

Town of Cape Charles

ARTICLE III

District Regulations

Section 3.1 Residential Estate District R-E

- A. Statement of Intent. The intent of this basic zoning district is to provide relatively low density housing in a rural type setting. Streets may be private in nature but are not expected to handle heavy traffic but to serve primarily the homes in the local neighborhood. If private, necessary right-of-way must be provided to meet Department of Transportation standards, however, curb and gutter may not be omitted.
- B. Permitted Uses. The following uses are permitted by right:
1. Non-commercial agricultural operations such as the tilling of soil, the raising of crops, horticulture, forestry, and gardening.
 2. Single-family dwellings
 3. Accessory buildings
 4. Public utilities
 5. The placement of manufactured homes that are nineteen or more feet in width on a permanent foundation on individual lots shall be permitted provided that the manufactured home is at least 1,500 square feet and has a minimum roof pitch of 8:12.
- C. Conditional Uses. Within the Residential Estate District, the following conditional uses shall be allowed, subject to the issuance of a Conditional Use Permit.
1. Parks and playgrounds
 2. Churches and other places of worship
 3. Schools
- D. Height Regulations: Buildings may be erected up to forty feet in height from adjacent ground elevations. (see definitions)
- E. Area Regulations
1. The minimum lot size shall be one acre.
 2. The use of individual wells and septic tanks will be governed by the Code of the Town of Cape Charles.
- F. Setback Regulations.
1. The setback line shall be located 60 feet from all street right-of-way lines; and in the case of a corner lot, no structure shall be located closer than 60 feet from the right-of-way lines of a side street.

2. Each structure shall have a minimum side yard of 25 feet.
 3. Each main structure shall have a minimum rear yard of 40 feet.
 4. The minimum lot width shall be 150 feet at the setback line.
- G. Where a lot has less area and less width than required in this ordinance and prior to adoption of this ordinance, such lot shall be considered to be conforming provided that the following requirements can be met:
1. Setback, 30 feet
 2. Side yard, 10 feet, 20 feet from the right-of-way of side street
 3. Rear yard, 25 feet

Section 3.2 Single Family Residential District R-1

- A. Statement of intent. The intent of this basic zoning district is to provide quiet, medium density, single-family residential development plus provide 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 restrict all activities of a commercial nature as described in Section 3.6-A of this ordinance, known as Commercial District C-1, which states "These commercial activities are characterized by heavy traffic, noise, and congestion of people and passenger vehicles and by large office buildings and retail establishments," and to promote a convenient, attractive, and harmonious community. This section is created in recognition of the existence of developed areas where single-family and duplex dwelling currently exist on lots of 5,600 square feet and where the characteristics of the neighborhood include both permanent as well as seasonal residents.
- B. Permitted Uses. The following uses are permitted by right:
1. Single-family dwellings
 2. Churches and places of worship
 3. Parks and playgrounds
 4. Accessory buildings
 5. Schools and Municipal Community Center
 6. Group Homes per § 15.2-2291 of the Code of Virginia *[revision adopted by Town Council 12/2010]*
 7. Home occupations in accordance with Section 4.0. *[revision adopted by Town Council 10/2011]*
- C. Conditional Uses: The following uses may also be permitted, subject to securing a use permit as provided for in this ordinance:
1. Libraries, museums, and office and meeting spaces for civic organizations
 2. Public utilities and services provided that the exterior appearance of any building permitted in this district shall be in keeping with the character of the neighborhood in which it is located

3. Bed and breakfasts and tourist homes, provided the following requirements are met:
 - a. The owner and family must occupy the residence. The owner and his/her appointed agent is responsible for supervising guests.
 - b. The single-family dwelling appearance must be maintained.
 - c. Parking should be considered on a case-by-case basis as part of the conditional use application, ensuring adherence to Section 4.8.E.2 (Table of Parking Standards) using both on and off street parking areas.
 - d. A sign no larger than four square feet shall be permitted.
 - e. The number of room accommodations shall be subject to recommendation by the Planning Commission and approved by the Town Council.
4. Neighborhood community center
5. Swimming pools, tennis courts, and basketball courts.
6. Adaptive Reuse of existing structure is a new use different than the intended use for which the structure was originally constructed. The Reuse is generally a permitted, accessory or conditional use with an adaptation such as density or size that is greater than the ordinance allows. *[Addition of #6 adopted by Town Council 3/2012]*

The Reuse would require a conditional use permit (CUP). The following additional requirements must also be met:

- a. The use must be compatible with the permitted uses in the zone.
 - b. The Reuse plan must meet the table of parking and landscaping standards (unlike reuse in the C-1 Zone where parking requirements are on a case by case basis).
 - c. Replacement and new utility services shall be placed underground.
 - d. The structure shall be a contributing structure to the Cape Charles National Historic District or at least 50 years old and the exterior of the structure must be restored in accordance with the Cape Charles Historic District Guidelines.
- D. Subdivision of dwelling units is not permitted.
- E. Height Regulations. Buildings may be erected up to 2 ½ stories and to a height up to 40 feet from the adjacent ground elevation.
- F. Area Regulations
1. The minimum lot size shall be 5,600 square feet. Dwelling units existing on lots at the time of adoption of this ordinance which are generally on lots 40 feet by 140 feet are considered to be conforming lots. However, new construction taking place within this district shall meet all standards and requirements of this district.

2. The minimum dwelling unit size shall be 960 square feet excluding garages, porches, patios, etc.
3. The minimum lot width at the setback line shall be 40 feet.

G. Setback Regulations *[Adopted by Town Council 1/14 2010-revised 6/8/10]*

1. Conforming Lots
 - a. Front yard. The setback line in a R-1 district shall be located 30 feet from all right-of-way lines. In built-up neighborhoods, the prevailing setback shall be the standard to which new housing must conform where possible.
 - b. Side yard. Each main structure shall have a minimum side yard setback of 5 feet.
 - c. Rear yard. Each main structure shall have a minimum rear yard setback of 25 feet.
 - d. Corner Lots. Each main structure shall have a minimum side street setback of 5 feet. In built up neighborhoods, the prevailing setback shall be the standard to which new housing must conform where possible.
2. Non-Conforming Lots
 - a. Front Yard. The setback line in the R-1 district shall be located 30 feet from the Avenue right-of-way lines or 5 feet from side street right-of-way lines. In built up neighborhoods, the prevailing setback shall be the standard to which new housing must conform where possible.
 - b. Side Yard. Each main structure shall have a minimum side yard setback of 5 feet.
 - c. Rear Yard. Each main structure shall have a minimum rear yard setback of 25 feet on lots over 40 feet deep. On lots 40 feet deep or less, the rear yard setback shall be a minimum of 5 feet.
 - d. Corner Lots. Each main structure shall have a minimum side street setback of 5 feet. In built up neighborhoods, the prevailing setback shall be the standard to which new housing must conform where possible.

H. Decks and patios may not be constructed in the front yard area. Decks and patios constructed in the back yard area may be enclosed. Front porches may be enclosed by insect screening, preferably placed on the inside (house side) of architectural elements such as railings and columns. No permanent enclosures of front porches are allowed except for insect screening.

I. Development Standards

Statement of Intent. The development standards below are intended to help preserve the architectural cohesiveness of the Town of Cape Charles by stipulating that new construction and additions be compatible, sympathetic, and

complementary to existing buildings. Development concepts are illustrated below to clarify the intent of the development standards.

1. Proportions. A building may be described by the height, footprint, volume, placement of door openings, window openings, porch columns, spacing, etc. The proportions of new construction should relate, 1:1, to the prevailing standards present in the neighborhood. Comparing new construction to the existing structures in a neighborhood is to see the 1:1 proportion of the building to another.

Proportions



YES



NO



YES

3. Scale and orientation. The elevation of the first floor on new construction must be the same or within six inches of the average of the prevailing standard of neighborhood buildings but must meet the required floodplain elevation. The principal facade of new construction must be oriented in the same direction as the rest of the buildings in the neighborhood.

Scale and Orientation



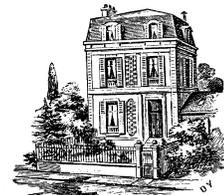
YES



NO

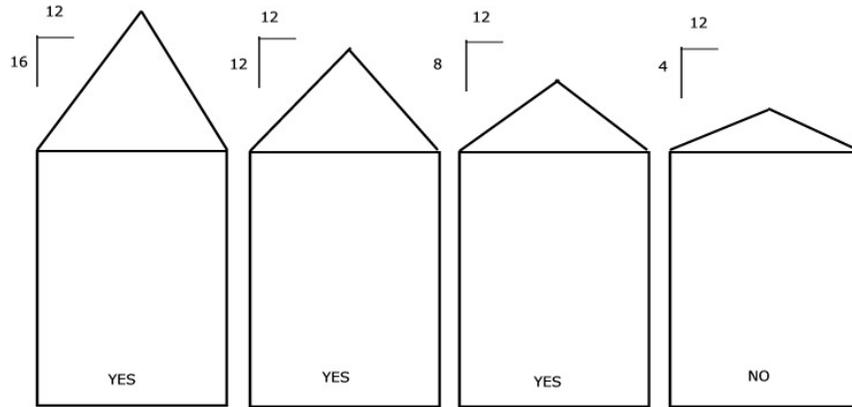


YES



YES

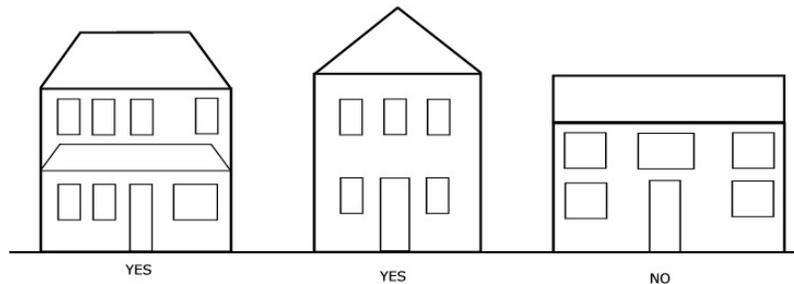
4. Roofs. Primary roof ridges of new construction must be parallel to the primary roof ridges of existing neighborhood buildings. New construction should reflect the prevailing roof pitch of neighborhood buildings within 20 percent. Where there is no prevailing standard, roof pitch should be no less than 8:12.



Roof Pitch Examples
(Drawing Not To Scale)

4. Windows and doors. The facade of new construction must draw upon the proportion of neighborhood structures. Windows must be double hung windows or of a size and style similar to existing windows in the neighborhood. The following window treatments are allowed: Jalousie windows, picture windows and horizontal windows, only in traditional American ranch style architecture. Exterior doors should be paneled or have glass panels. Flush doors are not allowed.

