

Planning Commission

Regular Meeting Agenda

Cape Charles Civic Center – 500 Tazewell Avenue

May 16, 2016

6:00 P.M.

1. Call to Order – Planning Commission Regular Meeting
 - 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. Follow up to April discussion of dog beach
 - b. Dog pens in the Residential – 1 District
6. New Business
 - a. Commercial – 3 District construction-design guidelines as discussed in Article III Section 3.6.F.1.e
7. Announcements
8. Adjourn



DRAFT
PLANNING COMMISSION
Regular Meeting
Cape Charles Civic Center
April 5, 2016
6:00 p.m.

At 6:00 p.m. Chairman Dennis McCoy, having established a quorum, called to order the Regular Meeting of the Planning Commission. In addition to Chairman McCoy, present were Vice Chairman Michael Strub, and Commissioners Andy Buchholz, Joan Natali, Sandra Salopek and Bill Stramm. Commissioner Dan Burke arrived at 6:03 p.m. Also in attendance were Town Planner Larry DiRe and Town Clerk Libby Hume. There were two members of the public in attendance.

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

PUBLIC COMMENTS:

There were no public comments to be heard nor any written comments submitted prior to the hearing.

CONSENT AGENDA

Motion made by Michael Strub, seconded by Joan Natali, to approve the agenda format as presented. The motion was approved by unanimous vote.

The Commissioners reviewed the minutes for the March 1, 2016 Planning Commission & Town Council Joint Public Hearing and Regular Meeting.

Motion made by Bill Stramm, seconded by Sandra Salopek, to approve the minutes from the March 1, 2016 Planning Commission & Town Council Joint Public Hearing and Regular Meeting as presented. The motion was unanimously approved.

REPORTS

Larry DiRe reported that the following: i) The Town was awaiting completion of the detailed map of the downtown area for the wayfinding signage. Once the map was completed, it would be forwarded to the printer; and ii) The contract for the next phase of the US Army Corps of Engineers Federal Harbor Dredge Project was awarded on March 29th. The Town was still waiting to hear about the issuance of the Notice to Proceed.

OLD BUSINESS

- A. *Review of Northampton County Proposed Town Edge-1 and Town Edge-Commercial General.*
The Commissioners reviewed the proposed land use map showing the Town Edge-1 and Town Edge Commercial General District proximate to Cape Charles. Larry DiRe noted that the current zoning had approximately 112 acres of commercial property. The proposed Town Edge equated to approximately 61 acres, which was a decrease in commercial property, but allowed for a variety of uses. The uses were reviewed by the Commissioners. In regards to the property in the proposed Town Edge, the railroad and Virginia Port Authority's spoils site as well as the cemetery served as natural blocks to hinder development. There was much discussion regarding individual parcels within the area.

Larry DiRe added that the Board of Supervisors reviewed some of the issues at their March 28th meeting and sent the document back to the Planning Commission. Larry DiRe read a memorandum dated March 17th, which was included in the County's Planning Commission packet, which stated:

"Town Edge – Section 154.2.081(H) states "The intent of this primary district is to provide potential development areas adjacent to incorporated towns which may, in the future, be served by extensions of public water and sewer services from the towns. Growth and increased development are intended to occur simultaneously with the provision of public infrastructure, including, but not limited to, public sewer and water, to support such growth and development." Only two of the towns have both sewer and water, which would provide them with an unfair advantage. Consideration of the Town Edge District should be deferred until a consistent policy is uniformly beneficial to all of the towns in Northampton County."

A copy of the memorandum would be emailed to the Commissioners later this week. The Commissioners expressed their concern that Cape Charles was being disadvantaged due to the County Commission's narrow view.

B. *Consideration of Dog Beach.*

Larry DiRe reviewed Cape Charles Town Code § 50-191 – Animals on the beach and other public places, which prohibited animals on the "public sand beach, the boardwalk or the grassy area west of the boardwalk during the period from 9:00 a.m. through 9:00 p.m. between April 1 and Labor Day of each year..." The regulations from Kiptopeke State Park, Colonial Beach, Urbanna, Poquoson and Virginia Beach were also reviewed. Kiptopeke did not allow dogs on the north beach but allowed them on-leash on the south beach; Colonial Beach did not allow pets on the beach at any time but allowed them on the boardwalk from October through April; Urbanna did not have a beach but allowed pet on-leash year-round in the marina; Poquoson allowed pets on their waterfront on a leash; and Virginia Beach allowed dogs on the beach at certain times of the year.

There was some discussion regarding well-socialized dogs, dog parks and dog beaches and that in most times, the issues were with the pet owners, not the pets themselves. The City of Chesapeake offered a dog park and limited the number of dogs in the area at any given time. A sign was posted and the park was monitored. There was much discussion regarding i) dog owners in Town who did not clean up after their dogs, especially in Central Park and on vacant lots. There were issues regarding bacteria from the feces even if it was picked up, bacteria could remain on the ground; ii) policing and enforcement issues; iii) whether there was a need to establish a dog beach or dog park as a tourism incentive and whether it would be beneficial to the Town and in the Town's best interest; iv) possible locations for a dog beach and fencing to contain the dogs; v) If an on-leash requirement was instituted, would there be a limit to the length of the leash? There were big differences between a fixed-length leash and an extendable leash. If in a contained area, dogs should be permitted to be off-leash to give them a freedom to exercise; vi) Offering a dog beach possibly on a one-year trial basis with close monitoring of the usage; vii) possible issues of breed-specific legislation for aggressive dogs. Most owners knew if their dogs were able to be off-leash and how they would be around other dogs or people. If their dog was aggressive, they wouldn't bring them to a dog beach or park; viii) possible insurance liability for the Town and whether signage regarding usage at their own risk would suffice. It was suggested that Larry DiRe obtain input from the Town's insurance carrier; and ix) it was up to the Town Council to make the decision regarding a possible dog beach or dog park and funding to install fencing, etc.

NEW BUSINESS

A. *May 3rd Regular Meeting Date*

May's Regular Meeting date would fall on May 3rd which was Election Day for Town Council seats. In previous years, the date had not been changed when it coincided with Election Day, but this year, several Commissioners were running for Council and most likely would not be able to attend the Planning Commission meeting. Michael Strub added that he would also be out of town.

The May meeting was rescheduled to May 16th which was the Planning Commission's alternate meeting date.

