



**TOWN COUNCIL**  
**Work Session**  
**Civic Center**  
**September 3, 2015**  
**6:00 PM**

1. Call to Order: Roll Call
  
2. Order of Business
  - A. Town Code Updates
    - i. § 66-57 – Transient Occupancy Tax
    - ii. § 42-43 – License Tax on Unlicensed Motor Vehicles
    - iii. §§ 26-36, 26-39 – Open Burning
    - iv. §§ 42-100, 42-108 through 42.116 – Bicycles
    - v. §§ 42-200 through 42.202 – Mopeds
    - vi. §§ 14-2 through 14-19 – In General
  
  - B. Mason Avenue Parking Update
  
3. Motion to Adjourn

Updating this section deleting effective date of the 3.7% transient occupancy tax assessment.

#### **Article IV – Transient Occupancy Tax**

##### **Sec. 66-57. - Amount of levy.**

There is hereby levied and imposed on each transient a tax equivalent to three and seven-tenths percent of the total amount paid for lodging, by or for any such transient, to any hotel, motel, bed and breakfast, campground, and other facilities offering guest rooms rented out for continuous occupancy for 30 consecutive days or less. The revenue collected from the transient occupancy tax shall be allocated for tourism-related initiatives.

~~Effective January 1, 2015, the levied amount imposed on each transient will be three and seven-tenths percent.~~

Proposed change to § 42-43(a) to make license amount consistent with § 42-21 Local Vehicle License Tax Levied. The amount of the license tax was revised in 2010 but this section was not updated.

### **Article III – License Tax on Unlicensed Motor Vehicles**

#### **Sec. 42-43. - Imposed; exemptions.**

- (a) There is hereby imposed a license tax of ~~\$27.00~~ \$31.00 per year upon the owner of each motor vehicle located within the town which motor vehicle does not display current license plates.
  
- (b) The tax imposed by this section shall not apply to the following:
  - (1) Motor vehicles which are exempted from the requirements of displaying license plates under the provisions of the Code of Virginia §§ 46.2-66—46.2-683, § 46.2-1554 and § 46.2-1555.
  - (2) Motor vehicles which are in the possession of a licensed junk dealer or licensed motor vehicle dealer.
  - (3) Motor vehicles which are being held or stored by or at the discretion of any governmental authority.
  - (4) Motor vehicles which are owned by a member of the armed forces on active duty.
  - (5) Motor vehicles which are regularly stored within a structure.

From time to time, staff has received requests from residents and visitors to have bonfires on the beach. The Town has always advised the requesters that open fires were not permitted on the beach or Town property but there was nothing in the Town Code to prohibit such fires. Code Official Jeb Brady has updated the language in §§ 26-36 and 26-39 to address this issue. Other language from the Statewide Fire Prevention Code was added as well.

### ARTICLE III. - OPEN BURNING

#### Sec. 26-35. - Definitions.

Except as provided in section 26-39, certain open burning permitted, the provisions of this article apply to any person who permits or engages in open burning or who permits or engages in burning using open pit incinerators, conical burners (tepee burners), and such other devices or methods specifically designed to provide good combustion performance within the Town of Cape Charles. For the purposes of this article, the terms defined in this section shall have the following meaning, unless otherwise required by context.

Building means a combination of any materials, whether portable or fixed, having a roof to form a structure for use or occupancy by persons or property. The word building shall be construed as though followed by the words "or part or parts and fixed equipment thereof."

Construction waste means solid waste which is produced or generated during construction of structures, including but not limited to lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, metal, and plastics. Paints, coatings, solvents, asbestos, liquids, compressed gases, or semi-liquids are not construction wastes and must be discarded as hazardous wastes in accordance with the Virginia Department of Environmental Quality's Waste Management Regulations.

Debris waste means stumps, wood, brush, and leaves from land-clearing operations.

Demolition waste means that solid waste which is produced by the destruction of structures and their foundations.

Hazardous waste means any substance, material, solid waste, or combination of solid waste which, because of its quantity, concentration or physical, chemical or infection characteristics may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or
- (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

For purposes of this chapter, the term hazardous waste shall include, but not be limited to, materials such as poison, acids, asbestos material, caustics, chemicals, infectious materials, offal, fecal matter, biological materials, petroleum, petroleum products, flammable materials, compressed gases, radioactive materials, and explosives.

Industrial waste means all waste, including solids, semi-solids, sludges, and liquids created by factories, processing plants, or other manufacturing enterprises.

Junk means old or scrap copper, brass, rope, rags, batteries, papers, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

Junkyard means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

Open burning means the burning of any matter in such a manner that the products resulting from combustion are emitted directly into the atmosphere without passing through a stack, duct, or chimney.

