

Planning Commission

Regular Session Agenda

September 2, 2014

6:00 P.M.

1. Call to Order – Planning Commission Regular Session
 - a. Roll Call – Establish a quorum
2. Invocation and Pledge of Allegiance
3. Public Comments
4. Consent Agenda
 - a. Approval of Agenda Format
 - b. Approval of Minutes
 - c. Reports
5. Old Business
 - a. Backyard Chicken Ordinance –schedule public hearing
 - b. Tourism Zone – Continue discussion on tourism zone
6. New Business
7. Announcements
8. Adjourn



DRAFT
PLANNING COMMISSION
Regular Meeting
Cape Charles Civic Center
August 5, 2014

At 6:00 p.m. in the Cape Charles Civic Center, Chairman Dennis McCoy, having established a quorum, called to order the Regular Meeting of the Planning Commission. In addition to Chairman McCoy, present were Commissioners Dan Burke, Joan Natali, Sandra Salopek and Bill Stramm. Commissioner Mike Strub arrived at 6:01 p.m. Commissioner Andy Buchholz and Town Planner Rob Testerman were not in attendance. Also present was Town Clerk Libby Hume. There were no members of the public in attendance.

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

PUBLIC COMMENTS

There were no comments from the public nor any comments submitted in writing prior to the meeting.

CONSENT AGENDA

Motion made by Mike Strub, seconded by Joan Natali, to accept the agenda format as presented. The motion was unanimously approved.

The Commissioners reviewed the minutes for the July 8, 2014 Regular Meeting and the July 28, 2014 Comprehensive Plan Work Session.

Joan Natali commented on the July 28, 2014 minutes and suggested a change to the language item 6.i).

Motion made by Joan Natali, seconded by Sandra Salopek, to approve the minutes from the July 8, 2014 Regular Meeting as presented, and the July 28, 2014 Comprehensive Plan Work Session as amended. The motion was unanimously approved.

REPORTS

With the absence of Rob Testerman, there were no reports to review.

OLD BUSINESS

A. *Backyard Chickens – Review Comments from legal and set a public hearing*

The Commissioners reviewed a letter from Frank Rennie of CowanGates and the draft language for § 3.2.C.7 regarding the conditional use and requirements for the keeping of chickens. The following changes were discussed: i) Typically, a Conditional Use Permit (CUP) runs with the property, but the Commissioners asked if a condition could be placed on CUPs for backyard chickens stating that the CUP would terminate if the property owner were to move, rent the property or sell the property since it could be purchased for a rental; ii) If the applicant decided at a later time to stop raising chickens, or they moved, language needed to be included to require the chicken coops be removed or dismantled. If we did not require the coops to be removed, they still would need to be inspected annually to ensure that the coops were kept clean/sanitary; iii) Language needed to be included that if the Town had to physically remove the coop, if abandoned or not maintained, a fee would be assessed to the property owner and a lien would be placed on the property similar to code enforcement issues; iv) In the opening

paragraph of C.7., “egg-laying” was deleted because after some time, hens would stop laying eggs. If the property owner decided to keep the hen as a pet, the Commissioners did not want them to get another egg-laying hen. They wanted to keep the limit of no more than a total of 5 hens; v) The Commissioners asked that staff check the Accawmacke Plantation PUD documents regarding chickens. They felt that the PUD documents basically followed the Town’s zoning, but wanted to make sure. If language regarding chickens was not in the PUD documents, the Commissioners wanted to give the Bay Creek Homeowners’ Association notification of this upcoming change; vi) There was much discussion regarding renters vs. owners and the Commissioners agreed to limit this to property owners only and they must be full-time occupants of the residence; and vii) Language should be added regarding assessment of penalties if any provision of the ordinance was violated, similar to penalties in other ordinances. The Commissioners requested that staff research what the Town could and could not do.

The Commissioners agreed that they wanted to review the complete ordinance with all changes made one final time before scheduling a public hearing.