ANNOUNCEMENTS

There were no announcements.

Motion made by Joan Natali, seconded by Dan Burke, to adjourn the Planning Commission Regular Meeting. The motion was approved by unanimous vote.

Chairman Dennis McCoy

Town Clerk

Planning Commission Staff Report

From: Larry DiRe 
Date: May 16, 2016
Item: 4c-Staff Report
Attachments: None

1. Progress continues on the project approved under a conditional use permit for 207 Mason Avenue. The property owner and the Building Official continue to be in communication about the structural engineering aspects of the project.
2. The Historic District Review Board received four applications for Certificate of Appropriateness at their April 19th regular monthly meeting. These applications included modification of a currently active Certificate of Appropriateness from enclosed room addition to screened porch, siding and door/window relocation on a single family home, siding removal and re-siding on a single family home, and removal of a chimney from a residential building. All were approved. No applications were received for their May 17th regular monthly meeting.
3. The last several weeks have had an increase in calls and emails about potential commercial development in both the Commercial and Harbor Districts.
4. The next phase of the community trail project is in the construction mobilization stage. Silt fencing is up along Peach Street and Washington Avenue and equipment is being located at the Town-owned property at the northeast corner of Madison Avenue and Peach Street.
5. The Town received an invoice from the Accomack-Northampton Planning District Commission for comprehensive plan consulting services in the sum of \$2,132.
6. The USACE issued a notice to proceed for the next phase of the federal harbor dredge project on Wednesday April 27th.
7. Staff has been in discussion with the Wetlands and Coastal Dunes Board chair to schedule a late May or early June meeting to discuss dune management practices.
8. The Board of Zoning Appeals had no business and did not meet.

Planning Commission Staff Report

From: Larry DiRe 
Date: May 16, 2016
Item: 5a-Follow up to April discussion of dog beach
Attachments: None

Item Specifics

At the April 5th meeting the Planning Commission discussed to possibility of a designated area of the Cape Charles beach being accessible to dogs for recreational activities under the supervision of their owners. The Commissioners reviewed literature on administering and enforcing a dog swim area. A variety issues were discussed at that meeting including: times during which the dog beach would be open; leash requirements; animal waste in the water and on the beach; the number of dogs allowed at any given time; aggressive and/or anti-social behavior by dogs; Town liability should any dog become aggressive on the Town beach. There was some concern about the condition of dog waste not removed in Central Park and on Town streets as an indication that the dog beach area would potentially also be left in a similar situation. The Commissioners arrived at no conclusion at the April meeting.

Discussion

For the April meeting staff presented a limited list of issues to consider for further discussion based on research from other community's experience with dog swim areas. At this time staff has no additional material to present to the Planning Commission.

Recommendation

Following discussion provide direction to staff.

Planning Commission Staff Report

From: Larry DiRe 
Date: May 16, 2016
Item: 5b-Dog pens in the Residential – 1 District
Attachments: City of Suffolk dog and cat ordinance; dog pen photo

Item Specifics

At the March 1st Planning Commission meeting there were several public comments regarding the treatment of house pets being kept in outdoor pens. During the public comment section of that meeting the attached photo was distributed. The Town does have an animal ordinance (Article X Chapter 50) as part of the Town Code and enlists the services of the Northampton County Animal Control Office for enforcement. Treatment of the animals is a different issue from the condition and location of the confinement pens. Such confinement pens are not discussed in either Article III or Article IV of the Town Zoning Ordinance. (Kennels are expressly prohibited as a home occupation, however).

The following two sections from the City of Suffolk animal ordinance provide language for consideration regarding adequate space requirements for confinement pens, and acceptable standards for the condition of such pens.

Sec. 10-42. - Unattended tethering of dogs prohibited.

It shall be unlawful to tether any unattended dog whether or not the dog has been provided adequate space. A violation of this section shall be punishable as a class 4 misdemeanor.

Sec. 10-154. - Confinement.

*While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults or other animals. **The structure shall be designed to provide the animal with shelter from the elements of nature.** When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal. (Bold added for emphasis.)*

Discussion

Following the received public comments, staff is presenting this item to the Planning Commission within the context of regulating the condition and location of dog pen confinements in the Residential – 1 District to the same extent that other accessory structures are regulated.

Recommendation

Following discussion provide direction to staff.

ARTICLE II. - DOGS AND CATS^[2]

Footnotes:

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State Law reference— Comprehensive animal laws, Code of Virginia, § 3.1-796.66 et seq.

DIVISION 1. - GENERALLY

Sec. 10-36. - Definitions.

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

Animal control warden means any animal control warden or any deputy animal control warden appointed under this division and in accordance with Code of Virginia, §§ 3.1-796.66 through 3.1-796.129.

City health officer means the city health officer or his duly authorized representatives.

Dog means every dog, regardless of age.

Kennel means an enclosure wherein dogs are kept and from which they cannot escape.

Livestock means cattle, sheep, goats, swine and enclosed domesticated rabbits or hares.

Other officer means all other persons employed or elected by the state, or any county or municipality of the state, whose duty it is to preserve the peace, or to make arrests or to enforce the law.

Own and owner means any person having a right of property in any dog and any person who keeps or harbors a dog, or has the dog in his care or who acts as its custodian and any person who permits a dog to remain on or about any premises occupied by him.

Poultry means all domestic fowl and game birds raised in captivity.

Treasurer means the treasurer of the city or other officers designated by law to collect taxes in the city.

Vaccinate, vaccinated or vaccination means the immunization of a dog against rabies, whether by inoculation, vaccination or any other method or treatment approved by the city health officer.

Veterinarian means any licensed veterinarian authorized to practice veterinary medicine in the state.

(Code 1976, § 4-6; Ord. No. 20-99, 2-17-1999)

Cross reference— Definitions generally, § 1-2.

Sec. 10-37. - Dogs and cats deemed personal property; related rights.

- (a) All dogs and cats shall be deemed personal property and may be the subject of larceny and malicious or unlawful trespass. Owners, as defined in Code of Virginia, § 3.1-796.66, may maintain any action for the killing of or injury to any such animals or unlawful detention or use as in the case of other personal property. The owner of any dog or cat that is injured or killed contrary to the provisions of this article by any person shall be entitled to recover the value of or the damage done to the animal in an appropriate action at law from such person.