Refuse means all putrescible and nonputrescible solid waste accumulations, whether combustible or noncombustible, consisting of garbage, rubbish, small dead household pets, household trash, vegetative waste, yard trash, and business trash as herein defined, and other discarded materials resulting from industrial, commercial, domestic, and community activities, but excluding hazardous refuse, body wastes, and the sludges, screenings, pumpings, and residue from cesspools, septic tanks, and sewage.

Salvage operation means any operation consisting of a business, trade, or industry participating in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers or drums, and specifically including automobile graveyards and junkyards.

Smoke means small gas-borne particulate matter consisting mostly, but not exclusively, of carbon, ash, and other material in concentrations sufficient to form a visible plume.

(Ord. of 2-8-00)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

Sec. 26-36. - Open burning regulated.

- (a) No property owner or other person shall cause or permit open burning or the use of a special incineration device:
  - (1) On any Town-owned property without prior approval from the Town Manager.
  - (2) Within 500 feet of any off-site or outside building or other combustible structure;
  - (3) Of a diameter of more than four feet ~~or a flame height of over five feet~~ in a residential area; or
  - (4) Utilizing any form of outside accelerant except as a means of starting the burn process.
- (b) No property owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of rubber tires, asphaltic materials, crankcase oil, impregnated wood, bulk polyethylene sheeting, or other rubber or petroleum materials. The agricultural practice of in-field row-by-row burning of polyethylene sheeting or other plastic materials by a mechanical burner shall be exempted from this section; however, open burning of bulk polyethylene or plastic sheeting shall be prohibited. Bona fide firefighting instruction at firefighting training schools having permanent facilities shall be exempted from this section.
- (c) When open burning creates or adds to a hazardous situation, or a required permit for open burning has not been obtained, the fire code official or his designee is authorized to order extinguishment of the open burning operation. (VA USBC Statewide Fire Prevention Code)

(Ord. of 2-8-00)

Sec. 26-37. - Burning of hazardous waste prohibited.

No property owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of toxic or hazardous waste or containers for such materials.

(Ord. of 2-8-00)

Sec. 26-38. - Permit required for burning of structure.

No property owner or other person shall cause or permit open burning of any building or other structure for the purpose of demolition or elimination of a hazard unless he shall have applied for and obtained a valid demolition permit from the building official/fire official of the governing body in accordance with the Virginia Uniform Statewide Building Code and the Virginia Statewide Fire Prevention Code. The official issuing such permit may establish such conditions as may be reasonably necessary to protect the safety and welfare of the general public.

(Ord. of 2-8-00)

Sec. 26-39. - Certain open burning permitted.

(a) Nothing in this article shall be construed to prevent:

- (1) Open burning pursuant to a permit issued by the Virginia Department of Environmental Quality;
- (2) The destruction of any combustible liquid or gaseous material by burning in a flare stack;
- (3) The disposal of debris waste and land-clearing refuse by open burning on the site of clearing operations at least 500 feet away from off-site occupied building provided that prevailing winds are away from any town or built-up area; or
- (4) Open burning of forests and fields in accordance with forest management and agricultural practices approved by the State Air Pollution Control Board provided that the burn area is at least 1,000 feet away from any occupied building unless the occupant has granted prior permission. All burning activities specified in this section shall be attended by a responsible agent of the owner or contractor.

(b) Nothing in this article shall be construed to prohibit camp fires, ceremonial fires, fires for the outdoor non-commercial preparation of food, and fires for the purpose of warming outdoor workers, provided ~~however~~ that these fires be contained so as to not allow the potential spread of fire. The materials specified in applicable sections above shall not be burned and that such fires shall be attended at all times. Notice of open fires specified in section 26-40, notifications required, shall not be required for the fires enumerated in this subsection.

(c) Nothing in this article shall be construed to prohibit open burning for training and instruction of governmental, volunteer, or industrial firefighters under the supervision of the fire chief of the Cape Charles Fire Department or his designated representatives or under the supervision of the Virginia Department of Fire Programs. Whenever a building or structure is used by one or more fire companies for a bona fide firefighting instruction, the owner or his agent shall be exempted from the requirements provided a fire company is in attendance at all times fires are conducted.

(Ord. of 2-8-00)

Sec. 26-40. - Notifications required.

Prior to conducting, causing, or permitting any open burning authorized, specified, or referenced in section 26-38, permit required for burning of structure, and section 26-39, certain open burning permitted, the property owner or his agent shall notify the on-duty dispatcher at the Eastern Shore of Virginia 9-1-1 Communications Center of the location of such open burning, expected starting and ending time, the name of the responsible party conducting such operation, and an emergency telephone number. Such notification shall be made by telephone or in person not earlier than one hour preceding the anticipated start of operations. The property owner or his agent shall notify the 9-1-1 center of the cessation of operations within one hour following such cessation. Whenever a fire company or the department of forestry is directly

supervising the open burn, direct notice to the 9-1-1 center shall be required by the owner or agent unless otherwise directed by the fire chief or forest warden. The receipt and acceptance of such notice shall not constitute a permit or authorization to burn; the owner or other person shall bear full responsibility to obtain any and all permits required prior to notifying the 9-1-1 center.