B. *Floodplain Ordinance – Discuss model floodplain ordinance*

Town Clerk Libby Hume explained that Rob Testerman was working on the revisions to the draft Floodplain Ordinance and staff report before he was called away. The Commissioners discussed alternate meeting dates to review the Floodplain Ordinance since it had to be submitted to the Department of Conservation and Recreation (DCR) in September. The Commissioners requested that Rob Testerman complete the staff report and revisions to the ordinance when he returned and email it to the Commissioners as soon as possible for their review. Bill Stramm would be out of the country from August 13 through August 27 and wanted to be able to review the information prior to leaving so he could provide his comments to staff. A special meeting to review this issue was scheduled for August 25 immediately following the Comprehensive Plan Work Session.

NEW BUSINESS

A. *September Planning Commission Regular Meeting – Discuss possible date change*

The September Regular Meeting was currently scheduled for Tuesday, September 2, 2014, which was the day after Labor Day. This item was placed on the agenda to poll the Commissioners regarding a possible date change. Dennis McCoy polled the Commissioners regarding their preference. Since a quorum would be present for September 2, the meeting date was not changed.

OTHER

There was some discussion regarding the 100 MPH wind load requirement for new buildings in the Town and whether this was required for the entire Town or certain areas in the Town and whether it was required in the County. Libby Hume stated that she would check with Rob Testerman and Code Official Jeb Brady. The Commissioners requested that an email be sent to them clarifying the issue.

There was some discussion regarding drones in the area and whether the Town could do anything to regulate them and their use. Joan Natali found an article online which stated that Charlottesville, VA was the first locality in the country to pass a resolution requesting the Virginia legislature to review the issue and suggested legislation stating that a drone could not be flown below 400’. After further discussion, the Commissioners requested that Rob Testerman research the issue and report back at a future meeting.

Bill Stramm stated that he reviewed a website that listed dark sky-compliant towns in the country. He added that Cape Charles was not listed on the site and requested that staff review the website and look into getting the Town registered.

ANNOUNCEMENTS

There were no announcements.

Motion made by Bill Stramm, seconded by Joan Natali, to adjourn the Planning Commission meeting. The motion was approved by unanimous consent.

Chairman Dennis McCoy

Town Clerk

DRAFT



DRAFT
PLANNING COMMISSION
COMPREHENSIVE PLAN WORK SESSION WITH
ACCOMACK-NORTHAMPTON PLANNING DISTRICT COMMISSION
Town Hall
August 25, 2014

At 6:03 p.m. in the Town Hall, Vice Chairman Mike Strub, having established a quorum, called to order the Work Session of the Planning Commission with Ms. Elaine Meil, Executive Director of the Accomack-Northampton Planning District Commission (A-NPDC). In addition to Vice Chairman Strub, present were Commissioners Dan Burke, Joan Natali and Sandra Salopek. Chairman Dennis McCoy and Commissioners Andy Buchholz and Bill Stramm were not in attendance. Also present were Town Planner Rob Testerman and Town Clerk Libby Hume. There were no members of the public in attendance.

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

Mike Strub turned the meeting over to Ms. Elaine Meil of the A-NPDC.

The Commissioners reviewed the following text revisions and additions resulting from the July 28, 2014 Comprehensive Plan Work Session:

II.6 Public Utilities

The added language was reviewed and additional changes were made as follows: i) A grammatical change was made in the first sentence; ii) The last sentence regarding the long term plans were deleted since the timeframe was at least 10-15 years in the future; and iii) The last sentence of the current language was also revised to read "The Town should continue to monitor and, where necessary, protect the existing groundwater stocks, the Chesapeake Bay and its resources."

II.3 Housing

Several minor grammatical changes were made and language in the final sentence was changed to "quality affordable housing" for continuity. For clarity, the Commissioners requested that the percentages shown representing the number of cost burdened groups of households with mortgages, renters and homeowners without mortgages be replaced with the actual number of households.