- (b) The animal control warden or other officer finding a stolen dog or cat, or a dog or cat held or detained contrary to law, shall have authority to seize and hold such animal pending action before a general district court or other court. If no such action is instituted within seven days, the animal control warden or other officer shall deliver the dog or cat to its owner.
- (c) The presence of a dog or cat on the premises of a person other than its legal owner shall raise no presumption of theft against the owner, and the animal control warden may take such animal in charge and notify its legal owner to remove it. The legal owner of the animal shall pay a reasonable charge as determined by the city council and on file in the city clerk's office for the keep of such animal while in the possession of the animal control warden.

(Code 1976, §§ 4-13, 4-15)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.127.

Sec. 10-38. - Setting dogs at large.

No person, except the dog's owner, shall open any door or gate of any private premises and set at large, entice or enable any dog to escape from the premises.

(Code 1976, § 4-14)

Sec. 10-39. - Dogs killing, injuring or chasing livestock or poultry.

- (a) It shall be the duty of any animal control officer or other officer who may find a dog in the act of killing or injuring livestock or poultry to seize or kill such dog forthwith whether such dog bears a tag or not. Any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight as shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the animal control officer or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry for the third time shall be considered a confirmed poultry killer. The court, through its contempt powers, may compel the owner, custodian or harbinger of the dog to produce the dog.
- (b) Any animal control officer who has reason to believe that any dog is killing livestock or poultry shall be empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned in this section. Any animal control officer or other person who has reason to believe that any dog is killing livestock, or committing any of the depredations mentioned in this section, shall apply to a magistrate of the county, city or town wherein such dog may be, who shall issue a warrant requiring the owner or custodian, if known, to appear before a general district court at a time and place named in the warrant, at which time evidence shall be heard. If it shall appear that the dog is a livestock killer, or has committed any of the depredations mentioned in this section, the district court shall order that the dog be: (i) killed immediately by the animal control officer or other officer designated by the court; or (ii) removed to another state that does not border on the commonwealth and prohibited from returning to the commonwealth. Any dog ordered removed from the commonwealth that is later found in the commonwealth shall be ordered by a court to be killed immediately.

(Code 1976, § 4-16; Ord. No. [14-O-058](#), 6-18-2014)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.116.

Sec. 10-40. - Compensation for livestock and poultry killed by dogs.

- (a) Any person who has any livestock or poultry killed or injured by any dog not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry not to exceed \$400.00 per animal or \$10.00 per fowl, provided that the:
 - (1) Claimant has furnished evidence within 60 days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a dog;
 - (2) Animal control warden or other officer shall have been notified of the incident within 72 hours of its discovery; and
 - (3) Claimant first has exhausted his legal remedies against the owner, if known, of the dog doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the dog upon which an execution has been returned unsatisfied.
- (b) Nothing in this section shall be construed as limiting the common law liability of an owner of a dog for damages committed by it; and when compensation is paid, the city shall be subrogated to the extent of compensation paid to the right of action of the owner of such livestock or poultry against the owner of the dog and may enforce the same in an appropriate action at law.
- (c) It is unlawful for any person to present a false claim or to receive any money on a false claim, and such offense is punishable as a class 1 misdemeanor as provided in subsection 1-14(1).

(Code 1976, § 4-17)

State Law reference— Similar provisions, Code of Virginia, §§ 3.1-796.118, 3.1-796.128(B).

Sec. 10-41. - Disposition of dogs of unknown ownership found running at large on which the license tax has not been paid.

- (a) It shall be the duty of the animal control warden to capture and confine in the city pound for a period of not less than seven days any dog of unknown ownership found running at large in the city without a license tag or on which the license tax has not been paid. If after the expiration of the required time period the dog has not been claimed, it may be humanely destroyed or disposed of by sale or gift to a federal agency, or state-supported institution, agency of the state, agency of another state, or a licensed federal dealer having its principal place of business located within the state, or by delivery to any local humane society or shelter.
- (b) Any dog in the custody of the animal control warden may, in his discretion, be released and adopted by any person who will pay the required license fee on such dog, with the understanding that, should the legal owner of such dog thereafter claim such dog and prove his ownership, he may recover the dog by paying the person to whom it was delivered by the animal control warden the amount of the license fee paid by him and the expenses incurred for the keep of such dog while in his possession, an amount established by the city council and on file in the city clerk's office, plus actual medical and veterinarian expenses incurred by such person.
- (c) Any person, animal control warden or other officer killing a dog under this article shall cremate, bury or sanitarily dispose of the dog.
- (d) The animal control warden or other officer may humanely dispose of any dog running at large after complying with Code of Virginia, § 3.1-796.96, that the animal control warden or other officer determines, from personal observation or from information provided by the health department of the city, to have a contagious or infectious disease. The animal control warden or other officer may humanely dispose of any dog of unknown ownership found running at large without a license tag or on which the license tax has not been paid after complying with Code of Virginia, § 3.1-796.96.

(Code 1976, § 4-18)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.119.

Sec. 10-42. - Unattended tethering of dogs prohibited.

It shall be unlawful to tether any unattended dog whether or not the dog has been provided adequate space. A violation of this section shall be punishable as a class 4 misdemeanor.

(Ord. No. 13-O-032, 3-20-2013; Ord. No. 13-O-050, 6-5-2013)

Sec. 10-43. - Running at large prohibited, and leashes required in certain areas of the city.

- (a) Any person owning, having control of, or harboring any dog within the city, shall keep such dog confined to the premises of such person, unless in the custody of a responsible person. Except as otherwise specifically provided in this section, it shall be unlawful for any person owning, having control of, or harboring any dog within the city to permit such dog to run at large within the city, or to permit the dog to go upon any public street, sidewalk or right-of-way, unless it is kept secured by a leash or lead or other means of restraint not harmful or injurious to the dog and under the control of a responsible person capable of physically restraining the dog.
 - (1) This subsection shall not apply where the owner, custodian or trainer has released a dog for the express purpose of hunting game in an area where it is lawful to hunt, or of competing in field trials or training, or when a dog so released to hunt, compete or train becomes temporarily out of control of such owner, custodian or trainer or is returning to the place of release after the hunt or chase.
 - (2) If any dog is observed violating this or any other section of this Code, or committing an unlawful act under state law, it shall become subject to impoundment; and the owner, custodian or trainer shall be liable for all fines as prescribed by law. It shall be the duty of the animal control warden to enforce the provisions of this section.
 - (3) Violation of the ordinance from which this section derives shall constitute a class 4 misdemeanor, as provided by law.
- (b) If any licensed dog is caught and penned as provided in this section, it shall be the duty of the animal control warden to notify the dog's owner.
- (c) The owner or custodian of any dog caught and penned pursuant to the provisions of this section may redeem such dog in the same manner as provided herein. Licensed dogs caught shall be disposed of as provided in Code of Virginia, § 3.1-796.96.
- (d) Any owner or custodian who permits his dog to run at large in violation of this section shall be penalized as indicated herein.
- (e) For those dogs of unknown ownership found running at large on which the license tax has not been paid, section 10-41 applies.