Proportion of Openings



5. Porches. Porches must be constructed on the front of the house and must cover at least 80 percent of the building facade's width. Where there is no prevailing standard, porches may be reduced to be in keeping with the house style. Front porches must have a minimum depth of six feet. Porches on the side and rear of the house are also permitted. All porches must meet setback regulations.
6. Materials. New construction should use materials in a manner sympathetic to the character of the existing neighborhood houses. It is encouraged that materials should be of similar or complementary size, texture, scale, craftsmanship, and applicability to function performed. It

should be noted that the sympathetic use of materials does not imply that materials used in new construction will replicate the old in detail nor that new construction will attempt to imitate existing structures. Rather, it is a matter of determining the compatibility of new construction. Certain materials are potentially so visually intrusive that their use for new construction in the R-1 District will not be permitted. These materials include:

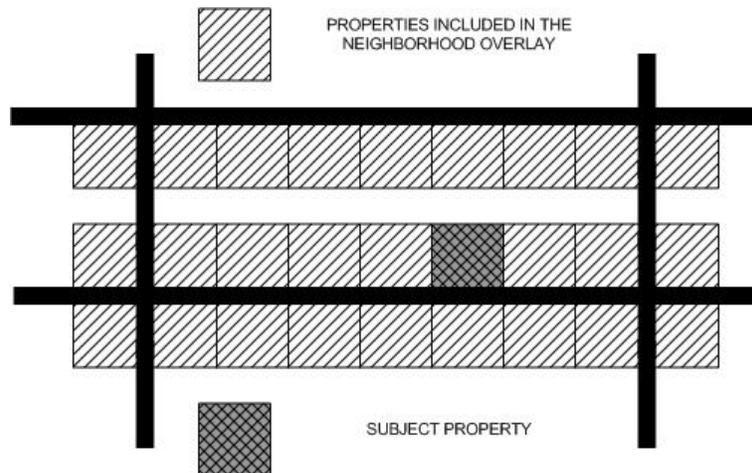
- a. asphalt siding, vertical plywood siding, aluminum siding
- b. exposed concrete block above foundation level
- c. corrugated metal, except for roof applications
- d. flush doors (hollow or solid core)

Vinyl siding will be permitted as long as each individual clapboard is no wider than five inches.

- 7. Utilities. Upon installation of utility access lines, such lines shall be installed underground. The Town encourages replacement lines to be installed underground.

For the purposes of this Section 3.2 only, certain terms shall have the meanings ascribed to them as follows:

NEIGHBORHOOD For the purpose of this ordinance, a neighborhood overlay is defined as parts of a six-square block area, including all parcels on the subject block and all parcels facing on three sides, with the property in question located in the center block.



PREVAILING STANDARDS Prevailing standards exist when 50 percent or more of the buildings exhibit similar attributes in a neighborhood overlay. Where less than 50 percent of the buildings exhibit similar attributes, any of the range of attributes in the neighborhood would be acceptable.

Section 3.3 Residential Mixed District R-2

- A. Statement of Intent. The intent of this basic zoning district is to provide quiet, medium density residential development with a mixture of single-family and multi-family housing. This district is designed to promote and encourage a suitable environment for family life and to restrict activities of a commercial nature to those which serve the needs of the neighborhood itself.
- B. Permitted Uses. The following uses shall be permitted by right:
1. All uses permitted in R-1
 2. Duplex dwellings
 3. Accessory buildings
- C. Conditional Uses. The following uses are permitted, subject to securing the proper permits:
1. Elementary, middle, or high schools or institutions of higher education, but not including trade or business schools, provided that the lots are five acres or larger in size and that no structure or parking area is within 100 feet of any property line.
 2. Churches, synagogues, or similar places of worship provided that the lot is at least three acres in size, no structure or parking area is placed within 100 feet of any property line, and that such use shall be placed on a lot facing only a collector street.
 3. Equestrian facilities provided that the lot is ten acres in size and that no structure or parking area is located within 100 feet of any property line.
 4. Child care facilities provided that such use is conducted in a church, synagogue, or similar place of worship or elementary, middle, or high school or institution of higher education.
 5. Home occupations
 - a. The home occupation shall be a secondary use of the dwelling and such use shall not exceed more than fifty percent of the total floor area of the dwelling and on-site business activities shall be conducted wholly within the building.
 - b. The dwelling shall maintain its residential appearance.
 - c. Display of a sign is permitted in accordance with the sign regulations of this ordinance for home occupations.
 - d. There shall be no outdoor display of goods or outside storage of equipment or materials used in such home occupations.
 - e. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference which would be a public nuisance.
- D. Accessory Uses. Within the R-2 Land Use Classification, the following accessory uses shall be allowed:
1. Swimming pools

2. Tennis courts
3. Private garages
4. Docks or piers
5. Gazebos

E. Lot, yard, height, and coverage requirements.

1. Minimum lot requirements

	SF	Patio	Duplex	Zero Lot Line
lot area (sf)	6,000	6,000	10,000	6,000
lot width (ft)	50	50	60	50
lot depth (ft)	85	85	85	85

2. Minimum yard requirements

	SF	Patio	Duplex	Zero Lot Line
front yard (ft)	25	25	25	25
side yard (ft)	15	15 and 5	20	15 and 0
side yard corner	25	25	30	25
rear yard corner	20	20	20	20

3. Maximum building height

	SF	Patio	Duplex	Zero Lot Line
vertical measure	40	40	40	40

4. No more than 50 percent of the lot may be covered by the principal building and accessory buildings.
5. Each single-family dwelling and single-family patio dwelling shall have a minimum habitable area of 1,000 square feet. Each dwelling unit in the duplex shall have a minimum habitable area of 850 square feet.

Section 3.4 Residential Multi-Family District R-3

A. Statement of Intent. The intent of this basic zoning district is to provide for relatively high density, multi-family residential development. This district is designed to promote and encourage a suitable environment for family life and to restrict activities of a commercial nature to those which serve the needs of the surrounding residential neighborhood.

B. Permitted Uses. The following uses shall be permitted by right:

1. Townhouse dwellings
2. Multi-family dwellings
3. Retention areas; streets
4. Utility installations

- C. Conditional Uses. Within the R-3 Land Use Classification, the following conditional uses may be allowed:
1. Elementary, middle, or high schools or institutions of higher education, not to include trade or business schools, provided that the lot is five acres or more in size and no structure or parking area is located within 100 feet of any property line, and that such use shall be placed facing only on a collector street and accessory uses are limited.
 2. Churches, synagogues, or similar places of worship provided that the lot is at least three acres in size, that no structure or parking area is located within 100 feet of any property line, and that such use shall be placed facing only on a collector street and accessory uses are limited.
 3. Equestrian facilities provided that the lot is at least ten acres and no structure or parking facility is located within 100 feet of any property line.
 4. Child care facilities provided that such use is conducted within a church, synagogue, or similar place of worship or elementary, middle, high school, or institution of higher education.
 5. Home occupations
 - a. The home occupation shall be a secondary use of the dwelling and such use shall not exceed more than fifty percent of the total floor area of the dwelling and on-site business activities shall be conducted wholly within the building.
 - b. The dwelling shall maintain its residential appearance.
 - c. Display of a sign is permitted in accordance with the sign regulations of this ordinance for home occupations.
 - d. There shall be no outdoor display of goods or outside storage of equipment or materials used in such home occupations.
 - e. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference which would be a public nuisance.
- D. Accessory Uses. Within the R-3 Land Use Classification, the following accessory uses shall be permitted.
1. Swimming pools with or without pool houses
 2. Private garages
 3. Tennis courts
 4. Parking
 5. Docks or piers
 6. Recreational facilities
 7. Gazebos
 8. Residents' community centers
- E. Lot, Yard, Height, Coverage and Density Requirements. Within the R-3 Residential Land Use Classification, the following standards shall apply:

1. In addition to the following, townhouse projects must have minimum of three acres:

- a. Minimum lot requirements

lot area dwelling units (sf)	1,500
lot width (ft)	20

- b. Minimum yard requirements

front yard (no parking in front yard) (ft)	25
front yard (parking in front yard) (ft)	30
side yard between principal structures	20
side yard between end structures and side property line(ft)	20
side yard between units	0
rear yard (no parking in rear yard) (ft)	15
rear yard (parking in rear yard)	30

- c. Maximum building height (ft) 40
- d. Building coverage. No more than 60 percent of the lot may be covered by the structures.
- e. Dwelling size. Each dwelling shall have a minimum habitable area of 1,000 square feet.
- f. Maximum development. No more than eight townhouse dwelling units shall be constructed or attached together in a continuous row, and no such row shall exceed 240 feet in length.
- g. Off-street parking. Parking shall be provided on the premises. No such parking lot or garage shall be located more than 200 feet from the dwelling unit which it serves.

2. In addition to the following, multi-family projects must have minimum of three acres:

- a. Minimum lot requirements

lot area per dwelling unit (sq. ft.)	1,500
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- b. Minimum yard requirements

front yard (no parking in front yard) (ft)	30
front yard (parking in front yard) (ft)	35
side yard between separate structures	25
side yard between end structure and side property line	35
rear yard (no parking in rear yard) (ft)	20
rear yard (parking in rear yard) (ft)	35

Furthermore, no multi-family unit may be erected on a lot which has a width at the building line of less than 100 feet.

- c. Maximum building height (ft): 40
- d. Building coverage: No more than 45 percent of the lot may be covered by the structure.

F. Additional Development Requirements. Placement of drives and parking areas. Excluding entrances and exits, no drive or parking area shall be located closer than ten feet from any lot line.

Section 3.5 Commercial Residential CR

- A. Statement of Intent. The purpose of this district is to recognize the unique juxtaposition of the existing residential structures within the central business district and the future needs of Cape Charles commercial districts. It is the intent of this zone to promote the continued residential character of these areas while allowing commercial uses to be introduced.

The specific intent of this district is (1) to encourage retention of the existing residential buildings and character of the area and (2) to encourage compatible uses for these buildings.

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

1. Accessory buildings
2. Antique shops
3. Art galleries
4. Athletic clubs
5. Beauty and barber shops
6. Bed and breakfasts
7. Camera shops
8. Candy stores
9. Clothing stores
10. Day spas
11. Dry goods stores
12. Florists
13. Gift shops
14. Leather goods
15. Newsstands
16. Offices
17. Real estate sales
18. Single-family dwellings
19. Tobacco stores
20. Video stores
21. Any other use which is compatible in nature with the foregoing uses and which the Zoning Administrator determines to be compatible with the intent of the district.