II.4 Economy

The fifth sentence of the existing language was revised to include the Town of Cape Charles and lower Northampton County. A minor change was made in the last sentence of the new language. Ms. Meil stated that she could add levels of household income sources and would also include language stating that Bayshore Concrete Products had increased employment since the data was compiled. Joan Natali suggested that more demographic information could be included in the appendixes.

III-B.5.8 Goal: Continue to Foster Prosperity and Strengthen Households

The following changes were made: i) The first sentence of the opening paragraph was changed to show "Cape Charles continues to prosper...;" ii) The second bullet was deleted; iii) The fifth bullet was divided into two bullets; and iv) A new bullet was added stating "Develop a campaign to encourage more families to purchase property and relocate to Town." The subject of retirees was discussed and Ms. Meil would also add language regarding encouraging second homeowners and new homeowners to retire here in § III-B.5.5 Goal: Attract Retirees.

Miscellaneous Items:

- a. Basketball Court: § III-D.6 Recreational, Cultural and Youth Activities

Language regarding basketball was not currently in the Town's Comprehensive Plan and would not be added at this time.

b. III-E – Active and Engaged Partnerships:

III-E.4 Civic Partnerships

New paragraphs would be added for the Cape Charles Christian School, New Roots Youth Garden, Cape Charles Yacht Club and Eastern Shore Eventacular, Inc. Ms. Meil would work with Rob Testerman to draft the new language for review. Joan Natali stated that she could provide some information to them regarding the Eastern Shore Eventacular, Inc.

The Commissioners continued to review the other subsections as follows: i) In III-E.4.3 Historical Society and Museum, "Cape Charles" was added to the heading as the correct name for the Historical Society; ii) III-E.4.5 Youth, Recreation and Churches – Reference to the Northampton Anglers Club was deleted since the group had been dissolved. Language from § III-E.4.12 Cape Charles Food Pantry would be merged into this section; iii) III-E.4.8 Concerned Citizens of Cape Charles would be deleted since the organization was no longer active; iv) III-E.4.10 Arts Enter – The name was corrected to Arts Enter Cape Charles; and v) There was discussion regarding the addition of paragraphs for Boat Builders and the Eastern Shore of Virginia Waterman's Memorial and the Commissioners agreed not to include language at this time.

The Commissioners discussed the Eastern Shore Healthy Communities and the Walkability report. Rob Testerman stated that the Eastern Shore Healthy Communities group utilized grant funding and installed signage around town regarding walking trails. Ms. Meil stated that she could add language under the Civic Partnerships section and include a reference to the Walkability Report. The Walkability Report had already been added as part of the Appendixes.

c. IV – Implementation:

IV.1 Town Council Priorities: The Commissioners reviewed the existing listing of priorities and Councilwoman Natali and Libby Hume gave updates on a number of items. The items were in no particular order so the Commissioners agreed to replace the numbers with bullets. Rob Testerman suggested taking the list to the Town Council to be updated to which the Commissioners agreed.

V – Appendixes: The Bike Trail Plan and Economic Statistics/Analysis would also be added to the Appendixes.

Timeline:

Ms. Meil stated that she would send the full text of the Comprehensive Plan for review. Everything could possibly be finalized at the next meeting and the Commission could possibly move forward with a public hearing in October.

The next Comprehensive Plan Work Session was scheduled for Monday, September 22, 2014, beginning at 6:00 PM.

Motion made by Joan Natali, seconded by Dan Burke, to adjourn the Planning Commission work session. The motion was approved by unanimous consent.

Vice Chairman Mike Strub

Town Clerk



DRAFT
PLANNING COMMISSION
Special Meeting
Cape Charles Civic Center
August 25, 2014

Immediately Following the Comprehensive Plan Work Session

At 7:25 p.m. in the Cape Charles Civic Center, Vice Chairman Mike Strub, having established a quorum, called to order the Special Meeting of the Planning Commission. In addition to Vice Chairman Strub, present were Commissioners Dan Burke, Joan Natali and Sandra Salopek. Chairman Dennis McCoy and Commissioners Andy Buchholz and Bill Stramm were not in attendance. Also present were Town Planner Rob Testerman and Town Clerk Libby Hume. There were no members of the public in attendance.