(Ord. of 2-8-00)

Sec. 26-41. - Suspension of permitted open burning at certain times.

Any open burning authorized pursuant to this article shall be suspended during any period in which open burning is prohibited by Executive Order of the Governor or by declaration of the State Air Pollution Control Board. During the period March 1 through May 15, if the site of burning is within 300 feet of a woods or if the fire is capable of reaching the woods via other vegetation or materials, such burning may only take place between 4:00 p.m. and midnight.

(Ord. of 2-8-00)

Sec. 26-42. - No waiver of liability; other laws applicable.

Open burning or the use of special incineration devices permitted under the provisions of this article shall not exempt or excuse any owner or other person from the consequences, liability, damages, or injuries which may result from such conduct, nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations, and orders of the governmental entities having jurisdiction, even though the open burning is conducted in accordance with this article.

(Ord. of 2-8-00)

Sec. 26-43. - Areas of applicability.

This article shall apply to all areas within the Town of Cape Charles, Virginia.

(Ord. of 2-8-00)

Sec. 26-44. - Summons for offense.

A summons charging an offense under this article may be issued by any law-enforcement officer employed by the County of Northampton, State of Virginia, or by an official of the Town of Cape Charles witnessing such violation without the necessity of a warrant being obtained by a responding fire company or a complainant.

(Ord. of 2-8-00)

Sec. 26-45. - Penalty.

Pursuant to Code of Virginia, § 15.2-1429, any person violating this article shall be guilty of a class 1 misdemeanor. Each day of violation shall constitute a separate offense.

(Ord. of 2-8-00)

**Cross reference**— Penalty for class 1 misdemeanor, § 1-10.

Sec. 26-46. - Severability.

Should any section, paragraph, sentence, clause, or phrase of this article be declared unconstitutional or invalid for any reason, the remainder of this article shall not be affected thereby.

(Ord. of 2-8-00)

 <b>TOWN OF CAPE CHARLES</b>	<b>AGENDA TITLE:</b> Changes to Town Code		<b>AGENDA DATE:</b> September 3, 2015
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Review proposed changes to Town Code.		<b>ITEM NUMBER:</b> 2.A.iv. through vi.
	<b>ATTACHMENTS:</b> 1. Redline version of changes. 2. Smooth version.		<b>FOR COUNCIL:</b> Action (X) Information ( )
	<b>STAFF CONTACT (s):</b> Bob Panek, Asst. Town Manager	<b>REVIEWED BY:</b> Brent Manuel, Town Manager	

**BACKGROUND:**

The Town is moving forward to construct Phase 2 of the Cape Charles Community Trail. This will connect Central Park, north Peach Street, the western section of Washington Avenue, and the concrete boardwalk along Bay Avenue, all of which are part of the approved Trail Master Plan. The trail is intended for use by both pedestrians and non-motorized vehicles (bicycles, roller blades, skate boards, etc.). There are sections of the Town Code that need to be revised to remove the prohibition of bicycles on “pedestrian paths” and the “boardwalk.”

**DISCUSSION:**

Staff has reviewed the sections of the Town Code pertaining to bicycle use and developed proposed changes consistent with the intent of the Cape Charles Community Trail. While conducting the review, additional sections of the Code have been identified that appear to be anachronisms. We are proposing that these sections also be changed:

- §§ 42-100, 108 thru 116 – Requires registration of bicycles. This has not been done for at least 10 years and is proposed for deletion.
- §§ 42-200 thru 202 – Prescribes safety equipment for mopeds. This is specified in the Code of Virginia. Additionally, mopeds are now required to be registered with the Department of Motor Vehicles. Proposed for deletion.
- §§ 14-2 and 3 – Pertains to a Harbor Committee (consisting of the entire Council, plus Mayor or Town Manager) to enforce the rules and regulations of the town harbor. This should be the purview of the harbormaster, Town Manager or Chief of Police, as applicable. Proposed for deletion.
- § 14-7 – Establishes a curfew “upon or around the boardwalk or on the beach” from 11:00 PM to 5:00 AM. This is inconsistent for continued evolution as a resort community and is proposed for deletion.
- § 14-15 – Prohibits storing equipment at the town harbor. This is currently being allowed under a fee structure. Revise to allow upon approval of the harbormaster.
- §§ 14-18 & 19 – Provides authorization for the mayor, and in one case “police”, to designate areas for swimming or unsafe swimming areas. Revise to be a town council responsibility.

Redline and smooth versions of the proposed changes are attached.

