorcycle or other motor vehicle, the following acts, among others, are declared to create loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive:

(1) The use of a motorcycle or other motor vehicle so out of repair as to cause thereby loud and unnecessary grating, grinding, rattling or any of such noises or any other unnecessary noise.

(2) The practice of unnecessarily racing the motor of a motorcycle or other motor vehicle while standing or moving thereby causing unnecessary noise from such motor.

(3) The practice of unnecessarily retarding the spark to the motor of a motorcycle and thereby causing unnecessary, loud and explosive noise from the motor.

(4) In starting a motorcycle or other motor vehicle from a standing position, the practice of gaining speed unnecessarily quickly and thereby causing unnecessary and loud noise from the motor and the screeching of tires or either of such noises.

(5) The practice of coming to an unreasonably quick stop with a motorcycle or other motor vehicle and thereby causing unnecessary grinding of brakes and screeching of tires or either of such noises.

(Code 1977, § 11-13)

State law reference—Prohibition against muffler cutouts, etc., Code of Virginia, § 46.2-1047.

Sec. 58-12. Tailgates on vehicles.

It shall be unlawful for the operator of any truck, trailer or other vehicle equipped with a tailgate to lower or open the tailgate thereon or to suffer or permit such tailgate to be lowered or opened, except during the time the vehicle is being loaded or unloaded, and except during the time the load on the vehicle necessitates a lowered or opened tailgate as a support for the load. It shall be the duty of the operator of any such vehicle to see that the tailgate on such vehicle is kept closed or raised, except during the times specified in this section. Any person who shall violate this section shall be punished by a fine of not less than $25.00 and not more than $50.00 for each offense.
(Code 1977, § 11-14; Ord. of 6-21-2001)

Sec. 58-13. Backing.

The operator of a vehicle in the town shall not back such vehicle unless such movement can be made with safety and without interfering with other traffic.
(Code 1977, § 11-15)

Sec. 58-14. Blocking intersection.

No operator of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space beyond such intersection or crosswalk in the direction in which such vehicle is proceeding to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.
(Code 1977, § 11-16)

Sec. 58-15. Allowing escape of load material.

Every motor vehicle, truck, wagon or other conveyance used for the purpose of transporting manure, dirt, coal or other material liable to escape shall be provided with closefitting tailboards and other necessary fittings to prevent the spilling of the contents of such vehicle. If such material so conveyed by such vehicle is wasted or spread or allowed to escape in any manner from such vehicle, the driver, owner and contractor using such vehicle shall be jointly and severally liable to a fine of not less than $50.00 for each offense.
(Code 1977, § 14-3)

Sec. 58-16. Temporary removal and disposition of vehicles involved in accidents.

Whenever a motor vehicle, trailer or semi-trailer involved in an accident is found upon a highway or street in the town and is so located as to impede the orderly flow of traffic, the police may, at the expense of the owner or operator, remove such motor vehicle, trailer or semi-trailer from the highway or street to some point in the vicinity where such motor vehicle, trailer or semi-trailer will not impede the flow of traffic.
(Code 1977, § 11-19)

State law reference—Authority for above section, Code of Virginia, § 46.2-1212.

Sec. 58-17. Riding bicycles on certain designated sidewalks.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bicycle means a device propelled solely by human power, having pedals, two or more wheels, and a seat height of more than 25 inches from the ground when adjusted to its maximum height.

Person means any natural person.

(b) It shall be unlawful for any person to ride a bicycle on the following designated sidewalks within the town:

(1) That portion of the sidewalks adjacent and parallel to Main Street, bounded on the north by Maddox Boulevard or the prolongation thereof and bounded on the south by Jester Street or the prolongation thereof.

(2) That portion of the sidewalks adjacent and parallel to Maddox Boulevard, bounded on the west by Main Street and bounded on the east by Deep Hole Road.

(c) Any person violating this section shall, upon conviction, be guilty of a class 4 misdemeanor.

(d) This section is adopted pursuant to the provisions of Code of Virginia, § 46.2-904.
(Code 1977, § 14-7(a)-(d), (f); Ord. of 12-2-1991)

Cross reference—Streets, sidewalks and other public places, ch. 50.

Sec. 58-18. Pedestrians' use of roadways; keeping to left; soliciting rides.

(a) Pedestrians shall not use the roadways or streets, other than the sidewalk thereof, for travel, except when necessary to do so because of the absence of sidewalks that are reasonably suitable and passable for their use. If pedestrians walk upon the hard surface or the main-traveled portion of the roadway, they shall keep to the extreme left side or edge thereof or, where the shoulders of the highway are of sufficient width to permit, they may walk on either shoulder thereof.

(b) Pedestrians shall not stand or stop in any roadway or street for the purpose of soliciting rides.
(Code 1977, § 11-20)

State law reference—Similar provisions, Code of Virginia, §§ 46.2-928,46.2-929.

Secs. 58-19—58-45. Reserved.

ARTICLE II. TOWN VEHICLE LICENSE*

Sec. 58-46. Fee levied; amount and exemption from fee.

(a) There is hereby levied an annual license fee at a rate established by council each

year upon motor vehicles licensed within the town, except as may be provided in this article or the Code of Virginia. In addition, there is hereby levied an annual license fee at a rate established by council each year upon trailers and semi-trailers licensed within the town, except as may be provided in this article or the Code of Virginia.
(Amended 6-4-07)

(b) No license fee may be levied for any one motor vehicle owned by individuals or organizations as listed herein. This exemption is applicable to the fee only; all other provisions of this article shall be enforced.

(1) Any veteran who holds a current state motor vehicle license, which was issued free of charge by the state.

(2) The Chincoteague Volunteer Fire Company and Rescue Squad.

(3) An active or life member of the Chincoteague Volunteer Fire Company and Rescue Squad. The Chincoteague Volunteer Fire Company and Rescue Squad shall provide to the town by March 1st of each year a written list of active and life members signed by the president and fire chief towards the application of the exemption.

(Code 1977, § 11-28; Ord. of 9-5-2000)

Sec. 58-47. Payment of personal property taxes prerequisite to obtaining.

(a) No vehicle required to be licensed under this article shall be issued a town license unless and until the applicant shall have produced satisfactory evidence that all personal property taxes on the motor vehicle, trailer or semi-trailer to be licensed or that any delinquent personal property taxes owing have been paid which have been assessed or are assessable against the applicant.

(b) In addition, no vehicle required to be licensed under the provisions of this article shall be issued a town license unless and until the applicant shall have produced satisfactory evidence that all tangible personal property taxes properly assessed or assessable by the town on any tangible personal property owned by the taxpayer have been paid.

(Code 1977, § 11-31; Ord. of 1-2-2001)

Sec. 58-48. Penalties for failure to purchase.

Any person failing to purchase such license tags or failing to display them as required by

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***State law reference—**Local vehicle licenses, Code of Virginia, § 46.2-752 et seq

this article shall be fined not less than $50.00 for each offense.

(Code 1977, § 11-32)

Sec. 58-49. Term.

For the purpose of this article, the license year shall extend from March 15 to March 14

of the next succeeding calendar year, and the license fee levied under this article shall be paid not later than April 15 in each license year. One-half of the annual license fee prescribed herein shall be collected whenever any automobile, truck, motorcycle or motor scooter is acquired by a town resident during the period beginning on October 1 in any year and ending on January 15 in the same license year, and one-third of such fee shall be collected whenever any automobile, truck, motorcycle or motor scooter is acquired by a town resident after January 15 in any license year. However, the license fee to be paid by the owner of any motor vehicle when the license is issued after January 15 in any license year shall be not less than $1.00.
(Code 1977, § 11-29)

Sec. 58-50. Application, transferability; display; place of sale.

(a) No vehicle required to be licensed under the provisions of this article shall be issued a town license unless and until the applicant shall have produced a Commonwealth of Virginia title or registration card issued to the applicant for the vehicle to be licensed.

(b) License decals required pursuant to the provisions of this article shall be transferable by the licensee from any motor vehicle sold, traded in or otherwise disposed of by any licensee to any other motor vehicle thereafter acquired by the licensee during such license year without the payment of any additional license fee.

(c) Every motor vehicle license decal shall be securely affixed to such motor vehicle adjacent to the state inspection decal. Every trailer or semi-trailer license decal shall be securely affixed to such trailer or semi-trailer adjacent to the license tag issued by the state for the same license year.

(d) Town licenses shall be sold at the town office or at such other place as may be designated by the council.
(Code 1977, § 11-30; Ord. of 1-2-2001)

Secs. 58-51—58-75. Reserved.

ARTICLE III. TRAFFIC CONTROL DEVICES

Sec. 58-76. Placement.

When the town council designates an intersection as one at which the driver of a vehicle is required to stop or to yield the right-of-way before entering such intersection or designates a street upon which traffic is to proceed only in one direction or designates a place at which U-turns are prohibited or at which turning movements are otherwise prohibited or restricted or imposes any other regulation of traffic for which a traffic control sign, signal, marking or device is required by state law to be in place to give notice to drivers of vehicles or pedestrians, the council shall cause such traffic control sign, signal, marking or device to be installed and maintained as required by law.
(Code 1977, § 11-2)

State law reference—Uniform marking and signing of highways, drivers to obey signs, Code of Virginia, § 46.2-830.

Sec. 58-77. Compliance.

All traffic control signs, signals, markings and devices which are in place anywhere within the town pursuant to authority of state law, this Code or other ordinance shall be complied with, and it shall be unlawful for the driver of any vehicle or for any pedestrian to violate or fail to comply with any requirement, prohibition or directive contained in any such traffic control sign, signal, marking or device except by directive of a police officer.
(Code 1977, § 11-3)

Secs. 58-78—58-105. Reserved.

ARTICLE IV. MINIMUM SIGHT DISTANCE AT INTERSECTIONS

Sec. 58-106. Authority.

This article is adopted pursuant to, among other things, the authority of Code of Virginia, § 15.2-1102 and chapter 2, section 1(21), (22), (27), (48) and (49) of the Charter.
(Code 1977, § 11-40; Ord. of 1-3-2000)

Sec. 58-107. Erection of obstructions.

No person, firm, or entity owning, leasing or otherwise in possession of real estate in the town, which real estate is situated adjacent to any highway, street, or public right-of-way, including any sidewalk adjoining thereto, shall erect, place, construct, grow, or otherwise maintain on such real estate or the sidewalk adjacent thereto any improvement, permanent or temporary; any structure; any sign; any banner; any tree, shrubbery, or vine; or any other object or thing which prohibits, restricts, or impedes the operator of any motor vehicle utilizing any highway, street, or public way which intersects with the highway, street or public way adjacent to such real estate from having an unobstructed line of sight of at least 250 feet from the intersection of such highway, street, or public way to observe approaching motor vehicles traveling on the highway, street, or public way adjacent to such real estate. The line of sight will be measured at a point fifteen feet back from the intersecting street.
(Code 1977, § 11-36; Ord. of 1-3-2000)
(Amended 9/4/07)

Sec. 58-108. Exceptions.

(a) This article shall not apply to any signs, signals or other highway devices erected by any governmental authority.

(b) This article shall not apply to any permanent building existing as of the effective date of the ordinance from which this section derives.
(Code 1977, § 11-37; Ord. of 1-3-2000)

Sec. 58-109. Penalties.

(a) Any person violating this article shall, upon conviction, be guilty of a class 4 misdemeanor.

(b) In addition to any criminal penalty for the violation of this article, the town manager

is further authorized on behalf of the town to initiate and seek injunctive relief in the circuit court of the county to prohibit any such violation as provided for in this article.
(Code 1977, § 11-38; Ord. of 1-3-2000)

Secs. 58-110—58-135. Reserved.

ARTICLE V. PARADES AND PROCESSIONS*

Sec. 58-136. Permit required.

No procession or parade, excepting funeral processions and processions or convoys of the armed forces of the United States or of the state and the forces of the police and fire departments of the county or town, shall occupy, march or proceed along any street, except in accordance with a permit issued by the town councilor its duly authorized agent and such other regulations as are set forth in this chapter which may apply.
(Code 1977, § 11-8)

State law reference—Right-of-way of United States forces, troops, national guard, etc., Code of Virginia, § 46.2-827.

Sec. 58-137. Driving through processions; driving in funeral processions.

(a) No operator of a vehicle shall drive between the vehicles, persons or animals comprising a funeral or other authorized procession, except when otherwise directed by a police officer. This subsection shall not apply to emergency vehicles as defined in Code of Virginia, § 46.2-920.

(b) Each driver in a funeral procession shall drive as near to the right hand edge of the roadway as is practicable and shall follow the vehicle ahead as close as is practicable and safe. (Code 1977, § 11-9)

State law reference—Funeral processions, Code of Virginia, § 46.2-828.

Sec. 58-138. Identification of vehicles in funeral processions; right-of-way.

(a) All motor vehicles participating in a funeral procession, when proceeding to any place of burial, shall display illuminated headlamps thereon and such other identification as the

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***Cross reference—**Streets, sidewalks and other public places, ch. 50.

State law reference—Equine Activity Liability Act, Code of Virginia, §3.1-796.130 et seq.

chief of police may prescribe.

(b) All motor vehicles so designated shall have the right-of-way over all other vehicles, except fire apparatus, ambulances and police vehicles, at any street or highway intersection within the town and may proceed through a stop sign or signalized intersection with proper caution and safety.
(Code 1977, § 11-10)

Secs. 58-139—58-165. Reserved.

ARTICLE VI. STOPPING, STANDING AND PARKING*

Sec. 58-166. Parking prohibited in specified places.

(a) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:

(1) On a sidewalk.

(2) In front of a public or private driveway.

(3) Within an intersection.

(4) Within 15 feet of a fire hydrant.

(5) On a crosswalk.

(6) Within 30 feet upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway.

(7) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings.

(8) Within 50 feet of the nearest rail of a railroad grade crossing.

(9) Within 15 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted.

(10) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic.

(11) On the roadway side of any vehicle parked at the edge or curb of a street.

***Cross references—**off-street parking area, app. A, § 2.115; general provisions for parking, app. A, § 6.6 et seq.

State law references—Authority of town to provide public parking facilities, Code of Virginia, § 15.2-967; authority of town to regulate parking, Code of Virginia, §§ 46.2-1220, 46.2-1305.

(12) Upon any bridge or other elevated structure upon a street or highway or within a tunnel.

(13) At any place where official signs prohibit parking.

(b) No person other than a police officer shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful or start or cause to be started the motor of any motor vehicle or shift, change or move the levers, brake, starting device, gears or other mechanism of a parked motor vehicle to a position other than that in which it was left by the owner or driver thereof or attempt to do so.

(Code 1977, § 11-22)

State law reference—Prohibited parking in certain locations, Code of Virginia, § 46.2-1239.

Sec. 58-167. Parking on and driving over sidewalks.

It shall be unlawful, except in an emergency, for any automobile, truck, cart or vehicle to be parked on the sidewalk or to be driven from a public street across an adjoining hard-surface sidewalk or from private property across a hard-surface sidewalk adjoining a public street at any place other than a place designed for such crossing.

Cross reference—Streets, sidewalks and other public places, ch. 50.

Sec. 58-168. Parking on west side of Main Street.

No person shall park a motor vehicle on the west side of Main Street within the corporate limits except that this section shall not apply to those operating service vehicles delivering goods and services to customers or utility trucks in their regular work of installations and repairs.

(Code 1977, § 11-24; Ord. of 6-4-1979)

Sec. 58-169. Parking of certain trucks for more than one hour.

It shall be unlawful for any person to park a truck having a licensed carrying capacity of more than 2,000 pounds for more than one hour, without being moved, on any public street in the town.

(Code 1977, § 11-25)

Sec. 58-170. Removal and disposition of unattended vehicles.

(a) Whenever any vehicle, trailer or semi-trailer is found on the public streets or public grounds unattended by the owner or operator and constitutes a hazard to traffic or is parked in such manner as to be in violation of law or whenever any vehicle, trailer or semi-trailer is left unattended for more than ten days upon any privately owned property other than the property of the owner of such vehicle, trailer or semi-trailer, within the town, or is abandoned upon such privately owned property, without the permission of the owner, lessee or occupant thereof, such vehicle, trailer or semi-trailer may be removed for safekeeping by or under the direction of a police officer to a storage garage or area. However, no such vehicle shall be so removed from privately owned premises without the written request of the owner, lessee or occupant thereof. The person at whose request such vehicle, trailer or semi-trailer is removed from privately owned property shall indemnify the town against any loss or expense incurred because of removal, storage or sale thereof. Each removal shall be reported immediately to the police department, and notice thereof shall be given to the owner of the vehicle, trailer or semi-trailer as promptly as possible.

(b) The owner of such vehicle, trailer or semi-trailer, before obtaining possession thereof, shall pay to the town all reasonable costs incidental to the removal, storage and locating the owner of such vehicle, trailer or semi-trailer. Should such owner fail or refuse to pay the cost or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made and after notice to him at his last known address and to the holder of any lien of record in the office of the state department

of motor vehicles against the vehicle, trailer or semi-trailer, the chief of police or other officer designated by the town council may, after holding the vehicle, trailer or semi-trailer 60 days and after due notice of sale, dispose of the vehicle, trailer or semi-trailer at public sale, and the proceeds from the sale shall be forwarded by the selling officer to the town treasurer. However, if the value of such vehicle, trailer or semi-trailer is determined by three disinterested dealers or garagemen to be less than $50.00 which would be incurred by such advertising and public sale, it may be disposed of by private sale or junked. The town treasurer shall pay from the proceeds of the sale the cost of removal, storage, investigation as to ownership and liens and notice of sale, and the balance of such funds shall be held by him for the owner and paid to the owner upon satisfactory proof of ownership.

(c) If no claim has been made by the owner for the proceeds of such sale, after the payment of the cost of $50.00, the funds may be deposited to the town's general fund or any special fund. Any such owner shall be entitled to apply to the town within three years from the date of such sale, and, if timely application is made therefor, the town shall pay the funds to the owner without interest or other charges. No claim shall be made nor shall any suit, action or proceeding be instituted for the recovery of such funds after three years from the date of such sale.
(Code 1977, § 11-27)

State law references—Abandoned vehicles, Code of Virginia, § 46.2-1200 et seq.; immobilized and unattended vehicles, Code of Virginia, § 46.2-1209 et seq.; authority of council to provide by ordinance for the removal and disposition of unattended or immobile vehicles, Code of Virginia, § 46.2-1213.

Sec. 58-171. Violations.

Violation of this section shall be punishable by a fine of not less than $25.00 and not more than $100.00 for each offense. Nothing contained in this section shall prevent recovery in a civil action for any damages occasioned by violation of this section.
(Code 1977, § 11-23; Ord. of 6-21-2001)

Sec. 58-172. Parking in handicapped only designated areas.

It shall be unlawful for any automobile, truck, cart or vehicle to be parked in a designated handicapped zone unless the vehicle displays a valid handicapped license place or parking tag issued by the appropriate department of motor vehicles and is occupied by the handicapped person or persons.

Violation of this section shall be punishable by a fine of not less than one hundred dollars and not more than five hundred dollars for each offense.
(Code 1977, § 11-26; Ord. of 6-21-2001)

Secs. 58-173—58-195. Reserved.

ARTICLE VII. INOPERABLE VEHICLES*

Sec. 58-196. Definitions.

The following words, terms and phrases, when used in this article, shall have the

meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Inoperable motor vehicle, trailer or semi-trailer means any motor vehicle, trailer or semi-trailer which is not in operating condition; or which for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, if applicable, or other essential parts required for operation of the vehicle; or, if applicable, on which there are displayed neither valid license plates nor a valid inspection sticker.

Motor vehicle means every vehicle as defined in § 46.2-100 of the Code of Virginia, which is self-propelled or designed for self-propulsion except as otherwise provided in Title 46.2. Any structure designed, used or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space, shall be considered a part of a motor vehicle. For the purposes of this article any device defined under § 46.2-100 as a bicycle or a moped shall be deemed not to be a motor vehicle.

Person means any person, firm, partnership, association, corporation, company or entity of any kind, and being the owner, tenant, lessee or otherwise in possession or control of any private or public real property.

Private real property means any area which is not owned by the federal, state or local government or any instrumentality, agency or political subdivision thereof.

Shielded or screened means completely precluding visibility of the subject motor vehicle, trailer, or semi-trailer, from view by a solid, rigid, opaque fence or by a landscaped arrangement of nondeciduous plantings, sufficient in height, spacing, density and circumference. Non-rigid covers specifically manufactured and designed for use on a particular make and model of a motor vehicle, trailer or semi-trailer are permitted for use as a screen. Such fitted covers shall be in non-deteriorated or otherwise acceptable state. Draped tarpaulins, or other non-fitted, non-rigid type covers are specifically prohibited as

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***State law reference—**Authority of town to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property, Code of Virginia, § 15.2-904.

methods of screening inoperable vehicles. All fencing shall comply with current town zoning.

Semi-trailer means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

Trailer means every vehicle without motor power designed for carrying property or passengers only on its own structure and for being drawn by a motor vehicle. This definition does not include any mobile home for which there exists a valid zoning permit.
(Amended 09-02-03)

Sec. 58-197. Purpose.

(a) The purpose of this article is to prevent the accumulation of inoperable motor vehicles or parts thereof, in unapproved and inappropriate locations throughout the incorporated territory of the town, inasmuch as they constitute an unsightly, obnoxious and unsanitary condition within such territory. The presence of such inoperable motor vehicles increases the danger of the spread of certain communicable diseases by providing a breeding place for rats, mice and other known disease carriers and otherwise constitutes a condition detrimental to the mental and general well-being of the town citizens and is declared a public nuisance.

(b) It is, therefore, determined and council so finds, that it is imperative for the preservation of health, safety, peace and the general public welfare that these provisions concerning inoperable motor vehicles be adopted requiring property owners, tenants, lessees or persons otherwise in control or possession of real estate to remove such inoperable motor vehicles from their premises.
(Code 1977, § 11-33; Ord. of 6-2-1980 (a)) ***(Amended 09-02-03)***

Sec. 58-198. Restrictions; exemptions; removal and cost.

(a) It shall be unlawful for any person, except as expressly provided herein, to keep on any real property within the town zoned for residential, commercial or agricultural purposes, any inoperable motor vehicle. A person may keep any number of inoperable motor vehicles within a fully enclosed building or structure, or may keep up to a maximum of two (2) motor vehicles outside a fully enclosed building or structure, but which are shielded or screened from view as provided for herein.

(b) The keeping and/or use of inoperable trailers or semi-trailers shall be regulated by applicable provisions of the town zoning provisions and inoperable trailers or semi-trailers are not regulated hereunder.

(c) Any such person shall have ten (10) days to remove any such inoperable motor vehicle after it becomes inoperable as provided for herein.

(d) This article VII shall not apply to a lawfully licensed and zoned business which is regularly engaged in business as an automotive dealer, salvage dealer, scrap processor, or commercial garage.

(e) The owner of any such real property on which any such inoperable motor vehicle is located contrary to the provisions of this article, shall be notified of such violation by registered or certified mail, return receipt requested, mailed to the last known address of such owner as shown on the current real estate tax books of the town. If, after fifteen (15) days from the date of actual receipt of such notice by the owner of said real property, or twenty (20) days after the date of mailing, whichever shall first occur, the owner of such real property has failed to remove said inoperable motor vehicle, the town, acting through its agents or employees, may enter onto such real property and remove such inoperable motor vehicle and dispose of same as hereinafter provided.

(f) After removal of any such inoperable motor vehicle pursuant to subsection (e) hereof, the town through its agents or employees may dispose of such inoperable motor

vehicle, after giving a further notice as provided in subsection (e) hereof to the owner of such inoperable motor vehicle, and the failure of the owner to pay all costs attributable to such removal within five (5) days of the completion of such notice. If the owner of the inoperable motor vehicle cannot be determined by investigation through the State Department of Motor Vehicles or the comparable state agency in which said inoperable motor vehicle is registered, or such cannot be reasonably ascertained from the inoperable motor vehicle, or from the owner of said property from which it was removed, no such additional notice to the owner of the inoperable motor vehicle shall be required.

(g) The cost of any such removal and disposal shall be chargeable to the owner of the real property from which removed, and/or the owner of the inoperable motor vehicle, and may be collected by the town as taxes and levies are collected. Any amount which may be realized by the town from the sale of any such inoperable motor vehicle shall be applied to such costs.

(h) Every cost authorized by this section with which the owner of the premises from which an inoperable motor vehicle is removed shall be assessed, shall constitute a lien against the property from which the inoperable motor vehicle was removed, such lien to continue until actual payment of such costs have been made to the town.
(Code 1977, § 11-35; Ord. of 4-19-2001) ***(Amended 09-02-03)***

Sec. 58-199. Penalty.

Any person violating the provisions of this article shall, upon conviction, be guilty of a class 4 misdemeanor and be punished by a fine of not more than Two Hundred and Fifty Dollars ($250.00). Each day in violation shall constitute a separate offense.
(Code 1977, § 11-35; Ord. of 4-19-2001) ***(Amended 09-02-03)***

Sec. 58-200. Enabling authority.

This article is enacted pursuant to the provisions of § 15.2-904 of the Code of Virginia of 1950, as amended. In the event of any conflict between the terms and provisions hereof and § 15.2-904, the provisions of § 15.2-904 shall control. ***(Adopted 09-02-03)***

Chapters 59—61

RESERVED

Chapter 62

UTILITIES *

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Secs. 62-1—62-25. Reserved.

Article II. Water

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Division 2. Rates, Charges and Billing

Sec. 62-56. Rates.
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Division 3. Service Connections and Extensions

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***Charter references—**Town water supply, ch. 2, § 1(8); sewage disposal, ch. 2, § 1(10); public improvements, ch. 2, § 1(14), (67); sewers and drains, ch. 2, § 1(15); utility charges and deposits, ch. 2, § 1(17), (18); franchises, ch. 2, § 1(19); exemptions from charges, ch. 2, § 1(33); town plan, ch. 3.

Cross references—Administration, ch. 2; buildings and building regulations, ch. 14; businesses, ch. 18; environment, ch. 22; floods, ch. 30; design criteria for utilities and facilities in floodplain management areas, § 30-43; solid waste, ch. 46; consumer utility taxes, § 54-181 et seq.; public utility, app. A, § 2.131; public water and sewer systems, app. A, § 2.132.

State law references—Regulation of lakes, waters and pools, Code of Virginia, § 15.2-1110; general provisions for public utilities, Code of Virginia, § 15.2-2109 et seq.; sewage disposal systems generally, Code of Virginia, § 15.2-2122 et seq.; water supply systems generally, Code of Virginia, § 15.2-2134 et seq.; health regulations pertaining to sewage disposal, Code of Virginia, § 32.1-163 et seq.; health regulations pertaining to public water supplies, Code of Virginia, § 32.1-167 et seq.; State Water Control Law, Code of Virginia, § 62.1-44.2 et seq.

Division 4. Water Usage Plan

Sec. 62-116. Normal operation.
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Sec. 62-118. Public announcements.
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Division 5. Water Conservation

Sec. 62-130. Definitions.
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Division 6.Cross Connection Control and Backflow Prevention

Sec. 62-146. Definitions.
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UTILITIES

ARTICLE I. IN GENERAL

Secs. 62-1—62-25. Reserved.

ARTICLE II. WATER

DIVISION 1. GENERALLY

Sec. 62-26. Authority.

(a) No person except authorized public works department employees shall tap or make any connection or disconnection with water mains or distribution pipes or in any way tamper with the water meters or meter boxes of the town's water system.

(b) No person except public works department employees shall turn water meters on or off. Requests from customers to turn water on or off shall be in writing. Meters will only be turned on or off during normal working hours as described in subsection 62-58(b), except for a water leak or other such justifiable emergency.
(Code 1977, § 15-2-1; Ord. of 4-5-1999, § 15-2-1)

Sec. 62-27. Penalties for unauthorized operation.

(a) If the town's water meters, components of the water distribution system, or other such property is found to be tampered or interfered with, the plumber, contractor, service person or other party responsible for the tampering, interference, or illegal work shall be financially responsible for any repairs or replacements which may be required. A customer being supplied water through tampering, interference, or illegal installation, connection or equipment shall pay the amount which the town may estimate is due for water used but not registered on the town's meter and the cost of all such changes in the customer's installation as may be required by the town to correct any such illegal connection.

(b) Anyone found guilty of violating section 62-26 shall be guilty of a class 4 misdemeanor. (Code 1977, § 15-2-2; Ord. of 4-5-1999, § 15-2-2)

Secs. 62-28—62-55. Reserved.

DIVISION 2. RATES, CHARGES AND BILLING

Sec. 62-56. Rates.

(a) A water rate schedule shall be established and adopred each year by majority vote of the council.
(Amended 4/19/07)

(b) A minimum rate applies to all accounts after the minimum allowed usage and an additional dollar amount is applied per 1000 gallons.
(Amended 4/2/06, 4/19/07)

(c) Water rates shall not be applied to connections for fire suppression systems

described in section 62-57, except when water provided through such connections has been used for other than fire suppression. In such wrongful use, penalties described under section 62-27 shall apply.

(d) Water rates shall not be applied to nonprofit tax exempt organizations except in cases where water usage exceeds forty thousand (40,000) gallons per quarter. In such cases, the nonprofit tax exempt organization shall be charged at the commercial rate for the water used in excess of forty thousand (40,000) gallons.
(Code 1977, § 15-1-1; Ord. of 4-5-1999, § 15-1-1)
(Amended 09-08-09)

Sec. 62-57. Connection fees and availability fees.

(a) New connections to the water system shall be charged at the rate established by the town council plus all additional related costs incurred by the town..
(Amended 3/16/06, 4/19/07)

(b) The cost of service connections which are made to the system to provide for fire suppression systems shall be determined on a case-by-case basis as dictated by the requirements of individual fire suppression systems. Connection and meter sizes for fire suppression systems shall be determined by the size of the suppression system. Availability fees for fire suppression systems for nonprofit tax exempt organizations shall not be assessed unless such connection is used for purposes in addition to fire suppression. Connections for fire suppression systems shall be made only by the town.
(Amended 09-08-09)

(c) Although water usage rates are not applied to nonprofit tax exempt organizations as provided herein, service connection fees and availability fees shall be charged in accordance with this article..
(Code 1977, § 15-1-2; Ord. of 4-5-1999, § 15-1-2)
(Amended 4/20/06, 4/19/07, 09-08-09)

(d) An availability fee for new connections which increase the demand on the water system shall be charged according to the rate schedule established by the town council, as contained in the annual budget. The amount shall be collected prior to the installation of the meter and issuance of the building permit. Existing structures where a new connection is required, the fee shall be waived provided that no additional demand is placed on the system. If the water service entry branch size is increased, charges shall be calculated based on the difference of fees for the existing size and the new size.
(*Amended 4/20/06, 4/19/07, 11/2/09)*

(e) New multiple units such as condominiums, town homes, apartments, duplex, vacation rental cottages, or each multi business establishment, located on the same parcel are to be charged an availability fee as established by the town council per unit but supplied by a master meter with the minimum billing based on the size of the meter.
(Amended 4/20/06, 4/19/07, 11/2/09)

Sec. 62-58. Billing and other charges.

(a) All water bills for residences, hotels, motels, rooming houses, cottages, trailer parks and all rental dwellings or rental property shall be charged to the property owner and not to

the tenant.

(b) Water meters shall be read quarterly, and water bills shall be delinquent 30 days after the end of the quarter. A customer shall receive a second notice granting ten days to either pay the delinquent bill or to appear before the town manager to present reasons why service should not be terminated. If the town manager makes the decision to terminate service, the customer may appeal such decision to the public works committee of the town council by filing the appeal, in writing, at least 24 hours prior to the date of termination. If such appeal is filed, service will not be terminated until after a hearing and decision by the public works committee. No service shall be reconnected without payment of all delinquent charges plus a reconnection charge as established by the town council. Services shall only be reconnected during regular town business hours between 8:00 a.m. and 5:00 p.m., with such business hours occurring from Monday through Friday, except on certain days observed as holidays by the town.
(Amended 4/19/07)

(c) Any person having service disconnected by the town shall be charged a fee as established by the town council for each reconnection. Reconnections shall be made only during regular business hours described in subsection (b) of this section.
(Amended 4/19/07)

(d) Any service disconnected on a seasonal basis shall be billed at the minimum quarterly rate or at an amount commensurate to the usage, during the period of disconnection.

(e) A change of ownership fee as established by the town council shall be charged to a water account transferred due to such a change.
(Code 1977, § 15-1-3; Ord. of 4-5-1999, § 15-1-3)
(Amended 4/19/07)

Sec. 62-59. Water bill adjustments.

(a) *Adjustments to correct inaccurate readings.* Adjustments to water bills to correct inaccurate readings shall be made in accordance with the following:

(1) Adjustments to water bills may be applied by the town to correct inaccurate reading of meters or incorrect readings caused by faulty meters. During the reading cycle, the town will automatically check anomalous readings to ensure accuracy.

(2) If a property owner wishes to contest the accuracy of a meter reading and subsequent water bill, he may request that the meter be checked or tested to verify the accuracy of the reading or the meter. If, after checking or testing the meter, the reading is found to be correct, the account will be charged a fee as established by the town council. If the meter or reading is found to be faulty or incorrect, the water bill will be adjusted accordingly.
(Amended 4/19/07)

(b) *Adjustments for water leaks.* Adjustments for water leaks may be made in accordance with the following:

(1) In some cases, adjustments to a water bill may be granted for leaks in a property owner's water lines. The following minimum requirements shall be met to qualify for consideration of adjustment:

a. Underground pipe shall be buried a minimum of 18 inches in suitable material. Plastic pipe materials shall not be buried in shells, aggregate, or debris which may be abrasive to the pipe.

b. Generally, adjustments shall be granted for all plumbing systems and material types. Leaks which occur in plastic threaded fittings or in insert-type fittings shall not qualify for adjustment.

c. Water bills must be paid in full, prior to being considered for an adjustment.

(2) To qualify for adjustment, the property owner shall contact the town upon discovery of the leak and request an inspection of the leak and subsequent repair work by water department personnel. In lieu of such inspection, the property owner shall submit a repair bill from a qualified plumber with a notarized statement describing the repair.

(3) The property owner's request and supporting documentation shall be provided to the public works director for a decision.
(Amended 06/06/11)

(4) The property owner will be notified in writing of the decision. If an adjustment is granted, the owner will be given a refund or credit on the next bill. The pending decision in no way relieves the owner of full payment of the current bill.
(Amended 06/06/11)

(5) Adjustments are made through the date that the repairs are made and inspected by the town to that of the corresponding quarter of the previous year.

(6) Once an adjustment has been made, no further adjustment shall be considered for the same system for a period of five years. A system is defined as one meter or account number.
(Code 1977, § 15-3; Ord. of 4-5-1999, § 15-3) ***(Amended 02/01/10)***

Secs. 62-60—62-85. Reserved.

DIVISION 3. SERVICE CONNECTIONS AND EXTENSIONS

Sec. 62-86. Service connection categories.

(a) Each single-family dwelling or single business structure on a single parcel shall be served with one water meter and service connection. The meter shall be placed on the parcel of the structure being served.

(b) Multiple, single-family connected dwellings, connected rental unit structures, or connected business structures on a single parcel under singular ownership, such as apartment

complexes, motels, hotels, shopping plazas and condominiums, shall be served by a single meter and service connection. The term "condominiums" as used in this section shall be defined as connected multiple-unit structures on a single parcel with the structure and parcel being jointly owned through an association or other legal vehicle. The meter shall be placed on the parcel of the structure being served.

(c) Multiple, single-family detached dwellings or detached rental units on a single parcel and under singular ownership and without property division, such as rental trailer parks and campgrounds, shall be served with one meter and service connection on the same single parcel of the structures being served.

(d) Multiple, single-family connected dwellings on individual and separate parcels and under individual ownership, such as town homes, duplexes, and triplexes, shall have individual meters and service connections serving and located on each of the parcels.

(e) Parcels which are leased for a period in excess of one year shall be considered under ownership of the lessee and, therefore, shall comply with the requirements of subsection (a) of this section.
(Code 1977, § 15-4-1; Ord. of 4-5-1999, § 15-4-1)

Sec. 62-87. Service connection requirements.

(a) Each parcel requiring a service connection to the water system shall be adjacent to a water main. Where properties are not adjacent to a water main, the following shall apply:

(1) The water system (nearest main) shall be extended at the expense of the property owner and in accordance with the requirements of section 62-88.

(2) A parcel may be served from a meter and connection located on the property of others, provided that the parcel owner has a recorded perpetual easement granted by the other property owner which provides for the installation and maintenance of the water meter and service line between the town's water main and the parcel to be served. The minimum width of such easement shall be five feet. The use of easements as described in this subsection shall not apply to any legal division of property occurring after November 7, 1991.

(3) A parcel may be served from a connection, meter and service line located in an existing older easement and/or right-of-way, provided the use of such is not specifically described. The town will interpret such easements and rights-of-way to allow for total usage, which would include the right to install and maintain water utilities. Such easements and rights-of-way as described in this subsection must be adjacent to a water main and be contiguous to the involved parcel. The term "older," as used in this section, shall refer to property or divisions of property legally recorded prior to December 6, 1971.

(b) The use of nonspecific older easements and rights-of-way and perpetual easements shall only be permitted when there is no other practicable avenue available to provide water to the requiring parcel.

(c) The town is responsible for the service connection up to and inclusive of a meter serving a particular property and is not responsible for any piping or connection on the owner's property beyond the meter.

(d) Every property owner served by the water system through a service connection is required to install a valve to control the flow of water from the meter to his property. Meter valves, which are the property of the town, are not intended for such use.
(Code 1977, § 15-4-2; Ord. of 4-5-1999, § 15-4-2)

Sec. 62-88. Water main extensions.

(a) The owner and/or developer of a parcel requiring a water main extension by virtue of the requirements of subsection 62-87(a) shall request such extension from the town in writing. With the written request, the owner and/or developer shall also submit recorded drawings, plats or surveys depicting the parcel to be served by the requested extension. Such drawings shall include the delineation of the utility easements to be used by the town for the placement and maintenance of the requested water main. Delineated easements on recorded drawings shall include the finished grade elevation of the easement area. In the absence of utility easements being included in recorded drawings, easements and certification of elevation may be conveyed through separate perpetual deed of easement or agreement to the town. Utility easements shall be a minimum of ten feet in width. Pavement for roadways shall not be installed over utility easements.

(b) Upon review of the request and within 30 days of the request, the town shall design and size the appropriate extension to the water system and calculate the cost of installation of the extension. Costs shall include an administrative fee percentage, set by the town council.. The requester will be notified of the cost of the installation and allowed 30 calendar days to initiate the installation by paying the provided cost. If payment is not made within the allotted time, the requester shall submit subsequent requests as necessary to allow the town to calculate the new cost. The town shall have the right to recover costs incurred from repeated design and calculation in subsequent cost calculations.
(Amended 4/19/07)

(c) Once payment for an extension is made, the town shall schedule and implement the work within 60 calendar days.

(d) Water main extensions shall be designed and sized on a case-by-case basis, but in no case will pipe with inside diameter sizes of less than six inches be used for mains, nor will required fire hydrants be deleted from a potential extension.

(e) Property owners assume all responsibility for delineation of property to be served by water mains and the delineation of utility easements to be used for the installation of water mains. All property markers relevant to water main installation shall be in place in the field and located prior to the town's installation work.

(f) All obstructions to the path of the water main and service connections shall be cleared by the property owner prior to installation work.
(Code 1977, § 15-4-3; Ord. of 4-5-1999, § 15-4-3)

Sec. 62-89. Reimbursement of extension costs.

(a) When a water main is extended across the frontage of unimproved parcels for the purpose of providing service to another parcel, the owner of the parcel being served shall be entitled to recover some of the costs of the water main extension. In no case shall this entitle owners or developers of subdivisions to reimbursements.

(b) The original cost of the water main extension shall be divided equally by linear foot to apply to the frontage of property across which the main is being extended. When lots adjoin the water main on two sides, the apportioned cost will further be factored as half of the linear-foot cost. When lots along the main are improved with structures requiring service, the town shall collect the apportioned amount of the original cost of the installation with connection fees from the newly requiring parcels. The parcel owner originally initiating and paying for the extension shall then be reimbursed by the town.
(Code 1977, § 15-4-4; Ord. of 4-5-1999, § 15-4-4)

Secs. 62-90—62-115. Reserved.

DIVISION 4. WATER USAGE PLAN

Sec. 62-116. Normal operation.

The town's water supply and distribution system shall be operated by a qualified operator and division supervisor under the purview of the director of public works and town manager. The supervisor/operator shall report routine operations and daily water usage to the director of public works and town manager. The town manager shall further advise the public works committee of the town council and the mayor.
(Code 1977, § 15-5-1; Ord. of 4-5-1999, § 15-5-1)

Sec. 62-117. Water shortages.

For the purposes of this division, categories of water shortages shall be as follows:

(1) *Category I: major water leaks or mechanical failures.* If a major leak or mechanical failure occurs, repairs shall be immediately initiated by the department, and the town manager shall immediately be notified of such. In conjunction with the town manager and public works committee chair, the waterworks supervisor and the director of public works shall determine if a water shortage will occur as a result of the leak or mechanical failure.

(2) *Category II: serious water shortage.* If, through department review, a serious water shortage will occur, the town manager shall be immediately notified. After consultation with the mayor and public works committee chair, a public announcement shall be made to curtail car washing, lawn watering, garden watering, and usage by swimming pools and other recreational facilities, all on a voluntary basis.

(3) *Category III: critical water shortage.* In critical water shortages the public

announcement shall curtail the water usage as provided in subsection (2) of this section and additionally restrict the use by motels, hotels, tourist homes, campgrounds, trailer parks and all commercial establishments. Such establishments shall be required to notify their customers and restrict water usage for bathing and other purposes to a bare minimum. Restaurants and food service establishments will provide water to customers only when requested. All curtailments during the critical water shortage will be mandatory. During critical water shortages a moratorium shall be placed on all new water service connections.

(Code 1977, § 15-5-2; Ord. of 4-5-1999, § 15-5-2)

Sec. 62-118. Public announcements.

All announcements of water shortage shall be made through local radio stations or through the town's EOC established procedures. Announcements shall establish restrictions and assign an effective date for restrictions. Restrictions shall not be removed until so announced by radio.

(Code 1977, § 15-5-3; Ord. of 4-5-1999, § 15-5-3)

Sec. 62-119. Enforcement.

The town police and/or special police shall issue tickets to violators of subsection 62-117(3). Upon conviction, a violator shall guilty of a class 4 misdemeanor, and each incident shall be considered a separate offense.

(Code 1977, § 15-5-4; Ord. of 4-5-1999, § 15-5-4)

Secs. 62-120—62-129. Reserved.

DIVISION 5. WATER CONSERVATION

Sec. 62-130. Definitions.