PUBLIC COMMENTS

There were no comments from the public nor any comments submitted in writing prior to the meeting.

CONSENT AGENDA

Motion made by Joan Natali, seconded by Sandra Salopek, to accept the agenda format as presented. The motion was approved by unanimous consent.

ORDER OF BUSINESS

A. Floodplain Ordinance

Rob Testerman stated that he had revised the draft ordinance based on comments from the July meeting. Additional "higher standards" were included as follows: i) Manufactured homes (mobile homes) - none shall be constructed within the Special Flood Hazard Area (SFHA); ii) Critical facilities - no critical facilities shall be constructed in the SFHA; and iii) Building foundations - Building foundations in the AE flood zone must be built to the standards of those within a V zone.

Previously, the Commissioners asked whether the wastewater treatment plant was in a flood zone. The wastewater treatment plant was not within a flood zone on either the current or proposed flood maps. The majority of the Town would be outside the flood zone on the proposed flood maps. For the Historic District, the AE zone mostly stopped at the boardwalk but there were several areas in the Town which would still be in the AE zone as follows: i) In Bay Creek, there was only one area, which included several livable lots; and ii) An area by the Harbor and around the location of the old wastewater treatment plant.

The Commissioners reviewed the draft Floodplain Ordinance and made a number of minor changes for consistency and clarity as follows: i) In § 2.1(A), the reference to chief executive officer was changed to Town Manager or designee; ii) § 2.2(R), "Community" was deleted from the Floodplain Administrator title and "Community" at the top of page 6 was changed to "Town of Cape Charles." There were several variations of the title throughout the document and all were changed to Floodplain Administrator for consistency; iii) In § 3.1.A.2, the reference to "wood-lattice work" was changed to "lattice work" since there were lattice products on the market made from materials other than wood which would be acceptable. This would be changed throughout the document; iv) In § 4.2.L.3., a comma was added; and v) In § 4.3.A, the elevation of the lowest floor, including the basement, was changed to two foot or greater for

consistency. All references to the minimum elevation was changed to two foot throughout the document.

The building requirements would affect all new construction and any improvement(s) to existing structures in which the cost of the improvement(s) exceeded 50% of the market value of the structure before the start of construction of the improvement(s).

Rob Testerman stated that the draft ordinance needed to be submitted to the Department of Conservation and Recreation (DCR) prior to scheduling a public hearing and added that he would make the changes as discussed and forward to the Commissioners and the DCR for their review. The Commissioners were in agreement.

Dan Burke asked about penalties for violating the ordinance. Rob Testerman explained that any violations under the Floodplain ordinance would be covered under the enforcement section in the Town's Zoning Ordinance.

ANNOUNCEMENTS

There were no announcements.

Motion made by Dan Burke, seconded by Sandra Salopek, to adjourn the Planning Commission Special Meeting. The motion was approved by unanimous consent.

Vice Chairman Mike Strub

Town Clerk

Planning Commission Staff Report

From: Rob Testerman
Date: August 27, 2014
Item: 4C – Reports
Attachments: None

1. The Historic Review Board had one application and met on August 19 to review a proposal for a renovation at 328 Randolph Avenue. The proposal was approved unanimously, with minor changes. The Board will meet in September to review a proposal for a new home.
2. Site plans have been approved for Cape Charles Lofts. Once the application is received, a Land Disturbance Permit can be issued.
3. Staff plans to revisit previous discussions regarding a “way-finding” sign near the Mason Avenue and Strawberry Street intersection.
4. The Army Corps of Engineers has provided the Town with a summary schedule for construction for the dredging project. Upland site construction is slated to begin October 14, 2014 and end February 25, 2015. Pipeline dredging for the beach and the upland placement of material is scheduled to start January 5, 2015 and finish July 31, 2015. The beach placement is scheduled for the first 3 months of work. The hopper dredging for overboard placement of material from the channel is scheduled to begin January 5, 2015 and finish March 19, 2015.
5. Staff has enrolled in DEQ sponsored Stormwater Management training classes that will be conducted in October.
6. Staff is making discussed changes to the Floodplain Ordinance, once completed the draft language will be sent to DCR for review.