(Code 1976, § 4-18.2; Ord. No. 20-99, 2-17-1999; Ord. No. 10-O-020, 2-17-2010)

Sec. 10-44. - Disposal of dead dogs.

The owner of any dog which has died from disease or other cause shall forthwith cremate, bury or sanitarily dispose of the dog. If after notice any owner fails to do so, the animal control warden or other officer shall bury or cremate the animal and may recover on behalf of the city from the owner the cost for this service.

(Code 1976, § 4-19)

Cross reference— Disposal of dead animals, § 10-2; solid waste, ch. 70.

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.121.

Sec. 10-45. - Permitting diseased dog to stray; female dog in season; removal of license tag; concealing unlicensed or suspected rabid animal.

- (a) It is unlawful for the owner of any dog with a contagious or infectious disease to permit such dog to stray from his premises if such disease is known to the owner.
- (b) It is unlawful for the owner of any female dog to permit such dog to stray from his premises while such dog is known to such owner to be in season.
- (c) It is unlawful for any person, except the owner or custodian, to remove the legally acquired tag from a dog.
- (d) It is unlawful for any person to conceal or harbor any dog on which the license tax has not been paid or to conceal a dog or cat which is infected by rabies to keep the animal from being disposed of as provided in this article.

(Code 1976, § 4-20)

State Law reference— Similar provisions, Code of Virginia, § 3.1-798.128.

Sec. 10-46. - Disposition of fines.

All fines collected for violations of this article shall be paid to the treasurer of the city and credited by him to and deposited in the general fund of the city.

(Code 1976, § 4-21)

State Law reference— Disposition of funds, Code of Virginia, § 3.1-796.101.

Secs. 10-47—10-65. - Reserved.

DIVISION 2. - LICENSES³

Footnotes:

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Cross reference— Taxation, ch. 82.

Sec. 10-66. - Amount of license tax.

- (a) There is imposed a license tax which is established in Code of Virginia, § 3.1-796.87 on all dogs, regardless of sex, six months of age or older in the city, except that no tax shall be levied on any dog that is trained and serves as a hearing dog or service dog for hearing impaired persons or guide dog for a blind person.

(b) There is imposed a license tax which is established in Code of Virginia, § 3.1-796.87 for a kennel.

(Code 1976, § 4-22)

State Law reference— Authority, Code of Virginia, § 3.1-796.85; amount of tax, Code of Virginia, § 3.1-796.87.

Sec. 10-67. - When license tax payable.

- (a) On January 1 and not later than March 1 of each year, the owner of any dog six months old or older shall pay a license tax as prescribed in section 10-66.
- (b) If a dog becomes six months of age or comes into the possession of any person between January 1 and November 1 of any year, the license tax for the current calendar year shall be paid by the owner.
- (c) If a dog becomes six months of age or comes into the possession of any person between October 31 and December 31 of any year, the license tax for the succeeding calendar year shall be paid by the owner, and this license shall be valid from the date the license is purchased.
- (d) The license period shall not exceed the period that the rabies inoculation is effective as certified by a veterinarian.

(Code 1976, § 4-23)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.88.

Sec. 10-68. - Vaccination certificate to accompany application for license.

Every owner applying for a license for a dog shall exhibit to the treasurer of the city a vaccination certificate issued in the form prescribed by the city health officer and showing that the dog was vaccinated at some time during the 36 months prior to November 1 of the year in which application for the license is made with a modified live virus approved by the city health officer or showing that the dog was otherwise treated for immunization against rabies within 12 months prior to November 1 of the year in which application for license is made by such other method or treatment approved by the city health officer. No license shall be issued for a dog if the owner fails, refuses or neglects to exhibit such certificate to the city treasurer. The license period shall not exceed the period that the rabies inoculation is effective as certified by a licensed veterinarian.

(Code 1976, § 4-24)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.88.

Sec. 10-69. - Payment of license tax subsequent to summons.

Payment of the license tax provided for in section 10-66 subsequent to the issuance of a warrant or summons to appear before the judge of the general district court or other court for failure to do so within the time required shall not operate to relieve such owner from the penalties provided in this article.

(Code 1976, § 4-25)

Sec. 10-70. - Failure to pay license tax on time.

Any person convicted of failure to pay the license tax required in section 10-66 prior to February 1 of any year, or as otherwise provided in this division, on any dog owned by such person, shall be guilty of a class 4 misdemeanor punishable as provided in subsection 1-14(4). Such person shall be required to obtain the proper license; and unless the fine and license tax are immediately paid, the general district court shall order the dog confiscated and properly disposed of by the animal control warden or some other officer.

(Code 1976, § 4-26)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.128.

Sec. 10-71. - Procedure for obtaining license; issuance and form of license receipt; delivery of license tag.

- (a) A resident of the city may obtain a dog license by making oral or written application to the treasurer accompanied by the amount of the license tax, and a certificate of rabies vaccination, presented as provided in section 10-68. The treasurer shall have authority to license only dogs of resident owners or custodians who reside within the city and may require information to establish the location of the residence of any applicant.
- (b) Upon receipt of proper application and such certificate of rabies vaccination, the treasurer shall issue a license receipt for the amount on which he shall record the name and address of the owner or custodian, the date of payment, the year for which issued, the serial number of the tag, whether for a male, unsexed female or female dog or a kennel, and deliver the metal license tags or plates provided for in this article, together with the receipt.
- (c) The information thus received shall be retained by the treasurer, open to public inspection, during the period for which such license is valid. The city may establish substations in convenient locations in the city and appoint agents for the collection of the license tax and issuance of such licenses.

