



TOWN COUNCIL

Public Hearing

December 9, 2010
St. Charles Parish Hall
6:00 PM

1. Call to Order at 6:00 PM
 - A. Roll Call
 - B. Establish quorum

2. Public Hearing Comments:
 - A. Town Code Revision – Proration of Personal Property Tax

 - B. Zoning Ordinance Revisions – Planning
 - i. Group Homes (§ 4.0.C)
 - ii. Temporary Family Health Care Structures (§ 4.2.E.8)
 - iii. Site Plan Ordinance (Appendix B)

3. Adjournment

PUBLIC HEARING

The Cape Charles Town Council will hold a public hearing at 6:00 p.m. on Thursday, December 9, 2010 in the St. Charles Parish Hall at 550 Tazewell Avenue, Cape Charles, VA. The purpose is to hear public comment regarding the following items:

- Town Code Modifications:
 - Proration of Personal Property Taxes (§ 66-5)

- Zoning Ordinance Modifications:
 - Group Homes (§§ 2.9, 3.2.B.6, and 4.0.C.1)
 - Temporary Family Health Care Structures (§§ 2.9 and 4.2.E)
 - Chesapeake Bay Preservation Act Requirements (§ 4.4.B and Appendix B-§ 4.A.1.h)

Proposed Addition to the Cape Charles Town Code

§ 66-5 PRORATION OF PERSONAL PROPERTY TAX.

(A) There shall be a personal property tax at a rate established each year by the Town Council on motor vehicles and trailers, (hereafter referred to in this section as "taxable property") which have a situs within the Town on January 1 of each year and which acquire a situs within the Town on or after January 2 of each year. When taxable property is acquired a situs within the Town on or after January 2, the personal property tax for that year shall be assessed to the property owner prorated on a monthly basis for that portion of the tax year during which the taxable property has situs within the Town. When taxable property with a situs in the Town is transferred to a new owner within the Town, the personal property tax shall be assessed to the new owner prorated on a monthly basis for the portion of the tax year during which the new owner owns the taxable property. For purposes of proration, a period of more than one-half of a month shall be counted as a full month and a period less than one-half of a month shall not be counted. All taxable property shall be assessed as of January 1 of each year or if it acquires situs or has its title transferred. The owner of taxable property acquiring situs within the Town or to whom taxable property is transferred shall file a declaration of property ownership with the Treasurer within 30 days of the date on which such property acquires a situs within the Town or has its title transferred to such owner.

(B) When any taxable property loses its situs within the Town or its title is transferred to a new owner, the taxpayer shall from that time be relieved from personal property tax on such property and receive a refund of personal property tax already paid, or a credit against personal property taxes outstanding against the taxpayer, at the option of the Treasurer, on a monthly prorated basis, upon application to the Treasurer, provided, that application is made within one year from the last day of the tax year which the taxable property lost situs or had its title transferred.

(C) Any person who fails to pay personal property taxes on or before the date due shall incur a penalty of 5% of the tax due. The sum shall become part of the taxes due. Interest at the rate of 10% per annum from the first day following the day such taxes are due shall be paid upon the principal and penalties of such taxes remaining unpaid.

(D) The Treasurer may, on or after December 15 of each year, bill all personal property taxes assessed for a portion of the tax year less than the full year which have not been otherwise billed. Taxes so billed shall be due no later than 30 days after the date of the tax bill.

Zoning Ordinance Modifications – Group Homes

During the last General Assembly session, many new bills were adopted. Since the Commonwealth of Virginia closed some of its hospitals for mental illnesses, this bill allows the establishment of homes to care for these people in single family zones. Adoption of this bill by local governments is mandated by the Code of Virginia § 15.2-2291.

§ 15.2-2291. Assisted living facilities and group homes of eight or fewer single-family residence.

A. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight individuals with mental illness, mental retardation, or developmental disabilities reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. For the purposes of this subsection, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in § [54.1-3401](#). No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or other residential facility for which the Department of Behavioral Health and Developmental Services is the licensing authority pursuant to this Code.

B. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight aged, infirm or disabled persons reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any assisted living facility or residential facility in which aged, infirm or disabled persons reside with one or more resident counselors or other staff persons and for which the Department of Social Services is the licensing authority pursuant to this Code.

Group Home Modifications to the Cape Charles Zoning Ordinance

- Definition being added to § 2.9:

Group Home – A residential facility in which no more than eight individuals with mental illness, mental retardation, or developmental disabilities reside, with one or more residential counselors or other staff persons and licensed by the Department of Behavioral Health and Developmental Services. For the purposes of this ordinance, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Va. Code 54.1-3401.

- Add use in § 3.2.B.6:

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 Home per Va. Code 15.2-2291

- Remove “group home” from § 4.0.C.1:

C. The following are specifically excluded:

1. Family care homes, group homes except as allowed under Va. Code 15.2-2291, nursing homes ...

Zoning Ordinance Modifications – Temporary Family Health Care Structures

During the last General Assembly session, many new bills were adopted. § 15.2-2292.1 requires local zoning ordinances to allow Family Health Care Structures in the single family zone. A family health care structure is an accessory structure of 300 square feet or less for no more than one occupant who shall be mentally or physically impaired.

§ 15.2-2292.1. Zoning provisions for temporary family health care structures.

A. Zoning ordinances for all purposes shall consider temporary family health care structures (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings. Such structures shall not require a special use permit or be subjected to any other local requirements beyond those imposed upon other authorized accessory structures, except as otherwise provided in this section. Such structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. Only one family health care structure shall be allowed on a lot or parcel of land.

B. For purposes of this section:

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

"Mentally or physically impaired person" means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in § [63.2-2200](#), as certified in a writing provided by a physician licensed by the Commonwealth.

"Temporary family health care structure" means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§ [36-70](#) et seq.) and the Uniform Statewide Building Code (§ [36-97](#) et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

C. Any person proposing to install a temporary family health care structure shall first obtain a permit from the local governing body, for which the locality may charge a fee of up to \$100. The locality may not withhold such permit if the applicant provides sufficient proof of compliance with this section. The locality may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. Such evidence may involve the inspection by the locality of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.

D. Any temporary family health care structure installed pursuant to this section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.

E. No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

F. Any temporary family health care structure installed pursuant to this section shall be removed within 30 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.

G. The local governing body, or the zoning administrator on its behalf, may revoke the permit granted pursuant to subsection C if the permit holder violates any provision of this section. Additionally, the local governing body may seek injunctive relief or other appropriate actions or proceedings in the circuit court of that locality to ensure compliance with this section. The zoning administrator is vested with all necessary authority on behalf of the governing body of the locality to ensure compliance with this section.

Temporary Family Health Care Structures Modification to the Cape Charles Zoning Ordinance

- Definitions being added to § 2.9:

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

Mentally or Physically Impaired Person – A person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in Va. Code 63.2-2200, as certified in writing by a physician licensed in the Commonwealth of Virginia.

- Add #11 to § 4.2.E:

11. Temporary Family Health Care Structures are only allowed per the Va. Code 15.2-2292.1.

Zoning Ordinance Modifications – Chesapeake Bay Preservation Act Requirements

More than 10 years ago, the Town of Cape Charles became one of the first localities to adopt the Chesapeake Bay Preservation Act. The Chesapeake Bay Local Assistance group is auditing localities to see if the ordinances have done the job or need to be strengthened. During the review of the Cape Charles ordinances, it was found that some improvement could be made. The following modifications are text changes that do not modify the intent of the ordinance but require additional information to be included on site plans.

- Add #7 to § 4.4.B:

7. The comprehensive plan for each parcel shall include the requirement to retain the 100 foot Resource Protection Area (RPA) and associated buffer area.

- Revised Appendix B – Site Plan Ordinance, § 4.A.1.h:

h. location of Resource Protection Area (RPA) boundary, as specified in Subsection 7.4.A of the Chesapeake Bay Preservation Ordinance, including any additional buffer areas and RPA maintenance and use restrictions.