The following terms, when used in this section, shall have the meanings ascribed herein:

Impervious surface means any artificially created surface which cannot be penetrated by water or which causes water to run off the surface, including streets, driveways, sidewalks and rooftops.

Person means any individual, partnership, firm, corporation, limited liability company, or other legal entity in whose name water is provided and billed by the town.

Repeated or flagrant wasting of water means and includes those situations where persons who have received notice that they are wasting water continue to do so in the same manner. It does not mean those persons who waste water on solitary or isolated occasions.

Town water means all water that passes through the town's water distribution system. This term does not include town water that is sold by the town to other governmental entities.

Water waste means any of the following:

(1) Using town water so that it falls directly onto impervious surfaces to the extent that running water leaves the property and enters gutters, storm drains, ditches and other conveyances; or

(2) Using town water to the extent that it is allowed to accumulate on the surface of the ground and leave the property and enter gutters, storm drains, ditches and other conveyances.

(3) Knowingly allowing town water to escape through leaks, breaks, or malfunctions within the water user's plumbing or distribution system for any period of time beyond which such a leak or break should reasonably have been repaired or corrected.

(4) Willfully or negligently wasting water in any other manner.

Sec. 62-131. Water waste prohibited.

(a) The governing body affirmatively finds that a water supply emergency is reasonably likely to occur within the town given the limited supply of public water available to the town and the high demand for such water especially during certain periods of the year if water conservation measures are not taken or imposed as provided herein.

(b) The public works director or designee shall identify persons who waste water.

(c) Whenever the director finds that any person wastes water, the director shll give such person oral or written notice of that fact.

(d) Whenever the director finds that any person repeatedly or flagrantly wastes water, the director shall serve upon such person a written notice ("notice of water waste" or "notice"). Such notice shall identify the person and the location at which water is being wasted, shall identify the manner in which the water is being wasted, and shall specify a time within which the wasting of water shall cease. The notice shall also warn that more severe measures (such as imposition of civil penalties or restriction or termination of water service) may be assessed or brought against the person unless the wasting of water ceases within the time provided. The time given to cease wasting water may range from a requirement for immediate compliance to 30 days, depending upon the facts and circumstances of each case.

(e) Any person who continues to waste water after the period of time specified in the notice for ceasing such activity shall be issued a citation and shall be subject to the civil penalty and enforcement procedures specified in Sec. 62-133 below. The civil penalty shall be paid within 30 days of receipt of the citation.

(f) This ordinance is adopted pursuant to the provisions of §15.2-923 and §15.2-924 of the Code of Virginia of 1950, as amended.

Sec. 62-132, Penalties.

(a) *Civil penalties.* Violations of this section shall subject the offender to a civil penalty as set forth in the town budget fee schedule, to be recovered by the town in a civil action in

the nature of debt if the offender does not pay the penalty within the prescribed period of time after he or she has been cited. A violation shall be deemed continuing if the same wasting of water takes place on one or more days at the same location described in the notice and citation.

(b) *Other enforcement action.* Additionally, the director may restrict or terminate water service in accordance with law.

Sec. 62-133. Recycling.

(a) *Carwashes.* All new carwash installations shall be equipped with an approved water recycling system.

(b) Continuous flow equipment. All new construction, or repair/replacement, of continuous flow devices requiring a continuous water flow of five gallons per minute or more, not elsewhere covered by this section, shall be equipped with an approved water recycling system.
(Adopted 12/06/10)

Secs. 62-134—62-145. Reserved

DIVISION 6. CROSS CONNECTION CONTROL AND BACKFLOW PREVENTION

Sec. 62-146. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Backflow means the flow of water, liquids, mixtures, gases or other substances into the distribution piping of a potable supply of water from any source.

Connection means the terminal end or a service line from the waterworks. If a meter is installed at the end of the service connection, the connection means the downstream end of the meter.

Consumer: The owner or person in control of any premises supplied by or any manner connected to the waterworks.

Consumer's water system: any water system located on the consumer's premises, supplied by or in any manner connected to a waterworks.

Cross connection: any unprotected connection between any part of a water system used or intended to supply water for drinking purposes and any source or system containing water or substances that are not or cannot be approved as safe, wholesome and potable for human consumption.

Water purveyor: An individual, group of individuals, partnership, firm, association,

institution, corporation, municipal corporation, county, or authority which supplies water to any person within this state from or by means of any waterworks.

Waterworks means a system that serves piped water for drinking or domestic use to (i) the public, (ii) at least 15 connections or (iii) an average of 25 individuals for at least 60 days out of the year. The term "waterworks" includes all structures, equipment and appurtenances used in the storage, collection, purification, treatment and distribution of pure water except the piping and fixtures inside the building where such water is delivered, as set forth in Code of Virginia, § 32.1-167.
(Code 1977, § 15-6-2; Ord. of 4-5-1999, § 15-6-2)

Cross reference—Definitions generally, § 1-2.

Sec. 62-147. Scope.

(a) The town council adopted on May 4, 1987, by reference, VR 355-18-006, article 3, Cross-connection Control and Backflow Prevention in Waterworks, of the Commonwealth Department of Health.

(b) Also made part of this division by reference is the Manual of Cross Connection Policies, as approved by the commonwealth department of health, on May 13, 1987, and by the town council on May 4, 1987. Such manual authorizes and establishes rules and regulations for the control of cross connections.

(c) This division is a supplement to any applicable plumbing codes.
(Code 1977, § 15-6-1; Ord. of 4-5-1999, § 15-6-1)

Sec. 62-148. Program description.

(a) The water purveyor or its representative shall have the right to enter, at any reasonable time, properties served by a connection to any waterworks operated by the town for the purpose of inspecting the consumer's water system for cross connections. Upon request, the owner or occupant or property served shall furnish to the inspection agency pertinent information regarding the piping system on such property. The refusal of such information or refusal of access when requested shall be deemed evidence of the presence of cross connections.

(b) After inspection, the water purveyor shall have the right to require that a consumer's water system be modified through installation of backflow prevention devices or other means to eliminate cited cross connections.

(c) The water purveyor may deny or discontinue the water service to a customer for failure to comply with any requirements of the cross connection control program. Water service to such premises shall not be restored until the deficiencies have been corrected or eliminated in accordance with the requirements of the program.
(Code 1977, § 15-6-3; Ord. of 4-5-1999, § 15-6-3)

Sec. 62-149. Violation.

Any person or consumer found guilty of violating any of the provisions of the cross

connection program or this division shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by the corresponding penalty.
(Code 1977, § 15-6-4(a); Ord. of 4-5-1999, § 15-6-4(a))

Chapters 63—65

RESERVED

Chapter 66

VEGETATION*

Article I. In General

Secs. 66-1—66-25. Reserved.

Article II. Weeds

Division 1. Generally

Secs. 66-26—66-50. Reserved.

Division 2. Johnson Grass

Sec. 66-51. Control committee.
Sec. 66-52. Nuisance declared.
Sec. 66-53. Unlawful acts.
Sec. 66-54. Acceptance of aid, gifts, grants, loans; billing for services; disposition of funds.
Sec. 66-55. Penalties.

***Charter references—**Shade trees, ch. 2, § 1(15); weeds, ch. 2, § 1(21).

Cross references—Buildings and building regulations, ch. 14; environment, ch. 22; parks and recreation, ch. 42; waterways, ch. 70; zoning, app. A.

State law references—Tree conservation ordinance, civil penalties, Code of Virginia, § 10.1-1127.1; control of certain noxious weeds, Code of Virginia, § 15.2-902; destruction of trees, shrubs, etc., Code of Virginia, § 18.2-139 et seq.

ARTICLE I. IN GENERAL

Secs. 66-1—66-25. Reserved.

ARTICLE II. WEEDS

DIVISION 1. GENERALLY

Secs. 66-26—66-50. Reserved.

DIVISION 2. JOHNSON GRASS

Sec. 66-51. Control committee.

(a) There is established a Johnson grass control committee composed of our members, each to serve at the pleasure of the town council. Such committee shall appoint all individuals responsible for a Johnson grass control program, approve all expenditures of funds, and administer the Johnson grass control program.

(b) The Johnson grass control committee or its representatives shall conduct surveys to determine the location and amount of infestations of Johnson grass within the town; shall provide the necessary technical and other assistance to landowners in a cooperative control or eradication program; and may effect a program of spraying or other control practices on road rights-of-way, drainage ditch banks, parks, playgrounds, utility rights-of-way and other public or private lands.
(Code 1977, § 12-15; Ord. of 3-3-1980)
Cross reference—Boards and commissions, § 2-106 et seq.

Sec. 66-52. Nuisance declared.

The existence of growth of a specie of grass, Sorghum halepense, commonly known as Johnson grass, as well as other sorghum species with perennial rhizomes, including perennial sweet Sudan grass, Sorghum almum and hybrids derived therefrom, is declared to be a public nuisance.
(Code 1977, § 12-13; Ord. of 3-3-1980)
Cross reference—Nuisances, § 22-61 et seq.

Sec. 66-53. Unlawful acts.

(a) It shall be unlawful to knowingly allow Johnson grass to set seed on any land, and it shall be the duty of each landowner to mow, fallow, treat with herbicides, or use such other practices as may be approved by the town council as effective in preventing seed to set on all Johnson grass or other perennial sorghum species on his property. However, a landowner or
lessee may enter into a written compliance agreement with the town councilor its designee specifying terms and conditions of a control program, and so long as all the terms and conditions are being complied with, there is no violation of this article.

(b) It shall be unlawful to import Johnson grass into this town or to transport Johnson grass within the town in any form capable of growth or to knowingly contaminate any uninfested land with Johnson grass through the movement of root stocks, plant parts, seed,

soil, mulch, nursery stock, farm machinery or other media.
(Code 1977, § 12-14; Ord. of 3-3-1980)

Sec. 66-54. Acceptance of aid, gifts, grants, loans; billing for services; disposition of funds.

(a) The town council may accept, use, or expend such aid, gifts, grants or loans as may from time to time be made available from any source, public or private, for the purposes of carrying out the purposes of this article.

(b) Services rendered for actual Johnson grass control practices may be billed to the landowner and collected. All reimbursements shall be promptly deposited in the town's general fund.
(Code 1977, § 12-16; Ord. of 3-3-1980)

Sec. 66-55. Penalties.

Any person who fails or refuses to comply with this article shall be deemed guilty of a class 4 misdemeanor.
(Code 1977, § 12-17; Ord. of 3-3-1980)

Chapters 67—69

RESERVED

Chapter 70

WATER ACCESS FACILITIES*

Article I. In General

Secs. 70-1—70-25. Reserved.

Article II. CURTIS MERRITT HARBOR OF REFUGE

Division 1. Generally

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Sec. 70-27. Purpose and authority.
Sec. 70-28. Penalties.
Sec. 70-29. Damage to docks, wharves or launching ramps.
Sec. 70-30. Nondiscrimination.
Secs. 70-31—70-55. Reserved.

Division 2. Committee

Sec. 70-56. Established; general authority.
Sec. 70-57. Membership.
Sec. 70-58. Meetings.
Sec. 70-59. Quorum; majority rule.
Sec. 70-60. Vacancies.
Sec. 70-61. Removal of members.
Sec. 70-62. Referrals for decision.
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Secs. 70-64—70-90. Reserved.

Division 3. Use of Harbors, Wharves, Boat Slips, Land

Sec. 70-91. Leases, permits or licenses required for use or occupancy.
Sec. 70-92. Permits required for erection of structures.
Sec. 70-93. Damage to docks, wharves or launching ramps.
Sec. 70-94. Dumping; disposal of wrecks.
Sec. 70-95. Boat ramp and land area usage.
Sec. 70-96. Designated loading and unloading areas.
Sec. 70-97. Use of harbor for anchoring or mooring.
Sec. 70-98. Speed limit.

***Charter reference—**Public wharves, harbors, etc., ch. 2, § 1(9).

Cross references—Buildings and building regulations, ch. 14; environment, ch. 22; floods, ch. 30; parks and recreation, ch. 42; vegetation, ch. 66; zoning, app. A; marina, commercial or club type, app. A, § 2.96; marina, private noncommercial, app. A, § 2.97.

State law references—Removal, repair, etc., of wharves, piers, etc., Code of Virginia, § 15.2-909; regulation of lakes, pools, etc., Code of Virginia, § 15.2-1110; local regulation of vessels, Code of Virginia, § 29.1-744 et seq.; port management, Code of Virginia, § 62.1-163.

Sec. 70-99. Dock boxes.

Sec. 70-100. Storage.
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WATER ACCESS FACILITIES

ARTICLE I. IN GENERAL

Secs. 70-1—70-25. Reserved.

ARTICLE II. CURTIS MERRITT HARBOR OF REFUGE

DIVISION 1. GENERALLY

Sec. 70-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Boat means any motor boat, vessel, watercraft, or personal watercraft of any kind, however propelled.

Committee means the Curtis Merritt Harbor of Refuge Committee.

Federal project means a project for improvement of the harbor and the modification of harbor lines by the Department of the Army and in proximity thereto.

Harbor or *Curtis Merritt Harbor* means the Curtis Merritt Harbor of Refuge.
(Code 1977, §§ 9-2, 9-3)
Cross reference—Definitions generally, § 1-2.
(Amended 08/07/06)

Sec. 70-27. Purpose and authority.

The purpose of this article is to provide for the operation and maintenance of the Curtis Merritt Harbor of Refuge owned by the town, including certain charges for the use thereof.
(Code 1977, § 9-1) ***(Amended 05/05/03, 08/07/06)***

Sec. 70-28. Penalties.

Any person violating any of the sections of this article shall, upon conviction, be guilty of a Class 2 misdemeanor.
(Code 1977, § 9-7)
(Amended 08/07/06)

Sec. 70-29. Damage to docks, wharves or launching ramps.

It shall be unlawful for anyone, intentionally or negligently, to damage the public docks, wharves or launching ramps owned by the town.
(Code 1977, § 9-4)
(Amended 08/07/06)

Sec. 70-30. Nondiscrimination.

There shall be no discrimination in the use of an access to the benefits of all the harbor regardless of race, age, creed, handicapping conditions, color, national origin, religion, sex,

political affiliation or beliefs.
(Code 1977, § 9-6)
(Amended 08/07/06)

Secs. 70-31—70-55. Reserved.

DIVISION 2. COMMITTEE*

Sec. 70-56. Established; general authority.

There is established for the purpose of the supervision, operation and maintenance of the Curtis Merritt Harbor of Refuge and enforcement of this article a committee to be known as the Curtis Merritt Harbor of Refuge Committee, which shall be charged with diligently conducting and enforcing the provisions of this article and any rules and regulations adopted by the committee and approved by the town, from time to time for the best interest of the federal project and the public, bother commercial and recreational.
(Code 1977, § 9-2(1)) ***Amended 05/05/03, 08/07/06)***

Sec. 70-57. Membership.

(a) The committee shall consist of five members, and four members shall be residents of the town with the option of the mayor and council to waive the residence requirements of the harbor master. The members shall be as follows:

(1) Two shall be members of the town council.

(2) One shall be a member of the working waterman's association.

(3) One shall be a recreational fisherman.

(4) One shall be the harbor master.
(Amended 08/07/06)

(b) All members shall be appointed by the council, except the harbor master. After the council has approved the first four members, those four will by a majority vote appoint the harbor master, upon the advice and consent of the town council. All members shall be appointed for a term of two years or until replaced by the town as herein provided. All members of the committee shall serve as such without compensation.
(Amended 08/07/06)

(c) The harbor master shall be a nonvoting member of the committee. The committee

***Cross reference—**Boards and commissions, § 2-106 et seq.

shall elect a chairman and vice-chairman and one of the town council members shall be the secretary/treasurer.
(Code 1977, § 9-2(2); Ord. of 10-21-1993) ***(Amended 05/05/03, 08/07/06)***

Sec. 70-58. Meetings.

The committee shall meet at least four times a year at a time and place of its choosing and shall maintain accurate records of the meeting's proceedings and the financial resources of the harbor.
(Code 1977, § 9-2(3)) ***(Amended 05/05/03, 08/07/06)***

Sec. 70-59. Quorum; majority rule.

Three voting members of the committee shall constitute a quorum for all meetings. All matters shall be decided by majority vote of those present and voting.
(Code 1977, § 9-2(4))
(Amended 08/07/06)

Sec. 70-60. Vacancies.

If a vacancy occurs in the term of any committee member, the town shall have the right to appoint a person to fill such vacancy, as described in this division, for the remainder of such unexpired term.
(Code 1977, § 9-2(5))

Sec. 70-61. Removal of members.

The town reserves the right to remove any committee member with or without cause.
(Code 1977, § 9-2(6))
(Amended 08/07/06)

Sec. 70-62. Referrals for decision.

Matters which cannot be decided by the committee shall be referred to the town council for decision. Any such referral shall be in writing detailing the issues involvedand why the committee is unable to make a determination..
(Code 1977, § 9-2(7)) ***(Amended 05/05/03, 08/07/06)***

Sec. 70-63. General authority.

(a) The committee's duly designated agents in the supervision of the harbor and the enforcement of this article shall have the authority to direct and control the movement and stoppage of all boats, vehicles and trailers using the harbor facilities, including the parking area, ramp, dock, boat slips and water within the confines of the harbor. The committee shall have the further authority to restrict or prohibit any activities within the facility that in any way adversely affect the intended uses of the facility. The failure of any person to reasonably submit to such direction and control shall constitute a violation hereof.
(Amended 08/07/06)

(b) Nothing contained in this section is intended to preclude the town police department or other police officers from enforcing federal, as applicable, state and local statutes, ordinances and regulations, including the provisions of this article within the harbor.
(Code 1977, § 9-5)
(Amended 08/07/06)

Secs. 70-64—70-90. Reserved.

DIVISION 3. USE OF HARBORS, WHARVES, BOAT SLIPS, LAND

Sec. 70-91. Leases, permits or licenses required for use or occupancy.

(a) It shall be unlawful for any person to use, occupy or moor a boat to any part of the Curtis Merritt Harbor of Refuge without first having obtained a lease, permit, license, or the authority of the harbor master as provided in this article, for such use, occupation docking, or mooring.
(Amended 08/07/06)

(b) All leases, permits or licenses for the use or occupancy of boat slips, wharfage or land within the harbor shall be in writing on forms authorized by the town council and submitted to and approved and executed by the committee's designated representative and the lessee, permittee, or licensee and preserved in the office of the committee.
(Amended 08/07/06)

(c) All fees for leases, permits or licenses shall become due and payable on each July 1st at the town office. All fees are non-refundable, except as may be provided for in the lease agreement.
(Amended 08/07/06)

(d) No lessee shall assign or sublease a boat slip to another person and any such assignment or sublease shall immediately terminate said lease, without refund of any portion of the lease payment.
(Amended 08/07/06)

(e) No boat shall be moored in any slip for a period in excess of 24 hours by any lessee except such boat that is listed on the lease agreement when executed or subsequently added thereto. No more than one (1) boat shall be so listed at any given time. The presence of any unlisted boat in any such slip for a period of ten (10) days shall cause a rebuttable presumption that such slip lease has been assigned or a sublease exists and such lease shall terminate immediately, absent proof to the reasonable satisfaction of the committee that such assignment or sublease has not occurred.
(Amended 08/07/06)

(f) All fees charged for use and occupancy of boat slips, wharfage, and other uses of the harbor facilities shall be established by the town council from time to time and shall be posted in the office of the harbor committee, unless otherwise expressly provided for herein.

(Code 1977, § 9-3(A)) ***(Amended 05/05/03, 08/07/06)***

(g) All fees and charges collected by the town from the use of the harbor shall be segregated or earmarked from the general fund and used for improvements, repairs and upkeep of the harbor and its facilities, upon recommendations made by the committee. The committee shall file annually with the town a report on the status of the harbor facility.
(Amended 08/07/06)

(h) The following priorities shall control the leasing of slips at the harbor:

(1) Present leaseholders that requested smaller slips and leased larger slips have the first opportunity to change to a smaller slip if available.

(2) Working watermen (100%) of the Islands District.

(3) Other boat owners of the Islands District.

(4) Working watermen (100%) of Accomack County.

(5) Accomack County residents.

(6) All others.
(Amended 08/07/06)

Sec. 70-92. Permits required for erection of structures.

It shall be unlawful to erect any type of structure including mooring poles in the waters of the harbor or on the property within the harbor facility without first securing a permit from the harbor committee. All buildings, structures, docks, poles, walkways or projections in the harbor waters or facility, in conflict with and not conforming to specifications and requirements of the harbor committee, shall be removed at the lessee's expense. Any authorized structure or appurtenance shall be installed at the expense of the person causing the construction thereof. The structure or appurtenance shall, at the option of the committee, become the property of the town at the expiration of the lessee's lease, or the committee may require that any such structure be removed.
(Code 1977, § 9-3(B)) ***(Amended 08/07/06)***

Sec. 70-93. Damage to docks, wharves or launching ramps.

It shall be unlawful for anyone intentionally or negligently, to damage the public docks, wharves, bulkheads, or launching ramps owned by the town situated at the harbor.
(Adopted 08/07/06)

Sec. 70-94. Dumping; disposal of wrecks.

(a) It shall be unlawful to deposit or cause or permit to be deposited, in any of the waters of the harbor, or along the shores thereof or in any of the streams or ditches emptying therein or on any of the land adjacent or contiguous to the harbor, etc., any refuse, offal, waste matter or other substance or material, whether earth, oil, liquid, animal, fish or vegetable matter, or other matter that may adversely affect the sanitary, clean and safe condition of the water in the harbor or that may diminish the depth thereof.
(Amended 08/07/06)

(b) It shall be unlawful to intentionally or negligently permit or cause to be sunk any boat in the waters of the harbor, or to intentionally or negligently permit or cause any loose timber or log to be set adrift in the harbor. Whenever a boat is wrecked and/or sunk in any of the waters of the harbor, accidentally or otherwise, it shall be the duty of the owner or person then in possession of such wrecked or sunken boat to immediately mark it with buoys

and lights at night and to maintain such warning devices until the wrecked or sunken boat is removed which shall be done within the time frame designated by the committee. The neglect or failure of the owner person then in possession to so mark the wrecked or sunken boat shall constitute a violation hereof. It shall be the duty of the owner or person then in possession of such wrecked or sunken boat to commence the immediate removal of the boat and remove same within the committee's designated removal period. Failure to do so shall constitute a violation hereof. Further, the failure of the owner or person then in possession to mark with required warning devices and/or remove such wrecked or sunken boat within the period prescribed by the committee shall constitute a material breach of any lease with such person and authorize the committee to cancel such lease. In the event any such owner or person in possession does not timely remove such wrecked or sunken boat, the committee may proceed to do so after five (5) days written notice to such owner or person in possession, and at the owner's and/or person in possession's cost.
(Code 1977, § 9-3(C)) ***(Amended 08/07/06)***

Sec. 70-95. Boat ramp and land area usage.

(a) The use of the boat ramps and adjacent parking areas of the harbor facility are for the pleasure of all users. No unloading, loading or storage of seafood products or byproducts, nets, poles, dredges or culling of products is permitted except in designated loading and unloading areas as hereinafter provided. At the discretion of the harbor master, a temporary variance may be granted when an emergency exists or there is other just cause therefore.
(Amended 08/07/06)

(b) Overnight habitation of vessels, boats, parked vans, automobiles, trucks, mobile homes, camper trailers or other recreational vehicles or apparatus, including tents, at the harbor facility, is prohibited except by special authority given by the harbor master for critical emergency situations.
(Code 1977, § 9-3(D)) ***(Amended 05/05/03, 08/07/06)***

(c) Persons utilizing a boat ramp at the harbor shall launch or recover any boat as promptly as possible giving consideration to the safety of persons and property, and shall not unnecessarily impede the use of such ramp by other users.
(Adopted 08/07/06)

Sec. 70-96. Designated loading and unloading areas.

(a) The committee shall designate a specified wharfage area for the loading and unloading of both commercial and pleasure boats which areas shall be designated and with appropriate signage.
(Amended 08/07/06)

(b) Except in an emergency, it shall be unlawful to use the loading and unloading wharfage area for the mooring of boats. In an emergency, the mooring shall be as approved by the committee or its designated agent.
(Amended 10/03/05, 08/07/06)

(c) Wharfage for inbound or outbound cargo placed on the loading and unloading area

shall be limited to 24 hours without charge. Wharfage for all boats shall be limited to eight hours without charge.
(***Amended 05/05/03, 10/03/05, 08/07/06)***

(d) Under no circumstances shall any cargo remain on the loading and unloading area in excess of the free time, except on the express authorization of the harbor committee or harbor master. The loading and unloading area or any other upland area of the harbor facility shall not be utilized for storage purposes. Cargo equipment of whatever kind placed thereon shall remain thereon at the risk of the consignee or owner and shall be removed within a reasonable length of time, which shall not exceed 24 hours except on the express authorization of the harbor committee or harbor master.
(Code 1977, § 9-3(E)) ***(Amended 08/07/06)***

Sec. 70-97. Use of harbor for anchoring or mooring.

(a) No boat shall be moored or anchored inside the harbor without the permission of the committee or harbor master, at such points as shall be designated.
(Amended 08/07/06)

(b) No boat shall operate or be moored or anchored in such a manner as to obstruct the passage, approaches, berthing offloading, or loading, or use of the launching ramp by other boats at the harbor.
(Amended 08/07/06)

(c) No person operating any boat shall utilize in any way any bulkhead, dock or slip space within the harbor except that portion which is leased by such person from the committee, or otherwise with the expressed permission of the harbor master or the committee. ***(Amended 08/07/06)***

(d) Fees as determined by the town may be charged for anchoring or mooring in the harbor by the committee when authorized by the harbor master.
(Code 1977, § 9-3(F)) ***(Amended 08/07/06)***

Sec. 70-98. Speed limit.

All boats entering, leaving, or navigating in the harbor shall be operated in such a manner so as not to create a swell sufficient to cause damage to the other boats moored, anchored, offloading, loading or utilizing the boat ramps at the harbor.
(Code 1977, § 9-3(G)) ***(Amended 08/07/06)***

Sec. 70-99. Dock boxes.

Dock boxes may be provided and utilized by each lessee at the harbor, provided that the design, materials, colors, and location are approved in writing by the harbor master.
(Code 1977, § 9-3(H)) ***(Amended 08/07/06)***

Sec. 70-100. Storage.

Crab traps, lobster pots, fish nets, baskets, fish boxes and all other types of gear shall not be stored on the docks or upland areas except area that may be designated by the harbor

committee. Boats shall not be stored on the docks, adjacent waterways or upland areas of the harbor.
(Code 1977, § 9-3(I)) ***(Amended 08/07/06)***

Sec. 70-101. Fuel.

No fuel, either diesel or gasoline, shall be stored on the docks or upland areas of the harbor. Fuels shall only be sold at the harbor by licensed fuel dealers. Transportation of fuels by a lessee is permitted, providing the containers are safe and properly secured on the lessee's vehicle. All such containers and vehicles must be approved by the harbor committee or the harbor master.
(Code 1977, § 9-3(J)) ***(Amended 08/07/06)***

Sec. 70-102. Oversized vessels.

Boats longer than 15 percent of the length of the harbor slip requested will not be permitted unless special permission is granted by the committee.
(Code 1977, § 9-3(K)) ***(Amended 08/07/06)***

Sec. 70-103. Trespassing.

No person shall enter the harbor between the hours of 10:00 p.m. and 6:00 a.m., except for leaseholders and their guests and other duly authorized persons. Any such entry shall constitute a criminal trespass.
(Code 1977, § 9-3(L)) ***(Amended 08/07/06)***

Sec. 70-104. Prohibited conduct.

Within the harbor, the upland area adjacent thereto, and the spoil site, The following conduct is expressly prohibited:

(a) crabbing

(b) swimming

(c) fishing

(d) camping

(e) bathing

(f) picnicking

(g) overhaul or repair of boats

(h) discharge of firearms

(i) reserved

(j) parking, except as expressly permitted by appropriate signage or the harbor master.
(Code 1977, § 9-3(M)) ***(Amended 08/07/06)***

Sec. 70-105. Other rules and regulations.

WATER ACCESS FACILITIES

In addition to all other rules or regulations pertaining to the use of the harbor, the following additional rules and regulations shall be in effect:

a. Overnight parting prohibited without ramp user fee sticker

b. Two (2) hour parking if not under way on boat or vessel.

(Adopted 08/07/06)

Sec. 70-106. Abusive language.

While utilizing the harbor, including while on any boat moored thereto or while in the act of mooring, embarking, disembarking, launching or recovering any boat any person shall refrain from making any loud and disturbing noises not reasonably necessary for utilizing said facility, and further shall not use any abusive and/or obscene language that reasonably disturbs the peace and tranquility of others on or near said facility.
(Adopted 08/07/06)

Sec. 70-107 to 109. Reserved.

ARTICLE III. USE OF OTHER TOWN WATER RELATED FACILITIES

DIVISION 1. GENERALLY

Sec. 70-110. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Boat means any motor boat, vessel, watercraft, or personal watercraft of any kind, however propelled.

Person means any natural person, corporation, partnership, limited liability company, or other legal entity.

Town or Town Council means the governing body of the Town of Chincoteague.
(Adopted 08/07/06)

Sec. 70-111. Purpose and authority.

The purpose of this article is to provide for the operation of all other water related facilities owned or controlled by the Town of Chincoteague, specifically including but not limited to the town dock (excluding any leased portion thereof), Chincoteague Veterans Memorial Park, eastside boating facility, Fir Landing, and Robert N. Reed, Sr. Downtown Waterfront Park.
(Adopted 08/07/06)

Sec. 70-112. Penalties.

Any person violating any of the provisions of this article shall, upon conviction, be guilty of a Class 2 misdemeanor.
(Adopted 08/07/06)

Sec. 70-113. Nondiscrimination.

There shall be no discrimination in the use of or access to the benefits of any such facility, regardless of race, age, creed, handicapping conditions, color, national origin, religion, sex, political affiliation or beliefs.
(Adopted 08/07/06)

Sec. 70-114. Reserved.

DIVISION 2. PROVISIONS REGULATING THE USE OF SUCH OTHER FACILITIES

Sec. 70-115 General authority.

(a) The harbor master and his duly designated agents, in the supervision of the other town water related facilities and the enforcement of this article, shall have the authority to direct and control the movement and stoppage of all boats, vehicles and trailers using the other town water related facilities, including the parking area, ramp, dock, boat slips and waters within the confines of the other town water related facilities. The harbor master shall have the further authority to restrict or prohibit any activities within the facility that in any way adversely affect the intended uses of the facility. The failure of any person to reasonably submit to such directions and control shall constitute a violation hereof.
(Adopted 08/07/06)

(b) Nothing contained in this section is intended to preclude the police department or other police officers from enforcing federal, state and local statutes, ordinances and regulations, including the provisions of this article within the other town water related facilities.
(Adopted 08/07/06)

Sec. 70-116. General.

It shall be unlawful for any person to use, occupy, moor, load, offload, launch, or recover any boat except as permitted herein.
(Adopted 08/07/06)

Sec. 70-117. Required license.

No person shall use for the launching and/or recovery of any boat any ramp constituting a part of any such facility without having paid any required license fee as established by the town council from time to time.
(Adopted 08/07/06)

Sec. 70-118. Damage to docks, wharves or launching ramps.

It shall be unlawful for any person to intentionally or negligently damage any public dock, wharf, bulkhead, or launching ramp constituting a part of any such facility.
(Adopted 08/07/06)

Sec. 70-119. Boat ramp and land area usage.

(a) The use of the boat ramp and adjacent parking areas of any such facility, are for the pleasure of all users. No unloading, loading or storage of seafood products or byproducts, nets, poles, dredges or culling of products is permitted except in designated loading and unloading areas as hereinafter provided. At the discretion of the harbor master, a temporary variance may be granted when an emergency exists or there is other just cause therefore.
(Adopted 08/07/06)

(b) Overnight habitation of boats, parked vans, automobiles, trucks, mobile homes, camper trailers or other recreational vehicles or apparatus, including tents, at any such facility, is prohibited except that slip holders and their guests may utilize overnight accommodations on boats designed for such overnight use, after obtaining the lease from the town.
(Adopted 08/07/06)

(c) Persons utilizing a boat ramp at any such facility shall launch or recover any boat as promptly as possible giving consideration to the safety of persons and property, and shall not unnecessarily impede the use of any such ramp by other users.
(Adopted 08/07/06)

Sec. 70-120. Dumping disposal of wrecks.

(a) It shall be unlawful to deposit or cause or permit to be deposited, in any of the waters of any such facility, or along the shores thereof or in any of the streams or ditches emptying therein or on any of the land adjacent or contiguous to any such facility, any refuse, offal, waste matter or other substance or material, whether earth, oil, liquid, animal, fish or vegetable matter, or other matter that may adversely affect the sanitary, clean and safe condition of the waters in any such facility or that may diminish the depth thereof.
(Adopted 08/07/06)

(b) It shall be unlawful to intentionally or negligently permit or cause to be sunk any boat in the waters of any such facility, or to intentionally or negligently permit or cause any loose timber or log to be set adrift in any such facility. Whenever a boat is wrecked and/or sunk in any of the waters of any such facility, accidentally or otherwise, it shall be the duty of the owner or person then in possession of such wrecked or sunken boat to immediately mark it with buoys and a lights at night and to maintain such warning devices until the wrecked or sunken boat is removed which shall be done within the time frame designated by the harbor master. The neglect or failure of the owner or person then in possession to so mark the wrecked or sunken boat shall constitute a violation hereof. It shall be the duty of the owner or person then in possession of such wrecked or sunken boat to commence the immediate removal of the boat and remove same within the harbor master's designated

removal period. Failure to do so shall constitute a violation hereof. Further the failure of the owner or person then in possession to mark with required warning devices and/or remove such wrecked or sunken boat within the period prescribed by the harbor master shall constitute a material breach of any lease, with such person and authorize the harbor master to cancel such license. In the event any such owner or person in possession does not timely remove such wrecked or sunken boat, the harbor master may proceed to do so after five (5) days written notice to such owner or person in possession, and at the owner's and/or person in possession's cost.
(Adopted 08/07/06)

Sec. 70-121. Use of facility for anchoring or mooring.

(a) No boat shall be moored to or anchored inside any such facility without the permission of the harbor master and at such points as may be designated, or unless otherwise permitted.
(Adopted 08/07/06)

(b) No boat shall be operated or moored or anchored in such a manner as to obstruct the passage, approach, berthing, offloading, loading, launching or recovery of other boats at any such facility.
(Adopted 08/07/06)

(c) No person operating any boat shall utilize in any way any bulkhead, dock, or slip space within any such facility except that portion which is leased by such person from the town, where applicable, or without the express permission of the harbor master, or as otherwise permitted.
(Adopted 08/07/06)

Sec. 70-122. Prohibited conduct.

Within any such facility, and/or the upland area adjacent thereto, the following conduct is expressly prohibited:

(a) swimming

(b) camping

(c) fireworks

(d) overhaul of boats

(e) discharge of firearms

(f) parking, except as expressly permitted by appropriate signage..

In addition to any other rule or regulation pertaining to the use of the other town water related facilities, the following additional rules and regulations shall be in effect:

(a) Overnight parking prohibited without ramp user fee sticker.

(b) Two (2) hour parking if not under way on boat or vessel.
(Adopted 08/07/06)

Sec. 70-123. Other rules and regulations.

In addition to all other rules or regulations pertaining to the use of the other town water related facilities, excepting the town dock, the following additional rules and regulations shall be in effect:

(a) The loading dock area may be used up to four (4) hours free of charge.

(b) Beyond four (4) hours, boats may remain at the dock for reasons of mechanical failures, inclement weather or any other situation as deemed appropriate by the harbor master or his duly appointed agent.

(c) The fee for said mooring shall be seven ($7) dollars per day.
(Adopted 08/07/06)

Sec. 70-124. Provisions regulating boat wakes in and adjacent to any such facility.

All boats entering, leaving, or navigating in or within 100 feet of any such facility shall be operated in such a manner so as not to create a swell sufficient to cause damage to the other boats moored, anchored, offloading, loading, or utilizing the boat ramps at such facility.
(Adopted 08/07/06)

Sec. 70-125. Abusive language.

While utilizing any such facility, including while on any boat moored thereto or while in the act of mooring, embarking, disembarking, launching or recovering any boat any person shall refrain from making any loud and disturbing noises not reasonably necessary for utilizing said facility, and further shall not use any abusive and/or obscene language that reasonably disturbs the peace and tranquility of others on or near said facility.
(Adopted 08/07/06)

Sec. 70-126. Special provisions applicable to the town dock.

(a) No commercial boat shall offload any cargo except that a boat less than 24 feet in length may offload seafood products providing that said offloading does not exceed ½ hour daily.
(Adopted 08/07/06)

(b) A boat may moor at the town dock between the hours of 8:00 a.m. to 12:00 noon to take on fuel and secure stores for a period not to exceed 1 hour daily and provided that there are no more than two such boats so moored at a time.
(Adopted 08/07/06)

(c) In the case of an emergency the United States Coast Guard may moor a boat at the

town dock during the course of said emergency after contacting and securing the approval of the harbor master.
(Adopted 08/07/06)

(d) The harbor master may permit a boat to moor for an appropriate period of time to correct any mechanical problems.
(Adopted 08/07/06)

(e) In the case of inclement weather, the harbor master may moor up to two boats at the town dock during the period of such weather conditions.
(Adopted 08/07/06)

(f) Under no circumstances shall the use of the boat ramp at the town dock be impeded.
(Adopted 08/07/06)

APPENDIX A

ZONING*

Article I. General

Section A. Introduction

Article II. Definitions

Sec. 2.1. Accessory structure/use.
Sec. 2.2. Addition
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Sec. 2.13. Repealed.
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Sec. 2.16. Board of zoning appeals.
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Sec. 2.20. Building.
Sec. 2.21. Building administrator.

***Note–**Printed herein is the zoning ordinance, as adopted by the council on January 4,1994, and effective as provided in section 12.6. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

Charter reference–Zoning, ch. 4.

Cross references–Any ordinance relating to zoning, rezoning or zoning maps, or subdivisions or plats of subdivisions, and amendments and additions thereto saved from repeal, § 1-6(a)(10); planning commission, § 2-131 et seq.; buildings and building regulations, ch. 14; environment, ch. 22; floods, ch. 30; streets, sidewalks and other public places, ch. 50; vegetation, ch. 66; water access facilities, ch. 70; land subdivision and development, app. B.

State law reference–Zoning, Code of Virginia, § 15.2-2280 et seq.

Sec. 2.22. Building code.
Sec. 2.23. Building frontage.
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Sec. 2.25. Building line.
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Sec. 2.102. Repealed.
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Sec. 2.106. Repealed.
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Sec. 10.1. Permits and licenses to conform to ordinance.

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Article XII. Administration and Interpretation

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Sec. 2.129. Principal use.
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Sec. 6.8. Open-sided shelter roofs, open-sided roof to shelter a single boat slip and/or boat lift, and gazebo-type structures.

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APPENDIX A–ZONING

ARTICLE I. GENERAL

SECTION A. INTRODUCTION

"Zoning" or "to zone" means the process of classifying land within a locality into areas and districts, such areas and districts being generally referred to as "zones," by legislative action and the prescribing and application in each area and district of regulations concerning building and structure designs, building and structure placement and uses to which land, buildings and structures within such designated areas and districts may be put.

State law reference–"Zoning" defined, Code of Virginia, § 15.2-2201.

ARTICLE II. DEFINITIONS

For the purpose of this ordinance, certain words and terms are defined as follows (words used in the present tense include the future, words in the singular include the plural, and the plural includes the singular):

Sec. 2.1. Accessory structure/use.

A structure or use incidental or secondary to the principal structure or use on the same lot. An accessory building/structure shall be detached from the main structure. May be considered a main structure if meeting the required front setback for the area. See "Main use."
(Ord. of 4-1994)

Sec. 2.2. Addition.

An extension or increase in floor area, living/use space, height, or bulk space of a building or structure.

Sec. 2.3. Administrator (building).

See "Building administrator."

Sec. 2.4. Administrator (zoning).

See "Zoning administrator."

Sec. 2.5. Agriculture.

The tilling of the soil, the raising of crops, horticulture, forestry and gardening, including the keeping of animals and fowl, and including any agricultural industry or business, such as fruit packing plants, dairies or similar use.

Sec. 2.6. Alteration.

Any change in the use, adaptability or external appearance of an existing structure. Alterations do not necessarily affect the total square footage or bulk space of a structure.

Sec. 2.7. Amendment (zoning).

See "Rezoning."

Sec. 2.8. Amusements.

Any type of amusement device that does not create excessive noise, either singularly or in connection with such other or similar devices and/or other noise emanating activities on the subject property in violation of the Town of Chincoteague's noise ordinance.
(Ord. of 1-3-1996) ***Amended 02/19/04)***

Sec. 2.9. Apartment house.

A building which is owned by an individual person, firm or corporation which is to be leased as the residence of three or more families living independently of each other.

Sec. 2.10. Area requirements.

The spatial standards (lot width, depth, area, setback requirements, etc.) established for a lot or yard in a particular zone.

Sec. 2.11. Awning.

Any nonrigid material such as fabric or flexible plastic that is supported by or stretched over a frame that is attached to an exterior wall.

Sec. 2.12. Repealed 6/19/08.

Sec. 2.13. Repealed 6/19/08.

Sec. 2.14. Bed and breakfast.

A building, usually a residential structure with only one complete dwelling unit, arranged for shelter, sleeping accommodations and at least one meal per day. The occupants are primarily transient in nature, making use of the facilities for a period of less than 30 days. Such a use shall be considered a commercial enterprise, and a residential manager shall be required.

Sec. 2.15. Repealed 6/19/08.

Sec. 2.16. Board of zoning appeals.

A seven-member body appointed to hear appeals from decisions of the zoning administrator and to consider requests for variances and special exceptions from provisions of the zoning ordinance.

Cross reference–Board and commissions, § 2-106 et seq.

Sec. 2.17. Boardinghouse.

A building, usually a residential structure with only one complete dwelling unit, arranged for shelter, sleeping accommodations and at least one meal per day. The occupants are long

term (more than 30 days) in nature. Such a use shall be considered a commercial enterprise, and a residential manager shall be required.

Sec. 2.18. Repealed.

Sec. 2.19. Buffer strip.

A strip of land located so that it separates and protects one type of land use from the undesirable effects of another. Trees or other vegetation, as well as manmade screening, may be placed on buffer strips.

Sec. 2.20. Building.

Any structure used or intended for supporting or sheltering any use or occupancy.

Sec. 2.21. Building administrator.

The official charged with the overall enforcement of the building codes and ordinances. He may be any appointed or elected official who is by formal resolution designated to the position by the governing body. He may serve with or without compensation as determined by the governing body.

Sec. 2.22. Building code.