Planning Commission Staff Report

From: Rob Testerman
Date: August 27, 2014
Item: 5A – Backyard Chickens
Attachments: Draft Backyard Chicken Ordinance

Discussion

Many questions were raised regarding the draft chicken ordinance at the previous meeting. Below staff will address the concerns point by point:

- If a CUP is granted, can a condition of approval state that the CUP terminates with the existing applicant if they move?
 - I do not believe that there is any legislation that would prevent this, language has been added into the draft ordinance.
- If the applicant decides at a later time to stop raising chickens, or they move, need to include language stating that the chicken coop needs to be dismantled.
 - Language has been added.
- Remove “egg-laying” because after a while, hens will stop laying eggs.
 - Language has been amended.
- Need to check PUD docs/zoning to see if it includes anything regarding chickens.
 - Nothing found in the PUD documents. Up to this point, the discussion has included the R-1, R-2 and RE zoning districts. None of the PUD zoning districts have been proposed for inclusion, therefore, approval would have no impact on Bay Creek.
- Renters vs. Owners. Commission decided to limit chicken raising to property owners who occupy the residence.
 - Language amended.
- Penalties for violating regulations.
 - No additional language is required. Violations and penalties are covered in section 2.4.3 of the zoning ordinance. 2.4.3 states, in part:

2. If the Zoning Administrator finds that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for the violation, indicating the nature of the violation and ordering action necessary to correct the violation. The Zoning Administrator shall take any other action authorized by law to ensure compliance with or to prevent further violation of this ordinance.

3. Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating, causing, or permitting the violation of any of the provisions of this ordinance shall be guilty of a Class IV misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than ten dollars (\$10) for each violation and not more than two hundred and fifty dollars (\$250). Each day such violation shall continue shall constitute a separate violation.

Recommendation

If the draft language is acceptable to the Planning Commission, staff recommends that the Commission schedule a joint public hearing.

To be added as a conditional use permit to the R-1, R-2, and RE zoning districts.

1. Keeping up to five (5) ~~egg-laying~~ hens, provided the following requirements are met:
 - a. The principle use is a single-family dwelling.
 - b. The person raising the hens must **own** and occupy the residence.
 - c. No person shall keep any rooster, or hen that crows in a manner resembling a rooster.
 - d. No person shall slaughter any hens outdoors.
 - e. The hens shall be provided with both a hen house and a fenced outdoor enclosure.
 - i. The hens must be kept in the hen house or fenced outdoor enclosure at all times and shall not be allowed to roam free.
 - ii. The hen house shall be a covered, predator-resistant, well-ventilated structure providing a minimum of two (2) square feet per hen.
 - iii. The outdoor enclosure shall be adequately fenced to contain the hens and to protect the hens from predators.
 - iv. The hen house must be kept in a clean, dry, and sanitary condition at all times.
 - v. The outdoor enclosure shall be cleaned on a regular basis to prevent the accumulation of animal waste.
 - f. Hen houses and outdoor enclosures may only be located in rear yards, in accordance with Town zoning regulations.
 - g. Hen houses and outdoor enclosures shall be located at least ten (10) feet from side property lines, AND at least thirty (30) feet from any dwelling on an adjacent lot.
 - h. Food for hens must be kept in a rodent-proof, metal container.
 - i. Eggs shall not be sold.
 - j. A permit must be obtained from the Zoning Administrator annually. An annual permit fee of \$15 shall be charged to the applicant.
 - k. Flocks must be registered with the Virginia Department of Agriculture and Consumer Services.
 - l. Backyard flocks and coops will be inspected annually to ensure continual compliance, **as well as upon receiving a complaint.**
 - m. **Should the person raising chickens relocate, the Conditional Use Permit for raising chickens shall become null and void.**
 - n. **At such a time when the person raising chickens ceases from raising chickens, or relocates, the chicken coop and outdoor enclosure shall be dismantled. Should the Town be required to remove the structures, costs of removal shall be charged to the person previously raising chickens.**

