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### ZONING\*

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\***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.

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### 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.

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### **Sec. 2.7. Amendment (zoning).**

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### **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

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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.**

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### **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

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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."

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### **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.**

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### **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

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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."

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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.

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### **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

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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.

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### **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,

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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

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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

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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

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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.**

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### **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.**

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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.**

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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)

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### **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.

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### **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

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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.

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*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.

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- (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 (90° 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 (90° 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.)*

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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.*

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- (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.

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### 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 (90° 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 (90° 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

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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.

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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)

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### 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

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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 (90° 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 (90° 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.

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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

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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 corner 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)*

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### 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

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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 (90° 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 (90° 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.

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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.

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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 corner 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 aeriels 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)*

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### 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.

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\*Cross reference—Animals, ch. 10

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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 (90° 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 (90° 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.

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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.

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- (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 may be 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:

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\***Cross reference**–Businesses, ch. 18.

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- 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 (90° angle) to the fence line,

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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 (90° 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.

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(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

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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

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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).

### 4.3.10. *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.

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- 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.

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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 (90° 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 (90° 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.

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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.*

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- (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.*

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- (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 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).

### 4.6.10. *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.

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### **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.

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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 (90° 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 (90° 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

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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 either 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.

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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.

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### 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 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).

### 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.

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- 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 (90° 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

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space, when viewed at any point perpendicular (90° 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.

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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 either 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.*

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- (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 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.

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- (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.

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- 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 (90° 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 (90° 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

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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

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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 (90° angle) to the fence

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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 (90° 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)*

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### **Sec. 5.5. Special exceptions; special use permits; conditional use.**

- 5.2.1. 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.

### **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)*

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### 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 (90° 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 (90° angle) to the fence line, except for a fence erected or constructed along the rear lot line which may

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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

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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).

### 5.9.5. *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

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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.

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- (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.

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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.

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\*Cross reference—Stopping, standing and parking, § 58-166 et seq.

- (2) Accessway - a private vehicular facility for townhouse, multifamily,

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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

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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

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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

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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

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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

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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. *Applicability.* 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:

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- (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 tower 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 constitute 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.

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- (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

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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

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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

## APPENDIX A-ZONING

### 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.

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7.2.7. *Billboard.* See “Off-premises sign.”

7.2.8. *Bulletin board sign.* A particular type of 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

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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.

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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."

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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)

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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,

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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

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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

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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.

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### **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.

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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.**

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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)*

7.11.3. 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

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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:

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- (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

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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

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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

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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:

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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.

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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.

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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

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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

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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.

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### 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.

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- 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

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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.

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- 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 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.

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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

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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,

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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

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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

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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

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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.