- C. Conditional Uses:

1. Bakeries
2. Bicycle shops
3. Cafes and coffee shops
4. Conference centers
5. Day care centers
6. Delicatessens
7. Ice cream parlors
8. Restaurants

- D. Height Regulations: Buildings may be erected up to 40 feet in height from the adjacent ground elevations.
- E. Area Regulations
 - 1. The minimum lot size shall be 5,600 square feet. Dwelling units existing on lots at the time of adoption of this ordinance which are generally on lots 40 feet by 140 feet are considered to be conforming lots. However, new construction taking place within this district shall meet all standards and requirements of this district.
 - 2. The minimum dwelling unit size shall be 960 square feet excluding garages, porches, patios, etc.
 - 3. The minimum lot width at the setback line shall be 40 feet.
- F. Setback Regulations: The following area regulations shall apply as minimums for new development in this district:
 - 1. Front setback shall be 30 feet or shall conform to the prevailing setback of the existing built up area.
 - 2. Side yard 5
 - 3. Rear yard 25
- G. Development Standards: To help preserve the architectural cohesiveness of the Town, new construction and additions in the CR district shall be compatible, sympathetic, and complementary to existing buildings and follow the same guidelines as the residential district.

Section 3.6 Commercial District C-1

- A. Statement of Intent. The intent of this zoning district is to preserve and enhance the traditional mixed use urban nature of Cape Charles commercial districts, to encourage the location of regional and local business and professional activities, to facilitate the development of buildings in keeping with its largely National Historic District character, and to protect against destruction of or undesirable encroachment on these areas.
- B. Permitted Uses. The following uses are permitted by right:
 - 1. Art or antique shops
 - 2. Auditoriums, theaters, and assembly halls
 - 3. Automobile repair and small engine repair
 - 4. Automobile service stations
 - 5. Bakeries, confectionaries, delicatessens, and catering services
 - 6. Barber shops and beauty parlors
 - 7. Bicycle and moped sales and rentals
 - 8. Blueprinting shops
 - 9. Boat sales

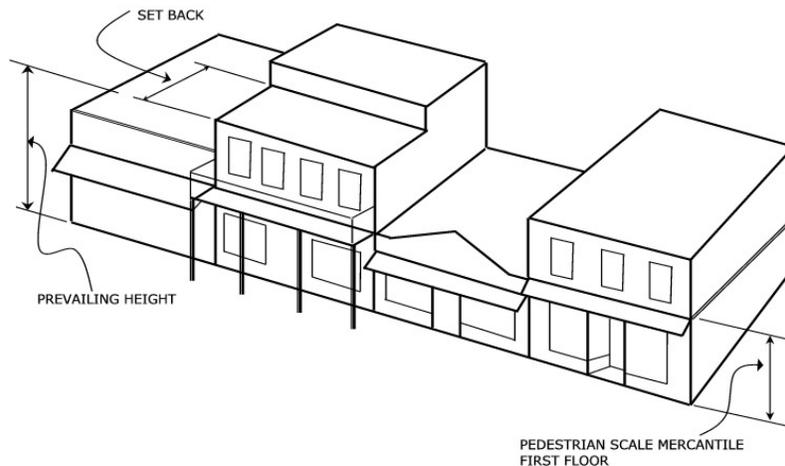
10. Business and vocational schools
 11. Business studios, offices, and clinics
 12. Child care and child care education centers
 13. Commercial schools of instruction
 14. Drug stores
 15. Dressmaking, tailoring, and millinery shops, dry cleaning shops
 16. Eating and drinking establishments
 17. Financial institutions
 18. Florists, gift shops, card shops, and stationery shops
 19. Funeral homes
 20. Furniture repair, sales and household appliance sales and repair, carpet and flooring sales
 21. Greenhouses and plant nurseries
 22. Grocery stores
 23. Hotels and motels
 24. Liquor stores
 25. Libraries, museums, or galleries
 26. Music stores
 27. Medical or dental or other laboratories
 28. Offices, office supply stores
 29. Public facilities, public buildings
 30. Restaurants
 31. Pet shops and pet supply stores
 32. Radio and television sales
 33. Upholstering shops and fabric stores
 34. Watch and jewelry stores
 35. Any use allowable in the S-C District.
 36. Any other commercial or professional use which is compatible in nature with the foregoing uses and which the Zoning Administrator determines to be compatible with the intent of the district.
- C. Conditional Uses: Single family and multi-family dwellings provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (not access through commercial establishment on the first level).
- D. Height Regulations: Buildings may be erected up to 40 feet in height from the adjacent ground elevations.
- E. Area Regulations: The following area regulations shall apply as minimums for new development in this district:
1. Lot width at setback line 40
 2. Area requirements (40 x 140) 5,600
 3. Side yard 0; 5 and 10 feet in Route 184 area
 4. Rear yard 10 or prevailing rear yard if less
 5. Front setback shall be determined by the average setback of the existing built up commercial area. Front setback along Route 184 (aka Randolph

Avenue extended; Old Stone Road) where existing VDOT right of way is 70 feet shall be measured at 80 feet from the center of the right of way.

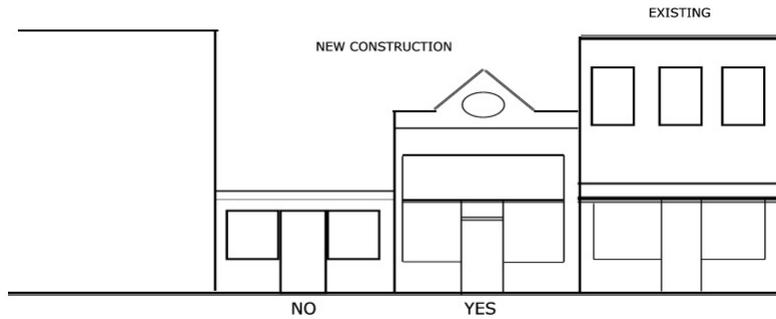
F. Development/Redevelopment Standards:

1. Statement of Intent. The development standards below are intended to help preserve the architectural character of the Town of Cape Charles' commercial districts by requiring that all façade reconstruction/rehabilitation must conform to the building style as described in the U.S. Department of Interior National Register without the addition to or removal of contributing elements. New construction, additions, and alterations must be compatible, sympathetic, and complementary to the original or existing buildings in built-up areas. Development concepts are illustrated below to clarify the intent of the development standards.

a. Scale. When the scale of neighborhood buildings is relatively consistent, new construction should be discouraged from drastically altering these relationships. In the Town of Cape Charles the two- and three-story structure is the norm, and structures which digress from this standard to any great degree seriously impact the character of the Town of Cape Charles. If construction is to be allowed, particular attention should be given to the location, siting, setbacks, and façade treatments of the proposed building. No matter what size of the new building, the base of the building should be scaled to pedestrians.



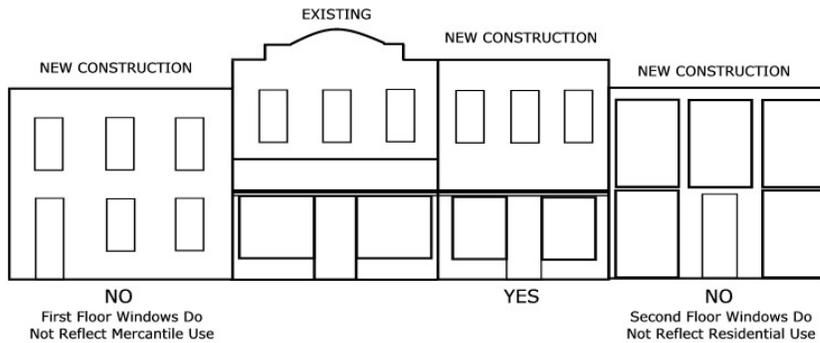
b. Floor-to-Floor Heights. This important element of scale is often ignored in new construction, which tends toward lower ceiling heights. Floor-to-floor heights of new construction should be within 10 percent of neighborhood construction, where a relatively consistent floor-to-floor height is expressed in the facades of a given street.



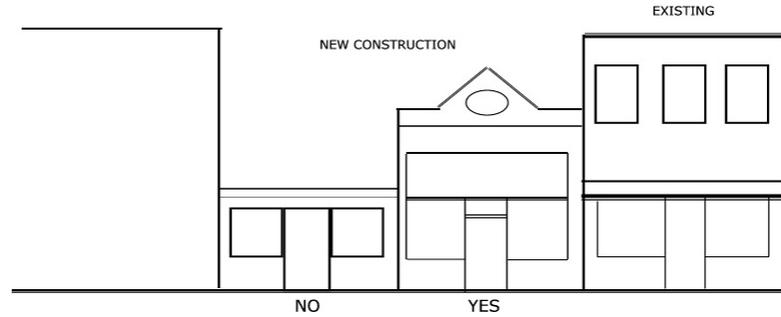
Single Story Buildings Should Reflect Scale of Neighborhood

- c. **Windows and Cornice Lines.** All first-floor facades shall have large glass areas which denote mercantile use. First-floor walls should be more than 50 percent glass. The first-floor shall be distinguished from the upper floors by a cornice line if appropriate or other delineations such as transom windows, fabric awnings, or porches.

Windows above the first floor are to be more residential in scale and should be double hung, single or multiple, and vertical in proportion. Walls above the first floor should be more than 50 percent solid.



New construction of one-story buildings, such as some convenience stores and fast-food restaurants in commercial districts, intrude upon the character of the Town of Cape Charles and will only be permitted in infill situations and must meet all other development standards. There are many examples of convenience stores and fast-food chain restaurants being successfully integrated into a historic context.



Single Story Buildings Should Reflect Scale of Neighborhood

- d. Massing. The facades of new construction should reflect the sense of lightness or weight of neighboring buildings by using similar proportions of solids (siding or walls) to void (window and door openings) and projecting bays and overhangs.
- e. Materials. New construction should use materials in a manner sympathetic to the historic buildings in the Town of Cape Charles. Materials should be of similar or complementary color, size, texture, scale, craftsmanship, and applicability to function performed.