(Code 1976, § 4-27)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.86.

Sec. 10-72. - License to consist of license receipt and metal tag; form of tags.

A dog license shall consist of a license receipt and a metal tag or plate in a size and shape that can be conveniently attached to a dog collar. The tag or plate shall contain a serial number, the calendar year for which issued, the sex of the dog, and the words "City of Suffolk." The license tag or plate for a kennel shall, in addition, show the number of dogs authorized to be kept under such license and have attached a metal identification plate for each of such dogs, numbered to correspond with the serial number of the license tag or plate.

(Code 1976, § 4-28)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.90.

Sec. 10-73. - Replacement of missing license tag.

If a dog license tag shall become lost, destroyed or stolen, the owner or custodian of the dog with reference to which the tag was issued shall at once apply to the treasurer who issued the original license for a duplicate license tag. The owner or custodian shall present the original license receipt. Upon affidavit of the owner or custodian before the treasurer that the original license tag has been lost, destroyed or stolen, he shall issue a duplicate license tag, which the owner or custodian shall immediately affix to the

collar or the harness of the dog. The treasurer shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate shall be established by the city council and on file in the city clerk's office.

(Code 1976, § 4-29)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.91.

Sec. 10-74. - Presumption consequent upon failure of dog to wear collar bearing license tag.

Any dog not wearing a collar or harness bearing a license tag of the proper calendar year shall prima facie be deemed to be unlicensed; and in any proceedings under this article, the burden of proof of the fact that the dog has been licensed or is otherwise not required to bear a tag at the time shall be on the owner of the dog.

(Code 1976, § 4-30)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.89.

Sec. 10-75. - Making false statements to secure dog license.

Any person who shall make false statement in order to secure a dog license to which he is not entitled shall, upon conviction, be guilty of a class 4 misdemeanor punishable as provided in section 1-14(4).

(Code 1976, § 4-31)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.128.

Sec. 10-76. - Duty of treasurer to obtain licenses.

It shall be the duty of the treasurer of the city to obtain the licenses and tags described in this article and have them available as needed.

(Code 1976, § 4-32)

Sec. 10-77. - Lists and accounts, reports and disposition of unused tags.

The city treasurer shall keep a record of all licenses and tags sold, the amounts received and the expenditures made. At the end of each year, he shall destroy all unused tags. All receipts shall be deposited to the credit of the general fund, and all disbursements shall be made from such fund.

(Code 1976, § 4-33)

Sec. 10-78. - Displaying receipts; dogs to wear tags.

Dog license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by the animal control warden or other officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog. It shall be unlawful for the owner to permit any licensed dog four months old or older to run or roam at large at any time without a license tag. The owner of the dog may remove the collar and license tag required by this section when the dog is

engaged in lawful hunting, the dog is competing in a dog show, the dog has a skin condition that would be exacerbated by the wearing of a collar, the dog is confined, or the dog is under the immediate control of its owner.

(Code 1976, §§ 4-34, 4-35)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.92.

Secs. 10-79—10-100. - Reserved.

DIVISION 3. - KENNELS⁴

Footnotes:

--- (4) ---

Cross reference— Businesses, ch. 18.

State Law reference— Authority to regulate, Code of Virginia, § 3.1-796.84.

Sec. 10-101. - Display of license tag; disposition of identification plates.

The owner of a kennel shall securely fasten the license tag to the kennel enclosure in full view and keep one of the identification plates provided with the tag attached to the collar or harness of each dog authorized to be kept enclosed in the kennel. Any identification plates not so in use must be kept by the owner or custodian and promptly shown to any animal control warden or other officer upon request.

(Code 1976, § 4-10)

Sec. 10-102. - Permitting kennel dog to stray beyond limits of enclosure.

A kennel dog shall not be permitted to stray beyond the limits of the enclosure, but this shall not prohibit removing dogs from the kennel temporarily while under the control of the owner or custodian for the purpose of exercising, hunting, breeding, trial or show.

(Code 1976, § 4-11)

Sec. 10-103. - Illegal operation of kennel.

A kennel shall not be operated in such manner as to defraud the city of the license tax applying to dogs that cannot be legally covered under this article or in any manner to violate other provisions of this article. If the owner of the kennel is found to have violated section 10-78 or 10-102 through negligence or carelessness, the court may in addition to the prescribed penalty revoke the kennel license; and the owner shall be required to obtain an individual license for each dog.

(Code 1976, § 4-12)

Secs. 10-104—10-125. - Reserved.

DIVISION 4. - DANGEROUS, VICIOUS AND DESTRUCTIVE DOGS⁵

Footnotes:

--- (5) ---

State Law reference— Dangerous or vicious dogs, Code of Virginia, § 3.1-796.93:1.

Subdivision I. - In General

Sec. 10-126. - Definitions.

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

Dangerous dog means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or animal, other than a dog, or killed an animal.

Destructive dog means any dog that damages, destroys or attacks any building, fence, cage, enclosure, livestock, fowl, animal or any other thing of value not the property of the owner or keeper of the dog.

Vicious dog means a canine or canine crossbreed that has:

- (1) Killed a person;
- (2) Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or
- (3) Continued to exhibit the behavior that resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding.

(Code 1976, § 4-36)

Cross reference— Definitions generally, § 1-2.

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.93:1(B).

Sec. 10-127. - Guilt of owner not to affect disposition of dog.

The finding of the court as to the guilt or innocence of the owner or keeper of a dog under this division shall in no way be construed as affecting the judgment of the court as to the proper disposition to be made of the dog.

(Code 1976, § 4-37)

Sec. 10-128. - Summons for court appearance; findings.

- (a) If the animal control warden has reason to believe that a canine or canine crossbreed within the city is a dangerous dog or vicious dog, he shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a

specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The animal control warden or owner shall confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If after hearing the evidence the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. If after hearing the evidence the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Code of Virginia, § 3.1-796.119.

- (b) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor shall the city council prohibit the ownership of a particular breed of canine or canine crossbreed. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was:
- (1) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;
 - (2) Committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian; or
 - (3) Provoking, tormenting or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused or assaulted the animal at other times.

No police dog engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found to be a dangerous dog or a vicious dog.