**RECOMMENDATION:**

Consider the proposed changes. If acceptable to Council, staff will prepare the necessary ordinance effecting the changes.

## **ARTICLE VI. - BICYCLES**

### **Sec. 42-100. - Where operation permitted.**

All bicycles shall be operated on the righthand side of the street in single file only and shall not be operated on the sidewalks or pedestrian paths, unless otherwise indicated or directed by the police department. Bicycles may be operated on the Cape Charles Community Trail.

### **Sec. 42-101. - Lamp and reflector.**

Every bicycle, when in use between sunset and sunrise, shall be equipped with a lamp or reflector on the front visible in clear weather from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the superintendent of state police which shall be visible from all distances in clear weather from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible in clear weather from a distance of 500 feet to the rear may be used in lieu of or in addition to the red reflector.

### **Sec. 42-102. - Reserved.**

### **Sec. 42-103. - Brake.**

Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

### **Sec. 42-104. - Riders to obey traffic-control signs and devices.**

Any person operating a bicycle shall obey the instructions of official traffic-control signals and signs and other control devices applicable to vehicles, unless otherwise directed by a police officer. Whenever authorized signs are erected indicating that no right, left or U-turn is permitted, no person operating a bicycle shall disobey the directions of any such sign, unless such person dismounts from the bicycle to make such turn, in which event such person shall then obey the regulations applicable to pedestrians.

### **Sec. 42-105. - Use of permanent seat.**

A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

### **Sec. 42-106. - Carrying passengers.**

It shall be unlawful for any person to carry another person on a bicycle unless the bicycle is designed and equipped to carry more persons.

### **Sec. 42-107. - Parking.**

Bicycles shall be parked in such a manner that they will not interfere with pedestrians or motor vehicle traffic.

### **Sec. 42-108~~16~~. - Removal of frame number.**

It shall be unlawful and a class 2 misdemeanor for any person to remove, change, alter, or mutilate any bicycle or moped frame number.

**Sec. 42-109. - Penalty for violations of article.**

Unless otherwise specified, aAny person violating any provision of this article shall, upon conviction thereof, be fined not more than \$25.00.

**~~Sec. 42-109. - Registration required.~~**

~~The owner of a bicycle or moped that is normally garaged, stored or parked within the town shall register such bicycle or moped pursuant to the provisions of this article.~~

**~~Sec. 42-110. - Fee.~~**

~~The fee for registration of a bicycle or moped under this article shall be \$1.00, which fee shall be paid to the town treasurer at the time of such registration.~~

**~~Sec. 42-111. - Issuance and contents of decal.~~**

~~Upon receipt of the prescribed registration fee, the town treasurer shall issue a registration decal for the bicycle or moped on which the fee was paid. The decal shall show thereon the words "Cape Charles" and the number of the license, together with such other matter as the council may from time to time designate.~~

**~~Sec. 42-112. - Display decal generally.~~**

- ~~(a) — A decal issued pursuant to this article shall be attached to the frame member which supports the seat of the bicycle or moped for which it was purchased or to such other location as the chief of police shall direct.~~
- ~~(b) — It shall be unlawful for any person to operate a bicycle or moped required to be registered under this article on any street unless a current decal is displayed on the bicycle or moped in the manner prescribed in this section.~~

**~~Sec. 42-113. - Replacement of mutilated, lost or stolen decal.~~**

~~When any decal issued under this article is badly mutilated, lost, stolen or misplaced and cannot be found, upon presentation to the treasurer of the town of satisfactory evidence of such fact and proof of ownership, together with payment fee of \$1.00, the treasurer shall issue another decal and shall change registration of the bicycle or moped in question accordingly.~~

**~~Sec. 42-114. - Records to be kept.~~**

~~The police department of the town shall maintain a complete record of all bicycles and mopeds registered pursuant to this article, showing the name, address, and phone number of the owner or the parent or guardian of the owner, the make, style, and frame number of such bicycle or moped, and the number of the decal issued therefor.~~

~~Any violation to this article is a class 4 misdemeanor with a \$20.00 penalty for the violation of the article and that each day of a continuing violation shall constitute a separate offense.~~

~~**Sec. 42-115. -- Disposition of fees.**~~

~~Fees collected under the terms of this article are to be placed in the general fund for the cost and expenses incident to the registration of the bicycles or mopeds and for carrying out the provisions of this chapter.~~

~~**Sec. 42-116. -- Removal of frame number.**~~

~~It shall be unlawful and a class 2 misdemeanor for any person to remove, change, alter, or mutilate any bicycle or moped frame number.~~

## **ARTICLE VI. - BICYCLES**

### **Sec. 42-100. - Where operation permitted.**

All bicycles shall be operated on the righthand side of the street in single file only and shall not be operated on the sidewalks or pedestrian paths, unless otherwise indicated or directed by the police department. Bicycles may be operated on the Cape Charles Community Trail.