It should be noted that the sympathetic use of materials does not imply that materials used in new construction will replicate the old in detail nor that new construction will attempt to imitate historic structures. Rather, it is a matter of determining the compatibility of the new with the old. Certain materials are potentially so visually intrusive that their use for new construction in the Town will not be permitted. These materials include:

- aluminum or vinyl siding
- asphalt siding
- carpeted porch floors and steps
- corrugated metal, except for roof applications
- exposed concrete block above foundation level
- exposed concrete masonry
- faux brick and stone (brick face)
- flush exterior doors
- inappropriate window treatments
- jalousie windows
- picture windows
- windows with horizontal glazing
- metal or wood awnings
- open mesh-type fencing
- ornamental pierced concrete masonry screens and walls
- painted concrete masonry
- unpainted wood

vertical plywood siding
vertical wood siding on primary structures
wrought iron and aluminum porch columns

- f. Siting. The siting of new construction in the commercial district shall conform to the building line of adjacent buildings. New commercial buildings should occupy the full width of their lot at the street line except in the Route 184 corridor. Freestanding “object” buildings that do not conform to the street and lot lines will not be permitted in the Mason Avenue from Harbor to Peach historic context. Where a commercial building is built adjacent to a vacant lot, it should be built with a party wall in anticipation of subsequent new construction being built adjacent and up to the property line. Probably the single most damaging siting of a commercial building is toward the rear of the lot with parking between the building and the street.
 - g. Utilities. Upon installation or replacement of utility access lines, such lines shall be installed underground.
2. Demolition. The owner of a building or structure within the Town shall be entitled to raze or demolish such building or structure provided that he has applied to the Building Official for such right. An owner is entitled to raze or demolish his property pursuant to the procedure outlined in Article IV of the Town Zoning Ordinance.
 3. Demolition-By-Neglect. No officially designated contributing building, structure, or site within the Town shall be allowed to deteriorate due to neglect by the owner which would result in violation of the intent of this ordinance. Demolition-by-neglect shall include any one or more of the following courses of action or inaction:
 - a. Deterioration of the exterior of a building to the extent that it creates or permits a hazardous or unsafe condition.
 - b. Deterioration of exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements such as siding, wooden walls, windows, brick, plaster or mortar to the extent that it adversely affects the character of the district or could lead to irreversible damage to the structure.
 - c. Defective or deteriorated flooring or floor supports or flooring or floor supports of insufficient size to carry imposed loads with safety.
 - d. Any fault in the building or structure which renders the same structurally unsafe or not properly watertight.

If the Building Official determines that a structure is being demolished by neglect, it shall send notification to the owners stating the reasons therefore and shall give the owner thirty days to respond with a plan of

action and ninety days from the date of the notice in which to commence work. If appropriate action is not taken at this time, the Zoning Administrator may initiate appropriate legal action as provided further in this chapter.

4. Penalties for Noncompliance.
 - a. Failure to correct a defect after a notice that the Building Official has determined that a property is being demolished by neglect according to Section 4.11 of this ordinance shall constitute a misdemeanor. Such misdemeanor shall be punished as set forth in §§ 18.2-9, 18.2-11 and §15.2-1429 of the Code of Virginia 1950 as amended. Each day that the violation continues is a separate offense.
 - b. Any property owner in the District who does not obtain approval as required within this ordinance shall be guilty of a misdemeanor and may be punished as set forth in §§ 18.2-9, 18.2-11 and §15.2-1429 of the Code of Virginia 1950 as amended.
 - c. Nothing in this chapter shall be deemed to restrict or prohibit the Town Council to acquire in any legal manner any historic area, site, building, or structure or the land pertaining thereto for the use, observation, education, pleasure, and welfare of the citizens of the Town.

G. Additional Requirements

1. Architectural Treatment. No building exterior (whether front, side, or rear) will consist of architectural materials inferior in quality, appearance, or detail to any other exterior of the same building. Nothing in this section shall preclude the use of different materials on different building exteriors (which would be acceptable if representative of good architectural design) but rather shall preclude the use of inferior materials on sides which face adjoining property and thus might adversely impact existing or future development causing a substantial depreciation of property values. No portion of a building constructed of unadorned concrete or concrete block or corrugated and/or sheet metal shall be visible from any adjoining agricultural or residential district or public right-of-way. Mechanical equipment whether ground level or roof top shall be shielded and screened from public view and designed to be perceived as an integral part of the building.
2. Driveways and Parking Areas. Driveways and parking areas shall be paved with concrete, bituminous concrete, or other similar material. Surface penetration treated parking areas and drives shall be prohibited. Concrete curbs and gutters shall be installed around the perimeter of all driveways and parking areas. Other curbing material of similar quality like brick or cobblestone shall be permitted at the discretion of the

director of planning. Drainage shall be designed to meet the requirements of the Virginia Department of Transportation.

3. New in-fill structures or change of use projects on the first floor of structures in C-1 shall be exempt from complying with the exact requirements of Section 4.5.(A), Section 4.6, and Table 4.8. Owners are encouraged to provide off street parking for themselves, employees, and loading facilities where possible (i.e., alleys to backyard areas). Owners shall evaluate existing parking and access and submit proposed plan to Town for review. Projects will be evaluated on a case-by-case basis. New or change of use second- or third-floor projects shall be required to conform to the parking requirements as set forth herein.
4. Outside Storage Areas. All outdoor storage areas shall be visually screened from public streets, internal roadways, and adjacent property. Screening shall consist of either a ventilated solid board fence, masonry wall, dense evergreen plant materials, or such other materials as may be approved. All such screening shall be of sufficient height to screen storage areas from view. Outdoor storage shall include the parking of all company owned and operated vehicles with the exception of passenger vehicles.

H. Accessory Uses: Within the C-1 District the following accessory uses shall be permitted:

1. Only those uses which are customarily accessory and clearly incidental and subordinate to the principal use and structure;
2. Temporary licensed uses such as festivals, outdoor displays, gatherings, performances, and open air food markets;
3. Porches, terraces, balconies, sun porches, decks, patios, etc. may not be enclosed without obtaining proper permits and variances from the Board of Zoning Appeals if required by the regulations of this ordinance.

Section 3.7 Commercial District C-2

A. Statement of Intent. The intent of this zoning district is to recognize the existing commercial areas which are less densely developed than the C-1 District and to encourage compatible commercial uses and density. This area generally has been developed with larger lots and larger individual buildings.

The specific intent of this district is to recognize the existing and possibly new freestanding commercial development.

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

1. All uses as allowed in C-1
2. Nursing/retirement homes
3. Any other commercial or professional use which is compatible in nature with the allowed uses and which the Zoning Administrator determines to be compatible with the intent of the district.

- C. Conditional Uses: Single family and multi-family dwellings provided that no such dwelling is located at street level and all dwelling units have direct access to the street level (not access through commercial establishment on the first level).
- D. Height Regulations: Buildings may be erected up to 35 feet in height from the adjacent ground elevations.
- E. Area Regulations: The following area regulations shall apply as minimums for new development in this district:
 - 1. Lot width at setback line 60
 - 2. Area requirements (60 x 150) 9,000
 - 3. Side yard 10
 - 4. Rear yard 10 or prevailing rear yard if less
 - 5. Front setback shall be determined by the average setback of the existing built up commercial area.
- F. Development/Redevelopment Standards, Other Requirements, and Accessory Uses. The standards for development and/or redevelopment, specific additional requirements, and accessory uses shall be the same as those listed and described for the C-1.
- G. Sign design shall relate to the architectural character of the building and, if ground mounted, shall be appropriately landscaped.

Section 3.8 Commercial District C-3

- A. Statement of Intent. The intent of this zoning district is to recognize this existing linear commercial zone which flanks Route 184 entering into Cape Charles. This area is divided into smaller lots. The zone shall require a uniform requirement for setbacks as this is recognized as the gateway road into Cape Charles.

The specific intent of this district is (1) to allow development of individual or grouped lots, (2) to encourage uses to service the community, and (3) to encourage quality construction and design recognizing the importance of the district's impact on drivers entering Cape Charles.
- B. Permitted Uses. The following uses are permitted by right:
 - 1. All uses as allowed in C-1 and C-2
 - 2. Any other commercial or professional use which is compatible in nature with the allowed uses and which the Zoning Administrator determines to be compatible with the intent of the district.
- C. Area Requirements. The following area regulations shall apply as minimums for new development in this district:

1. Lot width at setback line 40
 2. Side yard 5 and 10 feet
 3. Rear yard 10 feet
 4. Front setback 80 feet from center of right of way or 40 percent \pm of the lot depth, whichever is less
- D. Height Regulations. Buildings may be erected up to a height of 35 feet from the adjacent ground elevation.
- E. Development standard Section 3.6 F (1)e, Materials, shall apply.
- F. Materials and design shall follow site plan ordinance requirements and be considered and approved by a review body named by Town Council.
- G. Sign design shall relate to the architectural character of the building and, if ground mounted, shall be appropriately landscaped.

Section 3.9 Harbor District (revised 01-08-09)

- A. Statement of Intent. The intent of this zoning district is to encourage a vibrant working waterfront area that is both a strong economic benefit to the Town with compatible new industry and employment uses, and a strong public and recreational value, with public gathering places and access to the water, a place for people to conduct business and to live, meet, relax, encounter nature, and learn of Cape Charles' working maritime and rail heritage and its strong historic traditions. Any new development shall provide and encourage public access to the water's edge as well as emphasize the pedestrian environment throughout the harbor. The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs. This zoning district is also intended to implement the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines as an overall guide to the future development and redevelopment of the harbor area.
- B. Mainstreet Mixed Use Area; Floor Area Ratio. *[Adopted by Town Council 10/17/13]*
1. The area of the Harbor District along the south side of Mason Avenue, beginning at the western edge of Parcel 83A3-A-5, and projecting eastward to Nectarine Street, and southward a distance of 300 feet from the south side of Mason Avenue, is defined as the "Mainstreet Mixed Use Area."
 2. The Mainstreet Mixed Use Area shall use the Floor Area Ratio (FAR) to measure the density of permitted and conditional development. For each lot, the FAR is calculated as the ratio of the gross floor area of all structures and improvements on the lot to the lot area in square feet. For purposes of this Article III, "floor area" shall also include parking areas other than uncovered ground level parking areas. The maximum FAR for the Mainstreet Mixed Use Area shall be 1.5 by right and up to 2.0 with a Conditional Use Permit.