(Code 1976, §§ 4-38, 4-40, 4-43.1)

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.93:1(C)(1), (2).

Secs. 10-129—10-150. - Reserved.

Subdivision II. - Dangerous Dogs

Sec. 10-151. - Penalty for violation of subdivision.

The owner of any animal found to be a dangerous dog who willfully fails to comply with the requirements of this subdivision shall, upon conviction, be guilty of a class 1 misdemeanor punishable as provided in section 1-14(1).

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.93:1(C)(8).

Sec. 10-152. - Certificate, tag required.

The owner of any animal found to be a dangerous dog shall, within ten days of such finding, obtain a dangerous dog registration certificate from the animal control warden for a fee established by the city council and on file in the city clerk's office in addition to other fees that may be authorized by law. The animal control warden shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subdivision shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.93:1(C)(3).

Sec. 10-153. - Issuance, renewal of certificates.

All certificates or renewals required to be obtained under this subdivision shall only be issued to persons 18 years of age or older who present satisfactory evidence of the animal's current rabies vaccination and that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence, or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals under this subdivision shall not be issued a certificate or renewal unless they present satisfactory evidence that their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.93:1(C)(4).

Sec. 10-154. - Confinement.

While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.93:1(C)(5).

Sec. 10-155. - Change of status of animal.

After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of such fact, notify the animal control warden if the animal is loose or unconfined; bites a person or attacks another animal; is sold, given away, or dies; or has been moved to a different address.

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.93:1(C)(7).

Sec. 10-156. - Custody by parents of minor.

If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this subdivision.

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.93:1(C)(6).

Sec. 10-157. - Neutering, spaying required; liability insurance.

- (a) All certificates or renewals required to be obtained under this subdivision shall only be issued to persons 18 years of age or older who present satisfactory evidence that the animal has been neutered or spayed.
- (b) All certificates or renewals required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$50,000.00, that covers animal bites.

State Law reference— Similar provisions, Code of Virginia, § 3.1-796.93:1(D).

Sec. 10-158. - Procedure as to dogs and other animals considered dangerous.

- (a) Definitions. The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Dangerous dogs and other animals means any dog or other animal:

- (1) With a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals, as determined by the animal control warden;
- (2) That attacks a human being or other animal without provocation; or
- (3) Owned or harbored primarily or in part for the purpose of fighting or any dog or other animal trained for fighting, as determined by the animal control warden.

Dangerous propensity means any propensity or tendency of any dog or other animal to injure persons or domestic animals, whether the dog or other animal acted out of anger or playfulness; and such definition is not confined to a disposition on the part of the dog or other animal to attack every person it might meet but includes as well a natural fierceness or disposition to mischief as might occasionally lead the dog or other animal to attack human beings without provocation. This definition does not mean only the type of malignancy exhibited by a biting dog or other animal.

- (b) Determination of status; appeal. Notwithstanding the provisions of this subdivision, the animal control warden may determine, after investigation, whether a dog is a dangerous dog. If the animal control warden determines that a dog is a dangerous dog, he may order the animal's owner to comply with the provisions of this subdivision. If the animal's owner disagrees with the animal control warden's determination, he may appeal the determination to the general district court for a trial on the merits.
- (c) Confinement required. No person owning or harboring or having the care or custody of a dangerous dog or other animal shall suffer or permit such dog to go unconfined on or off the premises of such person. A dangerous dog or other animal is unconfined if such dog or other animal is not securely confined indoors or confined in a securely enclosed and locked pen or run area upon the premises of such person. Such pen or run area must also have either sides six feet high or a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot.
- (d) Restraint required when off owner's premises. No person owning or harboring or having the care of a dangerous dog or other animal shall suffer or permit such dog or animal to go beyond the premises of such person unless such dog or other animal is securely muzzled and restrained, with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length.
- (e) Training for fighting, attacking prohibited. No person shall own or harbor any dog or other animal for the purpose of fighting, or train, torment, badger, bait or use any dog or other animal for the purpose of causing or encouraging such dog or other animal to unprovoked attacks upon human beings or domestic animals.
- (f) Breeding, sale prohibited. No person shall possess with intent to sell, or offer for sale, breed or buy or attempt to buy within the city any dangerous dog or other animal.
- (g) Impoundment authorized. If a law enforcement officer has probable cause to believe that a dangerous dog or other animal is being harbored or cared for in violation of subsections (c), (d) and (e) of this section, the animal control warden may seize and impound the dangerous dog or other animal pending trial.
- (h) Penalty.

- (1) Whoever violates this section shall be guilty of a class 1 misdemeanor, punishable as provided in section 1-14(1).
- (2) Any dangerous dog or other animal that attacks a human being or another domestic animal may be ordered destroyed when, in the court's judgment, such dangerous dog or other animal represents a continuing threat of serious harm to human beings or other domestic animals.

(Code 1976, § 4-43.1)

State Law reference— Dangerous dog determination by animal control warden authorized, Code of Virginia, § 3.1-796.93:1(E).

Secs. 10-159—10-180. - Reserved.

Subdivision III. - Destructive Dogs

Sec. 10-181. - Permitting running at large of destructive dogs.

If any person shall permit any destructive dog owned or kept by him to go or run at large, whether licensed or not, such person shall be guilty of a misdemeanor; and, in the discretion of the court or jury trying the case, the dog may be destroyed.

(Code 1976, § 4-41)

Sec. 10-182. - Duty of owner or keeper to confine; procedure as to dog not confined after notice to owner or keeper.

The owner or keeper of any destructive dog shall keep it securely confined. The owner or keeper of any dog, after receiving notice that his dog is considered destructive from any property owner, the animal control warden or any law enforcement officer of the city, who then fails or refuses to keep the dog securely confined, may be summoned before the general district court for a hearing on the charge and found guilty of violating this subdivision. If the dog is adjudged destructive, in its discretion the court may order it destroyed or removed from the city. The provisions of this section as to notice to the owner or keeper shall in no way be construed as relieving either of them of any liability for any damages arising from the acts of the dog.

(Code 1976, § 4-42)

Sec. 10-183. - Procedure when found running at large.