Planning Commission Staff Report

From: Rob Testerman
Date: August 27, 2014
Item: 5B – Tourism Zone
Attachments: Tourism Zone Excerpts

Background

Previously, the Planning Commission had begun discussion and working on a Tourism Zone for Cape Charles. At the January 28, 2011 Town Council retreat, Town Council agreed that i) a Technology and Tourism Zone should both be adopted by the Town, ii) both zones should encompass the entire town, iii) a list of targeted businesses needed to be developed, and iv) fees for water and sewer, BPOL and real estate taxes could be offered. The Technology Zone was adopted by Town Council on March 8, 2012.

A tourism zone allows for qualifying businesses to receive tax credits or other incentives that would not be available to that business elsewhere, thus encouraging the business to locate within the tourism zone, increasing employment opportunity, and growth.

During the last discussion, it was determined that the Tourism Zone will be broken into two classifications, year round and seasonal businesses, offering different levels of incentives for each. Staff has been in communication with the Cape Charles Business Association, who plans to have a representative in attendance to aid in discussion of the specific incentives and criteria/requirements for inclusion in the Tourism Zone.

Discussion

The Planning Commission should discuss specific incentives and criteria for qualification for the Tourism Zone. Examples of incentives and qualifying criteria are attached.

If suggested incentives and criteria are determined, staff will draft language to be presented at the October Planning Commission meeting.

Pocahontas

D. The incentives listed in this ordinance are for the Specific Standards listed below:

Specific Standards

The Town of Pocahontas completed a Marketing Analysis to determine business opportunities within the Pocahontas Business District in 2010. The following business represents available opportunity in the Town's tourism market. Any business concern specific to the opportunities listed below will qualify for the incentives of this ordinance.

1. Lodging or Bed & Breakfast.
2. Restaurants: \$600,000 leakage within a 15 minute drive.
3. Health Related: \$380,000 local leakage. \$1.9 million within 15 minute drive.
4. Grocery: \$525,000 local leakage. \$8 million within 15 minute drive.
5. General Retail Merchandising: \$744,000 local leakage. \$9.9 million within 15 minute drive.
6. Outdoor Sporting Goods Merchandising: \$80,000 local leakage. \$608,000 within 15 minute drive.
7. Used/Antique Merchandising: \$1 million regional leakage
8. Gift Shop: \$1.2 million within 30 minute drive.

Business concerns that are not affiliated with the above opportunities will not qualify for the incentives listed in the Tourism Zone Ordinance.

Incentives

The following Tourism Zone incentives are offered for a term not to exceed three years.

1. Business License Tax Paid by March 1st = 100% Grant Reimbursement by June 30th.
2. Real Estate Tax Paid by December 5th = 100% Grant Reimbursement by June 30th.
(Business Owners who rent will not qualify)
3. \$20.00 application fee waived.

No incentive will be available for delinquent accounts.

ENACTMENT

ENACTED AND ORDAINED THIS 17TH DAY OF JANUARY, 2011. This ordinance shall become effective upon passage.

Motion: A Scott

Second: B G. B. San

Ayes: 3

Nays: 0

By: [Signature]
Johnathan Gibson, Mayor

By: [Signature]
Greg Jones, Clerk of Council

CARROLL COUNTY

- C. A Business seeking the benefit of Tourism Zone incentives must be a Tourism Business defined as follows:

- Lodging or Bed and Breakfast
- Restaurant
- Retail Merchandising
- Antique Mechandising
- Health Related

- D. Qualified Tourism Businesses shall receive the benefits of the Tourism Zone incentives for up to a three (3) year Incentive Period.