- C. The maximum FAR for the balance of the Harbor District shall be 1.75 by right and up to 2.0 with a Conditional Use Permit. Nothing in this paragraph shall modify or waive the open space requirement set forth in subsection F of this Article III. *[Adopted by Town Council 10/17/13]*
- D. Permitted Uses. The following uses are permitted by right:
1. Accessory uses customarily associated and clearly incidental and subordinate to a principal use.
 2. Food service related uses of the following types:
 - a. Bakeries, confectionaries, delicatessens, and catering services
 - b. Cafes and coffee shops
 - c. Delicatessens
 - d. Eating and drinking establishments
 - e. Ice cream parlors
 - f. Restaurants
 3. Marine related uses of the following types:
 - a. Bait and tackle shops
 - b. Boat rentals
 - c. Marinas, docks and wharves if contiguous to harbor
 - d. Sail and canvas making and repair
 - e. Ship stores and chandleries
 4. Office and institutional uses of the following types:
 - a. Business studios
 - b. Civic and government facilities
 - c. Educational facilities
 - d. Financial institutions
 - e. Medical clinics
 - f. Medical, dental and other laboratories
 - g. Offices
 - h. Office supply stores
 - i. Real estate sales and rentals
 5. Recreational, cultural, and entertainment uses of the following types:
 - a. Art galleries and art studios
 - b. Athletic clubs
 - c. Conference centers
 - d. Health and fitness facilities
 - e. Libraries and galleries
 - f. Museums and cultural centers
 - g. Outdoor recreational uses
 - h. Parks

6. Retail goods establishments of the following types with 2,500 square feet or less of gross floor area:
 - a. Antique shops
 - b. Bookstores, new and used
 - c. Camera shops
 - d. Candy stores
 - e. Clothing stores
 - f. Dry goods stores
 - g. Florists, gift shops, card shops, and stationery shops
 - h. Grocery stores
 - i. Music stores
 - j. Newsstands
 - k. Tobacco stores
 - l. Upholstering shops and fabric stores
 - m. Video stores
 - n. Watch and jewelry stores
 7. Retail service establishments of the following types with 2,500 square feet or less of gross floor area:
 - a. Beauty and barbershops
 - b. Bicycle, moped, and street legal golf cart sales and rentals
 - c. Blueprinting shops
 - d. Dressmaking, tailoring, millinery, dry cleaning
 8. Public Utility Facility
- E. Conditional Uses. The following uses may also be permitted, subject to securing a conditional use permit as provided for in this ordinance:
1. Marine related uses of the following types:
 - a. Boat and marine engine repair shops
 - b. Boatels
 - c. Marine and sports equipment consignment stores
 2. Markets of the following types:
 - a. Crafts markets
 - b. Farmers' markets
 - c. Watermen's markets
 3. Recreational, cultural, and entertainment uses of the following types:
 - a. Assembly halls
 - b. Auditoriums
 - c. Commercial recreational uses
 - d. Entertainment establishments
 - e. Theaters
 4. Retail goods establishments of the following types with more than 2,500 square feet of gross floor area:

- a. Antique shops
 - b. Bookstores, new and used
 - c. Camera shops
 - d. Candy stores
 - e. Clothing stores
 - f. Dry goods stores
 - g. Florists, gift shops, card shops, and stationery shops
 - h. Grocery stores
 - i. Music stores
 - j. Newsstands
 - k. Tobacco stores
 - l. Upholstering shops and fabric stores
 - m. Video stores
 - n. Watch and jewelry stores
5. Retail service establishments of the following types with more than 2,500 square feet of gross floor area:
- a. Beauty and barbershops
 - b. Bicycle moped, and golf cart sales and rentals
 - c. Blueprinting shops
 - d. Dressmaking, tailoring, millinery, dry cleaning
6. Single-family and multi-family dwellings provided the following requirements are met:
- a. All dwelling units shall have direct access to the street level. Means of access may be shared with other dwelling units, but not commercial uses. Access through a commercial establishment on the first level is not permitted.
 - b. Dwelling units shall occupy no more than 50 percent of the first floor of any building.
 - c. The first floor of all building facades adjacent to a public street shall have a commercial appearance and shall not have a residential appearance.
7. Other miscellaneous uses of the following types:
- a. Bed and breakfasts and tourist homes, provided the following requirements are met:
 - (1.) The owner and family must occupy the residence. The owner and his/her appointed agent is responsible for supervising guests.
 - (2.) The single-family dwelling appearance must be maintained.
 - (3.) Parking should be considered on a case-by-case basis as part of the conditional use application, ensuring adherence to Section 4.8.E.2 (Table of Parking Standards) using both on and off street parking areas.
 - (4.) A sign no larger than four square feet shall be permitted.
 - (5.) The number of room accommodations shall be subject to recommendation by the Planning Commission and approved by the Town Council.
 - (6.) The dwelling must meet all of the requirements of Section 3.9.D.6.

- b. Child care and child care education centers
- c. Hotels and motels
- d. Laundromats
- e. Liquor and package stores
- f. Off-site parking

8. Any other use which is compatible in nature with the foregoing permitted and conditional uses and which is determined to be compatible with the intent of the District.

F. Lot and Height Requirements. Within the Harbor District, the following standards shall apply:

1. Minimum lot requirements

lot area 11,200 square feet

lot frontage 80 feet

lot depth 140 feet

block length.....all blocks in the Mainstreet Mixed Use Area shall align with and be equal in frontage length to the blocks on the north side of Mason Avenue so that existing viewsheds to the harbor shall be maintained. *[Addition of "block length" adopted by Town Council 10/17/13]*

2. Height.

a. Measurement criteria. For the purpose of the Harbor District, height means the vertical distance measured from the crown of the nearest street to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs. When the crown of the nearest street has an elevation greater than three feet above the adjacent ground elevation of the building, the adjacent ground elevation shall be used in place of the crown of the nearest street when measuring height. Note: Mechanical equipment, chimneys, air conditioning units, elevator penthouses, church spires and steeples, water towers, and similar appurtenances are exempted from height restrictions. However, these exclusive items may not exceed the height limit by more than fifteen feet.

b. Maximum permitted height. No building or structure shall exceed 40 feet in height in the Mainstreet Mixed Use Area. No building shall have the same continuous elevation for a distance of more than 80 linear feet. Building heights greater than 40 feet and equal to or less than 55 feet may also be permitted in other parts of the Harbor District, subject to securing a conditional use permit as provided for in this ordinance. When reviewing a conditional use permit application for the height of a building in the Harbor District, the following criteria shall be met:

(1.) On each block, the average height of all buildings greater than 40 feet and equal to or less than 55 feet in height shall not exceed 45

Modification
adopted 10/17/13

feet. For the purpose of this section, a block is defined as the property fronting on one side of a right-of-way or waterway, and lying between two intersecting rights-of-way or otherwise limited by a waterway or other physical barrier of such nature as to interrupt the continuity of development.

- (2.) The application shall adhere to policies established in the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines, the Comprehensive Plan, and other officially adopted plans of the Town.

3. Setback Regulations.

- a. Mason Avenue setback requirement. No building or structure shall be located within 8 feet of the Mason Avenue VDOT right-of-way.
- b. Waterfront setback requirement. No building or structure shall be located within 30 feet of the Cape Charles Harbor or within 30 feet of a Resource Protection Area not part of an Intensely Developed Area (IDA). This requirement shall not preclude any other applicable regulations, including but not limited to those associated Chesapeake Bay Preservation Areas. The following shall be exempt from the waterfront setback requirement when permitted by all other applicable regulations:
 - (1.) Water-dependent facilities as defined by Zoning Ordinance Section 7.3.
 - (2.) Walkways, promenades, decks, gazebos, permitted signs, and similar structures intended to accommodate or provide amenities for pedestrians.

Modification
adopted 10/17/13

- G. Required open space. Open space shall be provided equivalent to 25 percent of lot area. For the purpose of this section, the term open space shall be construed to consist of open space amenities and spacing between buildings. Open space amenities include plazas, esplanades, landscaped areas, walkways, public recreational facilities, and the like designed and maintained for use by pedestrians and open to the public. Such open space amenities shall not be open to vehicular uses except for public safety purposes, and shall be directly accessible from street level. Where feasible, open space shall be designed to serve as part of a coordinated pedestrian circulation system.
- H. Utilities. All utilities shall be installed underground.
- I. Harbor Development Certificate required. No zoning clearance shall be issued for location, construction, or enlargement of any building or structure within the Harbor District until a Harbor Development Certificate has been issued. Submission of a Harbor Development Certificate Application and approval by the Town Council shall be required to obtain a Harbor Development Certificate.

1. Content of Harbor Development Certificate Application. The Harbor Development Certificate Application shall consist of the General Application and the Detailed Application.
 - a. General Application. The General Application shall include the following items:
 - (1.) An application on forms provided by the Zoning Administrator.
 - (2.) A fee established by the Town Council.
 - (3.) A letter of application stating in general terms the proposed use of the property, the effect of the changes on the surrounding area, and the reason for the request.
 - (4.) A plot plan in accordance with the Site Plan Ordinance.
 - b. Detailed Application. The contents of the Detailed Application may be delineated on the plot plan required for the General Application, or provided in separate maps, elevations, or written document as appropriate. The Detailed Application shall indicate the following:
 - (1.) Location, amount, character and continuity of open space.
 - (2.) A delineation of those general areas that have scenic assets or natural features deserving protection and preservation, including elevations demonstrating protection of views from existing streets, and a statement of how such will be accomplished.
 - (3.) Convenience of access through and between buildings or in other locations where appropriate for public purposes and where such access will reduce pedestrian congestion on public streets.
 - (4.) Separation of pedestrian and vehicular traffic.
 - (5.) Landscape plans delineating dimensions and distances and the location, type, size, and description of all existing and proposed plant materials.
 - (6.) Location and dimensions of on-site signage.
 - (7.) Conceptual renderings of building exteriors.
 - (8.) Such other matters as are appropriate to determinations in the specific case. Other information may be requested by the Zoning Administrator, the Harbor Area Review Board, or Town Council.
2. Review procedure.
 - a. Pre-application meeting. Prior to application submission, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a pre-application meeting. The purpose of the meeting shall be to discuss the general goals of the project and application procedures.
 - b. General Application. Following the pre-application meeting, the applicant shall submit a General Application. The contents of the General Application are detailed in Section 3.9.I.1.a.
 - c. Post-application meeting. Within 30 days of receipt of the complete General Application, the Zoning Administrator and the Harbor Area

Review Board shall meet in a post-application meeting. The purpose of the meeting shall be to discuss the content of the General Application and to formulate recommendations for the applicant.

- d. First review meeting. Within 30 days of the post application meeting, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a first review meeting. The purpose of the meeting shall be to provide the applicant with the Harbor Area Review Board's recommendations and to provide notice to proceed with the Detailed Application.
- e. Town Council summary. Following the first review meeting, the Harbor Area Review Board will present the Town Council with the General Application and a general description of discussion held at the first review meeting. The Town Council summary will be provided at a Town Council regular session or a Town Council work session for informational purposes.
- f. Detailed Application. Following the first review meeting, the applicant shall submit a Detailed Application. The contents of the Detailed Application are provided in Section 3.9.H.1.b.
- g. Zoning Administrator action. Following the Zoning Administrator's receipt of the Detailed Application and his determination that it is complete pursuant to Section 3.9.H.1.b, the Zoning Administrator shall prepare a thorough review and analysis of the Harbor Development Certificate Application and a written staff report. The Zoning Administrator's written report shall be forwarded to the Harbor Area Review Board within 45 days of receipt of the Detailed Application.
- h. Second review meeting. After receipt of the Detailed Application, the applicant shall meet with the Zoning Administrator and the Harbor Area Review Board in a second review meeting. The purpose of the meeting shall be to review the Harbor Development Certificate Application, consisting of the General Application and the Detailed Application, and provide the applicant with any necessary recommendations. Follow up meetings may be scheduled to further review the application or to review modifications to the application.
- i. Harbor Area Review Board action. After the second review meeting, the Harbor Area Review Board shall forward its recommendation to approve, deny, or approve subject to modification, to the Town Council along with written findings of fact supporting its recommendation.
- j. Town Council action. After receipt of the Harbor Area Review Board's recommendations and findings, the Town Council shall decide to approve, deny, or approve subject to modification.