Any destructive dog, whether licensed or not, found running at large may be taken into custody by the animal control warden or any law enforcement officer of the city and delivered to the animal control warden. The animal control warden shall notify the owner or keeper of such dog, if such owner or keeper can readily be located, that the dog is in his custody and that it may be released to such owner or keeper upon his assurance that he will abide by the provisions of this subdivision. If the owner or keeper cannot readily be located within seven days of capture, the animal control warden may dispose of the dog as provided in section 10-41 if the dog is licensed and its owner or keeper fails to obtain release of it within seven days, or fails or refuses to pay the amount established by the city council and on file in the city clerk's office for each day such dog is in possession of the animal control warden, the animal control warden shall treat the dog in all respects as if it were unlicensed and may destroy the dog.

(Code 1976, § 4-43)

Secs. 10-184—10-210. - Reserved.





TOWN OF
CAPE CHARLES

AGENDA TITLE: Naming the Historic District Review Board as the “review body” cited in Article III, Section 3.8.F

AGENDA DATE:
March 17, 2016

SUBJECT/PROPOSAL/REQUEST: Action by Town Council to name the Historic District Review Board as the Commercial – 3 District “review body” cited in the Town’s Zoning Ordinance Article III, Section 3.8.F.

ITEM NUMBER:
8B

ATTACHMENTS: Town map showing Historic District overlay boundary and Commercial -3 District parcels outside that boundary (highlighted).

FOR COUNCIL:
Action (X)
Information ()

STAFF CONTACT (s):
Larry DiRe

REVIEWED BY:
Brent Manuel, Town Manager

BACKGROUND:

Staff is in the process of reviewing various Town documents, including the Zoning Ordinance. Of particular note is Zoning Ordinance *Article III Section 3.8.F*, which requires the naming of a materials and design review body for the Commercial – 3 District. Several parcels in the Commercial – 3 District fall within the footprint of the Historic District overlay. According to *Article VIII Section 8.14*, the Historic District Review Board is the entity having “power and authority...within the historic district.” Many parcels zoned in the Commercial - 3 District fall outside the boundary of the Historic District overlay. It is these parcels outside the overlay that are seemingly without the jurisdiction of a required, named “review body.”

The Historic District Review Board has jurisdiction over the Commercial – 1 District, and *Article III Section 3.6.F.1.e* is within that Board’s purview. *Article 3.8.E* incorporates that Commercial - 1 District development standard into the Commercial - 3 District. The result is the Historic District Review Board has jurisdiction over some, but not all, Commercial – 3 District parcels. Absent a “review body named by the Town Council” there is currently no authoritative body to consider and approve materials and design of development at certain parcels (highlighted in yellow on the attached map).

At this date there are no design plans requiring consideration and approval as a condition of being issued building permits, however such design plans may arrive at any time. In the interest of expediting the property owner’s right to develop private property according to the stated requirements in *Article III Section 3.6.F.1.e* and *Article III Section 3.8.F*, staff is bringing this item to the Town Council at this time.

ITEM SPECIFICS:

Article III Section 3.6.F.1.e (pages 17-18) “Materials. New construction should use materials in a manner sympathetic to the historic buildings in the Town of Cape Charles. Materials should be of similar or complementary color, size, texture, scale, craftsmanship, and applicability to function performed.

It should be noted that the sympathetic use of materials does not imply that materials used in new construction will replicate the old in detail nor that new construction will attempt to imitate historic structures. Rather, it is a matter of determining the compatibility of the new with the old.

Certain materials are potentially so visually intrusive that their use for new construction in the Town will not be permitted. These materials include:

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

Article III Section 3.8.E (page 22) “Development standard Section 3.6 F (1)e, Materials, shall apply.”

Article III Section 3.8.F (page 22) “Materials and design shall follow site plan ordinance requirements and be considered and approved by a review body named by Town Council.”

Article VIII Section 8.6 Historic District Review Board; Creation (page 2) “For the general purposes of this Article as herein stated and specifically to preserve and protect historic places and areas in the Town through the control of demolition of such places and through the regulation of architectural design and uses of structures in such areas, there is created a board known as the Historic District Review Board.”

Article VIII Section 8.14 Historic District Review Board; Powers and Duties (page 4) “The Historic District Review Board shall have the power and authority for issuing or denying Certificates of Appropriateness for construction, reconstruction, substantial exterior alteration, razing, or relocation within the historic district:”

Historic District overlay map showing the Commercial – 3 District parcels outside the overlay highlighted in yellow (attached).

RECOMMENDATION:

Staff recommends the Council name the Historic District Review Board as the “review body” cited in Zoning Ordinance *Article III, Section 3.8.F* for parcels in the Commercial – 3 District lying outside the Historic District overlay boundary.

Planning Commission Staff Report

From: Larry DiRe 
Date: May 16, 2016
Item: 6a – Commercial – 3 District construction-design guidelines as discussed in Article III Section 3.6.F.1.e

Attachments: March 17, 2016 staff report to Town Council; commercial development pages from Historic District Guidelines

Item Specifics

At the March 17th Town Council meeting the Council voted to name the Historic District Review Board as the “review body” cited in Article III Section 3.8.F. Article III Section 3.8.E incorporates new construction materials from Section 3.6.F.1.e, which regulates the Commercial – 1 District. Following that vote Council had a lengthy discussion pertaining to the overall design regulations of any new construction in the Commercial – 3 District. Councilman Bennett directed staff to bring the issue to the Planning Commission for study and recommendation to Town Council. The following sections from Article III are relevant to this matter:

Article III Section 3.6.F.1.e (pages 17-18) “Materials. New construction should use materials in a manner sympathetic to the historic buildings in the Town of Cape Charles. Materials should be of similar or complementary color, size, texture, scale, craftsmanship, and applicability to function performed.

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

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

Article III Section 3.8.E (page 22) "Development standard Section 3.6 F (1)e, Materials, shall apply."

Article III Section 3.8.F (page 22) "Materials and design shall follow site plan ordinance requirements and be considered and approved by a review body named by Town Council."

Discussion

There is currently no commercial development in the Commercial – 3 District to provide a model for future development. That District serves as a gateway entrance corridor to Cape Charles and a transitional zone from the Northampton County Town Edge Zoning District to the central business district and historic district overlay. Currently any new commercial construction needs only to conform to the requirements of Article III Section 3.6.F.1.e cited above. The Planning Commission may recommend amending that section to include design requirements of the Historic District Guidelines, or recommend additional language to regulate design and construction separate from the language of the Historic District Guidelines.