Those codes, referenced standards, policies and requirements imposed by the state, required by local ordinance or determined by the local building department. The Virginia Uniform Statewide Building Code is the preeminent state document from which most building construction regulations originate. (See Code of Virginia, § 36-97 et seq.)

Sec. 2.23. Building frontage.

The length of a building that faces a street, parking area, or private drive.

Sec. 2.24. Building height.

The vertical distance measured from base flood elevation at the site of the structure to the highest point of any roof.
(Ord. of 2-5-2001)

Sec. 2.25. Building line.

An imaginary line fixed at a specific distance from the front, rear or side boundaries of a lot. The building line is sometimes called the setback line. Specified structures may not extend beyond or into it.

Sec. 2.26. Building official.

The officer or other designated authority charged with the administration and enforcement of the state building code.

Sec. 2.27. Repealed 6/19/08.

Sec. 2.28. Repealed.

Sec. 2.29. Campground.

Tourist camps, travel trailer camps, recreation camps, family campgrounds, camping resorts, camping communities or any other area, place, parcel or tract of land, by whatever name called, on which three or more campsites are occupied or intended for occupancy, or facilities are established or maintained, wholly or in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the campsites and or facilities is granted gratuitously or by a rental fee. The minimum lot area shall be five acres.

Sec. 2.30. Camping trailer.

Every vehicle which has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn or carried by a motor vehicle.

Sec. 2.31. Camping unit.

Tents, tent trailers, travel trailers, camping trailers, pickup campers, motor homes or any other device or vehicular-type structure as may be developed, marketed and used by the camping trade for use as temporary living quarters or shelter during periods of recreation, vacation, leisure time, or travel.

Sec. 2.32. Campsites.

Any plot of ground within a campground used or intended for the exclusive occupation by a camping unit or units under the control of a camper.

Sec. 2.33. Canopy.

An extension of the roof of a building or a freestanding structure that has a roof with support, but no walls.

Sec. 2.34. Repealed 6/19/08.

Sec. 2.35. Caterer.

A business which prepares food and related items at one location for delivery, service and subsequent consumption off premises. Such a business may be a home occupation.

Sec. 2.36. Cemetery.

Any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery. No cemetery shall be established on a parcel that is less than two acres in area. New cemeteries which adjoin an existing cemetery may not be required to comply with the two-acre requirement. However, a special use permit is required. No interment shall be permitted within ten feet of any lot line within a commercial district or 25 feet of any lot line

within a residential district. Where the proposed cemetery will adjoin an existing cemetery, the required setback shall not apply to the common lot line adjoining such cemetery. All new cemeteries or extensions thereof shall be required to provide perpetual care for all new burial lots. Each burial lot shall be a minimum of five feet by ten feet in size. The establishment and/or extension of cemeteries is prohibited in residential R-1 and R-2. Any such establishments and/or extensions shall apply to all political divisions of the Code of Virginia. No such establishment and/or extensions shall be permitted except by a special use permit granted by the board of zoning appeals.
(Ord. of 8-2-1999)

Sec. 2.37. Certificate of occupancy.

An official certification granted by the building official stating that a structure has met and conforms to the provisions of the zoning ordinance and building codes and may therefore be used or occupied.

Sec. 2.38. Repealed 6/19/08.

Sec. 2.39. Comprehensive plan.

A document or series of document prepared by the planning commission which sets forth policies for the future land use of a community. (See Code of Virginia, § 15.2-2223 et seq.)

Sec. 2.40. Conditional zoning.

A rezoning procedure which allows an applicant to voluntarily propose (proffer) conditions that limit or qualify how his property may be used. The conditions proffered must relate to the rezoning itself and must be in accordance with the comprehensive plan. (See Code of Virginia, §§ 15.2-2201 and 15.2-2296 et seq.)

Sec. 2.41. Condominium.

A system of separate ownership of individual units in a multiple-unit building or development. All the owners have a right in common to use the common elements of the building or development with separate ownership confined to the individual units. (See Code of Virginia, § 55-79.39 et seq.)

Individual ownership of a single unit or space in a multi-unit structure in which common ownership may exist of the land and other amenities as so specified in the source of title.

Sec. 2.42. Corner lot.

A lot abutting on two or more streets at their intersection.

Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

Sec. 2.43. Cottages.

See "Vacation rental cottages."

Sec. 2.44. Covenant.

A private agreement between the buyer and seller of a lot that asserts legal requirements on the use of land. Normally contained in the property deed or otherwise formally recorded, covenants are most commonly used to place restrictions on the use of all individual lots in the development or to prohibit certain specified activities. These restrictions may also be called deed restrictions or restrictive covenants. Enforcement is by legal action initiated by private individuals, not by government initiative.

Covenants can also be established for property owners in a given area who mutually agree to certain guidelines, policies and restrictions.

Covenants are usually established to maintain or preserve an area's architectural "look" or esthetics, or to assign financial responsibility for maintenance and upkeep of common grounds, community facilities, roads and parking areas.

Sec. 2.45. Cul-de-sac.

A dead-end street with appropriate turnaround that affords safe and convenient movement of traffic.

Sec. 2.46. Day care facilities.

A day care facility which provides care for more than five persons more than 2 ½ years of age for less than 24 hours per day.
(Ord. of 4-3-1995)

Sec. 2.47. Decorative entrance.

Any structure identifying the entrance of a property. Such structure shall not exceed four feet in height, shall not exceed 15 feet in one direction and shall not exceed 30 feet in total length. Such placement shall not prohibit a 200-foot visual site view from the entrance location on the property.
(Ord. of 11-4-1996)

Sec. 2.48. Development.

Land developed for three or more residences or for business or industrial purposes. Development may also be defined as the construction of structures, utility lines, or other physical changes on land that will exclude other uses within the foreseeable future. The term "development" excludes land in agricultural production. (See Code of Virginia, § 15.2-2201.)

Sec. 2.49. Direct sales.

The sale of goods and/or services to the end user. Most retail sales are direct or end sales.

Sec. 2.50. Repealed 6/19/08.

Sec. 2.51. Repealed 6/19/08.

Sec. 2.52. District.

Districts as referred to in Code of Virginia, § 15.2-2280.

Sec. 2.53. Double frontage lot.

See "Through lot."

Sec. 2.54. Down zoning.

A change in the zoning classification of land to a classification permitting development that is less intensive or more restricted, such as from multifamily to single-family or from commercial or industrial to residential.

Sec. 2.55. Duplex.

See "Two-family dwelling."

Sec. 2.56. Dwelling.

Any structure which is designed for use as permanent dwelling unit.

Sec. 2.57. Dwelling unit.

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. One dwelling unit consists of sleeping space, a sanitation system and kitchen facilities.

A dwelling unit is living space for one family or a household; however, a single dwelling unit may be set up to serve several unrelated individuals, as in the case of a boardinghouse or a bed and breakfast.

A dwelling unit may be part of a building containing two or more dwelling units or it may be a detached building for a single family.

Sec. 2.58. Easement.

A right given by the owner of land to another party for specific limited use of that land. Localities may preserve scenic areas, farmland or open space by means of a conservation easement which restricts development of the land.

Sec. 2.59. Eminent domain.

The legal right of government to acquire or take private property for public use or benefit upon payment of just compensation to the owner. See also "Right-of-way" and "Taking" [sic].

Sec. 2.60. Euclidean zoning.

A term coined to describe any zoning system which protects the more or less static pattern of existing uses by dividing a community into residential, commercial and industrial zoning

districts and imposing building bulk and height controls. The term is derived from the landmark U.S. Supreme Court case of *Euclid (Ohio)* v. *Ambler Realty Co.* in 1926, which affirmed zoning as a legitimate function of local governments.

Sec. 2.61. Family.

One or more persons, related by blood or marriage, occupying a premises and living in a single dwelling unit, as distinguished from an unrelated group occupying a boardinghouse, bed and breakfast, lodginghouse, tourist home, motel, or hotel.

Sec. 2.62. Fence.

Any manmade object or set of objects, which serves as, but is not limited to, a means of separating, demarcating, obstructing or barricading properties or parts of properties.

Sec. 2.63. Fence height.

The vertical distance measured from natural undisturbed grade to the highest portion of the fence structure.

Sec. 2.64. Final subdivision plat.

A map of an approved subdivision properly filed with and approved by the local government.

Sec. 2.65. Repealed 6/19/08.

Sec. 2.66. Front setback.

That area between the front of the building (excluding steps but not a porch) and the front lot or street line, and extending across the width of the lot from which all buildings/structures are required to be excluded. The front setback is usually defined in distance, such as a front setback of 50 feet.
(Ord. of 11-01-1999)

Sec. 2.67. Front setback line.

The line at the front of the building or structure (excluding steps but not a porch) and extending across the width of the lot while meeting the appropriate setbacks. For a flag lot, the front lot line shall be the longest of the lines paralleling to the street (excluding the rear lot line). The shortest of the two may be used as the front lot line providing all setbacks can be met.
(Ord. of 11-01-1999)

Sec. 2.68. Frontage.

The side of a lot nearest the street. The frontage of a corner lot is the shorter of the two sides facing a street. Frontage may also be described as a distance, e.g. "The lot has 243 feet of frontage."

The minimum width of a lot measured from one side lot line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line as defined.

Sec. 2.69. Frontage (building).

See "Building frontage."

Sec. 2.70. Frontage, lot.

See "Lot frontage."

Sec. 2.71. Garage, private.

See "Private garage."

Sec. 2.72. Garage, public.

See "Public garage."

Sec. 2.73. Governing body.

The town council of Chincoteague, Virginia.

Sec. 2.74. Guestroom.

A room which is intended, arranged or designed to be occupied, or which is occupied, by one or more guests paying direct or indirect compensation therefore, but in which no provision is made for cooking. Dormitories are excluded.

Sec. 2.75. Hardship.

Circumstances which may unduly limit the use of a particular piece of property. The board of zoning appeals may grant a variance from the ordinance to alleviate undue hardship, but this shall be done in accordance with Code of Virginia, § 15.2-2309(2). Mere inconvenience or inability to obtain maximum profit is not considered a hardship.

Sec. 2.76. Health clubs, spas and gyms.

Any exercise center, figure salon, fitness center, gymnasium, health club, health spa, or any other establishment by any other name which provides exercise equipment and dressing room, shower or toilet facilities, or any combination of such facilities, that are intended for patron use, but excluding facilities used by or under the direct supervision and control of licensed medical personnel located in a medical facility; facilities located in athletic departments of schools, colleges, universities; and facilities of professional athletic teams. (Ord. of 4-13-1998)

Sec. 2.77. Health official.

The legally designated health authority of the state board of health for Accomack County or his authorized representative.

Sec. 2.78. Height (of building).

See "Building height."

Sec. 2.79. Home occupation.

An occupation carried on by the occupants of a dwelling as a secondary use in connection with which there are no more than 16 square feet of display of products or inventory for sale visible from the road or adjacent dwellings. Such occupation must be a use permitted by right as defined in this ordinance. A current town business license is required. (See article VI, section C for parking regulations.) See "Limited home occupation."
(Ord. of 4-7-1997)

Cross reference–Businesses, ch. 18.

Sec. 2.80. Hospital.

An institution rendering medical, surgical, obstetrical or convalescent care, including nursing homes, homes for the aged and sanatoriums, but in all cases excluding institutions primarily for mental patients, alcoholics or drug addicts. (Certain nursing homes, and homes for the aged may be "home occupations" if they comply with the definition herein.)

Sec. 2.81. Hospital, special care.

A special care hospital shall mean an institution rendering care primarily to mental patients, alcoholics or drug addicts.

Sec. 2.82. Hotel.

Any place offering to the public for compensation transitory lodging and sleeping accommodations, overnight or otherwise, including but not limited to facilities known by various nomenclatures or designations as hotels, motels, travel lodges, or hostels.

A building designed or occupied as the more or less temporary abiding place for more than ten individuals who are, for compensation, lodged, with or without meals.

Sec. 2.83. Repealed 6/19/08.

Sec. 2.84. Repealed 6/19/08.

Sec. 2.85. Interior lot.

A lot bounded by a street or right-of-way on only one side; any lot other than a corner lot. See also "Lot."

Sec. 2.86. Land.

The solid part of the earth's surface not covered by water.

Sec. 2.87. Light industry.

Includes warehousing and light manufacturing uses which produce some noise, traffic

congestion or danger, but which are of such limited scale or character that they present no serious hazard to neighboring properties from fire, smoke, noise or odors. Examples are lumberyards; warehouses; research laboratories; food preparation or processing; auto, truck, marine or farm machinery sales and/or service shops; bakeries; bottling plants; electronic plants; storage of farm implements, not connected with agriculture or horticulture; contractors' storage yards; tobacco warehouses; steel or metal fabrication; and garment manufacturing.

Cross reference–Businesses, ch. 18.

Sec. 2.88. Limited home occupation.

An occupation carried on by the occupants of a dwelling as a secondary use in connection with which there is no exterior (visible from the road or adjacent dwellings) display of products or inventory for sale, on-site customer visitation is severely limited to the point where neighbors are not disturbed, and no one is employed other than members of the family residing on the premises. A current town business license is required. (See article VI, section C for parking regulations.) See "Home occupation."

Cross reference–Businesses, ch. 18.

Sec. 2.89. Lot.

A parcel of land occupied or to be occupied by a main structure or group of main structures. Only one main or principal use, together with secondary, incidental, or accessory uses, is permitted on a lot as a matter of right in residential districts R-1, R-2 and R-3. Subject to other applicable provisions of the ordinance multiple main structures and uses are permitted in commercial districts C-1 and C-2.

Other uses, which do not constitute a secondary, incidental, or accessory use as defined under section 2.95 may be permitted, subject to the other applicable requirements of the ordinance, with a special use permit by the board of zoning appeals, if permitted as a matter of right in the applicable district, in accordance with article VIII, section 8.2.6 of this ordinance.

(Ord. of 4-13-1998)

Sec. 2.90. Lot depth.

The mean horizontal distance between the front lot line and the rear lot line, or the distance between the midpoint of the front lot line and the midpoint of the rear lot line. See "Building line."

The average horizontal distance between the front and rear lot lines.

Sec. 2.91. Lot frontage.

The length of that part of a zoned lot that fronts a public street.

Sec. 2.92. Lot lines.

The boundaries of a lot.

Sec. 2.93. Lot of record.

A lot which has been recorded in the clerk's office of the local circuit court.

Sec. 2.94. Lot width.

The mean horizontal distance between the side lot lines of a lot measured at right angles to the lot depth; or the same distance measured at a point midway between the front lot line and the rear lot line; or at the building line (rear line of the required front yard), especially on irregularly shaped lots. See "Building line."

The average horizontal distance between side lot lines.

Sec. 2.95. Main structure/building.

The principal building or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot. All garages, carports, porches, stoops, stairways, sheds, and other structures attached in any significant way to the main structure shall be considered part of the main structure. (This shall not include fences or facilities attached by means of communication cables, plumbing pipes, or other utilities and like items.)

Sec. 2.96. Main use.

The main use of a lot or building, as distinguished from a secondary, incidental, or accessory use on the same lot.

A secondary, incidental, or accessory use is a use that while not necessary for utilization of the main use is a use that is customary or usual with the main use and is used directly in conjunction therewith. By way of example, a single-family dwelling is a main use.

A swimming pool for the use of the occupants thereof and their noncommercial personal guest is a secondary, incidental or accessory use.

A dock, including a boat lift(s), used in conjunction with the main use of a lot or structure, which is in compliance with all applicable county, state, and federal regulatory and statutory provisions and permitted by all required agencies, is a secondary, incidental or accessory use or structure.

A gazebo-type structure erected on a lot, the specific location of which is not subject to the jurisdiction of the Accomack County Wetlands Board, the Virginia Marine Resource Commission, and/or the United States Army Corps of Engineers, and used in conjunction with the main use of a lot or permitted building is a secondary, incidental or accessory use or structure.
(Ord. of 4-13-1998) ***(Amended 1-18-07)***

Sec. 2.97. Manufacture and manufacturing.

The process and converting of raw, unfinished materials or products, or either of them,

into articles or substances of different character, or for use for a different purpose.

Sec. 2.98. Manufactured home.

See the VUSBC.

Sec. 2.99. Marina, commercial or club type.

A marina designed and operated for profit or operated by any club or organized group where hull and engine repairs, boat and accessory sales, packaged food sales, restaurants, personal services, fueling facilities, storage and overnight guest facilities or any combination of these are provided.

Cross reference–Water access facilities, ch. 70.

Sec. 2.100. Marina, private noncommercial.

A marina designed and intended to be used for mooring of boats by residents of the general neighborhood with no commercial facilities other than necessary for minor servicing and repairs.

Cross reference–Water access facilities, ch. 70.

Sec. 2.101. Marquee.

A permanent structure other than a roof attached to, supported by, and projecting from a building and providing protection from natural elements.

Sec. 2.102. Repealed 6/19/08.

Sec. 2.103. Mobile home.

A structure transportable in one section, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent metal chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. For purpose of this ordinance, a mobile home is not considered a single-family dwelling.

Sec. 2.104. Mobile home park.

Any area of five acres or more designed to accommodate not less than four nor more than ten mobile homes per acre and intended for residential use where residence is in mobile homes exclusively.

Sec. 2.105. Modular home.

A modular home is a dwelling constructed at the manufacturer's facility and transported after construction on streets and highways in sections for assembly at a site on a permanent foundation. A modular home must be built to standards established in the Virginia Uniform Statewide Building Code. (See Code of Virginia, § 36-71.1 et seq.) This definition shall not include a travel trailer or mobile home. (See "Mobile home," section 2.103 and "Travel

trailer," section 2.169.)

Sec. 2.106. Repealed.

Sec. 2.107. Motel.

One or more buildings containing individual sleeping rooms, designed for or used temporarily by tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

Sec. 2.108. Motor home.

Every private motor vehicle with a normal seating capacity of not more than ten persons, including the driver, designed primarily for use as living quarters for human beings.

Sec. 2.109. Multiple-family dwelling.

A structure arranged or designed to be occupied by more than two families in more than two dwelling units.

Sec. 2.110. Natural undisturbed grade.

The natural undisturbed ground level adjoining a structure or building in which no ground-disturbing activities have taken place.

Sec. 2.111. Nonconforming activity.

The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

Sec. 2.112. Nonconforming lot.

An otherwise legal lot as defined that does not conform to the minimum area or width requirements of this ordinance for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

Sec. 2.113. Repealed 6/19/08.

Sec. 2.114. Nonconforming structure.

An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage or other area regulations of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

Sec. 2.115. Nonconforming use.

A use that is not permitted by the zoning regulations of the district in which it is located. If it is established after the enactment of the ordinance, it is illegal and the property owner

may be required to discontinue it. But, if it existed before the zoning regulations, it is a legal nonconforming use and may continue, although a new or different nonconforming use may not replace it. (See Code of Virginia, § 15.2-2307.)

Sec. 2.116. Occupancy load.

The total number of persons that are permitted to occupy a building or portion thereof at anyone time.

Sec. 2.117. Repealed 6/19/08.

Sec. 2.118. Off-street parking area.

Space provided for vehicular parking outside the dedicated street right-of-way.
Cross reference–Stopping, standing and parking, § 58-166 et seq.

Sec. 2.119. Open space.

Any space or area required to be free of buildings or structures in any front, side or rear yard.

Sec. 2.120. Park.

An area usually laid out with walks, drives, playgrounds, etc., for public recreation.

Sec. 2.121. Parking space.

An area ten feet wide by 20 feet long for parking a single normal sized vehicle, identified by either stone, gravel, blacktop, shells, bumpers or signs as applicable in this ordinance.

Sec. 2.122. Permitted use.

A use which is specifically authorized in the zoning district. A property owner is considered to have a "right" to this use if other standards (e.g., setbacks, sanitation permit, etc.) are met. See "Conditional use" and "Special exception."

Sec. 2.123. Planning commission.

A public body appointed under authority of the Code of Virginia whose duties include preparation of a comprehensive plan, zoning and subdivision ordinances, and a capital improvement program. The planning commission, appointed by the Chincoteague Town Council, consists of seven members who are residents of the Town of Chincoteague and who are considered to be qualified by knowledge and experience to make decisions on community growth and development. This body shall be known as the planning commission of Chincoteague, Virginia. (See Code of Virginia, §§ 15.2-2210-15.2-2222.)
(Ord. of 4-3-1995)
Cross reference–Planning commission, § 2-131 et seq.

Sec. 2.124. Planning, subdivision of land and zoning enabling legislation.

State law which authorizes local governments to prepare and implement comprehensive

plans, zoning and subdivision ordinances and undertake other planning and zoning activities. Virginia's planning enabling legislation, contained in Code of Virginia, §§ 15.2-2200-15.2-2327, requires that localities have planning commissions and adopt comprehensive plans and subdivision ordinances. However, the adoption of the other implementation measures such as zoning ordinances, official maps and capital improvement programs is optional.

Cross reference–Land subdivision and development, app. B.

Sec. 2.125. Playground.

A place for outdoor games and recreation.

Sec. 2.126. Repealed 6/19/08.

Sec. 2.127. Pony Penning sales.

Pony Penning sales is herein defined in this ordinance to mean and include all general sales within the town, open to the public, for the purpose of disposing of any personal property.

Permit. A permit is required for conducting Pony Penning sales within the town and must be secured eight days prior to the Saturday preceding Pony Penning. The permit shall be displayed at the sale location for the entire length of the sale.
(Amended 9/7/10)

Permit fee. The permit fee shall be $300.00.

(1) Anyone with a valid town business license is exempted from the permit fee.

(2) Any person who produces documentary evidence to the reasonable satisfaction of the town manager that said person derives less than 50% of their gross income from the sale of such merchandise is exempt from the permit fee.

(3) Anyone selling prepared food as defined in the town's meal tax ordinance must submit a deposit to the town manager in an amount of $500.00 prior to receiving such permit, which amount shall be applied to any tax due as a result of such sales, and the remaining balance of the deposit, if any, shall be refunded to permittee at the end of such period upon computation of the actual tax due and payable as determined by such sales. Anyone conducting such food sales who has, for a period of three years preceding this permit, complied with all applicable reporting and payment procedures as otherwise required is exempt from this deposit requirement.

Duration of sale; hours of operation; frequency. Sales conducted under this section are restricted to a maximum period beginning no sooner than the Saturday preceding Pony Penning and ending on the Saturday immediately following Pony Penning. Any sale exceeding this time period or otherwise not in compliance with this section will not be considered Pony Penning sales and will be in violation of this section and will be considered a business and must comply with all applicable zoning and business licensing requirements.

(Amended 6/19/08.)

Sec. 2.128. Repealed 6/19/08.

Sec. 2.129. Principal use.

See "Main use."

Sec. 2.130. Private garage.

An accessory building designed or used for the storage of not more than three automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multi-unit dwelling, the private garage may be designed and used for the storage of 1 ½ times as many automobiles as there are dwelling units. Note: If part of main structure, it can house more.

Sec. 2.131. Professional office.

A structure designed for use by a person, or persons, in offering an on-site service which requires a state license such as medicine, law, certified public accounting, dentistry and other like endeavors.

Sec. 2.132. Repealed.

Sec. 2.133. Public garage.

A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling or storing motor-driven vehicles.

Sec. 2.134. Public utility.

Public utilities may include electrical, telephone, cable television, gas, water and sewer systems and services. These systems and services include poles, lines, distributors, pedestals, pipes, meters, ditches, culverts, and other facilities necessary for the maintenance, delivery and disposal of such services.

Cross reference–Utilities, ch. 62.

Sec. 2.135. Public water and sewer systems.

A water or sewer system owned and operated by a municipality or county, or owned and operated by a private individual or a corporation approved by the governing body and properly licensed by the state corporation commission, and subject to special regulations as therein set forth.

Cross reference–Utilities, ch. 62.

Sec. 2.136. Rear lot lines.

Ordinarily that line of a lot which is opposite and farthest from the front lot line.

Sec. 2.137. Rear yard.

An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot, and extending the full width of the lot.

Sec. 2.138. Rear yard setback.

The minimum distance by which any building or structure must be separated from the rear lot line.

Sec. 2.139. Recreational park.

See Code of Virginia, § 15.2-1806 et seq.
Cross reference–Parks and recreation, ch. 42.

Sec. 2.140. Restaurant.

Any building in which, for compensation, food or beverages are dispensed for consumption on and off the premises.

Sec. 2.141. Retail store/shop.

Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood and lumber yards).

Sec. 2.142. Rezoning.

An amendment to the zoning ordinance. Ordinarily, rezoning can take one of three forms: (1) a comprehensive revision or modification of the zoning text and map; (2) a text change in zone requirements; and (3) a change in the map, e.g., an area zoned for residential use is rezoned to commercial use. Applications for rezoning are reviewed by the local zoning administrator and the planning commission. After receiving a recommendation from the planning commission and holding a public hearing, the governing body may approve or disapprove an application for rezoning. (See Code of Virginia, §§ 15.2-2204, 15.2-2286 and 15.2-2303.

Sec. 2.143. Right-of-way.

A form of easement that grants the right of passage over the property of another. It may also be used to describe the land upon which a street or highway is located. See "Easement."

Sec. 2.144. Road.

Any public or private way set aside as a permanent right-of-way for motor vehicle travel and affording the principal means to abutting properties.

Sec. 2.145. Sanitary landfill.

An area used for the sanitary disposal of solid waste by compacting and covering with earth on a daily basis.

Sec. 2.146. Septic system.

An underground tank system for receiving waste matter to be putrefied and decomposed through bacterial action.

Sec. 2.147. Setback.

The minimum distance by which any building/structure or accessory building/structure must be separated from the front lot line. Exceptions are those items used as landscaping features such as fountains, birdbaths, planter boxes, etc., but not such items as gazebos, porches, or other structures upon which a person is intended to stand.

Sec. 2.148. Side yard setback.

An open, unoccupied space on the same lot as a building between the sideline of the building (excluding steps) and the sideline of the lot, and extending from the front yard line to the rear yard line.

Sec. 2.149. Repealed 10/19/07.

Sec. 2.150. Repealed 6/19/08.

Sec. 2.151. Repealed 6/19/08.

Sec. 2.152. Repealed 6/19/08.

Sec. 2.153. Single-family dwelling.

A structure arranged or designed to be occupied by one family, the structure having only one dwelling unit. A doublewide mobile home, where two or more sections are joined together to form one unit and constructed on a permanent footing and foundation, shall be considered a single-family dwelling, as will a manufactured home. A singlewide mobile home shall not be considered a single-family dwelling under this definition.

Sec. 2.154. Site plan.

A plan, drawn to scale, showing uses and structures proposed for a parcel of land. See additional requirements of the zoning and subdivision ordinances.

Sec. 2.155. Site plan review.

The review by local officials, usually the planning commission and staff, to determine if site plans and maps of a developer meet the stated purposes and standards of the zoning and subdivision ordinances; provide for necessary public facilities such as roads and schools; and protect and preserve topographical features and adjacent properties through the appropriate locating of structures and landscaping.

Sec. 2.156. Special exception.

A use category of a zoning ordinance which allows land uses that may have some characteristics which are incompatible with adjacent uses. The right to issue such special exceptions shall be delegated by the governing body to the Board of Zoning Appeals. If issued by the Board of Zoning Appeals such an exception is granted by "special use permit."

The issuing authority may impose such restrictions, conditions, etc., as they deem appropriate when granting such use; however, the public health, safety, morals and general welfare and the public objectives of zoning must be considered.
(Ord. of 4-3-1995)

Sec. 2.157. Special use permit.

The permit issued by the Board of Zoning Appeals granting a special exception. See "Special exception."

Sec. 2.158. Store.

See "Retail store/shop."

Sec. 2.159. Street.

Any highway, street, avenue, boulevard, road, lane, alley or any public way.
Cross reference–Streets, sidewalks and other public places, ch. 50.

Sec. 2.160. Street line.

The dividing line between a street or road right-of-way and the contiguous property.

Sec. 2.161. Structure.

Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

Sec. 2.162. Subdivision.

The division of any tract, lot or parcel of land into four parts or more, regardless of whether the individual lots or tracts are sold, leased or rented.
Cross reference–Land subdivision and development, app. B.

Sec. 2.163. Tailgate sales.

Sales of retail or wholesale merchandise products sold from the area of a vehicle or mobile unit without the placement of any type structure.

Sec. 2.164. Repealed 6/19/08.

Sec. 2.165. Through lot.

An interior lot having frontage on two streets.

Sec. 2.166. Tourist court, auto court, motel, tourist rental housing, tourist rental home, cabins or motor lodge.

One or more buildings containing individual sleeping rooms, designed for or used temporarily by tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.
(Ord. of 4-5-1999)

Sec. 2.167. Tourist home.

A residential structure in which rooms are rented for short periods (less than 30 days) of time to individuals who are generally transient or tourist in nature.

Sec. 2.168. Townhouse.

At least three single-family dwellings that are connected to each other by common sidewalls, having individual ownership of unit and property, having fee simple title, and with open space on at least two sides and meeting setbacks as required.

Sec. 2.169. Travel trailer.

A portable structure built on a chassis, designed to be towed behind a motor vehicle and used as a temporary occupancy for travel, recreation or vacation, being less than 40 feet in length.

Sec. 2.170. Travel trailer park/sold lots.

Premises where travel trailers are parked in conjunction with travel, recreation or vacation. Permanent additions may not exceed the square footage of the original mobile unit. Any accessory building on the lot may not be more than 96 square feet. Minimum five-foot setback required for all structures.

Sec. 2.171. Two-family dwelling (duplexes).

A structure, located on a single lot, arranged or designed to be occupied by two families in two separate dwelling units, which meet all setbacks as required for a single structure; may be subdivided into separate ownership with less than the otherwise required square footage provided the front, side and rear setbacks are maintained as required, excluding any setback for the common center wall of the structure.

Sec. 2.172. Vacation rental cottages.

One or more rental buildings constructed independently of each other on the same lot. Cooking facilities may be provided for each unit. Such structures shall not be considered as single-family dwellings.

Sec. 2.173. Variance.

A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship as defined, above. As used in this ordinance, a variance is authorized only for height, area and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of other nonconforming activities or uses in the zoning division or district or adjoining zoning divisions or districts.

A reasonable deviation from these provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance and would result in substantial justice being done. It shall not include a change

in use, which change shall be accomplished by a rezoning or a conditional zoning.

Sec. 2.174. Virginia Uniform Statewide Building Code (VUSBC).

Uniform Statewide Building Code. (See Code of Virginia, §§ 15.2-1217,36-97 and 36-119.1.)

Sec. 2.175. Repealed 6/19/08.

Sec. 2.176. Water and sewage disposal facilities, individual.

Individual facilities, completely contained within a lot, for the provision of water and disposal of sewage, generally consisting of a septic tank and well.

Sec. 2.177. Water and sewer system, public or central.

A water or sewage treatment system owned and operated by a municipality or county, or owned and operated by a private individual or a corporation, serving more than one lot.

Sec. 2.178. Waterfront seafood industry, light.

Including but not limited to wholesale and retail marine activities, such as docks and areas for the receipt, storage and shipment of waterborne commerce; customary seafood and shellfish receiving, packing and shipping facilities. All such uses shall be contiguous to the waterfront. Only one building shall be permitted and shall be limited to a maximum of 500 square feet in size and must conform to the accessory building setbacks as required for this zoned area.

Sec. 2.179. Wayside stand/market, roadside stand.

Any structure open on at least one side or land used for the sale or resale of products used by individual purchasers.

Sec. 2.180. Yard.

An open space on a lot other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

Sec. 2.181. Yard sale.

Yard sale is herein defined in this ordinance to mean and include all general sales within the town, open to the public, for the purpose of disposing of personal property including, but not limited to all sales entitled “garage,” “lawn,” “yard,” “attic,” “porch,” “room,” “backyard,” “patio,” “flea market,” or “rummage” sale.

Personal property shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

Permit. No permit is required for conducting a yard sale.

Duration of sale; hours of operation; frequency. Yard sales conducted under this section shall be limited in time to no more than three consecutive days per sale and may not be conducted more than four times per calendar year and are not permitted from and including the Saturday preceding Pony Penning through the Saturday following Pony Penning. Any sale exceeding this time period or otherwise not in compliance with this section will not be considered a yard sale and will be in violation of this section and will be considered a business and must comply with all applicable zoning and business licensing requirements. ***(Amended 6/19/08.)***

Sec. 2.182. Zoning.

See Code of Virginia, §§ 15.2-730, 15.2-852, 15.2-2201, 15.2-2279, 15.2-2299 and 33.1-374.

Sec. 2.183. Zoning administrator.

The designated government official whose responsibility it is to administer the provisions of this ordinance.

Sec. 2.184. Zoning amendment.

See "Rezoning."

ARTICLE III. RESIDENTIAL DISTRICTS

SECTION A. R-1 SINGLE FAMILY RESIDENTIAL

Statement of intent. This district is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children and to prohibit most activities of a commercial nature. To these ends, development is limited to relatively low concentration of single-unit dwellings providing homes for the residents, as well as commercial activities conducted in such a manner as to not disturb the peace and harmony of the district. This district requires that public streets, utilities and drainage be installed prior to approval.

Sec. 3.1. Uses permitted by right.

The following uses shall be permitted in R-1 single family residential district subject to all other provisions of this ordinance:

3.1.1. Single-family dwelling.

3.1.2. Limited home occupation.

3.1.3. Tourist rental homes.

3.1.4. Accessory building/structure.

(1) No accessory building/structure may be closer than five feet to any side or rear property line. No accessory building/structure may be closer than 25 feet from the front property line or more than the average setback of the structures on either side.

(2) The use of semi-trailers, trailers or other types of vehicles or parts of vehicles as storage or accessory structures is not allowed.

3.1.5. Fences.

(1) All fences to be located from a point even with the rear of the main structure (excluding open decks and open porches) extending to the front lot line shall have a maximum height of four feet and shall be at least 30 percent open space when viewed at any point perpendicular (90º angle) to the fence line, regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. A fence previously in compliance with this section may remain in place if a new addition is constructed to an existing residence.

(2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of four feet and shall be at least thirty percent open space, when viewed at any point perpendicular (90º angle) to the fence line, except for a fence erected or constructed along the rear lot line which may have a maximum height of six feet and may be of solid construction.

(3) Fully enclosed containment fences of solid construction may be erected to enclose aboveground sewage disposal systems and fuel storage tanks. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of six feet. Such containment fences shall not be placed closer than five feet from any side or rear lot line and shall not be placed closer than 15 feet from the front lot line.

3.1.6. Public utilities.

3.1.7. Signs (See Article VII, Signs.)

(1) Street address signs.

(2) Home occupation signs.

(3) Resident identification signs.

(4) Temporary signs.

(5) Business signs only to advertise the sale or yearly rental of the premises upon which erected. Only one sign, limited to four square feet, will be allowed on each lot.

(Amended 6/19/08.)

3.1.8. Parks.

3.1.9. Pony Penning sales.

3.1.10. Yard sales.

3.1.11. Other. The temporary location of construction "site trailers" or other protective, storage or other office-type structures for construction purposes are permitted providing that such structures are removed prior to the issuance of a certificate of occupancy or whenever significant construction activity is discontinued or halted for 30 days or longer.

3.1.12. Any parcel which is located in two or more zoning districts may, at the property owner's request, apply the permitted usages of the district in which a majority of the parcel is located to the entire parcel, so long as it remains a part of the original lot.
(Ord. of 8-1-1994; Ord. of 4-3-1995; Ord. of 11-4-1996; Ord. of 4-13-1998; Ord. of 4-5-1999) ***(Amended 6/2/03, 9/2/03)***

Sec. 3.2. Special exceptions; special use permits; conditional use.

3.2.1. Such other temporary or permanent use of land, buildings, or structures as may be permitted by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.
(Amended 5/3/04)

3.2.2. Repealed 3/1/10.
(Ord. of 4-3-1995; Ord. of 5-17-2001)

Sec. 3.3. Area regulations.

3.3.1. *Lot size.* The minimum lot size for permitted uses shall be 15,000 square feet. (For permitted uses utilizing individual sewage disposal systems, a larger area may be required by the health official.)

3.3.2. *Setback.* Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of 50 feet from any street right-of-way. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots or new subdivisions after enactment of this ordinance. This distance shall be known as the setback line.
(Amended 10/19/07)

3.3.3. *Open space.*

(1) The minimum side yard setback for each main structure shall be 15 feet.

(2) Each main structure shall have a minimum rear yard setback of 35 feet except waterfront properties would have no required setback.

3.3.4. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed 3 stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less than 600 square feet in area, however the height restriction still applies. (Ord. of 2-5-01.)

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials may be no higher than 70 feet above mean sea level (excluding public utilities).

3.3.5. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(2) The side yard abutting or next to the street shall be 35 feet for both the main and accessory buildings/structures excluding steps, and a landing not greater than 5 feet by 5 feet.

(Ord. of 4-3-95; Ord. of 7-3-1995; Ord. of 11-6-1995; Ord. of 7-7-1997; Ord. of 4-13-98; Ord. of 4-5-99; Ord. of 5-17-2001) ***(Amended 10/19/07, 3/22/12, 4/2/12)***

SECTION B. R-2 ONE AND TWO FAMILY RESIDENTIAL

Statement of intent. This district is composed of the basic components of the R-1 single family residential district , maintaining the same essential characteristics of that district but with a mix of community facilities and home occupations.

Sec. 3.4. Uses permitted by right.

The following uses shall be permitted in the R-2 one and two family residential district subject to all other provisions of this ordinance:

3.4.1. Single-family dwelling.

3.4.2. Two-family dwelling.

3.4.3. Home occupation.

3.4.4. Tourist rental homes.

3.4.5. Tourist homes.

3.4.6. Bed and breakfast.
(Amended 4/2/12)

3.4.7. Accessory building/structure.

(1) No accessory building/structure may be closer than five feet to any side or rear property line. No accessory building/structure may be closer than 25 feet from the front property line or more than the average setback of the structures on either side.

(2) The use of semi-trailers, trailers or other types of vehicles or parts of vehicles as storage or accessory structures is not allowed.

3.4.8. Fences.

(1) All fences to be located from a point even with the rear of the main structure (excluding open decks and open porches) extending to the front lot line shall have a maximum height of four feet and shall be at least 30 percent open space when viewed at any point perpendicular (90º angle) to the fence line, regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. A fence previously in compliance with this section may remain in place if a new addition is constructed to an existing residence.

(2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of four feet and shall be at least 30 percent open space, when viewed at any point perpendicular (90º angle) to the fence line, except for a fence erected or constructed along the rear lot line which may have a maximum height of six feet and may be of solid construction.

(3) Fully enclosed containment fences of solid construction may be erected to enclose aboveground sewage disposal systems and fuel storage tanks. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of six feet. Such containment fences shall not be placed closer than five feet from any side or rear lot line and shall not be placed closer than 15 feet from the front lot line.

3.4.9. Public utilities.

3.4.10. Signs (See Article VII, Signs.)

(1) Street address signs.

(2) Home occupation signs.

(3) Resident identification signs.

(4) Temporary signs.

(5) Business signs only to advertise the sale or yearly rental of the premises upon

which erected. Only one sign, limited to four square feet, will be allowed on each lot.

(6) Church bulletin boards and identification signs as defined in Article VII.

(Amended 6/19/08.)

3.4.11. Parks.

3.4.12. Pony Penning sales.

3.4.13. Yard sales.

3.4.14. Schools.

3.4.15. Churches.

3.4.16. Other. The temporary location of construction "site trailers" or other protective, storage or other office-type structures for construction purposes are permitted providing that such structures are removed prior to the issuance of a certificate of occupancy or whenever significant construction activity is discontinued or halted for 30 days or longer.

3.4.17. Any parcel which is located in two or more zoning districts may, at the property owner's request, apply the permitted usages of the district in which a majority of the parcel is located to the entire parcel, so long as it remains a part of the original lot.
(Ord. of 8-1-1994; Ord. of 4-3-1995; Ord. of 11-4-1996; Ord. of 4-13-1998; Ord. of 4-5-1999) ***(Amended 6/2/03, 9/2/03)***

Sec. 3.5. Special exceptions; special use permits; conditional use.

3.5.1 Light waterfront seafood industry.

3.5.2. Such other temporary or permanent use of land, buildings, or structures as may be permitted by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.
(Amended 5/3/04)

3.5.3. Repealed 3/1/10.
(Ord. of 4-3-1995, Ord of 5-17-2001)

Sec. 3.6. Area regulations.

3.6.1. *Lot size.*

(1) The minimum lot size for permitted uses shall be 12,500 square feet. (For permitted uses utilizing individual sewage disposal systems, a larger area may be required by the health official.)

(2) For each additional attached family or dwelling unit permitted above one, the lot size required shall increase by 5,000 square feet.

3.6.2. *Setback*. Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of 25 feet from any street right-of-way. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots or new subdivisions after enactment of this ordinance. This distance shall be known as the setback line.
(Amended 10/19/07)

3.6.3. *Open space.*

(1) The minimum side yard setback for each main structure shall be ten feet.

(2) Each main structure shall have a minimum rear yard setback of 25 feet except waterfront properties would have no required setback.

3.6.4. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less than 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials may be no higher than 70 feet above mean sea level (excluding public utilities).

3.6.5. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(2) The side yard setback abutting a street, road, right-of-way, or easement shall be 15 feet for both main and accessory structures excluding steps, and a landing not greater than 5 feet by 5 feet.

(Ord. of 4-3-1995; Ord. of 7-3-1995; Ord. of 11-6-1995; Ord. of 7-7-1997; Ord. of 2-5-2001; Ord. of 5-17-2001) ***(Amended 12/4/06, 10/19/07, 4/2/12)***

SECTION C. R-3 MIXED USE RESIDENTIAL

Statement of intent. This district is composed of certain medium to high concentrations of residential uses, ordinarily located adjacent to commercial areas, and/or between residential and commercial areas, plus certain open space areas where similar development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life, and to permit, under certain conditions, certain neighborhood commercial uses of a character unlikely to develop extreme concentrations of traffic and crowds of customers, with the limitation of permitted outdoor advertising to only 6 sign types. The positive characteristics of residential neighborhoods shall be maintained while allowing for appropriate infill and redevelopment on vacant and under-utilized parcels. Specific building types will be permitted only by conditional use permit to assure neighborhood compatibility.
(*Amended 4/2/12)*

Sec. 3.7. Uses permitted by right.

The following uses shall be permitted in the R-3 mixed use residential district subject to all other provisions of this ordinance:

3.7.1. Single-family dwelling.

3.7.2. Two-family dwelling.

3.7.3. Repealed 4/2/12.

3.7.4. Home occupation.

3.7.5. Tourist home/tourist rental home.

3.7.6. Vacation rental cottages.

3.7.7. Boardinghouse.

3.7.8. Bed and breakfast.

3.7.9. Rest home.

3.7.10. Beauty/barber shop.

3.7.11. Professional office.

3.7.12. Day care facilities.

3.7.13. Nursing homes.

3.7.14. Municipal facilities.

3.7.15. Accessory structure.

(1) No accessory building/structure may be closer than five feet to any side or rear property line. No accessory building/structure may be closer than 25 feet from the front property line or more than the average setback of the structures

on either side.