- k. Concurrent review permitted. Other development applications, including application for any necessary Certificate of Appropriateness, may be submitted concurrently with an application for a Harbor Development Certificate.
3. Criteria for review. In reviewing the Harbor Development Certificate Application, the Zoning Administrator, the Harbor Area Review Board, and the Town Council shall consider the following criteria:
 - a. Use characteristics of the proposed development.
 - b. Preservation of historic structures; preservation of significant features of existing buildings when such buildings are to be renovated; relation to nearby historic structures or districts including a need for height limits.
 - c. Location and adequacy of off-street parking and loading provisions, including the desirability of bicycle parking.
 - d. Vehicular circulation within the development and its relation to other existing and proposed transportation facilities.
 - e. Inclusion of alleys to enhance vehicular transportation within the development.
 - f. Provision of concealed commercial loading and unloading areas adjacent to alleys to prevent loading, unloading, and trash collection along public rights of way.
 - g. Traffic generation characteristics of the proposed development in relation to street capacity.
 - h. Provision of open space to meet the requirements of the district; the location, design, landscaping and other significant characteristics of this public open space, and its relation to existing and planned public and private open space.
 - i. Multi-modal transportation facilities within the proposed development and their relation to public open space and pedestrian circulation patterns.
 - j. Architectural relationships, both formal and functional, of the proposed development to surrounding buildings, including building siting, massing, proportion, and scale.
 - k. Use of architectural details, storefront design, window openings, roof shapes, porches, and columns to balance the proportions of facades into pleasant and cohesive compositions.
 - l. Microclimate effects of proposed development, including effects on wind velocities, sun reflectance, and sun access to streets and/or existing buildings and/or public open space.
 - m. Protection of significant views and view corridors, particularly views of the Cape Charles Harbor from existing road intersections.
 - n. Relationship of on-site lighting and landscaping to other surrounding lighting and landscaping designs both public and private.
 - o. Relationship of on-site signage to architectural elements of the proposed development and relationships to nearby development.
 - p. Adherence to policies included in the Cape Charles Harbor Area Conceptual Master Plan and Design Guidelines, the Comprehensive Plan, and other officially adopted plans of the Town.

- q. Adherence to the intent and requirements of the Harbor District.
- 4. Other requirements. Issuance of a Harbor Development Certificate shall not exempt a property owner from obtaining other necessary zoning clearances and building permits as required.

J. Exemption.

Railroad activities in this district are subject to federal preemption to the extent that the activities are an integral part of the railroad's interstate operations. 49 U.S.C. 10501 (b). Therefore, "state and local permitting or pre-clearance requirements [such as building permits, zoning clearances, and site plan requirements] which, by their nature, interfere with interstate commerce by giving the [Town of Cape Charles] the ability to delay or deny the [railroad's] right to construct facilities or conduct operations are preempted." *Borough of Riverdale v. New York Susquehanna & Western Railway Corporation*, Surface Transportation Board, Docket No. FD 33466 0, September 9, 1999.

However, environmental and other public health and safety issues and "activities and facilities not integrally related to the provision of rail service are not subject to [Surface Transportation Board] jurisdiction or subject to federal preemption." *Id.* Also, "interstate railroads ... are not exempt from certain local fire, health, safety and construction regulations and inspections." *Id.*

Section 3.10 General Business/Light Industrial GBI

- A. Statement of Intent. The intent of this basic zoning district is to accommodate and develop a district for business, office, light industrial, and specific public purpose and to encourage the formation and continuance of a quiet, compatible, and uncontested environment for business, professional, and light industrial firms and to discourage any uses capable of adversely affecting the specialized commercial and housing character of the Town.
- B. Permitted Uses. The following uses shall be permitted by right; however, any outdoor storage shall be screened from view of all adjacent streets and property lines:
 - 1. All permitted uses within the CR, C-1, C-2, and C-3 districts
 - 2. Animal hospital and kennels provided that all animals are kept in soundproof, air-conditioned buildings
 - 3. Assembly, processing, and bottling provided that there shall be no outdoor storage of equipment and materials
 - 4. Fire, police, emergency medical services and facilities
 - 5. Machine(ry) shops
 - 6. Shipping and warehouses and storage facilities
 - 7. Utility installations and warehousing

8. Any other light industry as determined by the Zoning Administrator to be a compatible use in this district
- C. Conditional Uses. Within the GBI District, there shall be no conditional uses permitted.
- D. Accessory Uses. Within the GBI District the following accessory uses shall be permitted:
 1. Those uses customarily associated and clearly incidental and subordinate to the principal uses and structures and temporary licensed uses such as festivals, displays, outdoor entertainment, outdoor gatherings, performances, and outdoor open air markets.
- E. Height Requirements. Buildings may be erected up to 45 feet in height from the adjacent ground elevation.
- F. Area Regulations. The following area regulations shall apply to all parcels located within the GBI District:
 1. Front yard minimum 75 feet
 2. Side yard minimum..... 50 feet
 3. Rear yard minimum 50 feet

Section 3.11 Industrial District M-1

- A. Statement of Intent. The primary purpose of the M-1 District is to permit certain industries, which do not in any way detract from the residential desirability, and will not be permitted to locate in any area adjacent to a residential area. The limitation on (or provisions relating to) height of a building, horsepower, heating, flammable liquids or explosives, controlling of emission fumes, odors and noise, landscaping, and the number of people employed are imposed to protect and foster adjacent desirability while permitting industry to locate near a labor supply and near existing available transportation.
- B. Permitted Uses. The following uses will be permitted by right:
 1. All uses permitted in the CR, C-1, C-2, and C-3 Districts
 2. Assembly of electrical appliances, electronic instruments and devices, radios, and phonographs. Also the manufacturing of small parts, such as coils, condensers, transformers, and crystal holders
 3. Automobile and truck painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, overhauling, tire re-treading or recapping, battery manufacturing; boat building, repairing, repainting, rebuilding and reconditioning
 4. Blacksmith shops, welding or machine shops

5. Building materials sales yards, plumbing supply stores
6. Coal and wood yards, lumberyards, feed and seed stores
7. Contractors' equipment storage yards or plant storage or rental of equipment commonly used by contractors
8. Pharmaceutical and medical laboratories
9. Manufacturing, processing, compounding, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfume, pharmaceutical, toiletries, and similar products
10. Manufacturing of musical instruments, toys, novelties, and rubber and metal stamps
11. Manufacturing of pottery and figurines or similar ceramic products
12. Monumental stone works
13. Manufacturing and maintenance of electric and neon signs, billboards, commercial advertising structures, and the like
14. Sheet metal shops.
15. Wholesale business and storage warehouses
16. Any other use as determined by the Zoning Administrator to be a compatible use with this district

C. Conditional Uses.

1. Heliports

D. Height Regulations. Buildings may be erected up to 45 feet in height from the adjacent ground level.

E. Area Requirements. The following requirements shall apply for development in this district:

Lot width at setback.....	100 feet
Area requirements	15,000 square feet
Side yard	10 feet
Rear yard.....	20 feet
Front setback	35 feet

Section 3.12 Planned Unit Developments (PUD)

- A. Statement of Intent. The intent of this district is to promote creative and imaginative development designs for residential and commercial uses by allowing greater flexibility than is possible under the restrictions of conventional zoning regulations. It is further intended to promote more efficient use of the land while encouraging variety and convenience for the development and the development of recreational areas and open spaces within the project. As in all zoning districts, the intent of the district is to ensure approved development will comply with the Subdivision Ordinance, the Site Plan Ordinance, the Chesapeake Bay Preservation Ordinance, the Coastal Primary Sand Dune Zoning Ordinance, the Erosion and Sediment Control Ordinance, the Wetlands Ordinance, and all other applicable regulations.

- B. Permitted Uses. The following uses may be permitted within a PUD district:
1. Residential
 - a. Any use permitted in R-1, R-2, R-3, and R-E Districts.
 2. Commercial
 - a. Any use permitted in C-1, C-2, C-3, M-1, Harbor, and GBI Districts.
 - b. Commercial recreation uses
 - c. Outdoor recreational uses
 - d. Schools, parks, playgrounds, athletic fields, and related facilities
 - e. Transportation facilities
 3. Accessory uses
 - a. Accessory uses as permitted in the R-1, R-2, R-3, and R-E residential districts
 4. Conditional uses
 - a. Any use listed as a conditional use in the R-1, R-2, R-3, and R-E residential districts or in the C-1, C-2, C-3, M-1, Harbor, and GBI commercial districts shall be a conditional use in the PUD and must follow the procedures of this ordinance on issuance of Conditional Use Permits.
- C. Area Regulations. The minimum area for a planned unit development shall be 50 acres.
- D. Density of Development. The sub areas of the PUD may contain the density requirements of one or more of the R-1, R-2, R-3, and R-E residential districts or in the C-1, C-2, C-3, M-1, Harbor, and GBI commercial districts. This is to accommodate flexibility and imaginative development designs. The density shall be consistent with conditions that are applicable to the property, such as topography, the character of the surrounding property, potential health or safety hazards, traffic safety considerations, and effect upon existing public facilities that could be alleviated by a reduction in density.
- E. Coverage. The maximum coverage in a PUD by impervious surface shall not exceed 60 percent of the total gross area of development, which includes as impervious surface buildings, impervious roads, and impervious parking lots. Not included as impervious surface for the PUD calculations is any recreational facility such as tennis courts, bathhouses, swimming pools, pervious roads, and pervious parking lots. No more than 33 percent of wetlands present in a PUD may be used when calculating total gross area of development.
- F. Common Areas. All common areas including open spaces, parking areas, street, and landscape areas shall be maintained by the owner/developer of the project until transfer to a corporation of property owners, organizing and operating in accordance with the incorporation law of Virginia.