- E. For a Tourism Business to be a Qualified Tourism Business eligible to receive the benefit of Tourism Zone incentives, it must be located within the boundaries of the Tourism Zone and meet the following qualifications:

-  (a) An Existing Tourism Business must meet the following criteria:

- (i) Provide additional Capital Investments of at least two hundred fifty thousand dollars \$250,000 and create a minimum of 5 new jobs over the base year. Base year is defined as the calendar year preceding the calendar year in which the applicant submits the Tourism Zone Program Qualification Application to the County Administrator.

- (b) A New Tourism Business must meet the following criteria:

- (i) Provide Capital Investments of at least five hundred thousand dollars \$500,000 and create a minimum of 5 new jobs within the boundaries of the Tourism Zone.

- F. Qualified Tourism Businesses located within the boundaries of the Tourism Zone are afforded the following incentives:

-  (a) Grants:

- (i) Grant equal to Business, Professional and Occupational License tax imposed by the Town and paid by Qualified Business
- (ii) Grant equal to Machinery and Tools Tax imposed by the Town and paid by Qualified Business
- (iii) Grant equal to Real Estate Tax imposed by the Town and paid by Qualified Business
- (iv) Grant of one (1) percent Meals Tax generated and paid by Qualified Restaurant Business
- (v) Grant of one (1) percent Transient Tax generated and paid by Qualified Lodging Business

For those Qualified Tourism Businesses that are Existing Tourism Businesses, grants shall only be applicable to taxes assessed on the portion of gross receipts or acquired machinery and tools directly attributable to the expansion of the business.

The amount of each grant shall be a percentage of that portion of taxes paid by the Qualified Tourism Business each year of the Incentive Period that is directly attributable to the expansion of the Business. The percentage granted for a three-year Incentive Period shall be determined by the following schedule:

Year 1 One hundred percent (100%)

Year 2 Fifty percent (50%)

Year 3Fifty percent (50%)

- G. An Existing Tourism Business shall not qualify for Tourism Zone incentives by reorganizing or changing its form in a manner that does not alter the basis of the Tourism Business assets or result in a taxable event.
- H. If a Qualified Tourism Business fails to pay in full the taxes imposed by the County by the due date, this will result in the forfeiture of the Tourism Zone incentives for that year.
- I. If a Qualified Tourism Business files for bankruptcy during any three-year incentive period, this will result in disqualification and the business will be ineligible to receive Tourism Zone incentives for the remainder of the incentive period.
- J. In the event that the Tourism Business ceases to be a Qualified Tourism Business, ceases to meet the minimum capital investment criteria, or removes itself from operation from the County during any year within any three-year incentive period it shall be required to repay the total amount of Tourism Zone incentives received. A Tourism Business must sign an agreement to this effect before receiving Tourism Zone incentives.
- K. If a Qualified Tourism Business leaves the County to conduct business in another location within three (3) years of completing any three-year incentive period, it will be required to repay the County the total amount of Tourism Zone incentives received.
- L. This Article is an economic development incentive and is not a zoning change.

JAMES CITY COUNTY

Tourism business. A business whose primary purpose is to provide tourism products, processes or related services and establish a desirable destination to attract tourists from outside of the community and create an environment for those visitors that will deliver a memorable experience or promote educational opportunities and increase travel-related revenue in James City County.

Tourism products, processes or related services. Activities which promote and provide an experience for visitors to the county including, but not limited to: cultural or historical sites; recreation or athletic facilities; areas of scenic beauty or distinctive natural phenomena; family oriented destinations; tours; special events within the county; museums; wineries or related activities; and lodging that involves restoration or rehabilitation of an existing structure or includes new construction of a facility supporting rooms for overnight stay and conference space.

Tourism zone. A specific geographic area or areas created pursuant to Chapter 38, Title 58.1 of the Code of Virginia, 1950, as amended, to foster the development and expansion of tourism businesses in the county.