(2) The use of semi-trailers, trailers or other types of vehicles or parts of vehicles as storage or accessory structures is not allowed.

3.7.16. Fences.

(1) All fences to be located from a point even with the rear of the main structure (excluding open decks and open porches) extending to the front lot line shall have a maximum height of four feet and shall be at least 30 percent open space when viewed at any point perpendicular (90º angle) to the fence line, regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. A fence previously in compliance with this section may remain in place if a new addition is constructed to an existing residence.

(2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of four feet and shall be at least 30 percent open space, when viewed at any point perpendicular (90º angle) to the fence line, except for a fence erected or constructed along the rear lot line which may have a maximum height of six feet and may be of solid construction.

(3) Fully enclosed containment fences of solid construction may be erected to enclose aboveground sewage disposal systems and fuel storage tanks. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of six feet. Such containment fences shall not be placed closer than five feet from any side or rear lot line and shall not be placed closer than 15 feet from the front lot line.

3.7.17. Public utilities.

3.7.18. Signs (See Article VII, Signs.)

(1) Street address signs.

(2) Home occupation signs.

(3) Resident identification signs.

(4) Temporary signs.

(5) Business signs only to advertise the sale or yearly rental of the premises upon which erected. Only one sign, limited to four square feet, will be allowed on each lot.

(6) Church bulletin boards and identification signs as defined in Article VII.
(Amended 6/19/08.)

3.7.19. Recreational parks and playgrounds.

3.7.20. Schools.

3.7.21. Churches.

3.7.22. Public piers, public boat ramps.

3.7.23. Pony Penning sales, yard sales.

3.7.24. Repealed 4/2/12.

3.7.25. Other. The temporary location of construction "site trailers" or other protective, storage or other office-type structures for construction purposes are permitted providing that such structures are removed prior to the issuance of a certificate of occupancy or whenever significant construction activity is discontinued or halted for 30 days or longer.

3.7.26. Any parcel which is located in two or more zoning districts may, at the property owner's request, apply the permitted usages of the district in which a majority of the parcel is located to the entire parcel so long as it remains a part of the original lot.
(Ord. of 8-1-1994; Ord. of 4-3-1995; Ord. of 11-4-1996; Ord. of 4-13-1998; Ord. of 4-5-1999) ***(Amended 6/2/03, 9/2/03)***

Sec. 3.8. Special exceptions; special use permits; conditional use.

3.8.1. Cemetery.

3.8.2. Light waterfront seafood industry.

3.8.3. Townhouse.

3.8.4. Condominiums.

3.8.5. Multifamily dwelling.

3.8.6. Campgrounds.

3.8.7. Camper/travel trailer parks.

3.8.8. Hotels/motels.

3.8.9. Repealed 3/1/10.

3.8.10. Mobile Home.

3.8.11. Mobile Home Parks.

3.8.12. Such other temporary or permanent use of land, buildings, or structures as may be permitted by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.
(Ord. of 4-3-1995; Ord. of 8-2-1999; Ord. of 5-17-2001) ***(Amended 5/3/04, 4/2/12)***

Sec. 3.9. Area regulations.

3.9.1. *Lot size.*

(1) The minimum lot size for permitted uses shall be 10,500 square feet. (For

permitted uses utilizing individual sewage disposal systems, a larger area may be required by the health official.)

(2) For each additional attached family or dwelling unit permitted above one, the lot size required shall increase by 3,000 square feet.

3.9.2. *Setback.* Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of 25 feet from any street right-of-way. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to comer lots or new subdivisions after enactment of this ordinance. This distance shall be known as the setback line.
(Amended 10/19/07)

3.9.3. *Open space.*

(1) The minimum side yard for each main structure shall be ten feet.

(2) Each main structure shall have a minimum rear yard of 25 feet except waterfront properties would have no required setback.

3.9.4. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less than 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials maybe no higher than 70 feet above mean sea level (excluding public utilities).

3.9.5. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(2) The side yard setback abutting a street, road, right-of-way, or easement shall be 15 feet for both main and accessory structures excluding steps, and a landing not greater than 5 feet by 5 feet.

(Ord. of 4-3-1995; Ord. of 7-3-1995; Ord. of 11-6-1995; Ord. of 7-7-1997; Ord. of 2-5-2001; Ord. of 5-17-2001) ***(Amended 12/04/06, 10/19/07, 4/2/12)***

SECTION D. R-4 RESORT RESIDENTIAL

Statement of intent. This district is intended to encourage the continuation of seasonally and permanently occupied homes, and limited resort commercial use. These uses support Chincoteague's role as a visitor destination and improve the local economy. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life, and to permit, under certain conditions, certain limited commercial uses of a character unlikely to develop extreme concentrations of traffic and crowds of customers. To these ends, retail activity is limited and this district is protected against encroachment of general commercial and industrial uses. Most residential types of structures for both permanent and transient occupancy, including institutions, are permitted. Some structures for commercial uses conforming to the pattern of the district and several low-impact commercial uses are allowed.
(*Amended 4/2/12)*

Sec. 3.10. Uses permitted by right.

The following uses shall be permitted in the R-4 resort residential district subject to all other provisions of this ordinance:

3.10.1. Single-family dwelling.

3.10.2. Two-family dwelling.

3.10.3. Mobile home.

3.10.4. Home occupation.

3.10.5. Tourist home/tourist rental home.

3.10.6. Vacation rental cottages.

3.10.7. Boardinghouse.

3.10.8. Bed and breakfast.

3.10.9. Rest home.

3.10.10. Beauty/barber shop.

3.10.11. Professional office.

3.10.12. Day care facilities.

3.10.13. Nursing homes.

3.10.14. Municipal facilities.

3.10.15. Accessory structure.

(1) No accessory building/structure may be closer than five feet to any side or rear property line. No accessory building/structure may be closer than 25 feet from the front property line or more than the average setback of the structures

on either side.

(2) The use of semi-trailers, trailers or other types of vehicles or parts of vehicles as storage or accessory structures is not allowed.

3.10.16. Fences.

(1) All fences to be located from a point even with the rear of the main structure (excluding open decks and open porches) extending to the front lot line shall have a maximum height of four feet and shall be at least 30 percent open space when viewed at any point perpendicular (90º angle) to the fence line, regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. A fence previously in compliance with this section may remain in place if a new addition is constructed to an existing residence.

(2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of four feet and shall be at least 30 percent open space, when viewed at any point perpendicular (90º angle) to the fence line, except for a fence erected or constructed along the rear lot line which may have a maximum height of six feet and may be of solid construction.

(3) Fully enclosed containment fences of solid construction may be erected to enclose aboveground sewage disposal systems and fuel storage tanks. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of six feet. Such containment fences shall not be placed closer than five feet from any side or rear lot line and shall not be placed closer than 15 feet from the front lot line.

3.10.17.Public utilities.

3.10.18.Signs (See Article VII, Signs.)

(1) Street address signs.

(2) Home occupation signs.

(3) Resident identification signs.

(4) Temporary signs.

(5) Business signs only to advertise the sale or yearly rental of the premises upon which erected. Only one sign, limited to four square feet, will be allowed on each lot.

(6) Church bulletin boards and identification signs as defined in Article VII.

(Amended 6/19/08.)

3.10.19.Recreational parks and playgrounds.

3.10.20.Schools.

3.10.21.Churches.

3.10.22.Public piers, public boat ramps.

3.10.23.Pony Penning sales, yard sales.

3.10.24.Mobile home parks.

3.10.25.Other. The temporary location of construction "site trailers" or other protective, storage or other office-type structures for construction purposes are permitted providing that such structures are removed prior to the issuance of a certificate of occupancy or whenever significant construction activity is discontinued or halted for 30 days or longer.

3.10.26.Any parcel which is located in two or more zoning districts may, at the property owner's request, apply the permitted usages of the district in which a majority of the parcel is located to the entire parcel so long as it remains a part of the original lot.
(Ord. of 8-1-1994; Ord. of 4-3-1995; Ord. of 11-4-1996; Ord. of 4-13-1998; Ord. of 4-5-1999) ***(Amended 6/2/03, 9/2/03)***

Sec. 3.11. Special exceptions; special use permits; conditional use.

3.11.1. Cemetery.

3.11.2. Light waterfront seafood industry.

3.11.3. Townhouse.

3.11.4. Condominiums.

3.11.5. Multifamily dwelling.

3.11.6. Campgrounds.

3.11.7. Camper/travel trailer parks.

3.11.8. Hotels/motels.

3.11.9. Such other temporary or permanent use of land, buildings, or structures as may be permitted by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.
(Ord. of 4-3-1995; Ord. of 8-2-1999; Ord. of 5-17-2001) ***(Amended 5/3/04)***

Sec. 3.12. Area regulations.

3.12.1. *Lot size - general.*

(1) The minimum lot size for permitted uses shall be 10,500 square feet. (For permitted uses utilizing individual sewage disposal systems, a larger area may be required by the health official.)

(2) For each additional attached family or dwelling unit permitted above one, the lot size required shall increase by 3,000 square feet.

3.12.2. *Setback - general.* Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of 25 feet from any street right-of-way. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to comer lots or new subdivisions after enactment of this ordinance. This distance shall be known as the setback line.
(Amended 10/19/07)

3.12.3 *Mobile home parks and camper parks.* Refer to Article VI, Section B for area regulations that apply to certain uses such as mobile home parks, and camper/travel trailer parks.

3.12.4. *Open space.*

(1) The minimum side yard for each main structure shall be ten feet.

(2) Each main structure shall have a minimum rear yard of 25 feet except waterfront properties would have no required setback.

3.12.5. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less than 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials maybe no higher than 70 feet above mean sea level (excluding public utilities).

3.12.6. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(2) The side yard setback abutting a street, road, right-of-way, or easement shall be 15 feet for both main and accessory structures excluding steps, and a landing not greater than 5 feet by 5 feet.

(Ord. of 4-3-1995; Ord. of 7-3-1995; Ord. of 11-6-1995; Ord. of 7-7-1997; Ord. of 2-5-2001; Ord. of 5-17-2001) ***(Amended 12/04/06, 10/19/07, 4/2/12)***

SECTION E. A AGRICULTURAL DISTRICT*

Statement of intent. This district covers those portions of the town occupied by various open spaces, forests, farmlands, beaches and parks. The agricultural district is established for the specific purpose of promoting and encouraging the development of agricultural and forest lands for continuing agricultural operations, and for the purpose of conserving essential lands and open spaces for the protection of natural resources and waters and the reduction of pollution, soil erosion, and hazards from floods, fires and storms. Uses within this district shall be limited to those agricultural and conservation uses expressly permitted by right. Any proposal for the conversion of such lands to another use shall be evaluated for its impact on the town's existing resources and needs, and may be authorized only after reasonable and orderly process in accordance with the review procedures and standards specified in this ordinance.

Sec. 3.13. Uses permitted by right.

The following uses shall be permitted in the A agricultural district, subject to all other provisions of this ordinance:

3.13.1. Single-family dwelling.

3.13.2. Home occupation.

3.13.3. Horticultural uses including nurseries, truck farming and the cultivation of crops, and including on-site facilities for grading, storing and shipping, and/or sales of items grown or produced on site.

3.13.4. Raising, grazing and feeding of animals including dairy cows, livestock, swine and poultry, and the keeping of bees.

3.13.5. Game preserves and conservation areas.

3.13.6. Fish hatcheries and fish ponds; wildlife/waterfowl ponds.

3.13.7. Drainage, erosion and flood control devices.

3.13.8. Wells, water reservoirs and water control structures.

3.13.9. Public utilities' generating, booster or relay stations, transformer substations, transmission and distribution lines and towers, pipes, meters and other facilities for the provision and maintenance of public utilities, including water and sewage facilities.

3.13.10. Accessory structures.

3.13.11. Schools, churches.

3.13.12. Seafood and shellfish landing, receiving, storage and shipping facilities.

***Cross reference–**Animals, ch. 10

3.13.13. Aquaculture and mariculture facilities and activities.

3.13.14. Commercial kennels.

3.13.15. Commercial riding and boarding stables.

3.13.16. Public parks, recreational areas, golf courses, yacht and country clubs, marinas and other public buildings.

3.13.17. Facilities for repair and fueling of watercraft.

3.13.18. Commercial seafood and shellfish receiving, processing, packing and shipping facilities.

3.13.19. Lodges, hunting clubs, boating clubs, golf clubs.

3.13.20. Commercial facilities for grading, processing, packing, storage and marketing of agricultural and horticultural products.

3.13.21. Fences.

(1) All fences to be located from a point even with the rear of the main structure (excluding open decks and open porches) extending to the front lot line shall have a maximum height of four feet and shall be at least 30 percent open space when viewed at any point perpendicular (90º angle) to the fence line, regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. A fence previously in compliance with this section may remain in place if a new addition is constructed to an existing residence.

(2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of four feet and shall be at least 30 percent open space, when viewed at any point perpendicular (90º angle) to the fence line, except for a fence erected or constructed along the rear lot line which may have a maximum height of six feet and may be of solid construction.

(3) Fully enclosed containment fences of solid construction may be erected to enclose aboveground sewage disposal systems and fuel storage tanks. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of six feet. Such containment fences shall not be placed closer than five feet from any side or rear lot line and shall not be placed closer than 15 feet from the front lot line.

3.13.22. Public utilities.

3.13.23. Signs: temporary signs; see Article VII, Signs.

3.13.24. Pony Penning sales.

3.13.25. Yard sales.

3.13.26. Mobile home.

3.13.27. Site trailers. The temporary location of construction site trailers or other such protective storage or temporary office-type structures for construction purposes are permitted providing that such structures are removed prior to the issuance of a certificate of occupancy or whenever significant construction activity is discontinued for 30 days or longer.

3-13.28. Any parcel which is located in two or more zoning districts may, at the property owner's request, apply the permitted usages of the district in which a majority of the parcel is located to the entire parcel, so long as it remains a part of the original lot.
(Ord. of 8-1-1994; Ord. of 11-4-1996; Ord. of 4-7-1997; Ord. of 4-13-1998; Ord. of 4-5-1999) ***(Amended 06-02-03, 09-02-03)***

Sec. 3.14. Special exceptions; special use permits; conditional use.

3.14.1. Cemetery.

3.14.2. Airports and aircraft landing strips.

3.14.3. Radiowave and microwave transmission and relay towers, and appurtenant structures and facilities.

3.14.4. Repealed 3/1/10.

3.14.5. The use of semi-trailers or trailers as accessory structures for storage.

3.14.6. Such other temporary or permanent use of land, buildings, or structures as may be permitted by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.
(Ord. of 4-3-1995; Ord. of 4-7-1997; Ord. of 8-2-1999; Ord. of 5-17-2001)
(Amended 9/2/03)

Sec. 3.15. Area regulations.

3.15.1. *Lot size.*

(1) The minimum lot size for permitted residential dwellings shall be five acres, or a minimum individual lot size of one acre as long as the allowable gross density does not exceed one unit per five acres on any given parcel of land.

3.15.2. *Setback.* Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of 50 feet from the edge of any street right-of-way. This distance shall be known as the setback line. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots or new subdivisions after enactment of this ordinance.
(Amended 10/19/07)

3.15.3. *Open space.*

(1) The minimum side yard setback for each main structure shall be 50 feet, and the total width of the two required side yards shall be 100 feet or more.

(2) The minimum side yard for accessory structures shall be 30 feet or more.

3.15.4. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less than 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials maybe no higher than 70 feet above mean sea level (excluding public utilities).

3.15.5. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(Ord. of 7-3-1995; Ord. of 7-7-1997; Ord. of 2-5-2001; Ord. 5-17-2001)
(Amended 4/2/12)

ARTICLE IV. COMMERCIAL DISTRICTS*

SECTION A. C-1 NEIGHBORHOOD COMMERCIAL

Statement of intent. The primary purpose of this district is to provide appropriate areas for retail commercial and service uses catering to year-round residents, while minimizing impacts to existing adjacent residential areas. This district is intended as the location for basic neighborhood, commercial, service and business uses and may also allow one and two family residential uses. Of the commercial districts, neighborhood commercial is designed to be a lower density with more open space type activities than other commercial districts. The district recognizes the demand for a variety of land uses adjacent to the major traffic arteries which link the recreational facilities on Assateague Island to the mainland.

Sec. 4.1. Uses permitted by right.

The following uses shall be permitted in the C-1 neighborhood commercial district, subject to all other provisions of this ordinance:

***Cross reference–**Businesses, ch. 18.

4.1.1. Health clubs, spas, and gyms.

4.1.2. Home occupation.

4.1.3. Beauty/barber shop.

4.1.4. Professional office.

4.1.5. Wearing apparel shops.

4.1.6. Gift shops.

4.1.7. Motels.

4.1.8. Restaurants.

4.1.9. Day care facilities.

4.1.10. Nursing home.

4.1.11. Wayside stands, tailgate sales.

4.1.12. Retail stores, any retail business.

4.1.13. Funeral homes.

4.1.14. Caterer.

4.1.15. Schools.

4.1.16. Municipal facilities.

4.1.17. Churches.

4.1.18. Light waterfront seafood industry.

4.1.19. Light industry.

4.1.20. Mobile home parks.

4.1.21. Reserved

(Amended 5/3/04)

4.1.22. Campgrounds, in compliance with state regulations.

4.1.23. Accessory structures.

(1) No accessory structure may be closer than five feet to any property line.

4.1.24. Public utilities.

4.1.25. Signs; see Article VII, Signs.

4.1.26. Pony Penning sales, yard sales.

4.1.27. Fences.

(1) All fences located from a point even with the front, for commercial uses, [or] rear, for residential uses, of the main structure extending to the front lot line shall have a maximum height of four feet and shall be at least 30 percent open space when viewed at any point perpendicular (90º angle) to the fence line,

regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. Open decks and open porches are exempted from being considered the rear of the main structure for residential uses. A fence previously in compliance with this section may remain in place if a new addition is constructed to the existing residential main structure.

(2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of four feet and shall be at least 30 percent open space, when viewed at any point perpendicular (90º angle) to the fence line, except for a fence erected or constructed along the rear lot line which may have a maximum height of six feet and may be of solid construction.

(3) Containment fences of solid construction may be erected to enclose fuel storage tanks, dumpsters and aboveground sewage disposal systems. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of eight feet. Such containment fences shall not be placed closer than five feet from any side or rear lot line and shall not be placed closer than 15 feet from the front lot line.

4.1.28. Single-family dwelling.

4.1.29. Two-family dwelling.

4.1.30. Townhouse.

4.1.31. Condominiums.

4.1.32. Rooming and boarding houses.

4.1.33. Tourist home.

4.1.34. Multifamily dwelling.

4.1.35. Vacation rental cottages.

4.1.36. Boardinghouse.

4.1.37. Bed and breakfast.

4.1.38. Rest home.

4.1.39. Site trailers. The temporary location of construction site trailers or other such protective storage or temporary office-type structures for construction purposes are permitted providing that such structures are removed prior to the issuance of a certificate of occupancy or whenever significant construction activity is discontinued for 30 days or longer.

4.1.40. Any parcel which is located in two or more zoning districts may, at the property owner's request, apply the permitted usages of the district in which a majority of the parcel is located to the entire parcel, so long as it remains a part of the original lot.

(Ord. of 8-1-1994; Ord. of 11-4-1996; Ord. of 4-13-1998; Ord. of 4-5-1999)
(Amended 6/2/03, 9/2/03)

Sec. 4.2. Special exceptions; special use permits; conditional use.

4.2.1. Cemetery.

4.2.2. Repealed 3/1/10.

4.2.3. The use of semi-trailers or trailers as accessory structures for storage.

4.2.4. Small well screened contractor yards or storage facilities.

4.2.5. Such other temporary or permanent use of land, buildings, or structures as may be permitted by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.

4.2.5.1 Parking garages and other similar structures.

(Ord. of 4-3-1995; Ord. of 8-2-1999; Ord. of 5-17-2001) ***(Amended 9/2/03, 5/3/04, 9/18/08)***

Sec. 4.3. Area regulations

Commercial use.

4.3.1. *Lot size.* No minimum lot size for permitted uses shall be required, with the exception that all residential uses must comply with R-3 regulations.

4.3.2. *Setback.* Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of ten feet from any street right-of-way. This distance shall be known as the setback line. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots.
(Amended 10/19/07)

4.3.3. *Open space.*

(1) The minimum side yard for each main structure shall be five feet.

(2) Each main structure shall have a minimum rear yard of 15 feet except waterfront properties would have no required setbacks for both residential and commercial structures.

4.3.4. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less than 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the

main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials may be no higher than 70 feet above mean sea level (excluding public utilities).

4.3.5. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(2) The side yard setback abutting a street, road, right-of-way or easement shall be 15 feet for both main and accessory structures excluding steps, and a landing not greater than 5 feet by 5 feet.

(Ord. of 5-19-1995; Ord. of 7-3-1995; Ord. of 11-6-1995; Ord. of 2-5-2001; Ord. 5-17-2001)
(Amended 12/4/06, 10/19/07, 4/2/12)

Residential use.

Area and setback requirements for 4.1.28 thru 4.1.38 shall use R-3 area regulations.

4.3.6. *Lot size.*

(1) The minimum lot size for permitted uses shall be 10,500 square feet. (For permitted uses utilizing individual sewage disposal systems, a larger area may be required by the health official.)

(2) For each additional attached family or dwelling unit permitted above one, the lot size required shall increase by 3,000 square feet.

4.3.7. *Setback.* Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of 25 feet from any street right-of-way. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots or new subdivisions after enactment of this ordinance. This distance shall be known as the setback line.
(Amended 10/19/07)

4.3.8. *Open space.*

(1) The minimum side yard for each main structure shall be ten feet.

(2) Each main structure shall have a minimum rear yard of 25 feet except waterfront properties would have no required setback.

4.3.9. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and

means of egress shall be exempt from being considered a story if such total space is less that 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials maybe no higher than 70 feet above mean sea level (excluding public utilities).

4.3.10. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(2) The side yard setback abutting a street, road, right-of-way, or easement shall be 15 feet for both main and accessory structures excluding steps, and a landing not greater than 5 feet by 5 feet.

(Amended 4/2/12)

SECTION B. C-2 OLD TOWN COMMERCIAL

Statement of intent. Generally this district covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any nuisance factors other than those occasioned by incidental light and noise of congregation of people and passenger vehicles. This includes such uses as retail stores, banks, restaurants and taverns, and garages and service stations.

Sec. 4.4. Uses permitted by right.

The following uses shall be permitted in the C-2 old town commercial district, subject to all other provisions of this ordinance:

4.4.1. Health clubs, spas and gyms.

4.4.2. Retail stores, retail sales.

4.4.3. Flower shops.

4.4.4. Bakeries.

4.4.5. Restaurants.

4.4.6. Dry cleaners.

4.4.7. Laundries.

4.4.8. Wearing apparel stores.

4.4.9. Drugstores.

4.4.10. Barber and beauty shops.

4.4.11. Auto and home appliance services.

4.4.12. Theaters, assembly halls.

4.4.13. Hotels, motels.

4.4.14. Office buildings.

4.4.15. Funeral homes.

4.4.16. Service stations.

4.4.17. Lumber and building supply.

4.4.18. Plumbing and electrical supply.

4.4.19. Auto, motorcycles, trucks, mobile home sales and service.

4.4.20. Wholesale and processing not objectionable because of dust, noise, or odors with a conditional use permit.

4.4.21. Machinery sales and service.

4.4.22. Waterfront businesses such as wholesale and retail marine activities, boats, docks, piers, small boat docks, yacht club and servicing facilities for the same, docks and areas for the receipt, storage and transshipment of waterborne commerce; seafood and shellfish receiving, packing and shipping plants; and recreational activities primarily conducted on or about a waterfront. All such uses shall be contiguous to a waterfront.

4.4.23. Public billiard parlors and pool rooms, bowling alleys, dance halls and similar forms of public amusement.

4.4.24. Light industry.

4.4.25. Caterers.

4.4.26. Gift shops.

4.4.27. Professional offices.

4.4.28. Home occupations.

4.4.29. Tailgate sales, wayside stands.

4.4.30. Accessory structures.

4.4.31. Residential uses above first floor commercial use..
(Amended 5/3/04, 4/2/12)

4.4.32. Signs, see Article VII, Signs.

4.4.33. Pony Penning sales, yard sales.

4.4.34. Public utilities.

4.4.35. Churches, schools.

4.4.36. Libraries.

4.4.37. Hospitals.

4.4.38. Clubs and lodges.

4.4.39. Fences.

(1) All fences located from a point even with the front, for commercial uses, [or] rear, for residential uses, of the main structure extending to the front lot line shall have a maximum height of four feet and shall be at least 30 percent open space when viewed at any point perpendicular (90º angle) to the fence line, regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. Open decks and open porches are exempted from being considered the rear of the main structure for residential uses. A fence previously in compliance with this section may remain in place if a new addition is constructed to the existing residential main structure.

(2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of four feet and shall be at least 30 percent open space, when viewed at any point perpendicular (90º angle) to the fence line, except for a fence erected or constructed along the rear lot line which may have a maximum height of six feet and may be of solid construction.

(3) Containment fences of solid construction may be erected to enclose fuel storage tanks, dumpsters and aboveground sewage disposal systems. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of eight feet. Such containment fences shall not be placed closer than five feet from any side or rear lot line and shall not be placed closer than five feet from the front lot line.

4.4.40. Single-family dwelling.

4.4.41. Two-family dwelling.

4.4.42. Townhouse.

4.4.43. Condominiums.

4.4.44. Rooming and boarding houses.

4.4.45. Tourist home.

4.4.46. Multifamily dwelling.

4.4.47. Vacation rental cottages.

4.4.48. Boardinghouse.

4.4.49. Bed and breakfast.

4.4.50. Rest home.

4.4.51. Site Trailers. The temporary location of construction site trailers or other such protective storage or temporary office-type structures for construction purposes are permitted providing that such structures are removed prior to the issuance of a certificate of occupancy or whenever significant construction activity is discontinued for 30 days or longer.

4.4.52. Any parcel which is located in two or more zoning districts may, at the property owner's request, apply the permitted usages of the district in which a majority of the parcel is located to the entire parcel, so long as it remains a part of the original lot.
(Ord. of 8-1-1994; Ord. of 11-4-1996; Ord. of 4-13-1998; Ord. of 4-5-1999)
(Amended 6/2/03, 9/2/03, 4/2/12)

Sec. 4.5. Special exceptions; special use permits; conditional use.

4.5.1. Cemetery.

4.5.2. Repealed 3/1/10.

4.5.3. The use of semi-trailers or trailers as accessory structures for storage.

4.5.4. Such other temporary or permanent use of land, buildings, or structures as may be permitted by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.

4.5.4.1 Parking garages and other similar structures.
(Ord. of 4-3-1995; Ord. of 8-2-1999; Ord. of 5-17-2001) ***(Amended 9/2/03, 5/3/04, 9/18/08)***

Sec. 4.6. Area regulations.

Commercial use

4.6.1. *Lot size.* No minimum lot size for permitted uses shall be required, with the exception that all residential uses must comply with R-3 requirements.

4.6.2. *Setback.* Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of ten feet from any street right-of-way. This distance shall be known as the setback line. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots.
(Amended 10/19/07)

4.6.3. *Open space.*

(1) The minimum side yard for each main structure or accessory structure shall be five feet.

(2) Each main structure or accessory structure shall have a minimum rear yard of five feet except waterfront properties would have no required setbacks for both residential and commercial structures.

4.6.4. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less than 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials may be no higher than 70 feet above mean sea level (excluding public utilities).

4.6.5. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(2) The side yard setback abutting a street, road, right-of-way, or easement shall be 15 feet for both main and accessory structures excluding steps, and a landing not greater than 5 feet by 5 feet.

(Ord. of 5-18-1995; Ord. of 7-3-1995; Ord. of 11-6-1995; Ord. of 2-5-2001; Ord. of 5-17-2001) ***(Amended 12/4/06, 10/19/07. 4/2/12)***

Residential use.

Area and setback requirements for 4.4.40 thru 4.4.50 shall use R-3 area regulations.

4.6.6. *Lot size.*

(1) The minimum lot size for permitted uses shall be 10,500 square feet. (For permitted uses utilizing individual sewage disposal systems, a larger area may be required by the health official.)

(2) For each additional attached family or dwelling unit permitted above one, the lot size required shall increase by 3,000 square feet.

4.6.7. *Setback.* Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of 25 feet from any street right-of-way. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots or new subdivisions after enactment of this ordinance. This distance shall be known as the setback line.
(Amended 10/19/07)

4.6.8. *Open space.*

(1) The minimum side yard for each main structure shall be ten feet.

(2) Each main structure shall have a minimum rear yard of 25 feet except waterfront properties would have no required setback.

4.6.9. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less that 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials maybe no higher than 70 feet above mean sea level (excluding public utilities).

4.6.10. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(2) The side yard setback abutting a street, road, right-of-way, or easement shall be 15 feet for both main and accessory structures excluding steps, and a landing not greater than 5 feet by 5 feet.

(Amended 4/2/12)

SECTION C. C-3 CORRIDOR COMMERCIAL

Statement of intent. The primary purpose of this district is to establish and protect a district that will serve the tourist trade that is vital to the growth of Chincoteague. Two commercial districts have been combined, C-1 and C-2 to create a single district that encourages a context based design review process. Generally this district covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any nuisance factors other than those occasioned by incidental light and noise of congregation of people and passenger vehicles. It will also allow for some residential uses which are compatible with certain retailing operations. The district recognizes the demand for a variety of land uses adjacent to the major traffic arteries which link the recreational facilities on Assateague Island to the mainland.

Sec. 4.7. Uses permitted by right.

The following uses shall be permitted in the C-3 corridor commercial district, subject to all other provisions of this ordinance:

4.7.1. Health clubs, spas and gyms.

4.7.2. Home occupations.

4.7.3. Beauty/barber shops.

4.7.4. Professional offices.

4.7.5. Wearing apparel shops.

4.7.6. Gift shops.

4.7.7. Motels/Hotels.

4.7.8. Restaurants.

4.7.9. Day care facilities.

4.7.10. Nursing homes.

4.7.11. Hospitals.

4.7.12. Wayside stands, tailgate sales.

4.7.13. Pharmacy/drugstores.

4.7.14. Auto services/service stations.

4.7.15. Public amusements.

4.7.16. Clubs/lodges.

4.7.17. Retail stores, any retail business.

4.7.18. Funeral homes.

4.7.19. Caterers.

4.7.20. Schools.

4.7.21. Municipal facilities.

4.7.22. Churches.

4.7.23. Light waterfront seafood industry.

4.7.24. Mobile home parks.

4.7.25. Reserved.

4.7.26. Campgrounds, in compliance with state regulations.

4.7.27. Accessory structures.

(1) No accessory structure may be closer than five feet to any property line.

4.7.28. Public utilities.

4.7.29. Signs, see Article VII, Signs.

4.7.30. Pony Penning sales, yard sales.

4.7.31. Fences.

(1) All fences located from a point even with the front, for commercial uses, [or] rear, for residential uses, of the main structure extending to the front lot line shall have a maximum height of four feet and shall be at least 30 percent open space when viewed at any point perpendicular (90º angle) to the fence line, regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. Open decks and open porches are exempted from being considered the rear of the main structure for residential uses. A fence previously in compliance with this section may remain in place if a new addition is constructed to the existing residential main structure.

(2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of four feet and shall be at least 30 percent open space, when viewed at any point perpendicular (90º angle) to the fence line, except for a fence erected or constructed along the rear lot line which may have a maximum height of six feet and may be of solid construction.

(3) Containment fences of solid construction may be erected to enclose fuel storage tanks, dumpsters and aboveground sewage disposal systems. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of eight feet. Such containment fences shall not be placed closer than five feet from any side or rear lot line and shall not be placed closer than 15 feet from the front lot line.

4.7.32. Single-family dwelling.

4.7.33. Two-family dwelling.

4.7.34. Townhouse.

4.7.35. Condominiums.

4.7.36. Rooming and boarding houses.

4.7.37. Tourist home.

4.7.38. Multifamily dwelling.

4.7.39. Vacation rental cottages.

4.7.40. Boardinghouse.

4.7.41. Bed and breakfast.

4.7.42. Rest home.

4.7.43. Site Trailers. The temporary location of construction site trailers or other such

protective storage or temporary office-type structures for construction purposes are permitted providing that such structures are removed prior to the issuance of a certificate of occupancy or whenever significant construction activity is discontinued for 30 days or longer.

4.7.44. Any parcel which is located in two or more zoning districts may, at the property owner's request, apply the permitted usages of the district in which a majority of the parcel is located to the entire parcel, so long as it remains a part of the original lot.
(Ord. of 8-1-1994; Ord. of 11-4-1996; Ord. of 4-13-1998; Ord. of 4-5-1999)
(Amended 6/2/03, 9/2/03, 4/2/12)

Sec. 4.8. Special exceptions; special use permits; conditional use.

4.8.1. Cemetery.

4.8.2. Repealed 3/1/10.

4.8.3. The use of semi-trailers or trailers as accessory structures for storage.

4.8.4. Such other temporary or permanent use of land, buildings, or structures as may be permitted by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.

4.8.4.1 Parking garages and other similar structures.
(Ord. of 4-3-1995; Ord. of 8-2-1999; Ord. of 5-17-2001) ***(Amended 9/2/03, 5/3/04, 9/18/08, 4/2/12)***

Sec. 4.9. Area regulations

Commercial use.

4.9.1. *Lot size.* No minimum lot size for permitted uses shall be required, with the exception that all residential uses must comply with R-3 requirements.

4.9.2. *Setback.* Structures shall be located a minimum of ten feet from any street right-of-way. This distance shall be known as the setback line. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on wither side. This shall not apply to corner lots.

4.9.3. *Open space.*

(1) The minimum side yard for each main structure or accessory structure shall be five feet.

(2) Each main structure or accessory structure shall have a minimum rear yard of 15 feet except waterfront properties would have no required setbacks for both residential and commercial structures.

4.9.4. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation.

No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less than 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials may be no higher than 70 feet above mean sea level (excluding public utilities).

4.9.5. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(2) The side yard abutting or next to the street shall be 10 feet for both the main and accessory buildings/structures.

(Ord. of 5-19-1995; Ord. of 7-3-1995; Ord. of 11-6-1995; Ord. of 2-5-2001; Ord. of 5-17-2001) ***(Amended 4/2/12)***

Residential use.

Area and setback requirements for 4.7.32 thru 4.7.42 shall use R-3 area regulations.

4.9.6. *Lot size.*

(1) The minimum lot size for permitted uses shall be 10,500 square feet. (For permitted uses utilizing individual sewage disposal systems, a larger area may be required by the health official.)

(2) For each additional attached family or dwelling unit permitted above one, the lot size required shall increase by 3,000 square feet.

4.9.7. *Setback.* Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of 25 feet from any street right-of-way. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots or new subdivisions after enactment of this ordinance. This distance shall be known as the setback line.
(Amended 10/19/07)

4.9.8. *Open space.*

(1) The minimum side yard for each main structure shall be ten feet.

(2) Each main structure shall have a minimum rear yard of 25 feet except waterfront properties would have no required setback.

4.9.9. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less that 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials maybe no higher than 70 feet above mean sea level (excluding public utilities).

4.9.10. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(2) The side yard setback abutting a street, road, right-of-way, or easement shall be 15 feet for both main and accessory structures excluding steps, and a landing not greater than 5 feet by 5 feet.

(Amended 4/2/12)

SECTION D. C-4 RESORT COMMERCIAL

Statement of intent. The primary purpose of this district is to encourage the continuation of seasonally and permanently occupied homes, campground facilities, and resort commercial uses. These uses support Chincoteague's role as a visitor destination and improve the local economy.

Sec. 4.10. Uses permitted by right.

The following uses shall be permitted in the C-4 resort commercial district, subject to all other provisions of this ordinance:

4.10.1. Health clubs, spas and gyms.

4.10.2. Home occupations.

4.10.3. Beauty/barber shops.

4.10.4. Professional offices.

4.10.5. Wearing apparel shops.

4.10.6. Gift shops.

4.10.7. Motels.

4.10.8. Restaurants.

4.10.9. Day care facilities.

4.10.10. Nursing homes.

4.10.11. Wayside stands, tailgate sales.

4.10.12. Retail stores, any retail business.

4.10.13. Funeral homes.

4.10.14. Caterers.

4.10.15. Schools.

4.10.16. Municipal facilities.

4.10.17. Churches.

4.10.18. Light waterfront seafood industry.

4.10.19. light industry.

4.10.20. Mobile home parks.

4.10.21. Camper/travel trailer parks.

4.10.22. Campgrounds, in compliance with state regulations.

4.10.23. Accessory structures.

(1) No accessory structure may be closer than five feet to any property line.

4.10.24. Public utilities.

4.10.25. Signs, see Article VII, Signs.

4.10.26. Pony Penning sales, yard sales.

4.10.27. Recreational parks and playgrounds.

4.10.28. Fences.

(1) All fences located from a point even with the front, for commercial uses, [or] rear, for residential uses, of the main structure extending to the front lot line shall have a maximum height of four feet and shall be at least 30 percent open space when viewed at any point perpendicular (90º angle) to the fence line, regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. Open decks and open porches are exempted from being considered the rear of the main structure for residential uses. A fence previously in compliance with this section may remain in place if a new addition is constructed to the existing residential main structure.

(2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of four feet and shall be at least 30 percent open

space, when viewed at any point perpendicular (90º angle) to the fence line, except for a fence erected or constructed along the rear lot line which may have a maximum height of six feet and may be of solid construction.

(3) Containment fences of solid construction may be erected to enclose fuel storage tanks, dumpsters and aboveground sewage disposal systems. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of eight feet. Such containment fences shall not be placed closer than five feet from any side or rear lot line and shall not be placed closer than 15 feet from the front lot line.

4.10.29.Single-family dwelling.

4.10.30.Two-family dwelling.

4.10.31.Townhouse.

4.10.32.Condominiums.

4.10.33.Rooming and boarding houses.

4.10.34.Tourist home.

4.10.35.Mobile home.

4.10.36.Multifamily dwelling.

4.10.37.Vacation rental cottages.

4.10.38.Boardinghouse.

4.10.39.Bed and breakfast.

4.10.40.Rest home.

4.10.41.Site Trailers. The temporary location of construction site trailers or other such protective storage or temporary office-type structures for construction purposes are permitted providing that such structures are removed prior to the issuance of a certificate of occupancy or whenever significant construction activity is discontinued for 30 days or longer.

4.10.42.Any parcel which is located in two or more zoning districts may, at the property owner's request, apply the permitted usages of the district in which a majority of the parcel is located to the entire parcel, so long as it remains a part of the original lot.
(Ord. of 8-1-1994; Ord. of 11-4-1996; Ord. of 4-13-1998; Ord. of 4-5-1999)
(Amended 6/2/03, 9/2/03, 4/2/12)

Sec. 4.11. Special exceptions; special use permits; conditional use.

4.11.1. Cemetery.

4.11.2. Repealed 3/1/10.

4.11.3. The use of semi-trailers or trailers as accessory structures for storage.

4.11.4. Such other temporary or permanent use of land, buildings, or structures as may be permitted by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.

4.11.4.1 Parking garages and other similar structures.
(Ord. of 4-3-1995; Ord. of 8-2-1999; Ord. of 5-17-2001) ***(Amended 9/2/03, 5/3/04, 9/18/08, 4/2/12)***

Sec. 4.12. Area regulations

Commercial use.

4.12.1. *Lot size.* No minimum lot size for permitted uses shall be required, with the exception that all residential uses must comply with R-3 requirements.

4.12.2. *Setback.* Structures shall be located a minimum of ten feet from any street right-of-way. This distance shall be known as the setback line. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on wither side. This shall not apply to corner lots.

4.12.3. *Open space.*

(1) The minimum side yard for each main structure or accessory structure shall be five feet.

(2) Each main structure or accessory structure shall have a minimum rear yard of 15 feet except waterfront properties would have no required setbacks for both residential and commercial structures.

4.12.4. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less than 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials may be no higher than 70 feet above mean sea level (excluding public utilities).

4.12.5. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(2) The side yard abutting or next to the street shall be 10 feet for both the main and accessory buildings/structures.

(Ord. of 5-19-1995; Ord. of 7-3-1995; Ord. of 11-6-1995; Ord. of 2-5-2001; Ord. of 5-17-2001) ***(Amended 4/2/12)***

Residential use.

Area and setback requirements for 4.10.29 thru 4.10.40 shall use R-3 area regulations.

4.12.6. *Lot size.*

(1) The minimum lot size for permitted uses shall be 10,500 square feet. (For permitted uses utilizing individual sewage disposal systems, a larger area may be required by the health official.)

(2) For each additional attached family or dwelling unit permitted above one, the lot size required shall increase by 3,000 square feet.

4.12.7. *Setback.* Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of 25 feet from any street right-of-way. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots or new subdivisions after enactment of this ordinance. This distance shall be known as the setback line.
(Amended 10/19/07)

4.12.8. *Open space.*

(1) The minimum side yard for each main structure shall be ten feet.

(2) Each main structure shall have a minimum rear yard of 25 feet except waterfront properties would have no required setback.

4.12.9. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less that 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials maybe no higher than 70 feet above mean sea level (excluding public utilities).

4.12.10. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(2) The side yard setback abutting a street, road, right-of-way, or easement shall be 15 feet for both main and accessory structures excluding steps, and a landing not greater than 5 feet by 5 feet.

(Amended 4/2/12)

ARTICLE V. OTHER DISTRICTS

SECTION A. PSP PUBLIC/SEMI-PUBLIC

Statement of intent. The primary purpose of this district is to establish and protect a district that will provide an appropriate array of public facilities and services to meet the basic needs of the community. This includes public facilities and services that are available to all portions of the town. The district will not include any parcel that is in private individual ownership. Public land uses are defined as those uses, which are owned and controlled by a public body for use as a service to the general public. Public land uses comprise a variety of uses for the health, education, safety, and general well-being of the public such as town offices, post offices, or other government service buildings. Semi-public land uses are uses owned and controlled by a private or civic group for the purpose of aiding in the health, education, safety, or well-being of the general public or a specific segment of the public. Small-scale semi-public uses may be located in residential neighborhoods. Large-scale semi-public uses should be located in commercial districts.

Sec. 5.1. Uses permitted by right.