- G. Utilities. All utilities shall be installed underground. Central instrumentation and substations shall be screened with fencing or landscaping.
- H. Height. The maximum height of any building in a PUD district shall be 35 feet.
- I. Yard Requirements. Side, front, and rear yard requirements will be established by reference to the applicable setback regulations of the R-1, R-2, R-3, and R-E residential districts or in the C-1, C-2, C-3, M-1, Harbor, and GBI commercial districts. The applicant may propose modifications to the setback regulations in accord with the procedures of Section 3.12 L. below.
- J. Design guidelines.
 - 1. External relationships: PUD districts shall provide protection of the development from potentially adverse surrounding influences, and protection of surrounding areas from potentially adverse influences within the development. In particular, the Master Plan for the PUD shall demonstrate the following features:
 - (1) Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Left-hand storage and right-hand turn lanes and/or traffic dividers shall be required where existing or anticipated heavy flows indicate need. In general, minor streets shall not be connected with streets outside the district in such a way as to encourage the use of such minor streets by substantial amounts of through traffic.
 - (2) Yards, fences, walls, or vegetative screening at the edges of the PUD district shall be provided where needed to protect residents from undesirable view, lighting, noise, or other off-site influences, or to protect residents of adjoining residential districts from similar adverse influences within the district. In particular, extensive off-street parking areas and service areas for loading and unloading non-passenger vehicles and areas of storage and collection of refuse and garbage shall be screened.
 - 2. Design Guidelines - Internal relationships: the PUD district shall provide for safe, efficient, convenient, and harmonious grouping of structures, uses and facilities. Elements of the proposed development shall be organized in relation to topography, the size and shape of the plot, the character of adjoining property, existing desirable trees, and the views within and beyond the site. In particular and without limitation:
 - (1) Private streets may be permitted by conditional use permit in the PUD district. However, unless specifically approved by the Town Council as a conditional use permit, the arrangement, character, extent, width, grade, and location of all streets shall be designed and constructed in

accordance with specifications acceptable to the Virginia Department of Transportation for inclusion in the state highway system for maintenance. When private streets are proposed as a conditional use permit, the standards, specifications and a proposed maintenance agreement shall be submitted with the conditional use permit application and shall also be included on the concept plan for the proposed PUD rezoning request.

- K. Modifications to Standards. The PUD district may provide flexibility through modifications to the foregoing standards of Section 3.12, PUD district list of permitted uses, area regulations, density of development, coverage, common areas, height, yard requirements, and stated design guidelines of the PUD district. All such modifications shall be expressly shown on the Master Plan and approved by the Town Council after lawfully advertised public hearings with the Planning Commission and Town Council, and shall be in keeping with the purpose of the PUD district, the intent of the Zoning Ordinance, the Comprehensive Plan, and the design guidelines of the PUD district.
- L. Procedures for Applications. The creation of a PUD District has the same effect as rezoning of the property. Therefore, the same process of public hearings will be used and the zoning map amended in order to register the change. The application will be made in accordance with administrative procedures implemented by the Town's Zoning Administrator and the following additional requirements:
1. The applicant will submit a Master Plan of development for review that includes all the information required for a rezoning and the additional information stipulated in paragraph 3.12 L. 2. below. The Master Plan shall be prepared by a qualified professional team. A listing of the members of the team with their qualifications must be submitted with the plan. For any PUD district proposed for property located in a Chesapeake Bay Preservation Area, the development plan must have been approved pursuant to the procedures of Town of Cape Charles Chesapeake Bay Preservation Ordinance prior to submission for approval to the Planning Commission and Town Council.
 2. Contents of a Master Plan. In addition to the requirements for a rezoning application, the Master Plan shall contain all the following:
 - (1) Vicinity map at a scale of not less than one inch equals 2,000 feet.
 - (2) Boundary survey including area of the tract related to true meridian or United States Geological Survey grid north.
 - (3) Attorney's certificate showing the owner or owners of the subject property, marketable title to the subject property in such owner or owners, naming the source of applicant's title or interest in the subject property, and the place of record of the latest instrument in the chain of title for each parcel constituting the tract.
 - (4) Total area of the tract presented in square feet or acreage.
 - (5) Scale and north arrow.
 - (6) Location of all existing buildings and structures.

- (7) Names and route numbers of all boundary roads or streets and the width of existing right(s) of way.
 - (8) Owners and uses of each adjoining tract.
 - (9) Existing topography with a maximum contour interval of two (2) feet.
 - (10) A statement in tabular form of the anticipated residential density and the total number of dwelling units, the percentage of the tract which is to be occupied by structures, and the total floor area of all commercial uses.
 - (11) A schematic land use plan at an appropriate scale showing the areas of residential and commercial use and densities, together with their sub area zoning district designations; proposed traffic circulation plan, including major streets and major pedestrian, bike and golf cart paths; all proposed major open space areas; limits of clearing; the general location of all proposed community and public facilities and the generalized proposed plan for water, sanitary waste facilities and drainage improvements.
 - (12) A delineation of those general areas that have scenic assets or natural features deserving protection and preservation, and a statement of how such will be accomplished.
 - (13) When the development is to be constructed in stages or units, a sequence of the development schedule showing the order of construction of each principal functional element of such stages or units, the approximate completion date for each stage or unit.
 - (14) A traffic impact study shall be prepared by a qualified professional third party approved by the Town showing the effects of traffic generated by the project on surrounding roads, unless the proposed traffic increase is declared insignificant by the Planning Commission.
 - (15) Location and description of screening and buffering around commercial use areas and along the perimeter of the district.
 - (16) All proposed modifications to the permitted uses, area regulations, density of development, coverage, common area, utilities, height, yard requirement and stated design guidelines listed in Section 3.12, Planned Unit Development, together with the rationale for such modifications.
 - (17) Supplementary data for the particular development, as reasonably deemed necessary by the Planning Commission or the Zoning Administrator.
3. Proffers. If the applicant proffers reasonable conditions in connection with the application, a set of signed proffers must be submitted prior to the public hearing with the Town Council in accord with Section 2.7.5 of this ordinance.
 4. The Planning Commission and Town Council shall consider the application for PUD rezoning in accordance with the Town's procedures and the Code of Virginia. This will include advertised public hearings. In approving the application based on the Master Plan, the Council may establish such conditions and require such modifications as deemed necessary to ensure fulfillment of the intent of the PUD district, the purposes of the Zoning

Ordinance, the goals of the adopted Comprehensive Plan, and compliance with applicable subdivision and site plan ordinances and the Code of Virginia.

- M. Effect of approval of the PUD district.
1. All terms, conditions, safeguards and stipulations included in the Town Council's approval of the PUD district, including without limitation those contained in the Master Plan to the extent approved and adopted by the Town Council, shall be part of the zoning applicable to the property, shall be included in the ordinance approving the rezoning to PUD district, and shall be binding upon the applicant and all successors in interest. Unapproved modifications from the plans or failure to comply with any requirements, conditions, or safeguards shall constitute a violation of the Zoning Ordinance.
 2. After approval of the PUD district, the owner may submit subdivision plats and site plans for approval consistent with the rezoning. No building permits will be issued until site plan approval and final subdivision plats have been approved and recorded in the County land records according to applicable law.
 3. The project may be built in stages with individual site plans for each stage. However, site plans must be in conformance with the approved zoning.

Section 3.13 Industrial District M-2 *[revised 4/8/2010 – District Name Change]*

- A. Statement of Intent. The intent of this zoning district is to provide for mixed industrial and employment land uses in the community. The specific objectives of the M-2 District are to:
1. Encourage the revitalization of the local industrial economy and historic port of Cape Charles and Northampton County
 2. Create family-wage employment and training opportunities for local residents.
 3. Serve as a model and national prototype of an integrated approach to land development and industrial operations, embodying sustainable approaches to the local economy, environment, and culture
 4. Serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers
 5. Encourage cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically-based industrial development
- B. Permitted Uses. The following uses are permitted by right:
1. Library or other municipal building

2. Park, plaza, or natural area
 3. Museum, cultural center, arboretum
 4. Adult or child day care center
 5. Agriculture, horticulture, forestry, and/or fishery/aquaculture
 6. Offices for telecommunications
 7. Fire, police, rescue station
 8. Medical care facility, outpatient only
 9. Mail courier and parcel services
 10. Printing service
 11. Art gallery
 12. Office, administrative, business and professional
- C. Conditional Uses. Within the M-2 District, the following conditional uses shall be allowed, subject to the issuance of a Conditional Use Permit
1. Recycling drop-off collection centers
 2. Recording studio
 3. Manufacture, processing, fabrication, and/or assembly of products such as scientific and precision instruments, renewable energy technology components, photographic equipment, communication equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceutical, household items, glass products, electrical lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, optical goods, and electrical equipment
 4. Research, experimental testing, or development activities
 5. Food production, packaging, packing and canning
 6. Wood products manufacturing
 7. Concrete plant; manufacturing, sales, and distribution of concrete and related products
 8. Railroad tracks, sidings, yards, or roundhouses
 9. Marinas, docks, and wharves, if contiguous to the Cape Charles Harbor
 10. Port facilities; marine, rail, trucking, and/or intermodal terminals, including transfer, storage, handling, inspection, processing, and/or transport of containerized, bulk, and/or other cargo.
 11. Educational institution
 12. Conference center
 13. Outdoor storage provided it shall be surrounded by wax myrtle or red tip photinia installed on 4-foot centers and by evergreen trees with a minimum caliper of 2.5 inches on 15-foot centers, except for entrances and exits.
 14. Public utilities substations provided storage or maintenance facilities shall not be permitted and provided further that utilities substations, other than transformers, shall be surrounded by wax myrtle or red tip photinia installed on 4-foot centers and by evergreen trees with a minimum caliper of 2.5 inches on 15-foot centers, except for entrances and exits, and provided also transformer vaults for underground utilities and the like shall require only wax myrtle or red tip photinia installed on 4-foot centers, solid except for access opening

15. Any telecommunication, television, or radio microwave dishes or antennas
16. Utility generating plant and transmission facility using renewable energy sources
17. Warehousing facility
18. Performing arts center
19. Public utility service center
20. Water storage tank
21. Utility installations
22. Recreational facilities
23. Structures, other than buildings, exceeding 50 feet

D. Accessory Uses. Within the M-2 District, the following accessory uses shall be allowed:

1. Only those that are customarily accessory and clearly incidental and subordinate to the principal uses and structures.
2. Temporary licensed uses such as art festivals, displays, educational exhibits, outdoor gatherings or performances, and outdoor food markets.

E. Lot, Yard, Height, and Density Requirements. Within the M-2 District, the following standards shall apply:

1. Minimum lot requirements
 - lot area..... 15,000 square feet
 - lot width 100 feet at setback line
2. Yard requirements
 - minimum front yard 10 feet
 - maximum front yard 25 feet
 - minimum side yard between buildings none or 5 feet
 - minimum side yard adjacent to street 10 feet
 - minimum rear yard 20 feet
3. Maximum building height
 - buildings 45 feet
 - structures other than buildings 50 feet
4. Building coverage. No more than 60 percent of the land area of the lot may be covered by structures
5. Buffer yards. Where the M-2 District adjoins R-E, R-1, R-2, or R-3 Districts, buffer yards are required as follows:
 - a. When a zoning lot within the M-2 District adjoins R-E, R-1, R-2, or R-3 Districts, the following shall be required along all lot lines within the M-2 District adjoining the R-E, R-1, R-2, or R-3 Districts:
 - i. a 50-foot separation of road right-of-way, golf course, lake, drainage easement, natural area, or landscaped buffer yard.