Tourism zone administrator. The tourism zone administrator shall be the county's director of economic development.

* Section 7-23. Qualification for incentives.

For a tourism business to be a qualified tourism business eligible to receive the benefit of tourism zone incentives, it must be located within the boundaries of the tourism zone and meet the following criteria:

- a) Provide new capital investment of at least \$350,000.*
 - i) Tourism businesses must meet and maintain the minimum qualifying investment levels through year five of the incentive period.*
- b) Submit a tourism zone application as required in section 7-26.*

The qualified tourism business must commit to a performance-based agreement guaranteeing certain investments, sales revenues, or other criteria as determined by the county. In those areas designated by multiple incentive zones, a business may receive local incentives from only one.

The following limitations apply:

- a) *An existing tourism business shall not qualify for tourism zone incentives by reorganizing or changing its form in a manner that does not alter the basis of the tourism business assets or result in a taxable event.*
- b) *If a qualified tourism business fails to pay in full any taxes imposed by the county by the due date, this may result in the forfeiture of the tourism zone incentives for that year.*
- c) *If a qualified tourism business files for bankruptcy during any five-year incentive period, this will result in disqualification and the business will be ineligible to receive tourism zone incentives for the remainder of the incentive period.*
- d) *In the event that a qualified tourism business ceases to meet the minimum capital investment criteria or removes itself from operation from within the county at any time within any five-year incentive period, it shall be required to repay the total amount of the tourism zone incentives received.*
- e) *If a qualified tourism business leaves the county to conduct business in another location within five years of completing any five-year incentive period, it will be required to repay the county the total amount of tourism zone incentives received.*

Section 7-24. Incentive period.

Qualified tourism businesses shall receive the benefits of the tourism zone incentives for a five year incentive period. Qualified tourism businesses that have completed one five-year incentive period may seek qualification for one additional incentive period of five years and will be required to provide a new capital investment of \$350,000.

Section 7-25. Local tourism zone incentives.

Qualified tourism businesses located within the boundaries of the tourism zone shall be eligible for the following:

- a) *Reduction of selected development review fees. The county shall reduce by 50%, development review fees (as defined in Section 7-22) associated with the qualifying project.*
- b) *Business professional and occupancy license (BPOL) grant. - Qualified businesses located within a tourism zone may be eligible to receive from the economic development authority a five year declining grant to compensate the qualified business for the increase in BPOL based upon the increased capital investment.*
- c) *Business tangible personal property grant. Qualified businesses located within the tourism zone may be eligible to receive from the economic development authority a five year declining grant to compensate the qualified business for the increase in business tangible personal property tax triggered by the increased capital investment.*

The percentage for a five-year declining grant in shall be determined by the following schedule:

- Year 1 – 90%*
- Year 2 – 70%*
- Year 3 – 50%*
- Year 4 – 40%*
- Year 5 – 30%*

For existing tourism businesses, grants shall be based only on the taxes assessed on the portion of gross receipts directly attributable to the increased capital investment.

- d) Expedited review process. The qualified business may be eligible for the county's expedited review process. The standard expedited review process fee will be waived.*

Nothing herein shall be construed as limiting the county or the economic development authority from granting any additional incentives as may be permitted by law to tourism businesses on a case-by-case basis including, but not limited to, incentives granted pursuant to performance agreements and individualized arrangements with or without the involvement of the James City County economic development authority.

Section 7-26. Application.

Prior to submitting an application, a tourism business will schedule a preliminary meeting with the OED, prior to any investment. Once an application is submitted, the OED will perform an initial review to determine if the applicant is a qualified tourism business and that the proposed project meets the required criteria and is in compliance with the tourism zone qualifications.

Once the review is completed, the application and recommendation will be forwarded to the economic development authority for a decision.

Section 7-27. Construction and severability.

This chapter shall be liberally construed so as to effectuate the purposes hereof. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that is contrary to