The following uses shall be permitted in the PSP public/semi-public district, subject to all other provisions of this ordinance:

5.1.1. Health clubs, spas, and gyms.

5.1.2. Professional office.

5.1.3. Tourist information center, gift shops.

5.1.4. Day care facilities.

5.1.5. Nursing home.

5.1.6. Caterer.

5.1.7. Schools.

5.1.8. Municipal facilities.

5.1.9. Marina, boat ramp, harbor, including fuel sales.

5.1.10. Light waterfront seafood industry.

5.1.11. Light industry.

5.1.12. Civic center.

5.1.13. Public parking lot.

5.1.14. State or federal facilities

5.1.15. Stormwater management facilities

5.1.16. Accessory structures.

(1) No accessory structure may be closer than five feet to any property line.

5.1.17. Public utilities.

5.1.18. Signs, see Article VII, Signs.

5.1.19. Pony Penning sales, carnival grounds.

5.1.20. Fences.

(1) All fences located from a point even with the front, for commercial uses, [or] rear, for residential uses, of the main structure extending to the front lot line shall have a maximum height of four feet and shall be at least 30 percent open space when viewed at any point perpendicular (90º angle) to the fence line, regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. Open decks and open porches are exempted from being considered the rear of the main structure for residential uses. A fence previously in compliance with this section may remain in place if a new addition is constructed to the existing residential main structure.

(2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of four feet and shall be at least 30 percent open space, when viewed at any point perpendicular (90º angle) to the fence line, except for a fence erected or constructed along the rear lot line which may have a maximum height of six feet and may be of solid construction.

(3) Containment fences of solid construction may be erected to enclose fuel storage tanks, dumpsters and aboveground sewage disposal systems. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of eight feet. Such containment fences shall not be placed

closer than five feet from any side or rear lot line and shall not be placed closer than 15 feet from the front lot line.

5.1.21. Site trailers. The temporary location of construction site trailers or other such protective storage or temporary office-type structures for construction purposes are permitted providing that such structures are removed prior to the issuance of a certificate of occupancy or whenever significant construction activity is discontinued for 30 days or longer.

5.1.22. Any parcel which is located in two or more zoning districts may, at the property owner's request, apply the permitted usages of the district in which a majority of the parcel is located to the entire parcel, so long as it remains a part of the original lot. ***(Amended 4/2/12)***

Sec. 5.2. Special exceptions; special use permits; conditional use.

5.2.1. Cemetery.

5.2.2. Reserved.

5.2.3. The use of semi-trailers or trailers as accessory structures for storage.

5.2.4. Such other temporary or permanent use of land, buildings, or structures as may be permitted by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.

5.2.5 Parking garages and other similar structures.

5.2.6. Recycling center/waste transfer center.

Sec. 5.3. Area regulations

5.3.1. *Lot size.* No minimum lot size for permitted uses shall be required.

5.3.2. *Setback.* Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of ten feet from any street right-of-way. This distance shall be known as the setback line. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots. ***(Amended 10/19/07)***

5.3.3. *Open space.*

(1) The minimum side yard for each main structure shall be five feet.

(2) Each main structure shall have a minimum rear yard of 15 feet except waterfront properties would have no required setbacks for both residential and commercial structures.

5.3.4. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood

elevation. No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less than 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials may be no higher than 70 feet above mean sea level (excluding public utilities).

5.3.5. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(2) The side yard setback abutting a street, road, right-of-way or easement shall be 15 feet for both main and accessory structures excluding steps, and a landing not greater than 5 feet by 5 feet.

(Amended 4/2/12)

SECTION B. POS PARK & OPEN SPACE

Statement of intent. The purpose of this district is to provide parks, recreational and open space areas for use by visitors and residents of the Town of Chincoteague. Parks and open spaces help to define neighborhoods, serve as natural drainageways, and satisfy the aesthetic and recreational needs of the community.

Sec. 5.4. Uses permitted by right.

The following uses shall be permitted in the POS park and open space district, subject to all other provisions of this ordinance:

5.4.1. Accessory building/structure.

(1) No accessory structure may be closer than five feet to any side or rear property line. No accessory building/structure may be closer than 25 feet from the front property line or more than the average setback of the structures on either side.

5.4.2. Fences.

(1) All fences located from a point even with the rear of the main structure (excluding open decks and open porches) extending to the front lot line shall have a maximum height of four feet and shall be at least 30 percent open space when viewed at any point perpendicular (90º angle) to the fence

line, regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. A fence previously in compliance with this section may remain in place if a new addition is constructed to the existing residential main structure.

(2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of four feet and shall be at least 30 percent open space, when viewed at any point perpendicular (90º angle) to the fence line, except for a fence erected or constructed along the rear lot line which may have a maximum height of six feet and may be of solid construction.

(3) Fully enclosed containment fences of solid construction may be erected to enclose above ground sewage disposal systems and fuel storage tanks. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of six feet. Such containment fences shall not be placed closer than five feet from any side or rear lot line and shall not be placed closer than 15 feet from the front lot line.

5.4.3. Public utilities.

5.4.4. Signs.

(1) Street address signs.

(2) Temporary signs.

(3) Public signs. See Article VII, Signs.

5.4.5. Parks.

5.4.6. Pony Penning sales.

5.4.7. Farmers market or festival sales.

5.4.8. Other. The temporary location of construction site trailers or other such protective storage or temporary office-type structures for construction purposes are permitted providing that such structures are removed prior to the issuance of a certificate of occupancy or whenever significant construction activity is discontinued for 30 days or longer.

5.4.9. Any parcel which is located in two or more zoning districts may, at the property owner's request, apply the permitted usages of the district in which a majority of the parcel is located to the entire parcel, so long as it remains a part of the original lot. ***(Amended 4/2/12)***

Sec. 5.5. Special exceptions; special use permits; conditional use.

5.5.1. Such other temporary or permanent use of land, buildings, or structures as may be permitted by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.

Sec. 5.6. Area regulations

5.6.1. Lot size. The minimum lot size for permitted uses shall be 15,000 square feet. (For permitted uses utilizing individual sewage disposal systems, a larger area may be required by the health official.)

5.6.2. *Setback.* Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of 50 feet from any street right-of-way. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots or new subdivisions after enactment of this ordinance. This distance shall be known as the setback line..

5.6.3. *Open space.*

(1) The minimum side yard for each main structure shall be 15 feet.

(2) Each main structure shall have a minimum rear yard of 35 feet except waterfront properties would have no required setbacks.

5.6.4. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed three stories in height. Exception: enclosures below the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less than 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials may be no higher than 70 feet above mean sea level (excluding public utilities).

5.6.5. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(2) The side yard abutting or next to the street shall be 35 feet for both main and accessory building/structure excluding steps, and a landing not greater than 5 feet by 5 feet.

(Amended 4/2/12)

SECTION C. RC RESOURCE CONSERVATION

Statement of intent. The resource conservation district is established for the specific purpose of conserving essential lands and open spaces for the protection of natural resources and waters and the reduction of pollution, soil erosion, and hazards from floods, fires and storms. Uses within this district shall be limited to those conservation uses expressly permitted by right. Any proposal for the conversion of such lands to another use shall be evaluated for its impact on the town's existing resources and needs, and may be authorized only after reasonable and orderly zoning amendment process in accordance with the review procedures and standards specified in this ordinance.

Sec. 5.7. Uses permitted by right.

The following uses shall be permitted in the RC resource conservation district, subject to all other provisions of this ordinance:

5.7.1. Game preserves and conservation areas.

5.7.2. Fish hatcheries and fish ponds; wildlife/waterfowl ponds.

5.7.3. Drainage, erosion and flood control devices.

5.7.4. Wells, water reservoirs and water control structures.

5.7.5. Accessory structures.

5.7.6. Seafood and shellfish landing, receiving, storage and shipping facilities.

5.7.7. Aquaculture and mariculture facilities and activities.

5.7.8. Commercial kayak and boat rental facilities.

5.7.9. Public parks, recreational areas, marinas and other public buildings.

5.7.10. Lodges, hunting clubs, boating clubs.

5.7.11. Fences.

(1) All fences to be located from a point even with the rear of the main structure (excluding open decks and open porches) extending to the front lot line shall have a maximum height of four feet and shall be at least 30 percent open space when viewed at any point perpendicular (90º angle) to the fence line, regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. A fence previously in compliance with this section may remain in place if a new addition is constructed to an existing residence.

(2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of four feet and shall be at least 30 percent open space, when viewed at any point perpendicular (90º angle) to the fence line, except for a fence erected or constructed along the rear lot line which may

have a maximum height of six feet and may be of solid construction.

(3) Fully enclosed containment fences of solid construction may be erected to enclose aboveground sewage disposal systems and fuel storage tanks. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of six feet. Such containment fences shall not be placed closer than five feet from any side or rear lot line and shall not be placed closer than 15 feet from the front lot line.

5.7.12. Public utilities.

Sec. 5.8. Special exceptions; special use permits; conditional use.

5.8.1. Public utilities generating, booster or relay stations, transformer substations, transmission and distribution lines and towers, pipes, meters and other facilities for the provision and maintenance of public utilities, including water and sewage facilities.

5.8.2. Such other temporary or permanent use of land, buildings, or structures as may be permitted by the Town Council of the Town of Chincoteague as a conditional use in accordance with Article IX of this Code.

Sec. 5.9. Area regulations.

5.9.1. *Lot size.*

(1) The minimum lot size for permitted residential dwellings shall be five acres, or a minimum individual lot size of one acre as long as the allowable gross density does not exceed one unit per five acres on any given parcel of land.

5.9.2. *Setback.* Structures excluding steps, and a landing not greater than 5 feet by 5 feet shall be located a minimum of 50 feet from the edge of any street right-of-way. This distance shall be known as the setback line. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots or new subdivisions after enactment of this ordinance.

5.9.3. *Open space.*

(1) The minimum side yard setback for each main structure shall be 50 feet, and the total width of the two required side yards shall be 100 feet or more.

(2) The minimum side yard for accessory structures shall be 30 feet or more.

5.9.4. *Height regulations.*

(1) Buildings may be erected up to 36 feet in height above base flood elevation. No structure shall exceed three stories in height. Exception: enclosures below

the base flood elevation used for incidental storage, parking garages, and means of egress shall be exempt from being considered a story if such total space is less than 600 square feet in area, however the height restriction still applies.

(2) No accessory building shall be more than 25 feet in height.

(3) Chimneys and flues shall not be more than six feet above the height of the main buildings upon which they rest.

(4) Church spires, belfries, monuments, flagpoles, television antennae and radio aerials maybe no higher than 70 feet above mean sea level (excluding public utilities).

5.9.5. *Corner lots.*

(1) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(Amended 4/2/12)

ARTICLE VI. GENERAL PROVISIONS

SECTION A. ZONING PERMITS

Sec. 6.1. Zoning permits.

Each application for a zoning permit shall be accompanied by three copies of a scale drawing. The drawing shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land and the location of such building or use with respect to the property lines of such parcel of land and to the right-of-way of any street or highway adjoining such parcel of land. A copy of a recorded plat must be supplied; if no plat is existing, a tax map I.D. for the property must be supplied. Any other information which the zoning administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this ordinance, a combination zoning and building permit shall be issued to the applicant by the building administrator. One copy of the drawing shall be returned to the applicant with the permit.

Sec. 6.2. Certificate of occupancy.

Structurally altered or newly erected buildings shall be used only after a certificate of occupancy has been issued by the building administrator. Such certificate shall state that the building or the proposed use complies with the provisions of this ordinance. If any building is hereafter changed from one use group to another, in whole or in part, or if any existing building was constructed prior to the USBC, the building official shall issue such certificate upon a written request from the property owner or agent providing there are no violations

of the USBC (see USBC). A certificate of occupancy either for the whole or part of a building shall be applied for simultaneously with the application for a zoning permit. The certificate shall be issued after the erection or structural alteration of such building or part has conformed with the provisions of this ordinance.

Sec. 6.3. Uses not specifically covered by ordinance.

If, in any district established under this ordinance, a use is not specifically permitted within such district as a matter of right or by special exception, and such proposed use is occurring on a recurring basis, the zoning administrator shall so advise the governing body of such, which governing body may then take such action, in accordance with law, to amend this ordinance to provide for such use as a permitted use or a special exception, as it may deem advisable.

Sec. 6.4. Widening of highways and streets.

Whenever there shall be plans in existence, approved by the governing body, for the widening of any street or highway, the planning commission may recommend additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way, in order to preserve and protect the right-of-way for such proposed street or highway widening.

SECTION B. MOBILE HOME PARKS AND CAMPER PARKS

Sec. 6.5. Permanent mobile home parks.

The location of a mobile home park shall require, in addition to the zoning permit, a conditional use permit issued by the board of zoning appeals where not otherwise permitted by right.

The location of a camper/travel trailer park shall require, in addition to the zoning permit, a conditional use permit issued by the board of zoning appeals unless otherwise permitted by right.

6.5.1. *Area requirements.*

(1) The developer of a mobile home rental park shall provide mobile home lots of not less than 5,000 square feet, with a minimum width of 50 feet at the setback line for each mobile home on the premises and shall adjoin an internal mobile home park street, road or right-of-way.

(2) Mobile home parks in which lots are sold and served by central water and sewer systems shall have a minimum lot area of 5,000 square feet and shall be 50 feet or more in width at the setback line and shall adjoin an internal mobile home park street, road or right-of-way. All newly developed lots to accommodate doublewide structures shall contain 10,000 square feet and shall have a minimum width of 80 feet.

(3) Mobile home parks in which lots are sold and served by either central water or sewer systems shall have a minimum lot area of 10,000 square feet and shall be 50 feet or more in width at the setback line.

(4) Mobile home parks in which lots are sold and served by neither central water nor sewer systems shall have a minimum lot area of 15,000 square feet and shall be 100 feet or more in width at the setback line.

6.5.2. *Setback requirements.* Each mobile home, travel trailer and/or camper shall be set back ten feet from the front, rear and side lot lines. Additions to mobile homes, travel trailers and campers shall not exceed the square footage of the original mobile home, travel trailer or camper unit. The term "original mobile home, travel trailer or camper unit" shall not include pull outs, bumpers or hitches. Any addition to a travel trailer or camper shall not extend more than three feet above the roof line of the travel trailer or camper unit. No accessory structure shall be within five feet of a property line.
(Amended 01-03-05)

Setback requirements for lots established prior to January 4, 1994 shall provide a distance of 15 feet or more between individual units, but in no case closer than five feet to the individual lot line of the mobile home space in the following mobile home parks: Daisey's Mobile Home Park, Midway Mobile Home Park, Magnolia Manor Mobile Home Park, Quillen's Mobile Home Park, Shady Pines Mobile Home Park and Reeds Mobile Home Park.

Setback requirements for lots established prior to January 4, 1994 shall be set back a minimum of five feet from any individual lot line in the following mobile home parks: Beebe's Park, Bowden Mobile Home Park, Bunker Hill Mobile Home Park, Circle Drive Mobile Home Park, El Rancho Mobile Home Park, El Rosha Mobile Home Park, Green Acres Mobile Home Park, Holly Ridge Mobile Home Park, Inlet View, Island's Pride Mobile Home Park, Kingfisher Court, Lee Bloxom Mobile Home Park, Misty Meadows, Mitchell Howard's Mobile Home Park, Nathan Hill's Mobile Home Park, Nock's Mobile Home Park, Ocean Breeze, Sulky Acres, Tom's Cove Mobile Home Park, Vacation Park, Walter Meyer Mobile Home Park, Little Bay Trailer Park, and Willow Court Mobile Home Park.

6.5.3. *Sanitary facilities.* All mobile homes shall have toilet facilities which are connected to an approved sewage disposal system.

6.5.4. *Electrical connections.* Each mobile home space shall be provided with electrical outlets installed in accordance with the National Electrical Code and/or Virginia Uniform Statewide Building Code.

6.5.5. *Health permits.* The state health department must have issued the mobile home park operator a valid health permit as required by state law and a valid approval of all mobile home and camper/travel trailer lots within the park.

6.5.6. *Playground.* Rental mobile home park operators shall provide a safe central playground area free of traffic hazards. The playground area shall be provided with at least 200 square feet of area for each mobile home lot contained within the mobile home park.

6.5.7. *Subdivision compliance.* Mobile home parks and camper/travel trailer parks shall comply with the town subdivision ordinance.

6.5.8. *Special exceptions; special use permits.* The board of zoning appeals shall have the authority to consider applications for a special exception and may grant a special use permit for the establishment of mobile home parks and camper/travel trailer parks pursuant to all the provisions of this ordinance. Any expansion or establishment of additional lots in any existing mobile home park and camper/travel trailer park shall also require a special exception and a special use permit from the board of zoning appeals where not otherwise permitted by right.

6.5.9. *Compliance with article.* It shall be unlawful to allow any mobile home to remain occupied in a mobile home park unless all provisions of this article have been met.

6.5.10. *List of approved parks.* The board of zoning appeals shall create a list of mobile home parks and camper/travel trailer parks which were in existence prior January 4, 1994 and those mobile home parks and camper/travel trailer parks which have been approved by the planning commission prior to the enactment of this amendment to the ordinance. The mobile home, camper/travel trailer parks on this list and any mobile home, travel trailer parks which may be approved by the board of zoning appeals in the future will be considered as approved mobile home and camper/travel trailer parks.

6.5.11. *Request for location of mobile home in approved park.* A request for the location of a mobile home in an approved mobile home park shall not require a special exception or a special use permit from the board of zoning appeals.
(Ord. of 4-1994; Ord. of 8-1-1994; Ord. of 11-7-1994; Ord. of 7-3-1995; Ord. of 4-13-1998)

SECTION C. PARKING*

Sec. 6.6. Parking.

There shall be provided, at the time of erection of any main building or dwelling unit, or at the time any main building is enlarged, or the available customer floor space in a business structure is increased, minimum off-street parking spaces as identified in section 6.6.1 with adequate provisions for entrance and exit by standard sized automobiles as required by the Virginia Department of Transportation.

6.6.1. *Definitions.*

(1) Accessible parking stalls - parking required for persons with disabilities.

***Cross reference–**Stopping, standing and parking, § 58-166 et seq.

(2) Accessway - a private vehicular facility for townhouse, multifamily,

condominium, and commercial developments that extend from the curb-line-extended of a public or private road to the parking bay.

(3) Aisles - areas used for vehicular traffic in parking areas for ingress and egress to parking bays and/or parking spaces.

(4) Compact car parking space - an off-street space available for parking of one (1) motor vehicle and having an area not less than eight (8) feet in width by sixteen (16) feet in depth.

(5) Entrances - the area used for ingress/egress for an accessway or parking bay to a public or private road. Must meet the Virginia Department of Transportation's "Minimum Standards of Entrances to State Highways."

(6) Fire safety lane - a designated area that allows for fire safety and emergency vehicles to adequately service the needs of people and structures associated with the parking areas and parking bays as identified in the International Fire Code as amended.

(7) Parking bay - means an off-street surfaced area used for parking two or more vehicles which is served by an entrance and possibly an accessway connecting the parking bay and a public or private road. This shall not include parking for a single-family residential use.

Parking bays will be required to have safe pedestrian traffic capability by providing sidewalks or defined safe walkways that provide access to the structures served by these lots.

(8) Parking space - an off-street space available for parking of one (1) motor vehicle and having an area not less than nine (9) feet by eighteen (18) feet and an area exclusive of passageways and driveways appurtenant thereto, and having a means to a direct access to a street, or road.

(9) Boat trailer parking space - an off-street space available for parking of one (1) nine (9) foot by forty-five (45) foot boat trailer exclusive of passageways and driveways appurtenant thereto, and having a means to a direct access to a street, or road.

(10) Best management practice - a series of approaches to development and site design that aim to minimize impacts from stormwater runoff. For the purposes of this ordinance a best management practice will apply only to the surface of the parking bay and accessway, or any overflow parking. It shall be demonstrated that a best management practice will reduce the amount of impervious surface and reduce the amount of stormwater runoff from a particular site.

(11) Overflow parking - a parking area required when 10 or more dwelling units

utilize a parking bay(s). Overflow parking is intended to be used when the required parking area is full. The area designated as overflow parking shall have the same aisle and parking stall area requirements as the parking bay. Overflow parking is not required to be surfaced.

(12) Typical work shift - for the purposes of this ordinance a typical work shift shall be identified as the time period during a normal 24 hour period when the most employees/employers are working at the same time.

6.6.2. If a lot is utilized for amusement or recreational rental purposes the following regulation shall apply: one space per four persons rated capacity.

(1) If a lot is utilized for a miniature golf course the following regulation shall apply: one space per hole.

6.6.3. If a lot is utilized for use group R-residential (see Virginia Uniform Statewide Building Code) there shall be off-street parking space provided for the parking of at least two motor vehicles for each dwelling unit.

6.6.4. If a dwelling includes a home occupation which has direct sales, two off-street parking spaces must be provided for the dwelling unit, and an additional two off-street parking spaces must be provided for the home occupation. Parking shall be identified by either signs or bumpers. If more than one home occupation is located within a dwelling unit then two additional off-street parking spaces shall be provided for each home occupation.

6.6.5. If a lot is utilized for use group A-assembly (including churches) there shall be provided at least one off-street parking space for every five potential occupants, as defined by Virginia Uniform Statewide Building Code, in the main structure's assembly or auditorium area. (Excluding libraries and museums.)

6.6.6. If a lot is utilized for a medical or dental clinic, there shall be provided two spaces per examination or treatment room or area, plus one space for each doctor and employee that work during typical work shift.

6.6.7. If a dwelling is utilized for a vacation rental there shall be provided one (1) parking space for each bedroom as defined and permitted by the Accomack County Health Department sewage disposal permit, or DEQ if applicable, applicable thereto. If ten (10) or more dwelling units utilize a parking bay(s), an additional ten (10) percent of those required parking spaces will also be required. These additional spaces will be referred to as overflow parking and can be incorporated into the surfaced required parking bay, or they can be a designated, open, unobstructed, and accessible area to the parking bay or right-of-way.

6.6.7.1. If a structure is occupied as a bed and breakfast, motel, hotel or boarding house there shall be provided one (1) parking space per sleeping unit as defined and permitted by the Accomack County Health Department, or DEQ if a discharge plant is utilized for sewerage disposal applicable thereto, additionally one parking

space shall be required for every required residential manager. Further an additional parking space shall be required for each employee during a typical work shift.

6.6.8. If a lot is utilized for a hospital, nursing home or similar facilities, there shall be provided at least one off-street parking space for each two beds of its specified bed capacity, including infants' cribs and children's beds.

6.6.9. For marinas and other similar facilities, except as expressly provided herein, whether any main building is erected or enlarged or not, there shall be provided at least one parking space for every two (2) boat slips or moorings, plus ten (10) parking spaces for each single-width boat ramp, with each boat ramp space nine feet (9 ft.) in width by forty-five feet (45 ft.) in length, plus the parking spaces required by Section C. Parking, as applicable, if there are buildings. Any private non-commercial marina located on the same parcel of land, used in conjunction with the main use on such parcel and the use of which is restricted to the owner(s) or occupant(s) with or without compensation, shall not require any additional boat trailer parking space(s). A boat slip that is owned or leased by a person(s) who is not the owner or occupant of a dwelling unit located on such parcel shall be required to have one additional nine feet (9 ft.) by eighteen feet (18 ft.) parking space per such slip.

6.6.10. If a lot is utilized for retail sales, there shall be provided on the lot one off-street parking space for each 200 square feet of retail floor space in the building and one parking space for each regular, full-time employee or full-time equivalent in the building or on the premises whose primary duties are in the building or on the premises.

6.6.11. Any other commercial building not listed above, built, converted, modified or structurally altered shall provide one parking space for each 200 square feet of business floor space in the building and one parking space for each regular, full-time employee or full-time equivalent in the building or on the premises whose primary duties are in the building or on the premises. (Including libraries and museums.)

6.6.12. Every parcel of land used as a public parking area shall be surfaced with gravel, shells, stone, asphalt or concrete. The area shall have appropriate parking guards.

6.6.13. Parking spaces, as required above, shall be on the same lot as the main structure/building or use, except for any existing buildings being used for commercial purpose on or before December 3, 1979, for which off-street parking as required by this section does not apply.

6.6.14. Parking provided on the same lot as the main structure/building must be identified and may be restricted to customers of that particular structure/building. Parking spaces separated from the main structure/building must be identified.

6.6.15. Any lights used to illuminate parking areas shall be so arranged so as to reflect the light away from any public street and from adjoining premises in a residential district.

6.6.16 An accessway shall extend from the curb line of a public or private road to the

parking bay. Accessways shall be clearly distinguishable from the parking bay. An accessway shall not be used as a through street and it shall carry predominantly on-site traffic. Surface composition of accessways will be same as the parking bay. There shall be no parking on an accessway. An accessway will be no longer than 200 feet from curb line of a public or private road to the parking bay. If this area is greater than 200 feet it shall be considered a road. The accessway will have a minimum width of 22 feet with the entrance having a required 24 foot minimum width as required by the Virginia Department of Transportation's "Minimum Standards of Entrances to State Highways."

6.6.17. Compact car parking spaces - if twenty (20) or more parking stalls are required for a parking bay, twenty (20) percent of those spaces may be designated for compact car spaces. Each compact car space shall be marked as "Compact Car Parking."

6.6.18. Entrances to accessways and parking bays must be built to "Minimum Standards of Entrances to State Highways" VDOT specification whether connecting to a public or private road.

6.6.19. Parking bays shall have aisles that are twenty-two (22) feet or more in width.

6.6.20. Accessible parking stalls must conform to current regulations of the Virginia Uniform Statewide Building Code, and any subsequent amendments to those regulations.

6.6.21. Fire safety lane - as to any structure(s) requiring twenty (20) or more parking spaces, reasonable access shall be provided for emergency fire equipment by designated fire safety lanes within the parking bay of a width of at least eighteen (18) feet so as to provide reasonable access to at least three (3) sides of the structure(s).

The fire safety lane shall be constructed of the same surfacing material(s) as the parking bay, and accessway. The fire safety lane shall be clearly demarcated by signage or striping.

Signage shall be constructed of reflective aluminum, and be placed every fifty (50) feet along the fire safety lane. There shall be a minimum of one (1) sign for every designated fire safety lane. The signage along the fire safety lane shall be no smaller than twelve (12) inches by eighteen (18) inches, with lettering containing the words "No Parking" and "Fire Lane." The signage shall be white with red lettering. The bottom of the sign shall be seven (7) feet above grade. Signage must be replaced immediately if damaged.

Striping shall be placed around the perimeter of the fire safety lane(s). Any curbing contiguous to the fire safety lane shall be painted. Striping shall be six (6) inches wide. Striping and curbing shall be painted red. The words "No Parking" and ""Fire Lane" shall be painted within the fire safety lane every fifty (50) feet. Lettering shall be white and be at least twelve (12) inches in height and each letter shall be three (3) inches thick. Repainting shall be required when necessary by the Zoning Administrator.

6.6.22. As to any parking bay where twenty (20) or more parking spaces are required, a best management practice must be utilized. A best management practice for parking must be approved by a certified engineer as a structurally sound and effective practice that is

demonstrated by the engineer to reduce stormwater run-off and the amount of impervious surface of the parking bay.

Such best management practice(s) shall give consideration to the number of parking stalls, traffic load, surface composition, cost, and other relevant factors so as to reduce stormwater runoff and impervious surfaces. All best management practices shall be approved by the Zoning Administrator and if applicable the Planning Commission with the advice of the Public Works Director.

Parking areas that utilize best management practices must adhere to proper stall dimensions either for standard, or if applicable compact parking stalls. Any best management practice for parking shall be designed so as not to create or increase adverse effects on adjoining properties as a result of surface drainage.

(Ord. of 4-3-1995; Ord. of 1-3-1996) ***(Amended 12/6/02, 9/18/08)***

SECTION D. CAMPING UNITS.

Sec. 6.7. Camping Units.

6.7.1. No camping unit as defined under § 2-31 hereof shall be occupied, stored, parked, or otherwise used on any parcel of real estate situated within the town in any zone or district outside of a campground having all requisite permits, except as herein expressly excepted. Any such exception shall be applicable to all districts within the town.
(Ord. of 5-2-2002)

6.7.2. Any owner or lessee of a parcel owned by such owner and lessee may park and store a camping unit owned by such owner or lessee on such parcel, provided no electric, water, sewage is attached to the unit. No person shall occupy such camping unit, either permanently or temporarily, during such period of parking and storage, provided that this provision shall not prohibit the owner or lessee of such parcel and camping unit from entering such unit for the purpose of maintenance, preparation for travel, or other similar type uses. Any such parked and stored camping unit shall, at all times, be situated on said parcel behind a line equal to the front setback distance of the main structure situated on such parcel from the street.
(Ord. of 5-2-2002)

6.7.3. During the period beginning the Saturday before Pony Penning through the Saturday following Pony Penning annually, any owner or lessee of a parcel, pursuant to a permit issued by the Town Manager, may permit a camping unit to be situated, occupied, and otherwise used on said parcel for temporary residential purposes. Such owner or lessee of such parcel shall not charge a fee for the situating, occupying and/or use of such camping unit on such parcel. No permit shall be issued by the Town Manager unless satisfactory evidence is provided that such camping unit has an approved method of sewage disposal. An approved method shall include, but not limited to, written authorization from a permitted campground that the unit can utilize the campground's state approved dumping station for

the disposal of said sewage.
(Ord. of 4-5-2002)

6.7.4. The provisions hereof shall not apply to the temporary use and occupancy of a tent by a minor child or minor children and their guests, of an owner or lessee of any such parcel, nor the temporary use and occupancy of any such tent by any charitable organization.
(Ord. of 4-5-2002)

SECTION E. OPEN-SIDED SHELTER ROOFS, OPEN-SIDED ROOF TO SHELTER A SINGLE BOAT SLIP AND/OR BOAT LIFT, AND GAZEBO-TYPE STRUCTURES.

Sec. 6.8. Open-sided Shelter Roofs, Open-sided Roof to Shelter a Single Boat Slip and/or Boat Lift, and Gazebo-type Structures.

6.8.1. Open-sided roof structures to shelter a single boat slip and/or boat lift, and gazebo-type structures as defined in §28.2-1203.A.5 of the Code of Virginia of 1950, as amended may be constructed and/or maintained on any dock or pier, or platform in any zoning district as a matter of right, subject to §28.2-1203.A.5. No such structure(s) on any such dock, pier and/or platform shall exceed a combined coverage or area of four hundred square feet (400 sq. ft.). No such permitted structure shall exceed twelve feet (12 ft.) In height and shall have a roof pitch no greater than 2/12. No special exception or use shall be granted by the Board of Zoning Appeals for any such structure not complying with such size and design limitations, nor shall the Board of Zoning Appeals grant any special exception or use for any open-sided shelter roof structure as defined in §28.2-1203.A.5.
Adopted 1/18/07.

SECTION F. WIND ENERGY SYSTEMS

Sec. 6.9. Wind Energy Systems.

The purpose of this section is to regulate the placement, construction, and modification of small wind energy systems while promoting the safe, effective, and efficient use of small wind energy systems.

6.9.1. *App;icability*. The requirements set forth in this section shall govern the siting of small wind energy systems used to generate electricity or perform work which may be connected to the utility grid pursuant to Virginia's net metering laws, serve as an independent source of energy, or serve in a hybrid system.

6.9.2. *Siting requirements.* The requirements for siting and construction of all small wind energy systems regulated by this section shall include the following:

(1) Small wind energy towers shall maintain a galvanized steel finish, unless FAA standards require otherwise, or if the owner is attempting to conform the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. A wind energy town may be erected, maintained and/or operated on or as an attachment to a building on a lot. A photo simulation may be required by the permitting authority.

(2) Small wind energy systems shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or appropriate authority.

(3) No tower should have any sign, writing, or picture that may be construed as advertising by the building and zoning administrator or their designee.

(4) The applicant shall provide evidence that the proposed height of the small wind energy system tower does not exceed the height recommended by the manufacturer or distributor of the system. The tower height shall not exceed a maximum height of seventy (70) feet on a parcel. When situated on or attached to a building the total height shall not exceed seventy (70) feet. The building itself shall otherwise conform with the applicable height requirement under the ordinance and nothing herein shall permit the height of any such building on which situated or attached to exceed such building height requirement.

(5) The applicant shall provide evidence that the provider of electric utility service to the site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant intends, and so states on the application, that the system will not be connected to the electricity grid. This notification will take place by having the electric utility provider sign the conditional use permit application. This signature does not construe approval for net metering by the electric utility.

(6) Small wind energy systems shall adhere to noise limits as delineated in Section 22-35 of the Code of the Town of Chincoteague. These levels, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.

(7) The applicant will provide information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.

(8) The minimum distance between the ground and any protruding blade utilized on a small wind energy system shall be fifteen (15) feet, as measured at the lowest point of the arc of the blades. The lowest point of the arc of the blades shall also be ten feet above the height of any structure within seventy-five (75) feet of the base. The supporting tower shall also be enclosed with a six-foot tall fence or the base of the tower shall not be climbable for a distance of ten (10) feet.

(9) The applicant will provide proof of adequate liability insurance for a small wind energy system. Whether or not the applicant is participating in the net metering program, the applicant will be required to meet the insurance coverage requirements as set forth in 20 VAC 5-315-60.

(10) The small wind energy system generators and alternators should be constructed so as to prevent the emission of radio and television signals and shall comply with the provisions of Section 47 of the Federal Code of Regulations, Part 15 and subsequent revisions governing said emissions.

6.9.3. *Wind energy system permit*. No such system shall be constructed, maintained and/or operated by any person or entity unless a conditional use permit is issued by the town council pursuant to Article IX of the zoning ordinance.

6.9.4. *Federal and state requirements*.

(1) Compliance with the Uniform Statewide Building Code: Building permit applications for wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including tower, base, and footings, An engineering analysis of the tower showing compliance with the Uniform Statewide Building Code and certified by a licensed professional engineer shall also be submitted.

(2) Compliance with FAA Regulations: Wind energy systems must comply with applicable FAA regulations including any necessary approvals for installations close to airports.

(3) Compliance with National Electric Code: Building permit applications for wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

(4) Compliance with regulations governing energy net metering: Wind energy systems connected to the utility grid must comply with the Virginia Administrative Code 20 VAC 5-315: Regulations Governing Energy Net Metering.

6.9.5. *Setbacks.* The wind energy system shall be set back a distance at least equal to one hundred ten (110) percent of the height of the tower plus the blade length from all adjacent property lines and a distance equal at least to one hundred fifty (150) percent of the tower height plus blade length from any dwelling inhabited by humans on neighboring property. Additionally no portion of the small wind energy system, including guy wire anchors may be extended closer than ten (10) feet to the property line.

6.9.6. *Removal of defective or abandoned wind energy systems.* Any wind energy system found to be unsafe by the building official shall be repaired by the owner to meet federal, state and local safety standards or removed within six (6) months. Any wind energy

system that is not operated for a continuous period of twenty-four (24) months shall be considered abandoned and the owner of the system shall remove the turbine within ninety (90) days of receipt of notice from the town instructing the owner to remove the abandoned wind energy system.
(Adopted 3/1/10)

SECTION G. NONCONFORMING USES

Sec. 6.10. Continuation.

6.10.1. If at the time of enactment of this ordinance any legal activity is being pursued, or any lot or structure legally utilized in a manner or for a purpose, such activity or utilization may be continued as herein provided.

6.10.2. If any change in title of possession or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

6.10.3. If any nonconforming use (structure or activity) is discontinued for a period exceeding five years, after the enactment of this ordinance, it shall be deemed abandoned, and any subsequent use shall conform to the requirements of this ordinance.

6.10.4. Whenever a nonconforming structure, lot or activity is to be changed to another nonconforming structure, lot or activity, such proposed change may only be made following approval of the Board of Zoning Appeals by special use permit or variance, as applicable.

Sec. 6.11. Previously approved permits.

The construction or use of a nonconforming building or land area for which a permit was issued legally prior to the adoption of this ordinance may proceed, provided such building is started within one year of the adoption of this ordinance and completed within one year of the start date. Extensions may be granted by the building administrator.

Sec. 6.12. Repairs and maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the cubic content of the structure as it existed at the time of passage or amendment of this ordinance shall not be increased.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official. Extensions may be granted by the building administrator.

Sec. 6.13. Changes in district boundaries.

Whenever the boundaries of a district are changed, any uses of land or buildings which

come nonconforming as a result of such change shall become subject to the provisions of this article.

Sec. 6.14. Expansion or enlargement.

Additions to the area of a nonconforming structure that meet current zoning regulations are permitted. Additions to the area of a nonconforming structure that do not meet current zoning regulations are permitted provided the addition does not encroach further into the required setback and does not extend beyond the outermost plane of the structure as such existed on August 6, 2001. Such additions shall conform with the height requirements for that district.

Sec. 6.15. Nonconforming lots.

Any unimproved nonconforming lot of record at the time of the effective date of this ordinance, or if the specific recorded lot is reconveyed after the date of this ordinance, such lot shall be considered as a lot of record. If such lot is of insufficient size to meet the minimum requirements of this ordinance regarding area, frontage, setback, width, depth or side and rear yard requirements, it may be used as permitted in the district in which such lot is located. The lot owner or his agent shall apply for a zoning permit as required by the ordinance.

The zoning administrator, or the board of zoning appeals on an appeal from the decision of the zoning administrator, shall determine said requirements, which will be an average setback distance for front, rear and side yards of that of adjoining properties; however, they shall not adopt such requirements as to effectively prohibit use of such lot for uses permitted by right in the district where the lot is located and the lot must conform to all other applicable regulations existing within the district.

Sec. 6.16. Restoration or replacement.

6.16.1. If a nonconforming structure or activity is destroyed or damaged in any manner, it may be restored and may, at such time, be extended as provided in Sec. 5.5.

6.16.2. When a conforming structure devoted to a nonconforming activity is damaged or destroyed it may be repaired or restored provided any such repair or restoration is started within twelve months and completed within twenty-four months from the date of partial destruction. Six month extensions may be granted by the Building Administrator.

6.16.3. A time limit of six months from the day of movement to "ready for occupancy" shall be placed on residential structures moved within the Town of Chincoteague. If preparation or renovation is not completed in the six-month period, the structure shall be classified under section 1 of the unsafe building ordinance; any extension of the time to this amendment may only be granted by the governing body.

ARTICLE VII. SIGNS

SECTION A. PURPOSE AND INTENT

Sec. 7.1. Introduction.

7.1.1. Signs constitute a separate and distinct use of the land upon which they are placed and affect the use of adjacent streets, sidewalks and property.

7.1.2. The provisions of this ordinance are made to establish reasonable and impartial regulations for all signs wherever placed out-of-doors in view of the general public or wherever placed indoors as a window and to further the objectives of the comprehensive plan; to protect the general public health, safety, convenience, and welfare; to reduce traffic hazards caused by unregulated signs which may distract, confuse, and impair the visibility of motorists and pedestrians; to ensure the effectiveness of public traffic signs and signals; to protect the public investment in streets, highways, and other public improvements; to facilitate the creation of an attractive and harmonious community; to preserve our natural, architectural and cultural uniqueness assets; to protect property values; and to further economic development.
(Ord. of 4-3-1995)

Sec. 7.2. Definitions.

For the purpose of this ordinance, certain words and terms are defined as follows (words used in the present tense include the future, words in the singular include the plural, and the plural includes the singular).

7.2.1. *Abandoned sign.* A sign which no longer identifies a bona fide business, lessor, service, owner, product, or activity, time of event passed, and/or for which no legal owner can be found. The definition shall also include any sign structure which no longer supports the sign for which it was designed.

7.2.2. *Address and name of resident*. A sign indicating address and/or name of residential occupants of the premises, and not including any commercial advertising or identification. (Additional address numbers are permitted on structures.)

7.2.3. *Animated Sign.* A sign which uses movement or change of lighting to depict action, words, graphics, commercial message or creates a special effect or scene. Includes Scrolling Signs.

7.2.4. *Awning sign.* A sign placed directly on the surface of an awning.

7.2.5. *Banner.* A temporary sign that is mounted on or attached to any non-rigid surface such as cloth, fabric, or paper, vinyl or similar material.
(Amended 11/7/11)

7.2.6. *Beacon.* Any light with one or more beams directed into the atmosphere or directed at one or more points not in the same zone as the light source; also light with one or more beams that rotates or moves.

7.2.7. *Billboard.* See "Off-premises sign."

7.2.8. *Bulletin board sign.* A particular type pf changeable copy sign that displays copy in a casement made of glass or plexi-glass. See "Changeable letter sign."

7.2.9. *Canopy sign.* A sign attached to a canopy.

7.2.10. *Changeable letter sign.* A sign that is designed so that characters and letters can be changed or rearranged without altering the face or surface of the sign.

7.2.11. *Clearance (of a sign).* The smallest vertical distance between the existing grade and the lowest point of any sign, including framework and embellishment.

7.2.12. *Commercial message.* Any sign, logo, or other representation that, directly or indirectly, names advertises, or calls attention to a business, product, service, or other commercial activity.

7.2.13. *Directional sign.* A sign that provides on-site directional assistance for the convenience of the public such as location of exits, offices, entrances, and parking lots. The name of the firm or business may be included on the sign.

7.2.14. *Directory sign (commercial).* A sign which displays the names and/or addresses of the establishments or uses of a building or group of buildings.

7.2.15. *Directory sign (governmental).* A sign erected, owned and maintained by the Town of Chincoteague within the public right-of-way to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services and points of scenic, historical, cultural, recreational, educational or religious interest. Such signs shall conform to all applicable state regulations regarding the placement of signs in public right-of-ways.

7.2.16. *Festoons.* A string of ribbons, tinsel, or pinwheels used for commercial purposes not including not-for-profit, or charitable organizations.

7.2.17. *First Amendment right signs.* Any sign lawfully advocating any political, social, religious, or other cause or position of the person or persons exhibiting such, the content of which would be protected by such person or person's right to freedom of speech as defined under the First Amendment to the United States Constitution and/or article I, section 12 of the Constitution of Virginia, subject to the restrictions hereinafter provided. Such permitted signs shall not contain any message of a commercial nature and shall not direct attention to a business operated for profit or any entity operated on a non-profit basis, or to the sale or gift of any commodity or service, nor shall such exhibitor charge a fee therefore. Such signs shall be permitted both in residential and commercial districts. No such sign, or combination of signs, in a residential district shall exceed thirty two (32) square feet in area, exceed five (5) feet in height, and shall comply with all applicable setbacks in such residential district. Any such sign or signs within a commercial district shall comply with all the criteria of 7.12.1 as to size and location. Any such sign may be constructed of cardboard. Any such

sign shall comply with all other applicable provisions of Article VII, except as expressly excepted.
(Amended 4/3/95)

7.2.18. *Flags (commercial).* Any fabric, banner, or bunting, containing distinctive colors, patterns, or symbols or wording.

7.2.19. *Flag (governmental).* Any fabric, banner, or bunting, containing distinctive colors, patterns, or symbols, used as a symbol of a government political subdivision or other entity.