F. Additional Development Requirements

1. Placement of drives and parking areas. Excluding entrances and exits, no drive or parking area shall be located within any front yard or minimum side and rear yards.
2. Placement of drives and parking areas when adjacent to public right-of-way. Excluding entrances and exits, no drive or parking area shall be located closer than twenty feet from any public right-of-way line for a contiguous public street. Landscaping, hedges, or fast-growing shrubs on four-foot centers on a gradual berm shall be installed within a portion of this buffer area unless to do so will jeopardize existing natural vegetation within the buffer area.
3. No parking or drive aisles shall be located within the required buffer yards.
4. No outside storage of parts, materials, fossil fuels, raw materials, or petroleum shall be permitted within the M-2 District.
5. No outside manufacturing, assembly, or servicing of products used on the property or trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed.
6. Any exterior lighting on the property shall be directed down and away from any area zoned R (Residential) or PUD where residential development is a permitted use, to prevent the disbursement or bleeding of light beyond the limits of the developed portions of the property.
7. No outside loudspeakers, intercoms, sirens, paging systems, whistles, horns, bells, or other devices designed to or which transmit a warning message or other communication or signal audible outside any building shall be allowed on the property. No equipment used outdoors, excluding half-ton trucks, shall be equipped with or use any device to emit a warning noise or audible signal while in use on the property.
8. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
9. No delivery or transmission of materials or products shall be permitted to or from the property by truck or rail before 8 a.m. and after 9 p.m. Monday through Saturday and no such deliveries to or from the property by rail or truck, excluding half-ton trucks, shall occur on Sunday.

Section 3.14 General Business/Light Industrial H-1 (GBI H-1) *[revised 2/11/2010 – C. Conditional Uses; revised 4/8/2010 – District Name Change]*

- A. Purpose of the District. The GBI H-1 District is a planned mixed industrial and employment park with a comprehensive development plan. The purpose of the district is to:
1. Encourage the revitalization of the local industrial economy and historic port of Cape Charles and Northampton County
 2. Create family-wage employment and training opportunities for local residents
 3. Serve as a model and national prototype of an integrated approach to land development and industrial operations, embodying sustainable approaches to the local economy, environment, and culture
 4. Serve as a model for advancing the traditional settlement patterns of the Eastern Shore's towns and employment centers

5. Incorporate comprehensive, cost-effective approaches to resource conservation, wise use of renewable resources, and ecologically based industrial development in all aspects of design and development of the project.
- B. Permitted Uses. Within the GBI H-1 District, the following permitted uses shall be allowed.
1. Adult and/or child day care center
 2. Agriculture (excluding livestock), horticulture, forestry, and/or fishery/aquaculture
 3. Art gallery
 4. Business service establishment (including mail order or electronic catalog sales)
 5. Conference center
 6. Communication and telecommunications centers
 7. Commuter parking lot
 8. Educational institution
 9. Flex industrial use
 10. Fire, police, rescue stations
 11. Food production, packaging, packing, and canning
 12. Hotel, serving as an ancillary and interrelated component of the Park
 13. Library or other municipal building
 14. Manufacture, processing, fabrication and/or assembly of products such as but not limited to scientific and precision instruments, renewable energy technology components, photographic equipment, communications equipment, aircraft or satellite parts, computation equipment, drugs, medicines, medical equipment, pharmaceuticals, household items, glass products, electric lighting and wiring equipment, service industry machines, industrial controls, optical goods, and electrical equipment.
 15. Medical care facility, outpatient only
 16. Museum, cultural center, arboretum
 17. Offices--administrative, business, professional, and telecommunication
 18. Outdoor storage provided it shall be surrounded by landscaping sufficient to screen storage area in accordance with Appendix A, applicable category
 19. Park, plaza, or natural area
 20. Parking structure
 21. Performing arts center
 22. Post office, drop off and pick up, mail courier and parcel services
 23. Printing service
 24. Public utility service center, without outdoor storage
 25. Rail and/or intermodal terminals, including transfer, storage, handling, inspection, processing and/or transport of containerized bulk and/or other cargo
 26. Recording studio
 27. Recreational facilities
 28. Recycling drop-off collection center serving the Park
 29. Research, experimental testing or development activities

30. Restaurant, indoor and outdoor (excluding drive-through)
 31. Telecommunications, television, or radio microwave dishes or antennas
 32. Training center (excluding rehabilitation and institutional facilities)
 33. Utility generating plant and transmission facilities using renewable energy sources
 34. Utility installations
 35. Utility substations provided storage or maintenance facilities shall not be permitted and provided further that utilities substations, other than transformers, shall be landscaped in accordance with Appendix A, applicable category, sufficient to screen area
 36. Warehousing facility (excluding mini-storage facility)
 37. Water storage tank
 38. Wholesale trade establishment
- C. Conditional Uses. Within the GBI H-1, the following conditional uses may be allowed, subject to the issuance of a Conditional Use Permit.
1. Structures, other than buildings, exceeding 50 feet
 2. Buildings over 40 feet but equal or less than 50 feet
- D. Accessory Uses. Within the GBI H-1 District, the following accessory uses shall be allowed.
1. Only those that are customarily accessory and clearly incidental and subordinate to the principal uses and structures
 2. Temporary licensed uses such as festivals, displays, educational exhibits, outdoor gatherings or performances, and outdoor food markets
- E. Lot, Yard, Height, and Density Requirements. Within the GBI H-1 District, the following standards shall apply.
1. Minimum lot requirements
 - lot area 15,000 square feet
 - lot width 100 feet
 2. Yard requirements
 - minimum front yard 10 feet
 - maximum front yard 25 feet
 - minimum side yard between buildings ... none or 5 feet
 - minimum side yard adjacent to street 10 feet
 - minimum rear yard 20 feet
 3. Maximum building height
 - buildings 40 feet
 - structures other than buildings..... 50 feet
 4. Building coverage. No more than 50 percent of the land area of the lot may be covered by structures.
 5. Buffer yards. Where the GBI H-1 District adjoins the R (residential) zoning districts within the PUD or CO Land Use Classifications or C districts within the PUD, buffer yards are required as follows:

- a. When a zoning lot within the GBI H-1 District adjoins any R zoning district within the PUD, the following shall be required along all lot lines within the GBI H-1 District adjoining the R zoning district within the PUD.
 - i. A 200-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within 200 feet of any zoning district or zoning classification within the PUD that permits residential as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where residential use is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 100 feet wide and run continuously for the length of the buffer.
- b. When a zoning lot within the GBI H-1 District adjoins a CO Land Use Classification, the following shall be required along all lot lines within the GBI H-1 District adjoining the CO Land Use Classification:
 - i. A 100-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within 100 feet of any zoning district or zoning classification within the PUD that permits CO Land Use Classification as an allowed use and no such facilities shall be located in the side of any portion of a building or structure that is adjacent to the portions of the PUD where CO Land Use Classification is allowed.
 - iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.
- c. When a zoning lot within the GBI H-1 District adjoins a C district, the following shall be required along all lot lines within the GBI H-1 District adjoining the C district:
 - i. A 50-foot natural buffer over and above any landscape requests otherwise required by the Town's zoning or site plan ordinances. A preservation easement shall be required prior to site plan approval and no clearing or disturbance of trees or undergrowth shall be allowed within the buffer area.
 - ii. No loading facilities, loading docks, or loading bays shall be permitted within 75 feet of any zoning district or zoning classification within the PUD that permits commercial as an allowed use and no such facilities shall be located in the side of any portion of a building or structure

that is adjacent to the portions of the PUD where commercial use is allowed.

- iii. Any buffer yard exclusive of any other yard requirements shall be landscaped with Category III landscape screening as set forth in Appendix A, except that the width of the landscaped area shall be at least 50 feet wide and run continuously for the length of the buffer.

F. Additional Development Requirements.

1. Placement of drives and parking areas. Excluding entrances and exits, no drive or parking area shall be located within any front yard or minimum side or rear yards.
2. Placement of drives and parking areas when adjacent to public right-of-way. Excluding entrances and exits, no drive or parking area shall be located closer than twenty feet from any public right-of-way line for a contiguous public street. Landscaping, hedges, or fast-growing shrubs on a gradual berm shall be installed within a portion of this buffer area unless to do so will jeopardize existing natural vegetation within the buffer area. See Appendix A, Category I for requirements.
3. All parking must comply with Appendix B - Off Street Parking and Loading Requirements
4. Parking is not permitted in the front yard of a lot.
5. No parking or drive aisles shall be located within the required buffer yards.
6. No outside storage of parts, materials, fossil fuels, raw materials, or petroleum shall be permitted within the GBI H-1 District.
7. No outside manufacturing, assembly, or servicing of products used on the property or of trucks or automobiles used in conjunction with or for the transport of materials to the district shall be allowed.
8. Any exterior lighting on the property shall be directed down and away from any area zoned R (residential) or PUD where residential development is a permitted use to prevent the disbursement or bleeding of light beyond the limits of the developed portions of the property.
9. No outside loudspeakers, intercoms, sirens, paging systems, whistles, horns, bells, or other devices or signals audible outside any buildings shall be allowed on the property.
10. No dust, smoke, or noxious odors shall be released from any structure, building, or equipment used on the property.
11. No delivery or transmission of materials or products shall be permitted to or from the property by truck or rail between 11 p.m. and 5 a.m. Monday through Sunday.

Section 3.15 Open Space District *(revised 01-08-09)*

- A. **Statement of Intent.** The intent of the Open Space District (OSD) zoning district is to provide opportunities for recreational activities, a network of recreational paths, preserve natural resources and create buffer zones within the town.

B. Permitted Uses

- a. Non- commercial recreational uses which are primarily open air.
- b. Swimming Pools.
- c. Court sports such as but not limited to tennis, volleyball, croquet and basketball.
- d. Structures such as picnic shelters, piers and docks, equipment storage buildings associated with permitted recreational uses.
- e. Parking areas associated with permitted recreational uses.
- f. Retention areas and streets
- g. Public Utility Facilities
- h. Public Amenities such as restrooms, bath houses, fountains, etc.

C. Conditional Uses

- a. None

D. Accessory Uses

- a. Those uses customarily accessory and clearly incidental and subordinate to the permitted uses.

E. Setback Regulations

- a. Buildings
 - i. All sides20 feet
- b. Courts
 - i. From Buildings20 feet
 - ii. Property Lines20 feet
 - iii. StreetsNone
- c. In built up neighborhoods, the prevailing setbacks of the neighborhood as defined in Section 3.2 of the Zoning Ordinance.

F. Development Standards

To help preserve the architectural cohesiveness of the Town, all buildings, structures, public amenities and storage units in the OSD shall be compatible, sympathetic and complimentary with buildings in the neighborhood as defined in Section 3.2 of the Zoning Ordinance.