### **Sec. 42-101. - Lamp and reflector.**

Every bicycle, when in use between sunset and sunrise, shall be equipped with a lamp or reflector on the front visible in clear weather from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the superintendent of state police which shall be visible from all distances in clear weather from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible in clear weather from a distance of 500 feet to the rear may be used in lieu of or in addition to the red reflector.

### **Sec. 42-102. - Reserved.**

### **Sec. 42-103. - Brake.**

Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

### **Sec. 42-104. - Riders to obey traffic-control signs and devices.**

Any person operating a bicycle shall obey the instructions of official traffic-control signals and signs and other control devices applicable to vehicles, unless otherwise directed by a police officer. Whenever authorized signs are erected indicating that no right, left or U-turn is permitted, no person operating a bicycle shall disobey the directions of any such sign, unless such person dismounts from the bicycle to make such turn, in which event such person shall then obey the regulations applicable to pedestrians.

### **Sec. 42-105. - Use of permanent seat.**

A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

### **Sec. 42-106. - Carrying passengers.**

It shall be unlawful for any person to carry another person on a bicycle unless the bicycle is designed and equipped to carry more persons.

### **Sec. 42-107. - Parking.**

Bicycles shall be parked in such a manner that they will not interfere with pedestrians or motor vehicle traffic.

### **Sec. 42-108. - Removal of frame number.**

It shall be unlawful and a class 2 misdemeanor for any person to remove, change, alter, or mutilate any bicycle or moped frame number.

**Sec. 42-109. - Penalty for violations of article.**

Unless otherwise specified, any person violating any provision of this article shall, upon conviction thereof, be fined not more than \$25.00.

**Delete Article VIII entirely. Safety requirements are specified in the Code of Virginia. Additionally, mopeds are required to be registered with the Department of Motor Vehicles as of July 1, 2014.**

**ARTICLE VIII. - MOPEDS**

**Sec. 42-200. - Definition.**

*Moped* means conveyance that is either (i) a bicycle-like device with pedals and a helper motor that is rated at no more than two break horsepower and that produces speeds up to a maximum of 30 miles per hour or (ii) a motorcycle with an engine displacement of 50 cubic centimeters or less and a maximum speed of less than 30 miles per hour.

**Sec. 42-201. - Safety equipment for mopeds.**

Every person operating a moped on a public street or highway in the town shall wear a face shield, safety glasses or goggles of a type approved by the superintendent of the Virginia State Police or have his moped equipped with safety glass or a windshield at all times while operating such vehicle, and operators and passengers thereon, if any shall wear protective helmets of a type approved by the superintendent.

**Sec. 42-202. - Penalties for violation.**

Any person who knowingly violates this article shall be guilty of a traffic infraction and be subject to a fine of not more than \$50.00.

## Chapter 14 - BEACHES AND WATERWAYS

### ARTICLE I. - IN GENERAL

#### Sec. 14-1. - Violations of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a class 4 misdemeanor.

#### ~~Sec. 14-2. - Definitions.~~

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

~~Harbor means the Cape Charles Harbor.~~

~~Harbor committee or committee means the Cape Charles Harbor Committee or its duly authorized agents.~~

#### ~~Sec. 14-3. - Harbor committee generally.~~

~~A harbor committee for the town is hereby created, such committee to be known as the Cape Charles Harbor Committee. The committee shall consist of seven members, six of whom shall be members of the council. The seventh member shall be the mayor or the town manager. The term of each councilmanic member shall in all cases correspond with his tenure of office. Any vacancy in membership shall be filled by the council and such appointment, in the case of an appointed member, shall be for the unexpired term. All members of the committee are to diligently conduct and enforce the rules and regulations of this chapter which relate to the harbor for the best interest of the public, both commercial and recreational.~~

#### Sec. 14-4. - Removal or repair of hazardous or obstructing piers or other structures or vessels.

- (a) The owners of property in the town shall, at such times as the council may prescribe, remove, repair or secure any wharf, pier, piling, bulkhead or any other structure or vessel which might endanger the public health or safety of other persons, or which might constitute an obstruction or hazard to the lawful use of the waters within the town. If such property is deemed to be abandoned, the council may designate and empower an official to ascertain the lawful owner of such property and to have the owner repair, remove or secure such property.
- (b) The council, through its own agents or employees, may remove, repair or secure any wharf, pier, piling, bulkhead, or other structure or vessel which might endanger the public health or safety of other persons or which might constitute a hazard or obstruction to the lawful use of the waters within the town, if the owner of such property, after reasonable notice and reasonable time to do so, has failed to remove, repair or secure such wharf, pier, piling, bulkhead or other structure or vessel.
- (c) If the identity or whereabouts of the lawful owner is unknown or not able to be ascertained after a reasonable search and after lawful notice has been made to the last known address of any known owner, the council, through its agents or employees, may repair such wharf, pier, piling, bulkhead or other structure or vessel or remove such property after giving notice by publication once each week for two weeks in a newspaper of general circulation in the area where such property is located.