7.2.20. *Flashing sign.* Any sign that includes light(s) which flash, blink or turn on and off intermittently, including searchlights (not including time and temperature signs).

7.2.21. *Freestanding sign.* The general term for any on-site sign which is supported from the ground and not attached to a building.

7.2.22. *Glaring signs.* Signs with light sources or with such reflective or brightness qualities that they constitute a hazard or nuisance.

7.2.23. *Handicapped parking space sign.* Signs reserving parking spaces for handicapped motorists.

7.2.24. *Height (of a sign).* The vertical distance measured from the highest point of the sign, including any decorative embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever ground elevation is less. (This is not the same as clearance)

7.2.25. *Home occupation sign.* A sign directing attention to a product, commodity or service available on the premises, but which product, commodity or service is clearly a secondary use of the dwelling.

7.2.26. *Illegal sign.* A sign that was constructed, erected or placed in violation of regulations that existed at the time it was built.

7.2.27. *Illuminated sign.* A sign illuminated in any manner by an artificial light source, whether internally or externally lit.

7.2.28. *Inflatable sign.* Any sign or advertising structure which uses air or gas to expand.

7.2.29. *Incidental sign.* A sign, emblem, or decal informing the public of goods, facilities, or services available on the premises, whose purpose is secondary to the use of the zoned lot. No sign with a commercial message legible from a position off the zoned lot on which the sign is located shall be considered incidental.

7.2.30. *Maintenance.* The cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

7.2.31. *Mansard facade.* A facade designed to replicate the Mansard concept of design but which does not structurally support the wall to which it is attached and may extend above the actual roofline.

7.2.32. *Marquee sign.* A sign attached to and made a part of a marquee or any other similar projection from a building.

7.2.33. *Monument sign.* A freestanding sign with a base affixed to the ground which measures at least two-thirds the horizontal length of the sign.

7.2.34. *Nonconforming sign.* A sign that met all legal requirements when constructed but that is not in compliance with this ordinance. An illegal sign is not a nonconforming sign.

7.2.35. *Off-premises sign*. Any sign which is not located on the premises that it identifies or advertises.

7.2.36. *Pennants.* A lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in a series, designed to move in the wind.

7.2.37. *Permanent sign.* A sign which is permanently affixed into the ground or a building and meets the requirement of a structure under the Virginia Uniform Statewide Building Code.

7.2.38. *Pinwheels.* See "Rotating signs."

7.2.39. *Pole sign.* A freestanding sign with a base at least seven feet above the ground which is supported from the ground by a pole or a similar support structure of narrow width.

7.2.40 *Portable sign.* A sign that is not permanently affixed to a building, structure, or the ground. This shall not apply to signs permitted under 7.3.5 or 7.5. This definition shall not apply to menu or sandwich board signs on private property.

7.2.41. *Projecting Signs.* A sign which is supported by an exterior wall of a building and which is displayed perpendicular to the face of the building.

7.2.42. *Roof sign*. Sign mounted on and supported by the main roof portion of a building. Signs mounted on mansard facade shall not be considered to be roof signs.

7.2.43. *Rotating sign.* A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.

7.2.44. *Scrolling sign.* See "Animated sign."

7.2.45. *Security and warning signs.* On-premises signs regulating the use of the premises, such as "no trespassing," "no hunting," and "no soliciting."

7.2.46. *Sexually Graphic Sign.* Any sign containing any photograph, silhouette, drawing, or pictorial representation or description of any specified anatomical area or specified sexual activities as those terms defined in the Code of the Town of Chincoteague.

7.2.47. *Sign.*Any device which is visible from a public byway, and all supporting poles, brackets, braces, wires, foundations, etc., that displays letters, characters or graphics to identify a land use or is meant to attract the public's attention.

Any display of any letters, words, numerals, figures, devices, emblems, pictures or any parts of combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, whether such display be made on, attached to or as a part of a structure, surface or any other thing, including, but not limited to, the ground, any rock, tree or other natural object, which display is visible beyond the boundaries of the parcel of land on which the same is made. A display of less than one square foot in area is excluded from this definition.

7.2.48. *Sign structure.* Includes the supports, uprights, bracing and framework of any structure, be it single- or double-faced or V-type or otherwise, exhibiting, illuminating, holding and/or supporting a sign.

7.2.49. *Sign, temporary*. See "Temporary sign."

7.2.50. *Simulated traffic signs and obstructions.* Any sign which may be confused with or obstruct the view of any authorized traffic sign or signal, obstruct the sight distance triangle at any street intersection, or extend into the public right-of-way.

7.2.51. *Snipe sign.* A sign that is attached to a utility pole, tree, fence or any object located or situated on public property.

7.2.52. *Street frontage.* The side of a lot nearest the street. The frontage of a corner lot is the shorter of the two sides facing a street. Frontage may also be described as a distance, e.g. “The lot has 243 feet of frontage.”

7.2.53. *Temporary sign.* A sign for the purpose of advertising during a limited period of time. See Section 7.4 for permitted.
(Amended 11/7/11)

7.2.54. *Temporary real estate signs.* Temporary signs indicating the availability of real property for lease or sale, located on the premises being leased or sold.

7.2.55. *Vending machine identification signs.* Signs or decals identifying a product which is used for public convenience.

7.2.56. *Vehicular signs.* Any sign displayed on an inoperable vehicle and or watercraft, where the primary purpose of the vehicle and or watercraft is to advertise a product or business or to direct people to a business or activity.
(Ord. of 4-3-1995)

7.2.57. *Wall sign.* A sign painted on or attached to a wall of a building and parallel to the wall.

7.2.58. *Window sign.* Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service that is inside a window or upon the window panes or glass and is visible from the exterior of the window.

7.2.59. *Yard Sale Signs.* Sign advertising for a yard sale. See Section 2.181. for definition of yard sale.

7.2.60. *Sidewalk Sign.* Any portable or temporary sign used for commercial purposes placed on a sidewalk and/or public right-of-way.

7.2.61. *Statues.* A three-dimensional form or likeness sculpted, modeled, carved, or cast in material such as stone, clay, wood, or bronze.

7.2.62. *Air or gas filled balloons.* An inflatable object used to draw attention to a business.

7.2.63. *Menu or sandwich board sign.* A portable, usually freestanding sign which is generally two-sided and of "A" frame construction, located on the ground, easily movable, and not permanently attached thereto.

Sec. 7.3. Signs as a matter of right.

The following signs shall be permitted as a matter of right, and no sign permit shall be required:

7.3.1. Address and name of resident. Such sign shall not exceed four square feet in area.

7.3.2. Directional signs; private directional signs on site: Shall not exceed four square feet in area and shall not be located closer than five feet to any property line. The name of the firm or business may be included on the sign. See definition of directional signs.

7.3.3. First Amendment right signs. Such permitted signs shall not contain any message of a commercial nature and shall not direct attention to a business operated for profit or any entity operated on a nonprofit basis, or to the sale or gift of any commodity or service, nor shall such exhibitor charge a fee therefore. Such signs shall be permitted both in residential and commercial districts. No such sign, or combination of signs, in a residential district shall exceed 32 square feet in area or exceed five feet in height, and shall comply with all applicable setbacks in such residential district. Any such sign or signs within a commercial district shall comply with all the criteria of 7.12.1 as to size and location. Any such sign may be constructed of cardboard. Any such sign shall comply with all other applicable provisions of Article VII, except as expressly excepted.

7.3.4. Flags, emblems, and insignia. Of any governmental agency or religious,

charitable, public or nonprofit organization.

7.3.5. Handicapped parking space sign. Such signs shall meet the minimum standards set forth by ADA.

7.3.6. Home occupation signs. Such signs shall not exceed four square feet in area and shall contain only the name of the business and/or business owner.

7.3.6.1. Limited home occupation signs. Such sign shall not exceed four square feet in area and shall only identify business information and/or the business owner. There shall not be more than one sign permitted per dwelling. The sign shall be non-illuminated.

7.3.6.2. Home occupation signs. Such sign shall not exceed four square feet in area and shall only identify business information and/or the business owner. There shall not be more than one sign permitted per dwelling. The sign shall be non-illuminated. ***(Amended 11/7/11)***

7.3.7. Private drive signs. On-premises private drive signs limited to one per drive entrance, not exceeding two square feet in area.

7.3.8. Public signs. Signs erected by government agencies or utilities including traffic, utility, safety, directional and identification signs for public facilities.

7.3.9. Security and warning signs. Such signs shall not exceed two square feet in area. On unimproved lots, signs shall not be closer than 50 feet to each other and shall not be placed within ten feet of any property line. On improved lots, signs shall be placed five feet or less from the structure protected. Signs shall not exceed four feet in height.

7.3.10. Vending machine identification signs. All identification shall be placed within the square footage of the vending machine unit.

7.3.11. Menu and sandwich board signs. Sign of not more than eight square feet shall be displayed on private property. Per this ordinance this sign type shall not constitute a "portable sign." Only one sandwich board allowed per business or home occupation.

Sec. 7.4. Temporary signs.

7.4.1. Permitted by right. The following temporary signs shall be permitted as a matter of right and no sign permit is required, subject to the conditions specified, and the other provisions of Article VII, as applicable. Use of banners, flags and pennants for the purpose of advertising home occupation business is prohibited in residential zoning districts. ***(Amended 11/7/11)***

7.4.2. Temporary real estate sign. A real estate sign is permitted provided such sign shall not exceed four square feet in area, and 6 feet in height and shall be located no closer than 15 feet from the edge of the established roadway. If the main structure is located less

than 15 feet from the edge of the established roadway the sign may be placed at the midpoint between the main structure and the edge of the established roadway provided it is not in the public right-of-way. Display of such sign is limited to one per property. When a development contains four or more parcels/ units, the developer may choose to install one sign, in lieu of individual signs, not to exceed 32 square feet in area, and shall place the sign parallel with the right-of-way. Such sign shall be removed within 30 days of the settlement or lease of the property. One directional sign may be erected if the said property is not easily visible from the adjoining state road.

7.4.3. Vacation rental signs. A vacation rental sign for rentals less than 12 months to one tenant are permitted; such sign shall not exceed four square feet in area and shall be located within two feet of the structure. Display of such sign is limited to one per property. Sign shall not exceed six feet in height.

7.4.4. Banners. On-premises banners shall not be more than 32 square feet in area. No more than one banner per business or one per commercial building lot for each 100 linear feet, or less, of public road frontage shall be permitted, provided however for each additional 100 feet of public road frontage after the first 100 feet, an additional banner shall be permitted. Such placement shall not exceed 2 times per calendar year not to exceed 4 consecutive weeks for each placement. Non-profit organizations are exempt from the above time limit provided the banner is removed within 7 days after the event has ended. Placement of such banners must comply with Article VII of the ordinance. Banners shall not be placed closer than ten feet from any property line.
(Amended 11/7/11)

7.4.5. Political campaign signs. Owner of said parcel must give consent on the placement of such signs. Such signs shall not exceed 16 square feet in area and be located on private property. Political signs may not be placed in the sight distance triangle, and shall be removed no later than 14 days after the election has occurred.

7.4.6. Nonprofit or charitable organizations event signs. Any sign or signs for the purpose of advertising any event held by a nonprofit or charitable organization. Such signs or combination thereof shall not exceed 32 square feet in size and shall be permitted to be displayed only on private property for a period not to exceed seven consecutive days. Such signs, if located, at any intersection shall be set back a minimum of ten feet from the edge of the street for safety purposes. No sign shall be erected that will obstruct the sight distance triangle at any street intersection. A permit is required.

7.4.7. Construction, contractor and job site signs. One contractor sign, not exceeding 32 square feet in area, and subcontractors' signs not exceeding eight square feet in area each, when erected or displayed on the premises upon which building operations are being conducted; provided, that such signs shall be removed upon completion of the work. No sign shall be erected that will obstruct the sight distance triangle at any street intersection.

7.4.8. Special event signs. Signs announcing special events including but not limited to open houses, auctions, grand openings, new management and going out of business.

Each lot shall be limited to one of each of the following types of signs unless otherwise noted and does not count in the total allowed per lot or business.

A sign advertising auctions and grand openings may be erected seven days prior to the

event and shall contain the date(s) of the event. Such sign shall not exceed 16 square feet in area. No permit is required.

A sign advertising going out of business, or new management shall be limited to once in a 12-month period for up to seven days. Such sign shall not exceed 16 square feet in area. No permit is required.

A sign for open houses may be erected up to six days prior to the open house if the sign contains the day of the week or the date of the open house or may be erected the day of the open house if it does not contain the day of the week or the date of such open house. Such sign shall not exceed 4 square feet in area. No permit is required.

All special event signs must be removed immediately following the event, shall be setback a minimum of twenty-five feet from the edge of the public right-of-way. No sign shall be erected that will obstruct the sight distance triangle of any street intersection.

7.4.9. Pony Penning sales signs. No more than four square feet (two feet by two feet) shall be permitted to be displayed no more than three days prior to the sale, to be located only on private property, without requiring any permits. Signs displayed under this section must be removed within 48 hours of the close of the sale activities.

7.4.10. Yard sale sign. Signs of not more than four square feet (two feet by two feet) shall be permitted to be displayed no more than three days prior to the sale, to be located only on private property. Signs displayed under this section must be removed within 48 hours of the close of the sale activities. No permit required.

7.4.11. Festoons (nonprofit and charitable organizations). May be allowed for groups and organizations that are established as 501 C.

7.4.12. Pennants. There shall be no more than two fifty foot (50') long pennants, or one one hundred foot (100') long pennant per business. Such placement shall not exceed two (2) times per calendar year not to exceed two (2) consecutive weeks for each placement. Nonprofit organizations are exempt from the above time limit provided the pennant or pennants are removed within seven days after the event has ended. Placement of such pennants must comply with Article VII of this ordinance. Pennants shall not be placed closer than ten feet (10') from any property line. A permit is required.
(Amended 04-06-09)

Sec. 7.5. Construction and maintenance.

7.5.1. Building code compliance. All signs shall be constructed in compliance with the current Virginia Uniform Statewide Building Code.

7.5.2. General restrictions. Signs shall not be erected in or over a street or highway right-of-way, or on public land except as permitted in section 7.3.9. and 7.11.

7.5.3. Condition of sign. All signs and components shall be maintained in good repair and in a safe, clean and attractive condition. Any sign found to be in disrepair, upon written notice, must be immediately removed by such owner. Failure to remove such sign shall result in legal action and, if applicable, the sign permit may be revoked.

Sec. 7.6. Prohibited signs.

The following are expressly prohibited unless specifically stated otherwise in this ordinance:

7.6.1. Animated signs. (defined 7.2.3.)

7.6.2. Flashing signs. (defined 7.2.20.)

7.6.3. Glaring signs. (defined 7.2.22.)

7.6.4. Portable signs. (defined 7.2.40.)

7.6.5. Simulated traffic signs and obstructions. (defined 7.2.50.)

7.6.6. Vehicular signs. (defined 7.2.56.)

7.6.7. Sidewalk signs. (defined 7.2.60.)

7.6.8. Air or gas filled balloons and inflatable objects. Balloons and inflatable objects not exceeding ten (10) cubic feet in volume are exempt from this regulation provided no commercial message is displayed on such balloon(s).
(Amended 04-06-09)

7.6.9. Beacons. (defined 7.2.6.)

7.6.10. Rotating signs. (defined 7.2.43.)

7.6.11. Pinwheels for commercial use. (defined 7.2.38.)

7.6.12. Sexually graphic signs. (defined 7.2.46.)

7.6.13. Statues, placed for or with a commercial message used for the purpose to draw attention to a particular business exceeding 4 feet in height, 3 feet in width and/or 3 feet in length. (defined 7.2.61.)

7.6.14. Changeable letter signs either freestanding or stand alone. (This shall not include changeable letter signs incorporated in an approved freestanding sign as identified in section 7.13.1.12). (defined 7.2.10.)

7.6.15. Off-premise signs. (defined 7.2.35.)

7.6.16. Snipe Signs. (defined 7.2.51.)

7.6.17. Festoons (defined 7.2.16.)

Sec. 7.7. Nonconforming signs.

Any sign which does not conform to the provisions herein as of the effective date hereof or subsequent amendment.

7.7.1. A nonconforming sign lawfully existing at the time of adoption or subsequent amendment may continue although such a sign does not conform to the provisions of this ordinance, however, it shall not be enlarged, or structurally altered in any way excluding general maintenance, except to conform to the requirements of this chapter.

7.7.2. A change in property ownership, requires that a non-conforming sign be removed or brought into compliance of Article VII within one year of a change in property ownership,. Whenever the property ownership, changes the new owner, shall be required to remove, change or alter such signs to conform to this chapter. For purposes of this ordinance area and height requirements must be brought into conformity; however location or setback requirements will not be applicable to 7.7.2.

Sec. 7.8. Protection of First Amendment rights.

Any sign, display, or device allowed under this ordinance may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit or to a commodity or service for sale, and that complies with all other requirements of this ordinance.

Sec. 7.9. Removal.

7.9.1. Illegal signs. The zoning administrator or his designee may order the removal of any sign not in conformance with the provisions of this ordinance at the expense of the sign owner or lessor, after giving the owner or lessor written notice of such violation and giving notice to correct such violation within ten days from date of receipt of said notice by registered or certified mail at the last known address.

7.9.2. Immediate peril. If the zoning administrator shall find any sign which is an immediate peril to persons or property, the sign shall be removed by owner immediately. If the zoning administrator cannot locate the sign owner or lessor for immediate removal of the sign, he shall be empowered to order the removal of the sign at the expense of the sign owner or lessor.

7.9.3. Abandoned signs. Any business advertising products or services which are no longer available shall remove such signs within two years. Such signs will be identified as "abandoned" by the Zoning Administrator or his designee and shall be removed by the property owner within sixty days of notification by certified letter.

Sec. 7.10. Variances.

See Article VIII of the Zoning Ordinance.

SECTION B. STANDARDS AND CRITERIA

Sec. 7.11. Generally.

The regulations in this section specify the number, types, sizes, heights and locations of signs which are permitted within the jurisdictional boundaries of the Town of Chincoteague and which require a permit. Any sign regulations incorporated into a development plan approved by council may supersede all or part of this section.

Unless otherwise provided in this chapter, all signs shall be set back a minimum of ten feet from the right-of-way, unless attached to a building without any ground supports, in which case it shall conform with the required size restrictions and not protrude into any right-of-way unless a land use permit is obtained from the Town of Chincoteague.

All permitted signs in this chapter shall only advertise those uses being conducted on the premises on which they are displayed.

7.11.1. Determination of sign area. In measuring the area of signs permitted under these regulations, the entire face of the sign (one side only) and any wall work incidental to its decoration shall be included. Where both sides of a sign contain lettering or other allowable display, one side only shall be used to compute the allowable size of the sign. Where the sign consists of individual raised letters or a sign face of irregular shape, the sign area shall include the area of the smallest rectangle that can encompass the letters or sign face.

7.11.2. Determination of sign height generally. The height of a sign shall not exceed 12 feet in height. The height of all signs shall be the distance from the grade level where the sign is erected to the top of the sign. No sign shall be erected that will obstruct the sight distance triangle at any street intersection. roof signs shall be excluded from Section 7.11.2. ***(Amended 08/01/11)***

7.11.2.1 *Determination of sign height for wall signs.*The height of a wall sign, as defined herein, in Commercial District C-1 and Commercial District C-2 may exceed 12 feet in height measured from grade level or base flood elevation, whichever is greater, provided such sign is affixed as hereinafter provided to the primary structure on such premises and remains below the eaves of the roof of such main structure. Any such sign shall comply with all applicable square footage and other requirements as are otherwise provided in Article VII.

(Amended 08/01/11)

7.113. Installation of wall signs. All wall signs shall be installed flat against the wall of a building and shall not extend from the wall more than 18 inches.

7.11.4. Sign Illumination.

(1) Externally lit signs shall be illuminated only with steady, stationary, fully shielded light sources directed solely onto the sign without causing glare.

(2) External illumination for signs and outdoor advertising structures in which electrical wiring and connections are to be used shall require a permit and

shall comply with the Virginia Uniform Statewide Building Code and approved by the building inspector.

(3) The fixtures and source(s) of illumination used to illuminate signs shall not be directed toward nearby residential properties.

(4) Illumination of a grandfathered off premise sign is prohibited.

7.11.5. Other uses. In cases where the regulations within this section do not specifically address a sign requested in conjunction with a permissible use, the zoning administrator shall make a written interpretation of the ordinance, which shall be kept in the permanent record for that application. (Ord. of 4-4-1994)

Sec. 7.12. Residential districts.

Within residential districts, permits are required for all allowed signs. All signs must conform to the following criteria:

7.12.1. Single-family subdivision identification signs. Signs that identify the name of a single-family residential subdivision, located at any street entrance to the subdivision, shall be erected as follows:

(1) Number: one per main entrance, not to exceed two per subdivision.

(2) Type: monument.

(3) Maximum size and height: 32 square feet in area and five feet in height.

(4) Minimum setback: ten feet from any property line and outside of all visibility triangles.

7.12.2. Multifamily complex signs. Signs that identify the name and/or address of an apartment, townhouse, condominium or other multifamily residential complex, located at any street or private drive entrance to the complex, shall be erected as follows:

(1) Number: one per main entrance, not to exceed two per complex.

(2) Type: monument.

(3) Maximum sizes and heights: 32 square feet in area and five feet in height.

(4) Minimum setback: ten feet from any property line and outside of all sight visibility triangles.

7.12.3. Accessory management or rental office signs. Signs that identify an accessory management or rental office shall be erected as follows:

(1) Number: one.

(2) Type: wall.

(3) Maximum size and height: six square feet in area and located below the roof line.

Sec. 7.13. Commercial districts.

Within commercial districts all allowed business signs require a permit. All signs must conform to the following criteria:

7.13.1. The number of signs shall be limited to two (2) per business not including incidental, directory or directional signs unless otherwise noted. Total square footage area of all permitted signs upon any one lot shall not exceed 100 square feet in area unless noted otherwise. Two additional signs shall be permitted, maximum of twenty five (25) square feet each if the building fronts upon more than one public right-of-way or waterfront. Sign bases without commercial messages are not included in the sign area. Sign bases are included in the overall height.

7.13.1.1. Buildings occupied by a single business. The total combined area of all signs shall not exceed one square foot for each foot of building width or one hundred square feet, whichever is less, however no one sign can exceed 64 square feet in area, not including the sign base, and shall not exceed 12 feet in height.

7.13.1.2. Buildings occupied by more than one business. The total combined area of all Signs shall not exceed one square foot for each foot of building width facing such lot line, or one hundred square feet whichever is less, however, no sign can exceed 64 square feet in area and shall not exceed 12 feet in height. In addition to the maximum allowed combined total area permitted for each business in a multi-business building, there shall be permitted one additional wall sign or projecting sign, not to exceed 20 square feet for business identification.

7.13.1.3. Multiple incidental and directory signs. Signs on the interior of a lot shall be allowed and do not require a permit. The square footage of these signs is not counted as part of the total area permitted. Such signs must relate to the business being conducted on the lot and such signs shall not be advertising for business located off premise.

7.13.1.4. Signs hung on marquees. No sign shall be hung on a marquee, canopy, awning or portico if such sign shall extend beyond the established street line. The area of any such sign shall be included in determining the total area of signs erected or displayed.

7.13.1.5. Signs, advertising occupants, etc. Signs advertising only the name of the occupant of a store, office or building, the business or

occupation conducted or the products sold therein may be placed on show windows; provided, that not more than 30 percent of the area of such windows shall be covered.

7.13.1.6. Roof and mansard facade signs. Shall not exceed 32 square feet in sign area. The total area shall be included in the total area of signage permitted in this section and shall not be in addition thereto. Signs on Mansard facade shall not extend above the highest point of the Mansard facade. Roof Signs shall begin one foot from roof edge and not extend more than four vertical feet from that point.

7.13.1.7. Freestanding signs. Shall be limited to one per lot, maximum area of 64 square feet in area and not exceeding 12 feet in height. Each building must incorporate its legally assigned street number into its freestanding sign. Freestanding signs shall not be placed within the established sight distance triangle. The height of a freestanding sign shall be determined from existing grade of a radius not to exceed six feet out from the support system of the freestanding sign.

7.13.1.8. Window sign. A window sign shall be considered as a wall sign, and shall not exceed more than 30% of the window area in which they are displayed and shall not be placed higher than ten (10) feet above the entrance of the door sill plate. Such signs shall be limited to a maximum combined area of 64 square feet total and shall not exceed ten (10) feet in height.

7.13.1.9. Flags, Commercial. Two flags, displaying a commercial message, per lot maximum each limited to an area of 15 square feet. Flags must be mounted securely to a wall or from a permanent flag pole. A home occupation is allowed one flag with a commercial message no greater than 15 square feet. Flags not exceeding 15 square feet in area and displaying an art design which reflects merchandise sold on the premises without any commercial wording, or "open and welcome flags" are exempt.

(Amended 04-06-09)

7.13.1.10. Projecting signs. Projecting signs shall be permitted on any street frontage limited to one (1) sign per occupancy along any public road or parking lot frontage with public entrance to such occupancy and shall be limited in height of twelve feet and limited in area to six (6) square feet. Such sign shall maintain a vertical clearance from the sidewalk, adjacent to said occupancy, a minimum of nine (9) feet and shall not extend beyond the outside edge of the public sidewalk. If such sign extends over the right-of-way, a Land Use Permit is required. Maximum square footage is six (6) square feet.

7.13.1.11. Changeable letter signs. Manually changeable sign(s) shall be permitted when included within the sign area and built as an

integral part of the business identification sign(s). Area of the changeable letters portion of the business identification sign(s) shall not exceed fifteen square feet or one third of the total area of the sign(s) whichever is less. The total area of the changeable letter area shall be included in the total square footage of the sign area permitted for a business or shopping center and shall meet all height restrictions for signs. Nonprofit and charitable organizations shall be permitted stand alone changeable letter signs which conform to Section 7.4.2. Temporary signs nonprofit and charitable organizations.

7.13.2. Gasoline stations. Automobile service, convenience stores and gasoline stations shall comply with all applicable sign regulations within this section, including the regulations for shopping centers if applicable. The following additional regulations shall apply to all automobile and service and gasoline stations:

7.13.2.1. Changeable fuel price signs. Freestanding signs identifying the name of the business may include changeable copy indicating the current price of fuel dispensed on the premises. The area of the fuel price sign shall be excluded in the sign area for the business.

7.13.2.2. Gas pump signs. Each gas pump shall be permitted a total of 1.5 square feet of sign area to identify the product dispensed. (Gas pump signs shall not apply to total square footage of sign area permitted.) Canopy's that are used to cover fuel pumps may extend 20 feet in height and may include the name of the brand of fuel upon the canopy, however this advertisement shall not cover more than 50% of the each side of the facing of the canopy.

7.13.3. Office and/or industrial centers. Office and/or industrial centers at least one acre in size and planned as an integrated development shall be authorized to erect signs based on the following criteria:

7.13.3.1. Center identification signs. One monument sign per public street frontage, identifying the name of the center only and not exceeding 32 square feet in area and six feet in height.

7.13.3.2. Individual establishment signs. Each individual establishment within an office and/or industrial building may erect one wall sign of a size which does not exceed a maximum of 16 square feet in area. The top of the wall sign shall be located below the roof line and at a height no greater than 12 feet above the ground.

7.13.3.3. Directory signs. Commercial and industrial properties may erect a directory sign identifying the names and/or addresses of the establishments within individual buildings. A directory sign shall not exceed 16 square feet in area and six feet in height and

precludes the use of any other freestanding sign for the zoning lot on the same street frontage.

7.13.3.4. Theaters. Theaters are authorized to erect one of the permitted wall or marquee signs with a changeable copy letter board displaying the name and time of the current motion picture or theatrical production. (Ord. of 4-4-1994)

Article VII. Amended 6/19/08.

ARTICLE VIII. BOARD OF ZONING APPEALS

Sec. 8.1. Board of zoning appeals (BZA).

8.1.1. A board consisting of seven members shall be appointed by the circuit court of the county. The board shall serve without pay other than for traveling expenses. Appointments for vacancies occurring other than by expiration of term shall in all cases be for the unexpired term.

8.1.2. The term of office shall be for five years, except that original appointments shall be made for such terms that the term of at least one member shall expire each year. Members of the board of zoning appeals appointed and qualified at the time of the enactment hereof shall continue to serve the balance of the term for which they were appointed.

8.1.3. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least 15 days' notice.

8.1.4. Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has an interest.

8.1.5. The board shall choose annually its own chairperson and vice-chairperson who shall act in the absence of the chairperson.

Cross reference–Boards and commissions, § 2-106 et seq.

Sec. 8.2. Powers of the board of zoning appeals.

The board of zoning appeals shall have the following powers and duties:

8.2.1. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this ordinance.

8.2.2. To authorize upon appeal or original application in specific cases such variance as defined in section 2.173 from the terms of this ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this ordinance.

The board of zoning appeals shall require the applicant for a special use permit to submit written comments from all property owners within 300 feet of the boundary line of the property upon which action is to be taken, when application is made to appeal for a variance, the applicant shall submit signatures from all adjoining property owners including the property owners across the street or across bodies of water adjacent to or dividing two properties. The Board of Zoning Appeals may require the applicant to submit written comments from additional property owners.

No such variance shall be authorized by the board unless it finds:

(1) That the strict application of this ordinance would produce undue hardship.

(2) That the hardship is not shared generally by other properties in the same zoning district and the same vicinity.

(3) That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

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

No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this ordinance.

In authorizing a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

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

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

8.2.5. No provision of this section shall be construed as granting any board the power to rezone property.

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

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

Before issuance of a special use permit the board of zoning appeals shall consider the general character of the surrounding neighborhood in order to facilitate the preservation and creation of an attractive and harmonious community. The board of zoning appeals shall also consider the environmental effect on scenic, historic and waterfront areas including the property rights and values of adjoining and nearby property owners.

The board of zoning appeals shall have the authority to establish such conditions as it may deem necessary to assure and protect the health, safety, convenience and welfare of the general public within the district. Conditions may include, but need not be limited to, additional requirements for area, frontage, setback, side and rear yard, lighting, noise and odor control and location of streets including ingress and egress.

The board of zoning appeals may also impose such other conditions relating to the use for which a special use permit is granted as it may deem necessary in the public interest, including time limitations.

The board of zoning appeals shall not extend or renew any special use permit, or any conditional use permit previously granted, without the applicant complying with the procedures as set forth in section 8.4 of this ordinance.

All special use permits granted by the board of zoning appeals shall expire one year after the date of issuance unless construction or the use for which said permit was granted has actually commenced.

The board of zoning appeals may require a guarantee or bond with sufficient surety to ensure that any of the conditions which may be imposed pursuant to this article are being and will continue to be complied with.

8.2.7. To revoke a special exception if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.

State law reference–Similar provisions, Code of Virginia, § 15.2-2309.

Sec. 8.3. Rules and regulations.

8.3.1. The board of zoning appeals shall adopt such rules and regulations as it may consider necessary.

8.3.2. The meeting of the board shall be held at the call of its chairperson or at such times as a quorum of the board may determine.

8.3.3. The chairperson or, in his/her absence, the acting chairperson may administer oaths and compel the attendance of witnesses.

8.3.4. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

8.3.5. All meetings of the board shall be open to the public.

8.3.6. A quorum shall be at least four members

8.3.7. The board shall act on all matters that are properly before it.

(Ord. of 4-3-1995)

Sec. 8.4. Appeal to the board of zoning appeals.

8.4.1. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the town affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative

officer in the administration or enforcement of this ordinance. Notwithstanding any Charter provision to the contrary, any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until the statement is given. The appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

8.4.2. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

8.4.3. In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical or other nondiscretionary errors.

State law reference–Similar provisions, Code of Virginia, § 15.2-2311.

Sec. 8.5. Appeal procedure.

8.5.1. Appeals shall be mailed to the board of zoning appeals c/o the zoning administrator, and a copy of the appeal shall be mailed to the secretary of the planning commission. A third copy should be mailed to the individual, official, department or agency concerned, if any.

8.5.2. Appeals and applications for a variance or special exception requiring an advertised public hearing shall be accompanied by payment established by the town council payable to the treasurer.

(Ord. of 11-4-1996; Ord. of 5-1-2000) ***(Amended 1/18/07)***

Sec. 8.6. Procedure on application or appeal.

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and make its decision within 90 days of the filing of the application or appeal. In exercising its powers the board

may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of at least four of the members of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variance from this ordinance. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.
(Ord. of 4-7-1997)

State law reference–Similar provisions, Code of Virginia, § 15.2-2312.

Sec. 8.7. Certiorari to review decision of board.

8.7.1. Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any aggrieved taxpayer or any officer, department, board or bureau of the town, may present to the circuit court for the county a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the board.

8.7.2. Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

8.7.3. The board of zoning appeals shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of the portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

8.7.4. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take evidence as it may direct and report the evidence to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

8.7.5. Costs shall not be allowed against the board, unless it shall appear to the court that, it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the board may request that the court hear the matter on the question of whether the appeal was frivolous.

State law reference–Similar provisions, Code of Virginia, § 15.2-2314.

ARTICLE IX. CONDITIONAL USE PERMITS

Sec. 9.1. General.

Because of their nature, size, unique characteristics, particular demands on public facilities and resources, and the potential for substantial impact on neighboring properties, the surrounding area, and the general public, certain proposed uses will require a close consideration of whether a specific use should be permitted in a particular location within a zoning district, and if so, what special conditions or safeguards should be applied to protect the overall public welfare.

Sec. 9.2. Requirements of conditional use permits.

No temporary or permanent use of land, buildings, or structures, except such uses as are expressly permitted under this Code as a matter of right or permitted by a special use permit by the Board of Zoning Appeals within the applicable zoning district shall be permitted within such district, except such use or uses as may be permitted by the Town Council of the Town of Chincoteague as a conditional use pursuant to the provisions of this Article 9.

Sec. 9.3. Procedures, standards, and conditions.

Requests for a "conditional use", within a District as provided for, will be granted, denied, or granted conditionally, by the Town Council, in accordance with the following provisions:

(1) *Procedure.*

a. A request for a conditional use permit may be submitted to the Town Council through the zoning administrator by the property owner, his agent, the contract purchaser, or optionee of the property upon which the proposed use will be located.

b. A site development plan, in accordance with Sec. 9.4, shall accompany the request.

c. The zoning administrator or other designated agent shall review the application, visit the site, request additional information from the applicant, as needed, and request review and comments by other local and/or state or federal agencies or officials, as needed, and formulate a staff review to the planning commission.

d. The planning commission shall review the request, site plan, staff review, and any other reports or comments, visit the site as necessary, determine any additional information necessary for the review, and meet with the applicant prior to a public hearing, if requested. The commission shall conduct a public hearing after notice in accordance with Code of Virginia, §15.2-2204, as amended, after which it shall recommend that the request be granted, denied, or granted conditionally.

e. Prior to the public hearing, the applicant shall submit to the planning commission proof of notification of nearby property owners. Notice sent by certified mail to the last known address of such owner as shown on the current real property tax assessment books of the county shall be deemed adequate compliance with the requirement. The provision of the notice shall be the responsibility of the owner or agent. No conditional use permit shall be considered by the planning commission within ten days of any such notice. The notice shall state: the type of use proposed, the date of submission, the specific location of the proposed development and the appropriate Town office where the application and attachments may be reviewed. ("Nearby" shall be defined as within 500 feet of the boundary of the applicant's parcel; except where there are more than 15 property owners within 500 feet, in which case notification of only the adjoining property owners will be required.)

f. The planning commission shall forward its recommendations, and all related materials, to the Town Council, which shall conduct a public hearing after notice in accordance with Code of Virginia, §15.2-2204, after which the Town Council shall grant, deny, or grant conditionally the proposed conditional use.

g. Any changes or modifications to requests or site plans made by the applicant prior to action by the Town Council shall be reviewed by the administrator to determine if such changes require initiation of a new or separate application and review process.

h. Following action by the Town Council, the applicant shall be notified in writing of the Council's determination, including such conditions, limitations, and other requirements imposed by the Council, or the reasons for denial.

i. A conditional use permit may be revoked by the Town Council if the Town Council determines that there has not been compliance with the terms, conditions or uses specified in the granting of the permit. Such determinations will be made after the same notice and public hearing requirements specified in Code of Virginia, §15.2-2204.

(2) *Standards.* In considering recommendations and actions on conditional use requests, review standards shall include, but not be limited to, the following guidelines:

a. The proposed use and/or structure is permitted under the zoning district's provisions with a conditional use permit.

b. The proposed use and/or structure will not adversely affect the health or safety of persons residing or working in the neighborhood.

c. The proposed use and/or structure will not tend to change the character of, or the established pattern of development within the zoning district in which it will be located, considering the size and location of the proposed use, the nature and

intensity of the operation to be conducted, the site design, and its relation to the surrounding area and roads giving access to it.

d. The proposed use, structure(s) and overall development will be in conformance with all other provisions of this chapter, except as may be modified by the Town Council in writing and/or as shown on the approved final site plan, as well as in general conformance with the comprehensive plan as adopted by the Town Council.

e. That adequate utilities, access roads, drainage or other necessary facilities have been or are being provided.

f. That adequate measures have been or will be taken to provide ingress and egress which will be designed to minimize traffic congestion on the public's streets and roads.

g. That the conditional use, in all other respects, conforms to the applicable zoning district regulations in which it is located, except as such regulations may, in each instance be modified by the Town Council, in writing and/or as shown on the approved final site plan.

(3) *Conditions and bonds.* The Town Council shall consider and may impose conditions, limitations, or other special requirements as it deems necessary to protect the public health, safety and general welfare, such as, but not limited to, the following:

a. Abatement or restriction of noise, smoke, dust, vibration, light, glare, odors, wastes, or other elements that may effect surrounding properties.

b. Establishment of setback, side, front, and rear area requirements necessary for orderly development and/or expansion, and for prevention of traffic congestion, and for protection of the surrounding environment.

c. Provisions for adequate parking, and ingress and egress to public streets and roads necessary to prevent traffic congestion and hazards.

d. Providing adjoining property with a buffer or shield from view of the proposed use and/or structure.

e. Other such conditions deemed necessary and desirable in consideration of the specific location, size, nature, site layout, and public access of the proposed use.

f. Other such conditions deemed necessary and desirable to minimize adverse environmental impacts on scenic, historic, and waterfront areas or features, including abatement of air and water pollution, and water runoff and existing or potential flooding problems.

g. Establishment of time limits for expiration, after which the conditional use permit shall no longer be valid or shall require renewal.

h. The Town Council may require a bond, with or without adequate surety, in a reasonable and sufficient amount determined by the Town Council, to be payable to the Town Council to insure compliance with the terms and conditions of any conditional use permit.

(4) *Effect of approval.* The issuance of a conditional use permit shall authorize the applicant to construct only such structure(s) or conduct only such uses as are specifically requested and made part of the permit. No deviations, expansion, or other changes whatsoever shall be made from the terms of the permit without the expressed written approval of the Town Council.

Unless otherwise specified, any conditional use permits granted by the Town Council shall expire one year after the date of issuance unless substantial construction or use for which said permit was granted has actually commenced, and is progressing toward completion in accordance with the approved site plan.

The Town Council shall not extend or renew any conditional use permit previously granted, without the applicant complying with the procedures as set for forth in section 9.4 of this Article.

(5) *Reconsideration.* A property owner or other applicant who has been denied a conditional use permit by the Town Council may not submit substantially the same application until after a period of at least one (1) year from the date of the original denial by the Town Council.

Sec. 9.4. Site development plan.

Any application for a conditional use permit shall be accompanied by a site development plan, which shall include the following information:

(1) Location of the lot or parcel by vicinity map. Site development plans shall also contain a north arrow, original date, revision dates, and graphical scale.

(2) Property lines of the parcel proposed for development. If only a portion of a parcel is proposed for development, the limits of development line shall also be shown.

(3) The tax parcel identification numbers of parcels proposed for development.

(4) The name and address of the property owner and name and address of the developer, if different from the owner. The name and address of the person or firm preparing the plan shall be on the plan.

(5) The name of adjacent property owners and the owners of any property on which any utility or drainage easement may be required in conjunction with the development.

The tax parcel number for each of these properties shall also be provided.

(6) The zoning district designation of the parcel(s) proposed for development, and the zoning designation and current land use of adjacent parcels.

(7) The nature of the land use(s) proposed for the site.

(8) The names, route numbers, and locations of existing and proposed public and private streets, alleys and easements on or adjacent to the site. The centerlines or boundary of adjacent rights-of-way shall also be shown.

(9) The exact location of buildings or structures existing on or proposed for the site, including their setbacks from property lines, and the distance between buildings or structures.

(10) The location of existing and proposed septic systems on the site.

(11) The location, type, and size of site access points such as driveways, curb openings, and crossovers. Distances to neighboring access points, median openings, intersections, and traffic signals shall be provided. If new median cuts are proposed, their location shall also be shown.

(12) Off-street parking areas and parking spaces including handicapped spaces, loading spaces, and walkways indicating types of surfacing, size, angles of stalls, width of aisles, and a specific schedule showing the number of spaces provided and the number required by this ordinance. Internal traffic circulation shall be addressed.

(13) The location of existing and proposed signs on the property.

(14) The location and type of proposed exterior lighting, including the height of poles, and type and wattage of fixtures.

(15) An erosion and sediment control plan, where required.

(16) A stormwater management plan, where required.

(17) Any additional information requested by the zoning administrator.

Sec. 9.5. Certiorari to review decision of Town Council.

9.5.1. Any person or persons jointly or severally aggrieved by any decision of the Town Council, or any aggrieved taxpayer or any officer, department, board or bureau of the Town, may present to the circuit court for the county a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office or the Town Council.

9.5.2. Upon the presentation of such petition, the court shall allow a writ of certiorari

to review the decision of the Town Council appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Town and on good cause shown, grant a restraining order.

9.5.3. The Town Council shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of the portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

9.5.4. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidenced or appoint a commissioner to take evidence as it may direct and report the evidence to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

9.5.5. Costs shall not be allowed against the Town, unless it shall appear to the court that, it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the Town is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the Town may request that the court hear the matter on the question of whether the appeal was frivolous.
(Adopted 5/3/04)

ARTICLE X. VIOLATION AND PENALTY

Sec. 10.1. Permits and licenses to conform to ordinance.

All departments, officials and public employees of this jurisdiction which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this ordinance. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this ordinance. Any such permit, if issued in conflict with the provisions of this ordinance, shall be null and void.

Sec. 10.2. Penalties for violation.

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating, causing or permitting the violation of any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, may be fined up to $500.00. Such person, firm or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this ordinance is committed,

continued or permitted by such person and shall be punishable as herein provided.

ARTICLE XI. AMENDMENTS

Sec. 11.1. Provisions regarding amendments.

The regulations, restrictions and boundaries established in this ordinance may, from time to time, be amended, supplemented, changed, modified or repealed by a favorable majority of votes of the governing body; provided:

11.1.1. That a public hearing shall be held in relation thereto at which parties in interest and citizens shall have an opportunity to be heard.

11.1.2. That notice shall be given of the time and place of such hearings by publication in at least two issues of some newspaper with a six-day publication span having a general circulation in the jurisdiction. Such notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than six days nor more than 21 days after final publication. After enactment of any such plan, ordinance or amendment, further publication thereof shall not be required.

11.1.3. Any amendment proposal requiring an advertised public hearing shall be accompanied by payment in the amount established by the town council.
(Amended 1/18/07)

11.1.4. That changes shall be made by the governing body in the zoning ordinance or the zoning map only after such changes have been referred to the planning commission for a report. Action shall be taken by the governing body only after a report has been received from the planning commission, unless a period of 30 days has elapsed after date of referral to the commission, after which time it may be assumed the commission has approved the change or amendment.

11.1.5. Any subject matter once denied by the governing body shall not again be presented within a period of six months from the date of denial.
(Ord. of 5-1-2000)

ARTICLE XII. ADMINISTRATION AND INTERPRETATION*

Sec. 12.1. Fees.

The town council shall establish a schedule of fees and charges for building and zoning

permits and related costs. Such schedule of fees and charges shall be posted in the office of the building and zoning administrator and may be amended only by action of the town council upon recommendation of the budget and personnel committee.

12.1.1 - 12.1.7 . **Repealed.**
(Amended 1/18/07)

Sec. 12.2. Enforcement by zoning administrator.

This ordinance shall be enforced by the zoning administrator. The zoning administrator shall serve and be compensated in accordance with the employee handbook of the Town of Chincoteague.

Sec. 12.3. Exemptions.

Nothing contained herein shall require any change in the plans or construction of any building or structure for which a permit was granted prior to the effective date of this ordinance. However, such construction must commence within 30 days after this ordinance becomes effective. If construction is discontinued for a period of six months, the provisions of this ordinance for the district in which the operation is located shall be adhered to.

Sec. 12.4. Provisions for official zoning map.

12.4.1. *Official zoning map.* The location and boundaries of the zoning districts established by this ordinance are as indicated on a map entitled "Official Zoning Map, Town of Chincoteague, Virginia," identified by the signature of the mayor of the Town of Chincoteague, attested to by the town manager of the Town of Chincoteague, and bearing the seal of the Town of Chincoteague, Virginia, together with the date of adoption of this ordinance. Said map shall be deemed to be part of this ordinance as if it were fully set forth herein.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the office of the zoning administrator, shall be the final authority as to the current zoning status of land, structures, and other uses in the town.

12.4.2. *Amendment of the official zoning map.* Whenever any amendment is made to the official zoning map by action of the governing body, such change shall be incorporated onto said map at such time and in such manner as the governing body may prescribe. Said

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***Cross reference–**Stopping, standing and parking, § 58-166 et seq.

changes shall be validated with reference to correct notation by the town manager, who shall affix his signature thereto, thereby certifying that approved amendments to the official zoning map have been correctly incorporated. The date of official action and nature of the change shall be entered on the map. Any such change shall have the effect of law at 12:01 a.m. on the day following its legal adoption or on its effective date, if such effective date is

officially established as other than the day following its legal adoption, whether or not it has been shown on the official zoning map.

12.4.3. *Unauthorized changes.* No changes of any nature shall be made on the official zoning map or any matter shown thereon, except in conformity with the procedures and requirements of this ordinance. It shall be unlawful for any person to make unauthorized changes on the official zoning map. Violations of this provision shall be punishable as provided in article X.

12.4.4. *Replacement of the official zoning map.* In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the governing body may by resolution adopt a new official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendments thereof.

The new official zoning map shall be identified by the signature of the mayor of the Town of Chincoteague, attested to by the town manager of the Town of Chincoteague, and shall bear the seal of the Town of Chincoteague under the following words, "This is to certify that this Official Zoning Map was adopted on April 2, 2012 as part of the Zoning Ordinance of The Town of Chincoteague." Unless the prior official zoning map has been lost, or totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendments.

12.4.5. *Interpretation of district boundaries.* Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the official zoning map, the following rules shall apply:

(1) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines, or highway right-of-way lines, such centerlines, street lines or highway right-of-way lines shall be construed to be such boundaries.

(2) Where district boundaries are so indicated that they are approximately paralleled to the centerlines or street lines or streets, or the centerlines or right-of-way of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the official zoning map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the official zoning map.

(3) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

(4) Where a district boundary is indicated to follow a river, creek, branch, or other body of water, said boundary shall be construed to follow the centerline at low water or the limit of the jurisdiction, and in the event of change in the shoreline such boundary shall be construed as moving with the actual

shoreline.

(5) If no distance, angle, curvature description, or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the boundary line shall be a property line or extension of a property line determined by the use scale shown on the official zoning map. In case of subsequent dispute, the matter shall be referred to the board of zoning appeals, which shall determine the boundary.

Sec. 12.5. Repealed 4/2/12.

Sec. 12.6. Effective date.

The effective date of this ordinance shall be from and after its passage and legal application, and its provisions shall be in force thereafter until repealed.

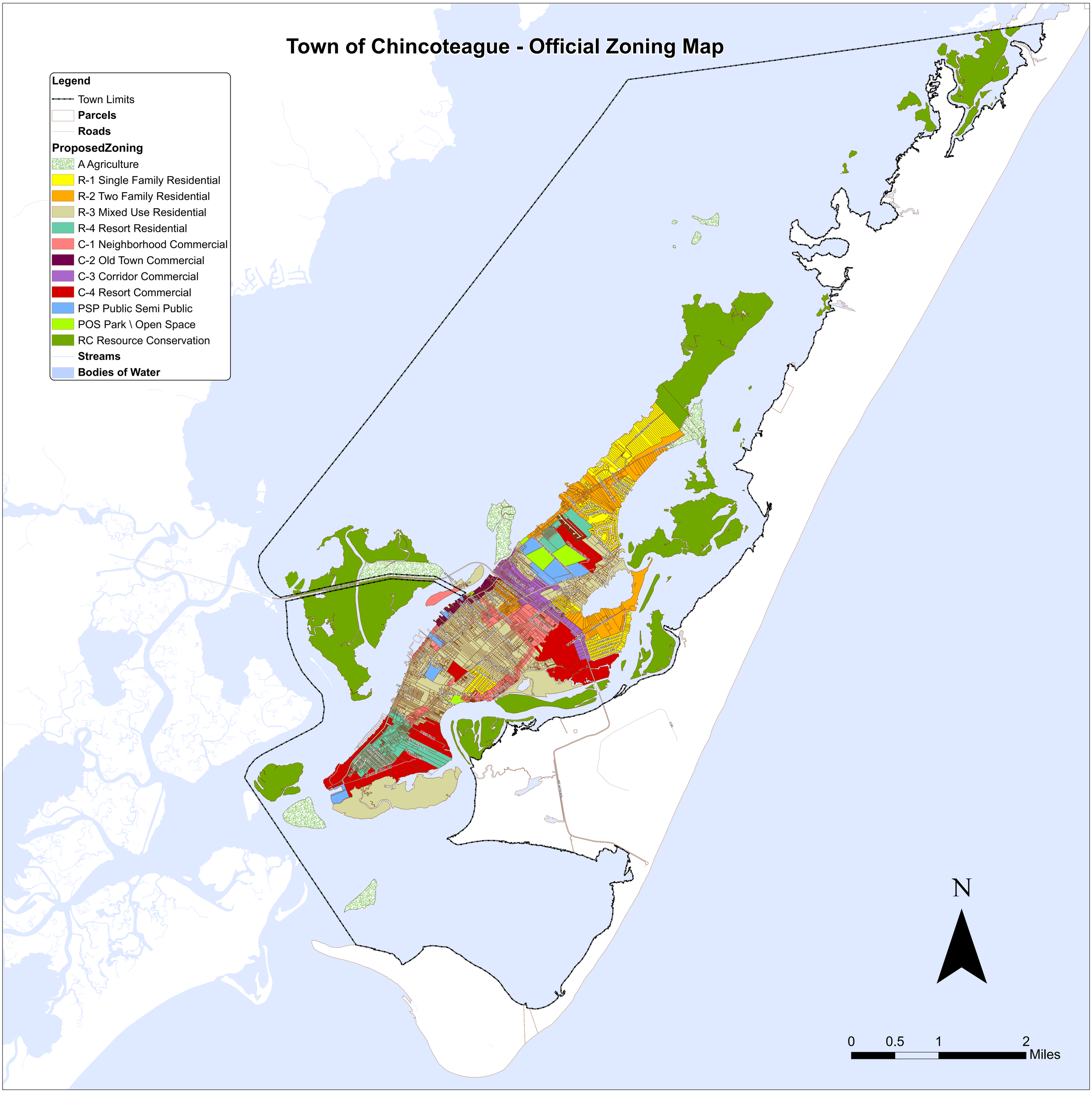
Sec. 12.7. Severability.

Should any section or provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

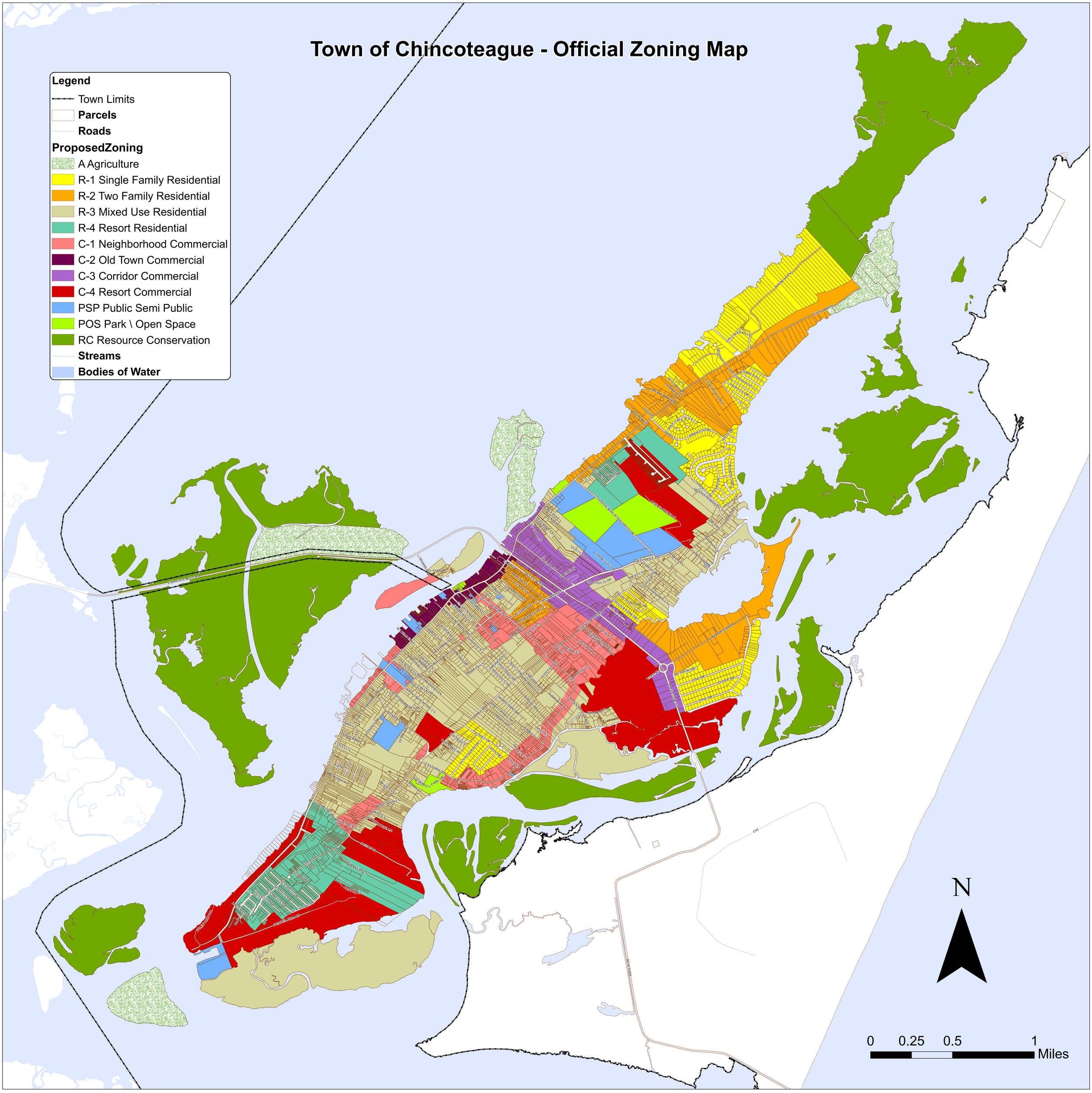
Sec. 12.8. Conflicting ordinances.

All conflicting ordinances or parts thereof which are inconsistent with the provisions of this ordinance are hereby repealed.

Town of Chincoteague - Official Zoning Map



Town of Chincoteague - Official Zoning Map



APPENDIX B

LAND SUBDIVISION AND DEVELOPMENT*

Introduction

Sec. 1. Title and purpose.
Sec. 2. Definitions.
Sec. 3. Conformance required.
Sec. 4. Interpretation and application of standards.
Sec. 5. Private contracts.
Sec. 6. [Fees and charges.]
Sec. 7. Municipal liability.
Sec. 8. Territory affected.
Sec. 9. Administration and enforcement.
Sec. 10. Variance.
Sec. 11. Appeals.
Sec. 12. Amendments.
Sec. 13. Subdivision defined.
Sec. 14. Major subdivision.
Sec. 15. Minor subdivisions.
Sec. 16. Design standards.
Sec. 17. Validity clause.

Addendum 1

Addendum 2

Addendum 3

***Note--**Printed herein is the land subdivision and development ordinance, as adopted by the council on June 15, 1995, and effective on July 1, 1995. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

Charter references--Subdivisions, ch. 2, § 1(51), (56); town plan, ch. 3.

Cross references--Buildings and building regulations, ch. 14; environment, ch. 22; floods, ch. 30; zoning, app. A; planning, subdivision of land and zoning enabling legislation, app. A, § 2.121; subdivision, app. A, § 2.159.

State law references--Land subdivision and development, Code of Virginia, § 15.2-2240 et seq.; Virginia Public Records Act, Code of Virginia, § 42.1- 76 et seq.; Subdivided Land Sales Act of 1978, Code of Virginia, § 55-336 et seq.

CHINCOTEAGUE CODE

Addendum 4

Addendum 5

Addendum 6

INTRODUCTION

An ordinance to regulate the subdivision of property into lots, parcels, streets and other public areas, to provide for the making and recording of plats of such subdivisions and the certification of same and provide for approval of plats.

WHEREAS, in article 6 of the Virginia Planning Act, found in Code of Virginia, § 15.2-2240 et seq., as amended, the town council of Chincoteague, Virginia is authorized to adopt a subdivision ordinance to provide:

1. For plat details which shall meet the standard for plats as adopted under § 42.1-82 of the Virginia Public Records Act (Code of Virginia, § 42.1-76 et seq.).

2. For the coordination of streets within and contiguous to the subdivision with other existing or planned streets within the general area as to location, widths, grades and drainage, including, for ordinances and amendments thereto adopted on or after January 1, 1990, for the coordination of such streets with existing or planned streets in existing or future adjacent or contiguous to adjacent subdivisions.

3. For adequate provisions for drainage and flood control and other public purposes, and for light and air, and for identifying soil characteristics.

4. For the extent to which and the manner in which streets shall be graded, graveled or otherwise improved and water and storm and sanitary sewer and other public utilities or other community facilities are to be installed.

5. For the acceptance of dedication for public use of any right-of-way located within any subdivision or section thereof, which has constructed or proposed to be constructed within the subdivision or section thereof, any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, water line as part of a public system or other improvement dedicated for public use, and maintained by the locality, the commonwealth, or other public agency, and for the provision of other site-related improvements required by local ordinances for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for stormwater management facilities, financed or to be financed in whole or in part by private funds only if the owner or developer (i) certifies to the governing body that the construction costs have been paid to the person constructing such facilities; (ii) furnishes to the governing body a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the governing body or its designated administrative agency, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or (iii) furnishes to the governing body a bank or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency as to the bank or savings institution, the amount and the form. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the

total of the estimated cost of construction based on unit prices for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed 25 percent of the estimated construction costs.

If a developer records a final plat which may be a section of a subdivision as shown on an approved preliminary plat and furnishes to the governing body a certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the commonwealth, or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plat for a period of five years from the recordation date of the first section, or for such longer period as the local commission or other agent may, at the approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development, subject to the terms and conditions of this subsection and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded. In the event a governing body of a county, wherein the highway system is maintained by the department of transportation, has accepted the dedication of a road for public use and such road due to factors other than its quality of construction is not acceptable into the secondary system of state highways, then such governing body may, if so provided by its subdivision ordinance, require the subdivider or developer to furnish the county with a maintenance and indemnifying bond, with surety satisfactory to the governing body or its designated administrative agency, in an amount sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways. In lieu of such bond, the governing body or its designated administrative agency may accept a bank, or savings institution's letter of credit on certain designated funds satisfactory to the governing body or its designated administrative agency as to the bank or savings institution, the amount and the form, or accept payment of a negotiated sum of money sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways and assume the subdivider's or developer's liability for maintenance of such road. "Maintenance of such road," as used in this section, means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage.

6. For conveyance, in appropriate cases, of common or shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision. Such easements, the location of which shall be adequate for use by public service corporations and franchised cable television operators which may be expected to occupy them, may be conveyed by reference on the final plat to a declaration of the terms and conditions of such common easements and recorded in the land records of the county or city.

7. For monuments of specific types to be installed establishing street and property lines.

8. That unless a plat is filed for recordation within six months after final approval thereof or such longer period as may be approved by the governing body, such approval shall be withdrawn and the plat marked void and returned to the approving official; however, in any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the governing body or its designated administrative agency, or where the developer has furnished surety to the governing body or its designated administrative agency by certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the governing body or its designated administrative agency, whichever is greater.

9. For the administration and enforcement of such ordinance, not inconsistent with provisions contained in this chapter [appendix], and specifically for the imposition of reasonable fees and charges for the review of plats and plans, and for the inspection of facilities required by any such ordinance to be installed; such fees and charges shall in no instance exceed an amount commensurate with the services rendered taking into consideration the time, skill and administrator's expense involved. All such charges heretofore made are hereby validated.

10. For payment by a subdivider or developer of land of the pro rata share of the cost of providing reasonable and necessary sewerage, water, and drainage facilities, located outside the property limits of the land owned or controlled by the subdivider or developer but necessitated or required, at least in part, by the construction or improvement of the subdivision or development; however, no such payment shall be required until such time as the governing body or a designated department or agency thereof has established a general sewer, water, and drainage improvement program for an area having related and common sewer, water, and drainage conditions and within which the land owned or controlled by the subdivider or developer is located or the governing body has committed itself by ordinance to the establishment of such a program. Such regulations or ordinance shall set forth and establish reasonable standards to determine the proportionate share of total estimated cost of ultimate sewerage, water, and drainage facilities required to adequately serve a related and common area, when and if fully developed in accord with the adopted comprehensive plan, that shall be borne by each subdivider or developer within the area. Such share shall be limited to the proportion of such total estimated cost which the increased sewage flow, water flow, and/or increased volume and velocity of stormwater runoff to be actually caused by the subdivision or development bears to total estimated volume and velocity of such sewage, water, and/or runoff from such area in its fully developed state. In calculating the volume and velocity of stormwater runoff, the governing body shall take into account the effect of all on-site stormwater facilities or best management practices constructed or required to be constructed by the subdivider or developer and give appropriate credit therefor.

    Each such payment received shall be expended only for necessary engineering and related studies and the construction of those facilities identified in the established sewer, water, and drainage program; however, in lieu of such payment the governing body may

provide for the posting of a personal, corporate or property bond, cash escrow or other method of performance guarantee satisfactory to it conditioned on payment at commencement of such studies or construction. The payments received shall be kept in a separate account for each of the individual improvement programs until such time as they are expended for the improvement program. All bonds, payments, cash escrows or other performance guarantees hereunder shall be released and used, with any interest earned, as a tax credit on the real estate taxes on the property if construction of the facilities identified in the established water, sewer and drainage programs is not commenced within 12 years from the date of the posting of the bond, payment, cash escrow or other performance guarantee.

11. (a) For reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, subject only to any express requirement contained in the Code of Virginia and to any requirement imposed by the local governing body that all lots of less than five acres have reasonable right-of-way of not less than ten feet or more than 20 feet providing ingress and egress to a dedicated recorded public street or thoroughfare. Only one such division shall be allowed per family member, and shall not be for the purpose of circumventing this subsection. For the purpose of this provision, a member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, or parent of the owner. In addition, any such locality may include aunts, uncles, nieces and nephews in its definition of immediate family.

(b) Notwithstanding provision (A) of this subsection, in a county having the urban county executive form of government, for reasonable provisions permitting a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, subject only to any express requirement contained in the Code of Virginia and to any requirement imposed by the local governing body that all lots of less than five acres have frontage of not less than ten feet or more than 20 feet on a dedicated recorded public street or thorough- fare. Only one such division shall be allowed per family member, and the division shall not be for the purpose of circumventing a local subdivision ordinance. For the purpose of this provision, a member of the immediate family is defined as any person who is a natural or legally defined offspring or parent of the owner.

(c) Notwithstanding provisions (A) and (B) of this subsection, reasonable provisions permitting divisions of lots or parcels for the purpose of sale or gift to a member of the immediate family of the property owner in (i) any county or city which has had population growth of ten percent or more from the next-to-latest to latest decennial census year, based on population reported by the United States Bureau of the Census; (i) any city or county adjoining such city or county; (iii) any towns located within such county; and (iv) any county contiguous with at least three such counties, and any town located in that county. Such divisions shall be subject to all requirements of the Code of Virginia and to any requirements imposed by the local governing body.

12. (a) For the periodic partial and final complete release of any bond, escrow, letter of

credit, or other performance guarantee required by the governing body under this article [introduction] within 30 days after receipt of written notice by the subdivider or developer of completion of part or all of any facilities required to be constructed hereunder unless the governing body or its designated administrative agency notifies the subdivider or developer in writing of nonreceipt of approval by an applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the 30-day period.

If no such action is taken by the governing body or administrative agency within the time specified above, the request shall be deemed approved, and a partial release granted to the subdivider or developer. No final release shall be granted until after expiration of such 30-day period and there is an additional request in writing sent by certified mail return receipt to the chief administrative officer of such governing body. The governing body or its designated administrative agency shall act within ten working days of receipt of the request; then if no action is taken the request shall be deemed approved and final release granted to the subdivider or developer.

After receipt of the written notices required above, if the governing body or administrative agency takes no action within the times specified above and the subdivider or developer files suit in the local circuit court to obtain partial or final release of a bond, escrow, letter of credit, or other performance guarantee, as the case may be, the circuit court, upon finding the governing body or its administrative agency was without good cause in failing to act, shall award such subdivider or developer his reasonable costs and attorneys' fees.

No governing body or administrative agency shall refuse to make a periodic partial or final release of a bond, escrow, letter of credit, or other performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the facilities covered by said bond, escrow, letter of credit or other performance guarantee.

Upon written request by the subdivider or developer, the governing body or its designated administrative agency shall be required to make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than 90 percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, and may make partial releases to such lower amounts as may be authorized by the governing body or its designated administrative agency based upon the percentage of facilities completed and approved by the governing body, local administrative agency, or state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least 30 percent of the facilities covered by any bond, escrow, letter of credit, or other performance guarantee. The governing body or administrative agency shall not be required to execute more than three periodic partial releases in any 12-month period. Upon final completion and acceptance of the facilities, the governing body or administrative agency shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the subdivider or developer. For the purpose of final release, the term "acceptance" means: when the public facility is accepted by and taken over for operation and

maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and operating such facility upon acceptance.

For the purposes of this subsection, a certificate of partial or final completion of such facilities from either a duly licensed professional engineer or land surveyor, as defined in and limited to Code of Virginia, § 54.1-400, or from a department or agency designated by the locality may be accepted without requiring further inspection of such facilities.

(b) A subdivision ordinance may include:

(1) Provisions for variations in or exceptions to the general regulations of the subdivision ordinance in cases of unusual situations or when strict adherence to the general regulations would result in substantial injustice or hardship.

(2) A requirement for the furnishing of a preliminary opinion from the applicable health official regarding the suitability of a subdivision for installation of subsurface sewage disposal systems where such method of sewage disposal is to be utilized in the development of a subdivision.

(3) A requirement that, in the event streets in a subdivision will not be constructed to meet the standards necessary for inclusion in the secondary system of state highways or for state street maintenance moneys paid to municipalities, the subdivision plat and all approved deeds of subdivision, or similar instruments, must contain a statement advising that the streets in the subdivision do not meet state standards and will not be maintained by the department of transportation or the localities enacting the ordinances. Grantors of any subdivision lots to which such statement applies must include the statement on each deed of conveyance thereof. However, localities in their ordinances may establish minimum standards for construction of streets that will not be built to state standards.

For streets constructed or to be constructed, as provided for in this provision, a subdivision ordinance may require that the same procedure be followed as that set forth in Code of Virginia, § 15.2-2241(5). Further, the subdivision ordinance may provide that the developer's financial commitment shall continue until such time as the local government releases such financial commitment in accordance with Code of Virginia, § 15.2-2241(11).

(4) Reasonable provision for the voluntary funding of off-site road improvements and reimbursements of advances by the governing body. If a subdivider or developer makes an advance of payments for or construction of reasonable and necessary road improvements located outside the property limits of the land owned or controlled by him, the need for which is substantially generated and reasonably required by the construction or improvement of his subdivision or development, and such advance is accepted, the governing body may agree to reimburse the subdivider or developer from such funds as

the governing body may make available for such purpose from time to time for the cost of such advance together with interest, which shall be excludable from gross income for federal income tax purposes, at a rate equal to the rate of interest on bonds most recently issued by the governing body on the following terms and conditions:

a. The governing body shall determine or confirm that the road improvements were substantially generated and reasonably required by the construction or improvement of the subdivision or development and shall determine or confirm the cost thereof, on the basis of a study or studies conducted by qualified traffic engineers and approved and accepted by the subdivider or developer.

b. The governing body shall prepare, or cause to be prepared, a report accepted and approved by the subdivider or developer, indicating the governmental services required to be furnished to the subdivision or development and an estimate of the annual cost thereof for the period during which the reimbursement is to be made to the subdivider or developer.

c. The governing body may make annual reimbursements to the subdivider or developer from funds made available for such purpose from time to time, including but not limited to real estate taxes assessed and collected against the land and improvements on the property included in the subdivision or development in amounts equal to the amount by which such real estate taxes exceed the annual cost of providing reasonable and necessary governmental services to such subdivision or development.

(5) In a county having the urban county executive form of government, in any city located within or adjacent thereto, or any county adjacent thereto or a town located within such county, in any county with a population between 57,000 and 57,450, or in any county with a population between 60,000 and 63,000, and in any city with a population between 140,000 and 160,000, provisions for payment by a subdivider or developer of land of a pro rata share of the cost of reasonable and necessary road improvements, located outside the property limits of the land owned or controlled by him but serving an area having related traffic needs to which his subdivision or development will contribute, to reimburse an initial subdivider or developer who has advanced such costs or constructed such road improvements. Such ordinance may apply to road improvements constructed after July 1, 1988, in a county having the urban county executive form of government; in a city located within or adjacent to a county having the urban county executive form of government, or in a county adjacent to a county having the urban county executive form of government or town located within such county and in any county with a population between 57,000 and 57,450, or in any county with a population between 60,000 and 63,000, such ordinance may only apply to road improvements constructed after the effective date of such ordinance.

Such provisions shall provide for the adoption of a pro rata reimbursement plan which shall include reasonable standards to identify the area having related traffic needs, to determine the total estimated or actual cost of road improvements required to adequately serve the area when fully developed in accordance with the comprehensive plan or as required by proffered conditions, and to determine the proportionate share of such costs to be reimbursed by each subsequent subdivider or developer within the area, with interest (i) at the legal rate or (ii) at an inflation rate prescribed by a generally accepted index of road construction costs, whichever is less.

For any subdivision ordinance adopted pursuant to provision (5) of this subsection after February 1, 1993, no such payment shall be assessed or imposed upon a subsequent developer or subdivider if (i) prior to the adoption of a pro rata reimbursement plan the subsequent subdivider or developer has proffered conditions pursuant to Code of Virginia, § 15.2-2303 for off-site road improvements and such proffered conditions have been accepted by the locality, (ii) the locality has assessed or imposed an impact fee on the subsequent development or subdivision pursuant to Code of Virginia, § 15.2-2317 et seq., or (iii) the subsequent subdivider or developer has received final site plan, subdivision plan, or plan of development approval from the locality prior to the adoption of a pro rata reimbursement plan for the area having related traffic needs.

The amount of the costs to be reimbursed by a subsequent developer or subdivider shall be determined before or at the time the site plan or subdivision is approved. The ordinance shall specify that such costs are to be collected at the time of the issuance of a temporary or final certificate of occupancy or functional use and occupancy within the development, whichever shall come first. The ordinance also may provide that the required reimbursement may be paid (i) in lump sum, (ii) by agreement of the parties on installment at a reasonable rate of interest or rate of inflation, whichever is less, for a fixed number of years, or (iii) on such terms as otherwise agreed to by the initial and subsequent subdividers and developers.

Such ordinance provisions may provide that no certificate of occupancy shall be issued to a subsequent developer or subdivider until (i) the initial developer certifies to the locality that the subsequent developer has made the required reimbursement directly to him as provided above or (ii) the subsequent developer has deposited the reimbursement amount with the locality for transfer forthwith to the initial developer.

(6) Provisions for establishing and maintaining access to solar energy to encourage the use of solar heating and cooling devices in new subdivisions. The provisions shall be applicable to a new subdivision only when so requested by the subdivider.

(c) Site plans or plans of development which are required to be submitted and approved in accordance with Code of Virginia, § 15.2-2286(8) shall be subject to the

provisions of Code of Virginia, §§ 15.2-2241-15.2-2245, mutatis mutandis.
State law reference--Similar provisions, Code of Virginia, §§ 15.2-2241-15.2-2246.

And whereas such subdivision may contain reasonable provisions that apply to or provide: [sic]

Now therefore be ordained as follows:

Section 1. Title and purpose.

1.01.*Title.* This ordinance shall be known and may be cited as the "Land Subdivision and Development Ordinance of the Town of Chincoteague, Virginia."

1.02.*Purpose.* The purpose of this ordinance is to establish standards and procedures for the orderly subdivision of land and its development within the Town of Chincoteague, as part of a comprehensive and long-range plan to facilitate the orderly economic growth of the community, and to promote the public health, safety, convenience, comfort, prosperity and general welfare.

Section 2. Definitions.

2.01.*General provisions.* For the purpose of this ordinance, terms or words used herein shall have the following meanings:

(a) The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

(b) The present tense includes the future tense.

(c) The singular numbers include the plural; the plural number includes the singular.

(d) The word "shall" is mandatory; the word "may" is discretionary.

(e) Any reference to "this ordinance" includes all amendments thereto.

2.02.*Definitions.* For the purpose of this ordinance the following definitions shall apply:

Agent. The designated representative of the governing body who has been appointed to serve as the agent of the council in approving plats to act hereunder. The zoning administrator shall be designated as the minor subdivision agent. The planning commission shall be designated as the major subdivision agent.

Board of zoning appeals. The board of zoning appeals of the Town of Chincoteague.

Building. Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals or chattels.

Campgrounds and travel trailer parks. Campgrounds and travel trailer parks where sites are rented or leased shall not be required to comply with this ordinance.

Chincoteague. The incorporated Town of Chincoteague, Virginia.

Clerk of the court. The clerk of the circuit court of Accomack County, Virginia.

Community sewer system. A central sewer system, privately operated, designed to serve two or more dwellings, lots or structures; as opposed to a public system established under the rules and regulations of the State of Virginia state [sic] and operated by [a] municipality or other public entity.

Comprehensive plan. The comprehensive plan of the Town of Chincoteague.

Cul-de-sac. A short street having one end open to traffic and having the other end terminated by a vehicle turnaround space.

Developer. Any owner of real estate intending to have such property subdivided, or his duly authorized agent.

Easement. A grant by a property owner to another person or a public entity the use of land for a specific purpose, which grant does not convey fee simple title.

Engineer. A professional engineer licensed by the Commonwealth of Virginia.

Governing body. The town council, Chincoteague, Virginia.

Health officer. The health director or a designated representative for Accomack County, Virginia.

Highway engineer. The director of public works for the Town of Chincoteague.

Improvements. Physical additions, installations and changes such as roads, curbs, sidewalks, drainways, water mains, sewers, and septic systems, public utilities and other items customarily associated with making land suitable for the use proposed.

Jurisdiction. The area or territory subject to legislative control of the governing body.

Lot. A numbered and recorded portion of a subdivision intended for transfer of ownership, lease, rental, building development or any other purpose, and such definition shall not include any land within the limits of a public or private right-of-way.

Lot, corner. A lot abutting upon two or more streets at their intersection. The shortest side fronting upon a street shall be considered the front of the lot and the longest side fronting upon a street shall be considered the side of the lot.

Lot, depth of. The mean horizontal distance between the front and rear lot lines.

Lot, double frontage. An interior lot having frontage of two streets.

Lot, interior. A lot other than a corner lot.

Lot of record. A lot which has been recorded among the land records in the office of the clerk of the circuit court of Accomack County, Virginia prior to enactment of this ordinance.

Lot, width of. The mean horizontal distance between the side lot lines.

Open space. An area designated, developed or set aside for recreational or agricultural use, and not including space devoted to roads or parking.

Parcel. A contiguous area of land in single ownership and described within a single deed. The term "parcel" includes the words "lot," "tract," and "plot."

Performance bond. A bond with approved surety and/or cash deposit, approved by the governing body in an amount equal to the full cost of improvements to be dedicated to public use or which will affect the public health, safety and welfare; such as drainage facilities, soil erosion and sedimentation [control] measures, and utilities, as may be required by the ordinance and providing for completion of such improvements within a definite term.

Planning commission. The planning commission of the Town of Chincoteague acting as major subdivision agent for the town council.

Plat. A map or plan of a tract or parcel of land which is to be or which has been subdivided. When used as a verb "plat" is synonymous with "subdivide."

Property. Any parcel or contiguous parcels collected together for the purpose of subdividing.

Remnants or *outlot.* Any parcel or portion thereof other than specified for open space, parkland, drainfield lots or other designated area approved by the subdivision agent which are below the minimum lot size as required by the zoning ordinance.

Right-of-way. A strip of land dedicated or reserved for a road, crosswalk, sanitary or storm sewer, water main, drainage facility, public utilities, or other specific use to serve the lots within a subdivision. Any right-of-way for subdivision planning purposes under this ordinance shall be required to be specifically shown on any plat. Any such right-of-way shall not be situated within the dimensions or area of any such platted lot, unless specifically permitted hereunder.
(Amended 9/4/07)

Road. Any public or private way set aside as a permanent right-of-way for vehicular traffic that results from the subdivision of land, including the entire area within the right-of-way. For purposes of theis ordinance the term “road” shall not include, except as may be specifically required by the Virginia Department of Transporation’s Subdivision Street Requirements, effective January 1, 2005, for inclusion into the secondary system of state highways, those areas within approved townhouse or condominium complexes designated for resident or guest parking and/or utilized to provide ingress and/or egress to and from such designated parking areas.

The term “road shall include, for the purposes of this ordinance, the words street, highway, avenue, boulevard, alley, lane, and drive.
(Amended 9/4/07)

Road, collector. A heavily traveled road that carries a large volume of through traffic or anticipated traffic as well as affording access to abutting properties.

Road, local. A lightly traveled road which is used primarily as a means of public access to abutting properties, and which may carry a small amount of through traffic.

Road, private. A road owned by one or more persons, restricted in use and not maintained by the Town of Chincoteague, the Virginia Department of Transportation, and one not intended for acceptance by the developer into the state highway system.
(Amended 9/4/07)

Road, public. A road maintained by the Town of Chincoteague, the Virginia Department of Transportation or one intended for acceptance into the state highway system and approved by the roads engineer as meeting Virginia Department of Transportation Subdivision Street Requirements, as herein provided.
(Amended 9/4/07)

Road right-of-way width. The total width of the strip of land dedicated or reserved for travel including roadway, curb, gutters, drainage ditches, sidewalks, medians and planting strips.

Roads engineer. The public works director for the Town of Chincoteague.

School board. The school board of Accomack County, Virginia.

Sediment basins, debris basins. A temporary or permanent earth-fill-type dam or barrier downstream from a development area which serves to regulate runoff and trap sediment.

Sedimentation. The action or process of depositing material caused by water or wind.

Setback lines. Lines which describe the front, rear and side yard and shoreline building setbacks required for the subject land by the Town of Chincoteague zoning ordinance.

Subdivide. The process of dividing land to establish a subdivision.
Subdivider. An individual, corporation, proprietor, trust, trustee, joint venture, partnership, or other unincorporated association, owning any tract, lot, or parcel of land to be subdivided, who have [has] given their power of attorney to one of their group or to another individual or entity to act on their behalf in planning, negotiating for, in representing or executing the legal requirements of the subdivision.

Subdivision. See section 13.

Surveyor. A professional surveyor licensed by the Commonwealth of Virginia.

Zoning administrator. The zoning administrator of the Town of Chincoteague, acting as minor subdivision agent for the town council.

Zoning ordinance. The zoning ordinance of the Town of Chincoteague.

Section 3. Conformance required.

3.01.It shall hereafter be unlawful to subdivide any land within the subdivision jurisdiction of

the Town of Chincoteague, except in conformance with the standards and procedures of this ordinance. Specifically, any owner or developer of any parcel of land who subdivides the same shall cause a proper plat of such subdivision to be made and recorded in the office of the clerk of the court. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved and certified in accordance with the regulations set forth in this ordinance. No lot shall be sold or transferred in any such subdivision before a plat of the subdivision shall have been recorded. Furthermore, no subdivision plat shall be exhibited in promoting the sale of such subdivision lots until said plat has been recorded.

The clerk of the court, in accordance with Code of Virginia, § 15.2-2254(5), shall not file or record a plat of a subdivision until such plat has been approved as required herein.

Section 4. Interpretation and application of standards.

4.01.In their interpretation and application, the standards of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Whenever these standards are at variance with the standards of any other lawfully adopted laws, rules, regulations or ordinances, the most restrictive or that imposing the higher standard shall govern.

Section 5. Private contracts.

5.01.This ordinance bears no relation to any private easement, deed restriction, covenants, agreement or other contract, except those to which the town council are a party, and the town has no responsibility for enforcing such private contracts except those to which it is a party.

Section 6. [Fees and charges.]

6.01.The town council shall establish a schedule of fees and charges to examine and approve or disapprove every plan or plat reviewed under this ordinance. Such schedule of fees and charges shall be posted in the office of the zoning administrator and may be amended only by action of the town council upon the recommendation of the planning commission. All applicable fees and charges shall be paid at the time the plan or plat is submitted. No plan or plat shall be considered complete, and no action shall be taken on any plan or plat until all applicable fees and charges have been paid.

Section 7. Municipal liability.

7.01.The approval of a subdivision plat shall not be interpreted as a guarantee by the Town of Chincoteague of the suitability of any parcel or lot within the subdivision for development or use, freedom of such lot from flood hazard, or any other dangers, hazards, inconveniences or expenses related thereto.

Section 8. Territory affected.

8.01.This ordinance shall apply to all lands, wetlands, and water areas within the Town of Chincoteague.

Section 9. Administration and enforcement.

9.01.*Administration*. This ordinance shall be administered and enforced by the zoning

administrator. The zoning administrator may develop such forms, administrative procedures and files and may delegate such duties and responsibilities in connection with the administration and enforcement of this ordinance as are appropriate, in his judgment.

In the performance of his duties, the zoning administrator may request the comments and recommendations, either verbal or written, from town, county, and state departments.

9.02. *Other officials shall comply.* All Town of Chincoteague officials and departments that are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this ordinance and shall not issue any permit or license for any use, building or purpose if such use, building or purpose is in conflict with the provisions of this ordinance. Any permit or license issued in conflict with the provisions of this ordinance shall be null and void.

9.03. *Violations.* If the zoning administrator shall find that any of the provisions of this ordinance are being violated, he shall notify by certified mail the person responsible for such violation and the chairman of the planning commission and the mayor of Chincoteague, indicating the nature of the violation and ordering the violation corrected within a reasonable period of time as determined by the zoning administrator. If at the conclusion of such reasonable period, the violation has not, in his judgment, been satisfactorily corrected, then the zoning administrator shall consult with the commonwealth's attorney and, with the attorney's assistance, may seek a court order or injunction to bring about correction of the violation, and he may take any other action authorized by law to insure compliance with or prevent future violations of the provisions of this ordinance. The zoning administrator, or his agent, shall have the right to enter all private property, after proper notification has been given to the property owner, during normal business hours, as may be reasonably necessary for the purpose of administering and enforcing this ordinance.

9.04. *Penalties.* Any person who subdivides a parcel of land, except in accordance with the provisions of this ordinance, or who otherwise violates any of the provisions of this ordinance, shall be guilty of a misdemeanor, punishable by a fine of not more than $500.00 per day for each lot or parcel so subdivided, transferred, sold or offered for sale in violation of this ordinance. The description of such lots or parcels by metes and bounds or other means in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

Any conveyance of a lot or parcel of land in violation of the provisions of these regulations shall be voidable at the option of the purchaser.

The governing body or its agent, in addition to other remedies, may institute any appropriate action or proceeding at law or in equity, to prevent violation or attempted violation; to restrain, correct, or abate such violation; or to prevent any act which would constitute such violation.

Cross reference--Administration, ch. 2.

Section 10. Variance.

10.01. Where the developer can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, and where, because of topographical or other conditions peculiar to the site, in the opinion of the board of zoning appeals, a departure from the

provisions of this ordinance may be made without being inconsistent with the intent of such provisions, the board of zoning appeals may authorize a variance. Any variance thus authorized shall be stated in writing in the authority's report and shall be granted justification for granting such a variance. No such variance shall be granted under this ordinance, which is opposed in writing by the Virginia Department of Transportation Engineer, Chincoteague Public Works Director, health officer, zoning administrator or building inspector, except as provided for in section 11.

Section 11. Appeals.