- (d) If the council, through its own agents or employees, removes, repairs or secures any wharf, pier, piling, bulkhead or other structure or vessel after complying with the provisions of this section, the cost or expense thereof shall be chargeable to and paid by the owner of such property and, to the extent applicable, may be collected by the town as taxes and levies are collected.
- (e) Every charge authorized by this section with which the owner of any property has been assessed and which remains unpaid, to the extent applicable, shall constitute a lien against such property, and such lien shall be recorded in the judgment lien docket book in the circuit court of the county. Such lien may be reduced to a personal judgment against the owner.

**Sec. 14-5. - Sinking or abandoning vessels, barges, etc.; floating loose timbers, logs or debris.**

It shall be unlawful and a class 3 misdemeanor for any person to voluntarily sink or abandon, or permit or cause to be sunk or abandoned, any vessel, barge, scow or other craft in the waters in the town, or to float loose timbers, logs or other debris therein.

**Sec. 14-6. - Marking and removal of wrecked or sunken vessels, barges, etc.**

Whenever any vessel, barge, scow or other craft is wrecked or sunk in any of the waters in the town, accidentally or otherwise, the owner of such vessel, barge, scow or other craft shall immediately mark it with a buoy and a lighted lantern at night and maintain such markers until such craft is removed, and it shall be the responsibility of such person to immediately remove the same and to prosecute such removal with diligence. The neglect or failure of the owner to so mark and remove the craft shall be unlawful and a class 3 misdemeanor. Each day the craft remains abandoned and unmarked shall constitute a separate violation of this section.

~~**Sec. 14-7. - [Curfew] Required.**~~

~~It shall be unlawful for any person to trespass upon or around the boardwalk or on the beach on the west side of Bay Avenue between the hours of 11:00 p.m. and 5:00 a.m. year round.~~

**Sec. 14-8. - Placing obstructions on beach.**

It shall be unlawful for any person to put, place or set any equipment, such as dugouts, chairs, umbrellas, windbreakers, surfboards, air floats, kayaks, ~~life~~-rafts or similar paraphernalia not actually occupied or engaged, or to build or erect any fence or other obstruction, on any public beach, so as to obstruct, impede or retard the free and unconstrained use and occupancy of such beach by the public.

**Sec. 14-9. - Operating vehicles on beach.**

- (a) It shall be unlawful for any person to operate or drive a vehicle of any kind, including, but not limited to motor vehicles, bicycles, tricycles and similar devices, but not including wheelchairs, on the public beaches within the town.
- (b) Town vehicles operated while cleaning or working on the beach, town police and emergency vehicles, and other governmental ~~and erosion commission~~ vehicles operating under proper jurisdiction permits shall be exempt from the application of this section.

**Sec. 14-10. - Riding horses or other animals on beach.**

It shall be unlawful for any person to ride a horse or other animal on the public beaches within the town.

**Sec. 14-11. - Bathing suit or other clothing required on beach.**

It shall be unlawful for any person not wearing a complete bathing suit or other clothing to bathe or be on the beach in the town. Females must be covered both top and bottom.

**Sec. 14-12. - Driving motor vehicles on boardwalk.**

- (a) It shall be unlawful for any person to drive or otherwise operate any motor-propelled vehicle, other than a wheelchair, upon the boardwalk along the Chesapeake Bay.
- (b) Town vehicles operating while cleaning or working on the boardwalk, town police and emergency vehicles, and other governmental erosion commission vehicles operating under proper jurisdiction ~~permits~~ shall be exempt from the application of this section.

~~**Sec. 14-13. - Riding bicycles or similar devices on boardwalk.**~~

~~It shall be unlawful for any person to ride or operate a bicycle, tricycle, tandem or similar device or equipment, other than a rolling chair, on the boardwalk along the Chesapeake Bay.~~

**Sec. 14-14. - Parking vehicles adjacent to harbor docks.**

No vehicle of any type or kind shall be parked adjacent to docks in the harbor. Immediately upon loading or unloading, vehicles shall move to sections provided for parking.

**Sec. 14-15. - Restriction on use of harbor catwalks, walkways, etc.**

No nets, crab pots, baskets, barrels, dredges or any other equipment or commodity shall be stored, piled or stacked on the catwalks or walkways on the perimeter of the harbor or lands surrounding the harbor, except upon approval of the harbormaster.