11.01. *Appeals from the zoning administrator.* Any individual who believes he has been aggrieved by a decision of the zoning administrator may appeal such decision to the planning commission by submitting a written statement to the planning commission setting forth the particulars of the matter. The planning commission shall investigate the matter and may interview the plaintiff, the zoning administrator and others. By a majority vote, the planning commission shall either affirm, modify or overturn the decision of the zoning administrator.

11.02. *Appeals from the planning commission.* Any individual who believes he has been aggrieved by a decision of the planning commission may appeal such decision to the town council by submitting a written statement to the town council setting forth the particulars of the matter. The town council shall investigate the matter and may interview the plaintiff, the planning commission and others. By a majority vote, the town council shall either affirm, modify or overturn the decision of the planning commission.

11.03. *Appeals from the town council.* Any individual who believes he has been aggrieved by a decision of the town council may appeal such decision to the circuit court of Accomack County, Virginia in the manner prescribed by state law.

Section 12. Amendments.

12.01. Any individual or government agency may propose an amendment to this ordinance by addressing such proposal in writing to either the town councilor the planning commission, and forwarding it to the office of the zoning administrator. The planning commission on its own initiative may, or at the request of the governing body shall, prepare and recommend a draft amendment.

All proposed amendments shall be referred to the planning commission for its review. The planning commission may undertake studies and may hold a public hearing as part of its review. At the conclusion of its review, the planning commission shall formulate and forward to the town council a written recommendation concerning the proposed amendment. If the amendment was referred to the planning commission by the town council, the planning commission shall submit its recommendation to the town council not later than 60 days from the date of such referral.

The town council shall not act on any proposed amendment to the ordinance without first receiving the planning commission's recommendation or until the 60-day referral period has expired and without first conducting a public hearing. Notice of such public hearing shall be in compliance with Code of Virginia, § 15.2-2204, as amended.

Section 13. Subdivision defined.

13.01. The division of a parcel of land and the establishment of any condominium regime, into four or more lots or parcels less than three acres each for the purpose of transfer of ownership or building development, or if a new street or road is involved in such division, any division of a parcel of land. The term includes resubdivision and when appropriate to the context shall relate to the process of subdividing or to the land subdivided; except that the following division of land shall not be deemed a subdivision:

(a) The sale and exchange of parcels between adjoining landowners where such separation does not create additional building sites.

(b) The release of a portion of the security of any mortgage or deed of trust, provided that any sale of property presented to any mortgage or deed of trust which would otherwise constitute a subdivision of land shall be subject to the provisions of this ordinance.

(c) The division of any parcel occasioned by an exercise of eminent domain by any public agency.

(d) The division of land made solely for bona fide agricultural or natural resource conservation purposes.

(e) The division of land for sale or gift to a member of the owner's immediate family.

13.02. *Major subdivision defined.* A "major subdivision" is a subdivision as defined in subsection 13.01 above which complies with the following:

(a) Creates 11 or more lots from a parcel or parcels of land.

13.03. *Minor subdivision defined.* A "minor subdivision" is a subdivision as defined in subsection 13.01 above, which does not meet any of the conditions of a major subdivision as defined in subsection 13.02 above.

Section 14. Major subdivision.

14.01. *Purpose.* The purpose of the major subdivision review process is to ensure that larger scale developments are fully reviewed by the planning commission for compliance with the provisions of this ordinance and other applicable county and state regulations.

14.02. *Procedure for review of a subdivision.*

(a) Submittal of sketch plan (optional), zoning administrator review.

(b) Submittal of preliminary (mandatory), zoning administrator approval.

(c) Submittal of final (mandatory), planning commission approval.

Before the preparation of a subdivision plat or plan, a subdivider shall confer with the zoning administrator for the town council, relative to the regulations contained in this ordinance, the comprehensive plan, the zoning ordinance, and other applicable ordinances. The purpose of such

a conference is to assure that the applicant is made fully aware of all the requirements and interpretations of the existing ordinance, plus any amendments which are pending at the time of the plan or plat preparation. A sketch plan for discussion purposes may be submitted at the conference and shall be optional at the developer's discretion and shall not be a prerequisite for any final approvals.

14.03. *Procedures for review of the preliminary plat.* The purpose of the preliminary plat is to provide for the formal review of the developer's detailed and engineered subdivision plans, by the zoning administrator, to determine what changes must be made prior to the submission of a final plat. Submission of preliminary plat is mandatory and is a prerequisite for approval of the final plat by the planning commission. The following procedure shall be used to review a preliminary plat:

(a) The developer shall prepare an application on forms (addendum 3) available from the zoning administrator and shall prepare the preliminary plat and applicable supporting documents in accordance with the provisions of subsection 14.05 and section 16 hereof. The preliminary plat and plans shall be prepared and signed by a qualified surveyor or engineer as defined herein.

(b) The developer shall submit four paper copies of the plat and supporting documents and three copies of the application along with the appropriate fees to the zoning administrator. (Please refer to addendum 2.) The zoning administrator may request additional copies of the submission.

(c) The zoning administrator shall check the submission for compliance with the requirements of this ordinance and other applicable ordinances. If deficiencies are found, the zoning administrator shall return the submission to the developer with notations of the additions or corrections needed.

(d) Upon receipt of a complete submission, the zoning administrator shall distribute copies of the submission to the following agencies and officials who shall review the submission and forward their comments to the zoning administrator within 21 days:

1. Highway engineer.
2. Sanitarian, Eastern Shore Health District.
3. Each utility company which would be responsible for providing utility service to the subdivision.
4. Such other agencies as the zoning administrator believes appropriate, either for comment or information purposes.
5. All abutting property owners shall be notified.

(e) Upon the compliance with 14.03(D), the zoning administrator shall review the submission for compliance with comments received and return the preliminary submission to the applicant with a written statement referring to its approval or

disapproval, with reason for disapproval within eight days of the time specified in subsection 14.03(D).

(f) Upon an approval by the zoning administrator, the zoning administrator shall indicate to the applicant a date and time for review and action on the final plan or plat by the planning commission.

14.04. *Approval of the preliminary plat.* Subdividers shall have not more than 12 months after receiving official notification of approval to file with the zoning administrator a final subdivision plat in accordance with this ordinance. Failure to do so shall render preliminary approval null and void. The town council may, on written request by the subdivider, grant a one-year extension of this time limit.

14.05. *Information and drafting standards required for the preliminary plat.*

(a) *Drafting standards.* The plat shall be drawn on one or more numbered sheets at a scale of 100 feet to the inch or less. Where conditions warrant, as determined by the zoning administrator, preliminary plats at 1" = 200' may be accepted. All drafting and lettering shall be clear and neat and drawn so as to be legible if the sheets should be reduced to half size. The plat shall clearly indicate which features are existing and which are proposed. The perimeter boundary line of the subdivision shall be shown as a heavy solid line. When more than one sheet is used, each sheet shall be numbered and shall show its relationship to the total number of sheets.

(b) *Surveying accuracy.* Distances shall be expressed in feet or meters and decimal parts thereof, and bearings shall be expressed in degrees, minutes and seconds. The data for all curves along road frontage shall be shown in detail on a curve data table containing the following: delta, radius, arc, tangent, chord and chord bearing; all survey data shall show a closure with an accuracy of not less than one in 7,500.

(c) *General data.* The preliminary plat shall state the following:

1. The title under which the subdivision is proposed to be recorded and the name and address of the record owner and subdivider and holders of any easements affecting the property. The plat shall also show the name of the individual responsible for the preparation of the plat; the date of drawing; number of streets; the north arrow; and the scale. The grid north of the Virginia State Coordinate System shall be used and tied to the National Geodetic Survey horizontal control marker.

2. A vicinity sketch map at a scale of one inch to 2000 feet shall be included on the plat showing the relationship of the proposed subdivision to the adjoining property and the area within one mile showing all adjoining roads, their names, numbers, town boundaries, and subdivision, and other landmarks.

3. A topographic map compiled by either accepted field or photogrammetric methods with a contour interval of not greater than two feet showing all the area covered by the subdivision property related to coast and geodetic survey data showing the boundary lines of the tract to be subdivided, the floodplain and wetland limits

delineated where applicable.

4. The location, width, and names of all existing or platted streets within or adjacent to the subdivision, easements, and land lot lines, total acreage in each use, both proposed and existing, including utilities and watercourses.

5. Location and dimensions of proposed streets, alleys, lots, building lines, and easements, including a boundary surveyor existing survey of record with a closing error not in excess of one foot in 10,000 feet.

6. All parcels of land intended to be dedicated or reserved for public use, or to be reserved in deed for the common use of property owners in the subdivision.

7. Areas shown in the comprehensive plan as proposed sites for schools, parks or other public uses, which are located wholly or in part within the land being subdivided.

8. Preliminary sketch plans indicated [indicating] the provisions for all utilities, including but not limited to, the proposed method of accomplishing drainage, water supply, and sewage disposal. Preliminary sketch plans for any bridges or culverts that may be submitted.

9. When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dashed lines, and identification of the respective tracts shall be placed on the plat.

10. The zoning classifications and proposed use for the area being subdivided.

11. Sedimentation and erosion control measures proposed on advice by the area conservationist of the Eastern Shore Soil and Water Conservation District of which the Town of Chincoteague is a member in accordance with the zoning ordinance.

12. The lot number, designated dimensions, and area of all lots.

13. Written and signed statements of the appropriate officials concerning the availability of gas, electricity, water and sewer to the proposed subdivision.

14. The developer shall submit a copy of any deed restrictions or private contracts that will be part of the sale or transfer of any lot within the subdivision.

15. The developer shall state how any common property or facilities within the subdivision such as private roads, joint driveways, waterfront structures and community association facilities will be improved, managed and maintained during and after the sale of the subdivision lots.

14.06. *Procedures for the review of the final plat.* The purpose of the final plat is to require formal approval by the planning commission, the roads engineer and the health officer, in keeping with submittal requirements for "major subdivisions" and before such subdivisions are recorded and lots sold or transferred.

The final plat shall be submitted conforming to the approved preliminary plat and any changes or conditions attached to its approval within one year of the receipt of notification of approval of the preliminary plat as specified under section 14.08. The following procedures shall be used to review a final plat:

(a) The developer shall make application on forms (addendum 4) available from the zoning administrator and shall prepare a final plan and supporting documents in accordance with subsection 14.07 and section 16 hereof.

(b) The developer shall submit three copies of the application and four paper copies of the final plat, plus four copies of any supporting documents, along with appropriate fees to the zoning administrator. If required for review purposes, the zoning administrator may request additional copies of the submission.

(c) The zoning administrator shall check the submission for compliance with the ordinance and other applicable ordinances and with the approved preliminary plat and any conditions attached thereto. If deficiencies are found, return the submission to the developer with a notation of the additional information or corrections needed.

(d) Upon receipt of a complete submission, the zoning administrator shall accomplish the following:

1. Distribute copies of the submission to the roads engineer, the health officer, and each utility company which would be responsible for providing utility service to the subdivision and such other agencies as the zoning administrator believes appropriate.

2. Establish a date and time for planning commission's review and inform the developer of such.

3. Prepare a recommendation for planning commission consideration.

4. Upon receipt of a favorable comment from the roads engineer and health officer, the zoning administrator shall secure the signatures of these two officials on the three paper copies of the final plat attesting that the final plat conforms with all applicable requirements of their respective departments. These signatures shall be prerequisites for planning commission approval.

14.07. *Information and drafting standards required for the final plat.*

(a) The plat shall be drawn to the scale of 100 feet to the inch, and the sheet size for recording purposes shall not exceed 18 inches by 24 inches with a one-inch border on all sides. If [the] plat is reduced for recording purposes, the type size after reduction shall be no less than pica (ten characters per inch). The top of the sheet shall be approximately north. The plat shall be accompanied by certification from the public works director stating that the highway specifications as to streets, grades and drainage have been met. In addition to the requirements of the preliminary plat and plans, the final plat shall

include the following:

1. The name or number of the section if part of a larger tract.

2. A statement that "The Subdivision of the land described herein is within the free consent and in accordance with the desires of the undersigned owner, proprietors, and trustees." The statement shall be signed by such persons and duly acknowledged before some officer authorized to take acknowledgments of deeds.

3. The plat shall bear a statement signed by the surveyor or engineer who prepared the plat setting forth the sources of title of the land to be subdivided and the place of record of the last instrument in the chain of title. The statement shall also state that the plat has been accurately prepared in accordance with all applicable ordinances and state regulations.

4. The boundary lines of the area being subdivided shall be determined by an accurate field survey with bearings shown in degrees, minutes and seconds to the nearest ten seconds and dimensions to the [area] shown in feet to the nearest hundredth of a foot to an accuracy to one in 10,000. Total area [of] each proposed use plus floodplain delineation shall be shown.

5. Streets shall be named, but shall not duplicate existing or platted street names unless the new street is a continuation of an existing or platted street. All dimensions both linear and angular for location of lots, streets, alleys, public easements, and private easements; the linear dimensions shall be expressed in feet to the hundredths of a foot, and all angular measurements shall be expressed by bearings or angles expressed to the nearest ten seconds. All curves shall be defined by their radius, central angle, tangent distances, cord [chord] bearing and length and arc lengths. Such curve data shall be expressed by a curve being tabulated and numbered to correspond with the respective numbered curve shown throughout the plat.

6. Lot numbers in numerical order and block identification.

7. Location of all minimum building setback lines specified in the zoning ordinance, with the area, in square feet, of lots indicated for each individual parcel.

8. Location and type of material of all permanent reference monuments. Monuments found or installed shall be indicated prior to plat recordation [and] may be referenced if permanent and undisturbed.

9. A definite bearing and distance tie shown between not less than two permanent monuments on the exterior boundary of the subdivision and further ties to existing street intersections where possible and reasonably convenient.

10. Date, north arrow and the drainage district in which the division of land lies.

11. Restrictions imposed by the governing body and their period of existence. Should these restrictions be of such length as to make their lettering on the plat impractical,

and does not necessitate the preparation of a separate instrument, reference shall be made thereto on the plat.

12. Signature panels shall be provided for the chairman of the Chincoteague Planning Commission, the zoning administrator, and for the health officer and the resident highway engineer.

13. Temporary cul-de-sacs where needed. When one or more temporary turnarounds are shown, the following shall be included on the plat: The area on this plat designated as temporary turnaround will be constructed and used as other streets in the subdivision until (street name) is/are extended to (street name) at which time the land in the temporary turnaround area will be abandoned for street purposes and will revert to adjoining property owners in accordance in specific provisions in their respective deeds.

14. Supporting data shall include previously approved plans for drainage of streets, including cross sections and profiles; water supply and sewage disposal, including drainage courses and name; sedimentation and erosion control measures; existing sewers, water mains, culverts, and other underground structures within the tract showing all pipe sizes, invert elevations, grades and computations; and deed restrictions and maintenance agreements stating how common property and facilities, including private roads and easements, within the subdivision will be improved, managed and maintained, as may be required by the governing body or its agent.

15. Monuments after recording of plat: No monuments other than the permanent control monuments required in section 18.07 of this ordinance shall be required to be set before the recording of the plat or the conveyance of land by reference to plat if the land surveyor includes in his certification on such plat that any additional monuments required by this ordinance shall be set on or before a specified later date. The placement of any monument at any time after the recording of the plat shall be established both at law and in equity, at prorated positions as determined from direct remeasurements between the established monuments of record rather than as precisely stated or shown on the recorded plat.

(b) Bonding requirements. All improvements to be dedicated to public use and maintained by the locality, the commonwealth, or other public agency shall be bonded before approval of the final plat or construction.

1. In keeping with the above, the owner or developer shall:

a. Construct the public improvements and certify to the governing body that the construction costs have been paid to the person constructing such facilities in compliance with the requirements of the appropriate approving public agency or office.

b. Furnish to the town council a certified check, cashier check, savings certificate, a bank's or saving and loan association's letter of credit on certain designated funds

or certificate of deposit payable to the Town of Chincoteague in the amount of the estimated cost of construction, or a bond with surety satisfactory to the town council in such an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities, and the contractor's bond, with like surety, in like amount and so conditioned or real estate (at 75% of assessed value with no liens). (See addendum 6.)

2. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities.

3. If a developer records a final plat which may be a section of a subdivision as shown on an approved preliminary plat and furnishes to the governing body a certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the commonwealth, or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plat for a period of five years from the recordation date of the first section, subject to the terms and conditions of this subsection and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded. In the event a governing body of a county, wherein the highway system is maintained by the Virginia Department of Transportation, has accepted the dedication of a road for public use and such road due to factors other than its quality of construction is not acceptable into the state highway system, then the governing body may require the subdivider or developer to furnish the town with a maintenance of such road until such time as it is accepted into the state highway system. In lieu of such bond, the governing body may accept a bank or savings and loan association's letter of credit on certain designated funds satisfactory to the governing body as the bank or savings and loan association, the amount and the form. "Maintenance of such road" shall be deemed to mean maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects of damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage.

4. The developer shall set a time, subject to the approval of the governing body, or its agent, by which it is estimated the improvements shall be installed or complied [completed]. Unless an extension of that time is approved by the town council, or its agent, and a new estimated date of completion established, the town council or its agent shall take the necessary steps to proceed with the accomplishment and completion of the improvements, making use of the certified check or calling on the surety of the bond. No building permit shall be issued until final approval of the plat and all inspections have been made.

5. Upon the completion of the installation of all subdivision improvements, the subdivider shall furnish a statement under oath that all construction conforms to the requirements of this ordinance and the plan as approved by the town council or its

agent, to the best of its knowledge and belief.

6. When all required improvements have been properly inspected and certified satisfactory, the town councilor its agent shall release or cancel the bond as the case may be, except that the town councilor its agent may retain ten percent of the bond or bonds after completion of the construction work to insure that such work was properly installed; and to be held until such time as the roads are accepted into the secondary system of roads of Virginia Department of Transportation.

7. Upon written request of the developer, the town council may release or cancel a portion of the bond to reflect the satisfactory completion of a usable portion of the required improvements, as outlined below. The town council has 30 days after receipt of such written request to release any bond, escrow, letter of credit, or other performance guarantee required by the governing body unless the governing body or its designated administrative officer notifies the subdivider or developer in writing of nonreceipt of approval by applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures prior to the expiration of the 30-day period.

   If no such action is taken by the governing body or administrative agency within the time specified above, the request shall be deemed approved, and a partial release granted to the subdivider or developer. No final release shall be granted until after expiration of such 30-day period and there is an additional request in writing sent by certified mail return receipt to the chief administrative officer of such governing body. The governing body or its designated administrative agency shall act within ten working days of receipt of the request; then if no action is taken the request shall be deemed approved and final release granted to the subdivider or developer.

   No governing body or administrative agency shall refuse to make a periodic partial or final release of a bond, escrow, letter of credit, or other performance guarantee for any reason not directly related to the specified defects or deficiencies in construction of the facilities covered by said bond, escrow, letter of credit or other performance guarantee.

   Upon written request by the subdivider or developer, the governing body or its designated administrative agency shall be required to make periodic partial releases of such bond, escrow, letter of credit, or other performance guarantee in a cumulative amount equal to no less than 80 percent of the original amount for which the bond, escrow, letter of credit, or other performance guarantee was taken, based upon the percentage of facilities completed and approved by the governing body, local administrative agency, or state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least 30 percent of the facilities covered by any bond, escrow, letter of credit, or other performance guarantee, or after completion of more than 80 percent of said facilities. The governing body or administrative agency shall not be required to execute more than three periodic partial releases in any 12-month period. Upon final completion and acceptance of said facilities, the governing body or administrative agency shall release any remaining bond, escrow, letter of credit, or other performance guarantee to the

subdivider or developer. For the purpose of final release the term "acceptance" is deemed to mean: when said public facility is accepted by and taken over for operation and maintenance by the state agency, local government department of agency, or other public authority which is responsible for maintaining and for operating such facility upon acceptance.

14.08. *Effect of recordation of the final plat*. Upon the recordation of final plat, and only after such recordation, the developer may transfer or sell lots included within such final plat, and the developer may exhibit such final plat in promoting the sale of such lots. Furthermore, the developer or a subsequent owner may acquire a building permit for construction on a lot covered by such final plat. In all advertising of lots covered by a final plat, the developer shall:

(a) State whether officially approved water and sewerage facilities are available or not.

(b) State whether roads are public or private.

(c) State whether [the] lot is located in the floodplain.

14.09. *Improvements required to be provided in a major subdivision.* The following improvements shall be provided by the developer in a major subdivision as a prerequisite for recordation of the final plat, as may be required:

(a) Public roads developed in accordance with the Virginia Department of Transportation 2005 Subdivision Street Requirements, as may be amended from time to time, and eligible for addition to the secondary system of state highways maintained by the Virginia department of Transportation and/or the town, if the developer intends for said roads to be public and not maintained by the developer and/or the owners of lots, parcels, or units within the subdivision; or alternatively, in the event that the developer does not intend such roads to be added to the secondary system, and with the expressed written agreement of the subdivision agent, private roads satisfying the following requirements or criteria..

1. Street width and right-of-way. If there is to be “no parking on street” then there shall be a minimum of 18 feet of pavement width and a 30 foot right-of-way.

   If there is to be parking on one side of the street then there shall be a minimum of 24 feet of pavement width and a 36 foot right-of-way.

   If there is to be parking on both sides of the street then there shall be a minimum of 28 feet of pavement width and a 40 foot right-of-way.

   Larger widths may be required by the subdivision agent as deemed necessary due to use volumes, traffic densities, the inclusion, or engineering judgment.

2. Road structure. Paved surfaces shall be constructed in accordance with the current

edition of the Virginia Department of Transportation (VDOT) "Pavement Design Guide for Subdivision and Secondary Roads." Other surface materials may be approved for use by the subdivision agent if they are deemed appropriate for the soil characteristics and the intended use of the road.

3. Location. Placement of streets will be considered in relation to existing and planned streets as well as pedestrian or other uses. Land use permits shall be required for connections to public roads.

4. Cul-de-sacs. An adequate turnaround shall be provided at the end of each cul-de-sac, with additional right-of-way required as needed.

5. Sidewalks, curbs, gutters and driveway aprons. Concrete structures shall be installed within the right-of-way and conform to the specifications of the Town of Chincoteague Drawing Number 35, "Miscellaneous Concrete Work." If curb ramps are utilized they shall conform to the requirements of the Americans with Disabilities Act.

6. Drainage. The developer shall provide the subdivision agent with an engineer's drawing for approval depicting elevations, impervious surfaces and proposed drainage facilities. The developer shall construct all drainage facilities in accordance with the requirements of the current edition of the VDOT Drainage Manual. If those requirements are not possible to fulfill, they may be waived by the subdivision agent. When required drainage construction necessitates an easement through property outside the right-of-way, such easement shall be obtained by the developer and shall not be less than ten feet in width. If the development site includes a drainageway that is considered vital for the stormwater management of areas outside the subdivision, the subdivision agent may require the developer to deed a maintenance easement to the town.

7. Traffic control. Signage and other traffic control devices shall be required in accordance with the current edition of the U.S. Department of Transportation, Federal Highway Administration's "Manual on Uniform Traffic Control Devices." 911 signs shall be installed at intersections and street names subject to town approval. The acquisition and installation costs for traffic control devices will be borne by the developer. If a traffic signal is required, it shall be installed at the developer's expense and in accordance with the requirements of the VDOT resident engineer.

8. Utilities. Easements and utility installations shall be designed in accordance with the current requirements of the Code of the Town of Chincoteague as well as any other applicable governmental body, agency or utility provider. It shall be the developer's responsibility to obtain all necessary permits or approvals.

9. Street Lights. Installation of street lights may be required by the subdivision agent at intersections to public roads. Installation shall be the responsibility of the developer and completed in a manner that meets the current requirement of the town, VDOT and the electric utility.

10. Performance and Surety Bonds. Performance and surety bonds shall be required in a form mandated by the subdivision agent.

11. Maintenance. A legally enforceable covenant or agreement, not subject to modification or revocation, whereby the owners of such lots, parcels or units or an association comprised of such owners shall be financially obligated to maintain such private road in a manner that preserves the conditions created by the above requirements and criteria as deemed necessary by sound engineering judgment.

12. Other conditions. In making the determination whether to require public roads or permit private roads in any subdivision and the enforcement of the requirements or criteria set forth above, the subdivision agent shall give consideration to the number of lots involved in said subdivision, the relationship of said road to existing or planned roads, traffic density and volume, the convenience and safety of the public as well as the lot owners in the proposed subdivision, and to other considerations that may have a specific application to the proposed development site. In making the determinations required hereunder the subdivision agent shall consult with the roads engineer and other sources as deemed necessary. The subdivision agent reserves the right to require the developer to obtain professional engineering or consulting services as deemed necessary.

13. The subdivision agent with the concurrence of the road engineer may make reasonable modifications or deviations from the above requirements or criteria as site conditions may deem necessary based on sound engineering judgment.

(***Adopted 9/4/07)***

(b) Drainage improvements.

(c) Installation of water and/or sewer mains, if public service is available.

(d) Surveying monuments.

(e) Street signs on public roads.

(f) Such other improvements as the planning commission may have made a part of its approval of the final plat.

(g) Maintenance of parking bay and accessway. A legally enforceable covenant or agreement, not subject to modification or revocation, whereby the owners of such lots, parcels or units, or an association comprised of such owners shall be financially obligated to maintain such parking bays and/or accessways in such manner that reasonably preserves their conditions as required by the provisions of Appendix A, Zoning, Article VI, Section C-Parking of the Code of the Town of Chincoteague, and which actions would include but not be limited to, fixing potholes and eliminating prolonged water ponding, or other conditions as deemed reasonably necessary by sound engineering judgment.

(Amended 9/18/08)

All such improvements shall be made in conformance with the construction plans and specifications approved with the final plat.

Section 15. Minor subdivisions

15.01. *Purpose.* The purpose of the minor subdivision is to insure that every new lot created receives at least administrative review to insure that it meets applicable town and state regulations. It is the intent of the minor subdivision review process to keep the town abreast of development activity and to prevent the creation of unusable, hazardous, unsanitary, inconvenient or uneconomical lots.

15.02. *Procedure for review of minor subdivisions.*

(a) The procedure for review shall be the same as that for major subdivision, except that the final approving authority shall be the zoning administrator.

(b) The requirement for the preliminary plat approval is waived; however drafting and surveying requirements of the preliminary plat will be required in addition to the requirements for plat submittal for final approval.

15.03. *Improvements, information and drafting standards required for minor subdivision plat.* The improvements, information and drafting standards required for minor subdivisions shall be the same as those required for major subdivision.

15.04. *Effect of recordation of the final plat.* Upon the recordation of final plat, and only after such recordation, the developer may transfer or sell lots included within such final plat, and the developer may exhibit such final plat in promoting the sale of such lots. Furthermore, the developer or a subsequent owner may acquire a building permit for construction on a lot covered by such final plat. In all advertising of lots covered by a final plat, the developer shall:

(a) State whether officially approved water and sewerage facilities are available or not.

(b) State whether roads are public or private.

(c) State whether [the] lot is located in the floodplain.

15.05. *Improvements required to be provided in a minor subdivision.* The following improvements shall be provided by the developer in a minor subdivision as a prerequisite for recordation of the final plat, as may be required:

(a) Public roads developed in accordance with the Virginia Department of Transportation 2005 Subdivision Street Requirements, as may be amended from time to time, and eligible for addition to the secondary system of state highways maintained by the Virginia department of Transportation and/or the town, if the developer intends for said

roads to be public and not maintained by the developer and/or the owners of lots, parcels, or units within the subdivision; or alternatively, in the event that the developer does not intend such roads to be added to the secondary system, and with the expressed written agreement of the subdivision agent, private roads satisfying the following requirements or criteria..

1. Street width and right-of-way. If there is to be "no parking on street" then there shall be a minimum of 18 feet of pavement width and a 30 foot right-of-way.

   If there is to be parking on one side of the street then there shall be a minimum of 24 feet of pavement width and a 36 foot right-of-way.

   If there is to be parking on both sides of the street then there shall be a minimum of 28 feet of pavement width and a 40 foot right-of-way.

   Larger widths may be required by the subdivision agent as deemed necessary due to use volumes, traffic densities, the inclusion, or engineering judgment.
2. Road structure. Paved surfaces shall be constructed in accordance with the current edition of the Virginia Department of Transportation (VDOT) "Pavement Design Guide for Subdivision and Secondary Roads." Other surface materials may be approved for use by the subdivision agent if they are deemed appropriate for the soil characteristics and the intended use of the road.

3. Location. Placement of streets will be considered in relation to existing and planned streets as well as pedestrian or other uses. Land use permits shall be required for connections to public roads.

4. Cul-de-sacs. An adequate turnaround shall be provided at the end of each cul-de-sac, with additional right-of-way required as needed.

5. Sidewalks, curbs, gutters and driveway aprons. Concrete structures shall be installed within the right-of-way and conform to the specifications of the Town of Chincoteague Drawing Number 35, "Miscellaneous Concrete Work." If curb ramps are utilized they shall conform to the requirements of the Americans with Disabilities Act.

6. Drainage. The developer shall provide the subdivision agent with an engineer's drawing for approval depicting elevations, impervious surfaces and proposed drainage facilities. The developer shall construct all drainage facilities in accordance with the requirements of the current edition of the VDOT Drainage Manual. If those requirements are not possible to fulfill, they may be waived by the subdivision agent. When required drainage construction necessitates an easement through property outside the right-of-way, such easement shall be obtained by the developer and shall not be less than ten feet in width. If the development site includes a drainageway that is considered vital for the stormwater management of areas outside the subdivision, the subdivision agent may require the developer to

deed a maintenance easement to the town.

7. Traffic control. Signage and other traffic control devices shall be required in accordance with the current edition of the U.S. Department of Transportation, Federal Highway Administration's "Manual on Uniform Traffic Control Devices." 911 signs shall be installed at intersections and street names subject to town approval. The acquisition and installation costs for traffic control devices will be borne by the developer. If a traffic signal is required, it shall be installed at the developer's expense and in accordance with the requirements of the VDOT resident engineer.

8. Utilities. Easements and utility installations shall be designed in accordance with the current requirements of the Code of the Town of Chincoteague as well as any other applicable governmental body, agency or utility provider. It shall be the developer's responsibility to obtain all necessary permits or approvals.

9. Street Lights. Installation of street lights may be required by the subdivision agent at intersections to public roads. Installation shall be the responsibility of the developer and completed in a manner that meets the current requirement of the town, VDOT and the electric utility.

10. Performance and Surety Bonds. Performance and surety bonds shall be required in a form mandated by the subdivision agent.

11. Maintenance. A legally enforceable covenant or agreement, not subject to modification or revocation, whereby the owners of such lots, parcels or units or an association comprised of such owners shall be financially obligated to maintain such private road in a manner that preserves the conditions created by the above requirements and criteria as deemed necessary by sound engineering judgment.

12. Other conditions. In making the determination whether to require public roads or permit private roads in any subdivision and the enforcement of the requirements or criteria set forth above, the subdivision agent shall give consideration to the number of lots involved in said subdivision, the relationship of said road to existing or planned roads, traffic density and volume, the convenience and safety of the public as well as the lot owners in the proposed subdivision, and to other considerations that may have a specific application to the proposed development site. In making the determinations required hereunder the subdivision agent shall consult with the roads engineer and other sources as deemed necessary. The subdivision agent reserves the right to require the developer to obtain professional engineering or consulting services as deemed necessary.

13. The subdivision agent with the concurrence of the road engineer may make reasonable modifications or deviations from the above requirements or criteria as site conditions may deem necessary based on sound engineering judgment.

(***Adopted 9/4/07)***

(b) Drainage improvements;

(c) Installation of water and/or sewer mains, if public service is available;

(d) Surveying monuments;

(e) Street signs on public roads; and

(f) Such other improvements as the planning commission may have made a part of its approval of the final plat.

(g) Maintenance of parking bay and accessway. A legally enforceable covenant or agreement, not subject to modification or revocation, whereby the owners of such lots, parcels or units, or an association comprised of such owners shall be financially obligated to maintain such parking bays and/or accessways in such manner that reasonably preserves their conditions as required by the provisions of Appendix A, Zoning, Article VI, Section C-Parking of the Code of the Town of Chincoteague, and which actions would include but not be limited to, fixing potholes and eliminating prolonged water ponding, or other conditions as deemed reasonably necessary by sound engineering judgment.

(Amended 9/18/08)

All such improvements shall be made in conformance with the construction plans and specifications approved with the final plat.

Section 16. Design standards.

16.01. *Mutual responsibility.* There is a mutual responsibility between the developer and the Town of Chincoteague to divide the land in any subdivision so as to provide for a harmonious and efficient land use pattern.

16.02. *Zoning and other requirements.* No land shall be subdivided unless such subdivision conforms to the provisions of the zoning ordinance of the Town of Chincoteague and other applicable town and state regulations.

16.03. Repealed 9/4/07.

16.04. Repealed 9/4/07.

16.05. *Drainage.* The developer shall construct all necessary drainage ditches and other drainage improvements along private roads and along public roads as specified on the final plat and in accordance with Virginia Department of Highways [Transportation] specifications and requirements. When proper drainage requires a drainage easement through adjoining property, such easement shall be acquired by the developer and shall be not less than ten feet in width.

16.06. *Monuments.* Permanent monuments shall be placed by the developer in the ground at

all comers and angle points in the outer lines of the subdivision. Such permanent monuments shall be constructed with a stable material not less than four inches in diameter and at least 30 inches long. Permanent monuments shall also be placed at all lot comers within the subdivision and at all points of angles and curvature in the right-of-way lines of all streets. Such monuments shall be iron or steel pipe not less than two inches nor more than three inches in diameter, and at least 30 inches long. The top of all permanent monuments shall be set not less than one-half inch, nor more than four inches above the finished grade at their respective locations.

16.07. *Water / sewerage service.* The following standards shall apply (also, see addendum 1):

(a) Where a public water system is made available at the perimeter of the subdivision, the service shall be extended to all lots within the subdivision. Fire hydrants shall be installed where the water supply is adequate. All such water system improvement shall be constructed in accordance with state health department regulations.

(b) Where a public sewerage system is made available at the perimeter of the subdivision, the service shall be extended to all lots within the subdivision, and private on-lot sewage disposal shall not be permitted.

(c) Where public water and/or public sewerage services are not available, private (on-lot or community) systems shall be permitted; provided, however, that such installations shall meet requirements of the state water control board, the state health department and all other applicable county and state regulations.

(d) Lots using on-site sewage disposal and private well systems shall provide one primary drainfield site and an additional nonoverlapping replacement drainfield site.

16.08. *Easements.* Easements for drainage and utility service shall be provided wherever necessary for proper maintenance. Such easements shall be not less than 15 feet in width.

16.09. *Lots.* In addition to the requirements of the zoning ordinance, lots shall be arranged in order that the following considerations are satisfied:

(a) The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings and be properly related to topography. Side lot lines shall be approximately at right angles or radial to the road lines. Lots shall not contain peculiarly shaped elongations solely to provide necessary area, which would be unusable for normal purposes. Lots intended for business or industrial use shall be designed for such purposes with adequate space for off-street parking and loading.

(b) No remnants shall be permitted. All such lands shall be combined with adjacent usable lots, unless the town permits another means of disposal.

(c) Blocks shall be laid out to facilitate access to all lots. Block length greater than 1,200 feet shall be prohibited, unless permitted by the roads engineer. Blocks shall be wide enough to allow two tiers of lots, except where it is desirable to avoid frontage on collector roads or arterial highways or where topographic feature or parcel size prevent such arrangement.

Section 17. Validity clause.

17.01. Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

17.02. *Repeal of conflicting ordinances.* All ordinances or portions of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

CHINCOTEAGUE CODE

ADDENDUM 1

For the creation of a new community water supply, the following standards shall be adhered to:

1. A plat showing location of supply, location, and size of water lines and water meters and sufficient technical data and drawings to show the system will conform to current standards for public water supplies.

2. Conformance to current standards must be documented by a letter approving the water supply plan from the division of engineering of the Virginia State Health Department.

3. Documentation showing that the system will be properly operated and maintained such as being incorporated under the rules and regulations of the Virginia State Corporation Commission.

For the creation of a new community sewage treatment or disposal facility, the following standards shall be adhered to:

1. A plat showing location of treatment and/or disposal facility, location and size of lines, and sufficient technical data and drawings to show that the system will conform to current standards for sewage treatment and/or disposal facilities.

2. Conformance to current standards must be documented by a letter approving the sewage treatment facilities from the Virginia State Health Department, Division of Engineering, and a certificate of discharge from the state water control board.

3. Documental showing that the system will be properly operated and maintained shall be submitted.

ADDENDUM 2

The town council shall establish a schedule of fees and charges for subdivision reviews for each submitted plat and related costs. Such schedule of fees and charges shall be posted in the office of the building and zoning administrator and may be amended only by action of the town council upon recommendation of the budget and personnel committee.
(Amended 01/18/07)

APPENDIX B–LAND SUBDIVISION AND DEVELOPMENT

ADDENDUM 3

APPLICATION FOR PRELIMINARY PLAT APPROVAL

DATE _____

1. NAME OF SUBDIVISION_____ MINOR_____ MAJOR_____

2. NAME OF APPLICANT _____PHONE_____
ADDRESS_____
(Street No. and Name) (P.O.) (State) (Zip Code)

3. NAME OF LOCAL AGENT_____
ADDRESS_____
(Street No. and Name) (P.O.) (State) (Zip Code)

4. OWNER OF RECORD_____ PHONE_____
ADDRESS_____
(Street No. and Name) (P.O.) (State) (Zip Code)

5. ENGINEER_____ PHONE_____
ADDRESS_____
(Street No. and Name) (P.O.) (State) (Zip Code)

6. LAND SURVEYOR_____ PHONE_____
ADDRESS_____
(Street No. and Name) (P.O.) (State) (Zip Code)

7. ATTORNEY_____ PHONE_____
ADDRESS_____
(Street No. and Name) (P.O.) (State) (Zip Code)

8. SUBDIVISION LOCATION: On the_____ side of _____(Street)
_____feet_____ (Direction) of_____(Street)

9. POSTAL DELIVERY AREA_____
SCHOOL DISTRICT_____

10. TOTAL ACREAGE_____ ZONE_____NO. LOTS_____

11. TAX MAP DESIGNATION: SECTION_____ LOT(S)_____

12. Has the zoning board of appeals granted variance, exception, or special permit concerning this property_____. If so, list case no. and name_____.

13. Date of sketch plat approval_____.

14. Have any changes been made since this plat was last before the commission?_____
If so, describe_____
_____

15. List all land proposed to be subdivided_____
_____
_____

16. Owners of land 250 feet adjacent or opposite_____
_____
_____

17. Attach five copies of proposed preliminary plat.

I,_____, hereby depose and say that all the above statements and the statements contained in the papers submitted herein are true.

MAILING ADDRESS:_____

ADDENDUM 4

APPLICATION FOR FINAL PLAT APPROVAL

DATE _____

1. NAME OF SUBDIVISION_____ MINOR_____ MAJOR_____

2. NAME OF APPLICANT
_____PHONE_____
ADDRESS_____
(Street No. and Name) (P.O.) (State) (Zip Code)

3. NAME OF LOCAL AGENT_____
ADDRESS_____
(Street No. and Name) (P.O.) (State) (Zip Code)

4. OWNER OF RECORD_____ PHONE_____
ADDRESS_____
(Street No. and Name) (P.O.) (State) (Zip Code)

5. ENGINEER_____ PHONE_____
ADDRESS_____
(Street No. and Name) (P.O.) (State) (Zip Code)

6. LAND SURVEYOR_____ PHONE_____
ADDRESS_____
(Street No. and Name) (P.O.) (State) (Zip Code)

7. ATTORNEY_____
PHONE_____
ADDRESS_____
(Street No. and Name) (P.O.) (State) (Zip Code)

8. SUBDIVISION LOCATION: On the_____ side of
_____(Street)
_____feet_____ (Direction) of_____(Street)

9. POSTAL DELIVERY AREA_____
SCHOOL
DISTRICT_____

10. TOTAL ACREAGE_____ ZONE_____NO. LOTS_____

11. TAX MAP DESIGNATION: SECTION_____ LOT(S)_____

12. Has the zoning board of appeals granted variance, exception, or special permit concerning this property_____. If so, list case no. and name_____.

13. Date of sketch plat approval_____.

14. Have any changes been made since this plat was last before the commission?_____

If so, describe_____

_____

15. List all land proposed to be subdivided_____

_____

_____

16. Owners of land 250 feet adjacent or opposite_____

_____

_____

17. Attach five copies of proposed preliminary plat.

I,_____, hereby depose and say that all the above statements and the statements contained in the papers submitted herein are true.

MAILING ADDRESS:_____

ADDENDUM 5

Model restrictions for property served by private roads and easements:

"The roadway shown on this plat is a private road/easement, the maintenance for which shall not be the responsibility of the Commonwealth of Virginia, the Town of Chincoteague, or any other public body. Maintenance of the said roadway shall be the responsibility of the owner of lots abutting thereon, each of whom shall be responsible for his pro rata share of such maintenance. Assessments for such maintenance shall be made whenever a majority of the owners of lots abutting on said roadway deem necessary and such assessments shall constitute a lien on all lots from the time of such assessments until paid."

ADDENDUM 6

(EXAMPLE)

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, That We, _____ as Principals, _____, State of _____, and the _____ INSURANCE COMPANY, a _____ Corporation authorized to do business in the State of _____ , having an office and place of business at _____, as Surety, are held and firmly bound unto the municipality, as Oblige, in the sum of _____ DOLLARS ($_____) lawful money of the United States, for the payment whereof to the Oblige, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly to these presents:

SIGNED, SEALED, AND DATED, this _____ day of _____, _____ .

WHEREAS, application was made to the Oblige for approval of a subdivision shown on plat entitled "
_____
_____
_____
_____ "

filed with the Zoning Administrator of the Town of Chincoteague, Virginia, on _____, _____, said final plat was approved upon certain conditions, one of which is that a performance bond in the amount of _____ ($_____), to be filed with the Town of Chincoteague Treasurer to guarantee certain improvements in said subdivision:

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the above named Principal shall within two years from the date hereof (time may be extended for one year only by the Planning Commission of the Town of Chincoteague with the consent of the parties) will and truly make and perform the required improvements and construction of public improvements in said subdivision in accordance with the local government specifications and the Resolution of _____, ____, then this obligation to be void; otherwise to remain in full force and effect.

It is hereby understood and agreed that in the event that any required improvements have not been installed as provided by said Resolution, within the term of this Performance Bond, the Governing Body may thereupon declare this bond to be in default and collect the sum remaining payable thereunder and upon receipt of the proceeds thereof, the local government shall install such improvements as are covered by this bond and commensurate with the extent of building development that has taken place in the subdivision but not exceeding the amount of such proceeds.

_____
PRINCIPAL

_____
PRINCIPAL

_____ INSURANCE COMPANY

By _____
Attorney-In-Fact

BOND NO. _____