**Sec. 14-16. - Littering beaches, shores, harbor, boardwalk, etc.**

- (a) It shall be unlawful for any person to throw or deposit, or cause or permit to be thrown or deposited, any glass, bottle, glassware, can, or pieces thereof, or any garbage, waste or refuse of any kind on the public beaches along the Chesapeake Bay and other waters and waterways in the town or in the waters adjacent to the beaches and shores thereof.
- (b) It shall be unlawful for any person to deposit, or cause or permit to be deposited, in any of the waters of the harbor, beaches, or along the shores thereof, or in any of the streams or ditches emptying therein, or on any of the land adjacent or contiguous to the harbor, any refuse, offal, waste matter or other substance or material, whether earth, oil, liquid, animal, fish or vegetable matter, or other matter that may injuriously affect the sanitary, clean and safe condition of the water in the harbor or diminish the depth thereof.
- (c) A violation of any provision of this section shall constitute a class 3 misdemeanor.

**Sec. 14-17. - Removal of sand from shores, beaches, etc.**

In order to conserve the beaches and shores in the town and to protect those areas adjacent to the beaches and shores, it shall be unlawful for any person to carry away or remove, or to cause to be carried away or removed, any sand from the shores, beaches or dunes or high land along the shores, beaches or dunes in the

town; provided, however, that if it shall satisfactorily appear to the ~~town~~<sup>city</sup> manager or proper authority that the removal of sand, in any instance, will not be harmful to the conservation and protection of the beaches and shores or property adjacent thereto, a permit for such removal may be granted. Removal under such permit shall not constitute a violation of this section.

**Sec. 14-18. - Designation and marking of swimming areas.**

The ~~town council may~~<sup>mayor or police are hereby authorized to</sup> designate areas for public swimming or public bathing and to mark such areas with buoys which comply with state and federal laws or with the rules and regulations of the appropriate federal and state agencies and to place the same offshore, ~~but not more than 100 yards from mean low water.~~

**Sec. 14-19. - Unsafe swimming areas.**

The ~~town council may~~<sup>mayor is authorized to</sup> prohibit swimming in such areas or places as may be determined to be unsafe. Areas determined to be unsafe shall be designated with appropriate markers.

**Sec. 14-20. - Charges and fees.**

- (a) The charges and fees for use of the grounds and property at the town beaches, waterways, harbor and harbor docks shall be established from time to time by the Cape Charles Town Council in its sole discretion. A copy of the current fee schedule shall be available at the town office and the office of the harbormaster.
- (b) A receipt for all fees collected under this section, and a report for such receipts along with all other money shall be submitted to the town treasurer the next business day.

**Secs. 14-21—14-29. - Reserved.**

## **Chapter 14 - BEACHES AND WATERWAYS**

### **ARTICLE I. - IN GENERAL**

#### **Sec. 14-1. - Violations of chapter.**

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a class 4 misdemeanor.

#### **Sec. 14-4. - Removal or repair of hazardous or obstructing piers or other structures or vessels.**

- (a) The owners of property in the town shall, at such times as the council may prescribe, remove, repair or secure any wharf, pier, piling, bulkhead or any other structure or vessel which might endanger the public health or safety of other persons, or which might constitute an obstruction or hazard to the lawful use of the waters within the town. If such property is deemed to be abandoned, the council may designate and empower an official to ascertain the lawful owner of such property and to have the owner repair, remove or secure such property.
- (b) The council, through its own agents or employees, may remove, repair or secure any wharf, pier, piling, bulkhead, or other structure or vessel which might endanger the public health or safety of other persons or which might constitute a hazard or obstruction to the lawful use of the waters within the town, if the owner of such property, after reasonable notice and reasonable time to do so, has failed to remove, repair or secure such wharf, pier, piling, bulkhead or other structure or vessel.
- (c) If the identity or whereabouts of the lawful owner is unknown or not able to be ascertained after a reasonable search and after lawful notice has been made to the last known address of any known owner, the council, through its agents or employees, may repair such wharf, pier, piling, bulkhead or other structure or vessel or remove such property after giving notice by publication once each week for two weeks in a newspaper of general circulation in the area where such property is located.
- (d) If the council, through its own agents or employees, removes, repairs or secures any wharf, pier, piling, bulkhead or other structure or vessel after complying with the provisions of this section, the cost or expense thereof shall be chargeable to and paid by the owner of such property and, to the extent applicable, may be collected by the town as taxes and levies are collected.
- (e) Every charge authorized by this section with which the owner of any property has been assessed and which remains unpaid, to the extent applicable, shall constitute a lien against such property, and such lien shall be recorded in the judgment lien docket book in the circuit court of the county. Such lien may be reduced to a personal judgment against the owner.

#### **Sec. 14-5. - Sinking or abandoning vessels, barges, etc.; floating loose timbers, logs or debris.**

It shall be unlawful and a class 3 misdemeanor for any person to voluntarily sink or abandon, or permit or cause to be sunk or abandoned, any vessel, barge, scow or other craft in the waters in the town, or to float loose timbers, logs or other debris therein.

#### **Sec. 14-6. - Marking and removal of wrecked or sunken vessels, barges, etc.**

Whenever any vessel, barge, scow or other craft is wrecked or sunk in any of the waters in the town, accidentally or otherwise, the owner of such vessel, barge, scow or other craft shall immediately mark it with a buoy and a lighted lantern at night and maintain such markers until such craft is removed, and it shall be the responsibility of such person to immediately remove the same and to prosecute such removal with diligence.

The neglect or failure of the owner to so mark and remove the craft shall be unlawful and a class 3 misdemeanor. Each day the craft remains abandoned and unmarked shall constitute a separate violation of this section.

**Sec. 14-8. - Placing obstructions on beach.**

It shall be unlawful for any person to put, place or set any equipment, such as dugouts, chairs, umbrellas, windbreakers, surfboards, air floats, kayaks, rafts or similar paraphernalia not actually occupied or engaged, or to build or erect any fence or other obstruction, on any public beach, so as to obstruct, impede or retard the free and unconstrained use and occupancy of such beach by the public.

**Sec. 14-9. - Operating vehicles on beach.**

- (a) It shall be unlawful for any person to operate or drive a vehicle of any kind, including, but not limited to motor vehicles, bicycles, tricycles and similar devices, but not including wheelchairs, on the public beaches within the town.
- (b) Town vehicles operated while cleaning or working on the beach, town police and emergency vehicles, and other governmental vehicles operating under proper jurisdiction shall be exempt from the application of this section.

**Sec. 14-10. - Riding horses or other animals on beach.**

It shall be unlawful for any person to ride a horse or other animal on the public beaches within the town.

**Sec. 14-11. - Bathing suit or other clothing required on beach.**

It shall be unlawful for any person not wearing a complete bathing suit or other clothing to bathe or be on the beach in the town. Females must be covered both top and bottom.

**Sec. 14-12. - Driving motor vehicles on boardwalk.**

- (a) It shall be unlawful for any person to drive or otherwise operate any motor-propelled vehicle, other than a wheelchair, upon the boardwalk along the Chesapeake Bay.
- (b) Town vehicles operating while cleaning or working on the boardwalk, town police and emergency vehicles, and other governmental vehicles operating under proper jurisdiction shall be exempt from the application of this section.

**Sec. 14-14. - Parking vehicles adjacent to harbor docks.**

No vehicle of any type or kind shall be parked adjacent to docks in the harbor. Immediately upon loading or unloading, vehicles shall move to sections provided for parking.

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TOWN OF  
CAPE CHARLES

**AGENDA TITLE:** Mason Avenue Parking Update

**AGENDA DATE:**  
September 3, 2015

**SUBJECT/PROPOSAL/REQUEST:** Mason Avenue back-in angle parking update

**ITEM NUMBER:**  
2B

**ATTACHMENTS:** Additional "back in angle parking only" signage

**FOR COUNCIL:**  
Action ( )  
Information (X)

**STAFF CONTACT (s):**  
Larry DiRe

**REVIEWED BY:**  
Brent Manuel, Town Manager

### **BACKGROUND:**

At the August 13, 2015 Town Council work session, staff was directed to develop public informational materials supporting the back-in only parking pattern on the north side of Mason Avenue, between Peach Street and Harbor Avenue. Council also requested additional signage for Mason Avenue visible to both east and west bound motorists.

### **ITEM SPECIFICS:**

Staff contacted VDOT staff to inquire about the need for additional approval for adding more "back-in angle parking only" signage to the Mason Avenue reverse angle parking area. The response was no additional permitting was needed for signs mounted on existing poles. Additional poles will require additional permit approval. The signs ordered and delivered are identical in size, color, and verbiage to the signs that were approved by VDOT as part of the permit approving the reverse angle parking pattern. Additional directional signage posted at the east and west terminal points, and on the south side of Mason Avenue for east bound motorists was also ordered. Images of these are attached.

Draft language for public informational materials reads as follows:

*There are several reasons back-in angle parking is the parking pattern for the north side of Mason Avenue between Harbor Avenue and Peach Street. Back-in angle parking provides an increased number of parking spaces when compared to parallel parking, allows direct sidewalk access to trunks and tailgates, and increases visibility for drivers when pulling out of a space.*

*And it's the law.*

*Pulling into a parking space across a lane of on-coming traffic and then backing out into two lanes of traffic is unsafe for you, your passengers, and other drivers. Additional parking options include parallel parking on the south side of Mason Avenue and all side streets, and pull-in parking is permitted on the Town's gravel public parking lot off Mason Avenue.*

**BACK-IN  
ANGLE  
PARKING  
ONLY**

**MASON AVE  
NORTH SIDE**

**TO  
HARBOR AVE**



**TO  
PEACH ST.**