Recommendation

Following discussion provide direction to staff.

LOOKING AT YOUR BUILDING: STYLES



AMERICAN FOUR SQUARE

This post-Victorian style of single-family house, prized for its ease of construction, practicality, and roomy interior, is found throughout Cape Charles. Common characteristics are cubic shape; hipped roof, usually with dormers; broad front porch, sometimes enclosed; little use of ornament; and built in wide variety of materials, including wood, brick, and stucco.



RETAIL/COMMERCIAL

Traditional retail/commercial buildings have one or two stories with a large transparent area for display of merchandise on the first floor. This display may be a traditional glass storefront with a recessed entry or a prominent entry flanked by very large windows. Additional light may enter the storefront through transom windows above the entryway and display windows. Upper stories originally were used for storage, office, or residences and generally have traditional windows in the upper façade. Cornices are the decorative

element located at the roofline and often above the storefront as well.

Simple versions of these structures are known as vernacular retail/commercial buildings.

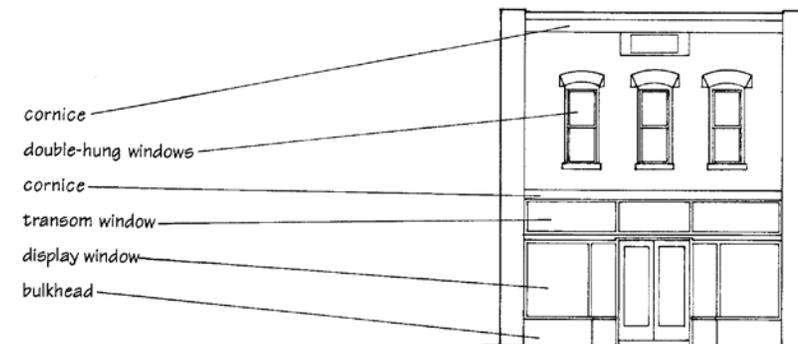
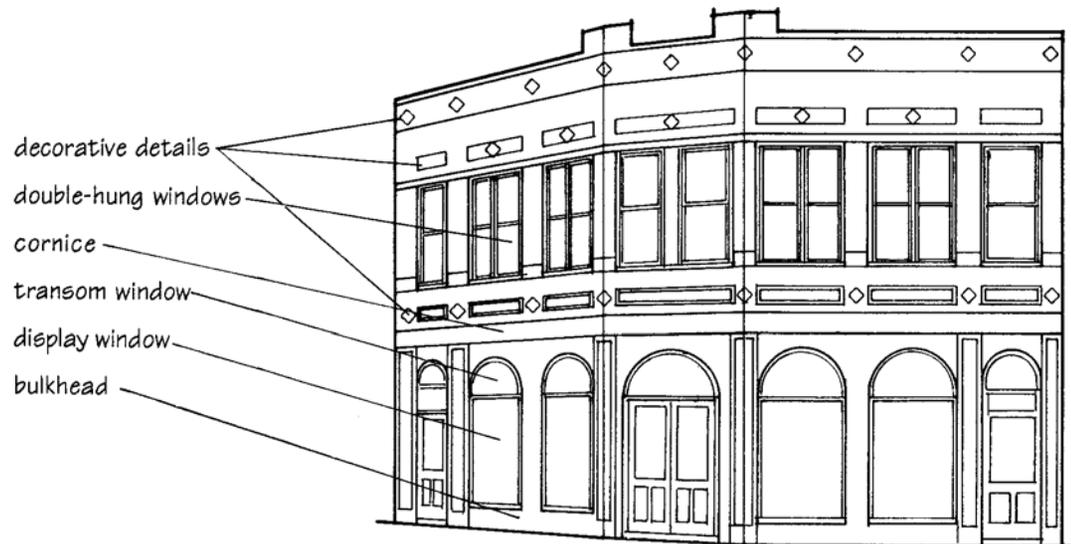
More ornate versions are known as decorated retail/commercial buildings and may relate to a particular style depending on their design.

LOOKING AT YOUR BUILDING: STYLES

OFFICE/INSTITUTIONAL

Interspersed with the retail structures are a number of office/institutional buildings that vary slightly in design. These buildings generally have a prominent central entrance flanked by windows. There are often vertical divisions in the façade to organize the openings and entrance. Because of their use, they do not have display storefronts or large expanses of glass.

Simple versions are known as vernacular office/institutional buildings. More ornate versions are known as decorated office/institutional buildings. Their designs may incorporate elements from a particular style, such as the two examples on this page.

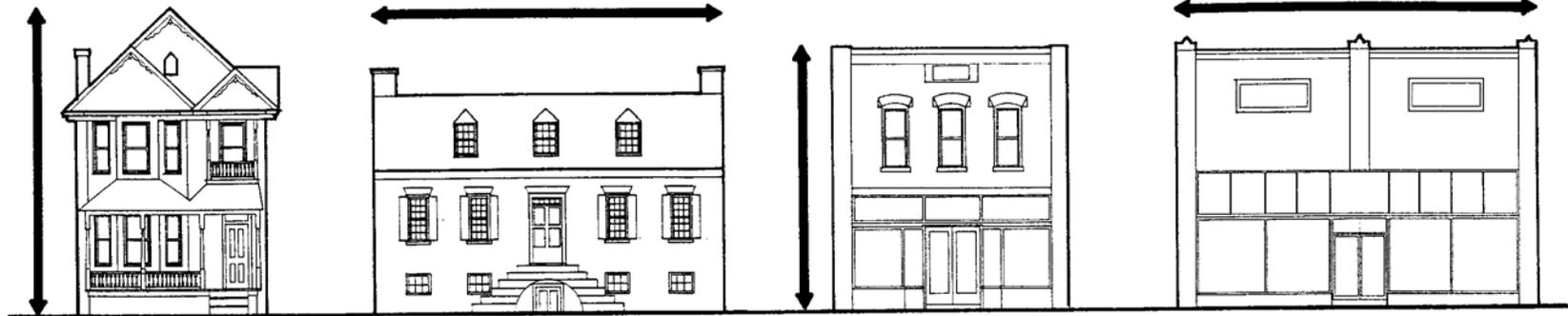


HEIGHT AND WIDTH

3 Maintain, in new construction, the overall proportion of height to width of surrounding historic buildings. This proportion is often called directional expression.

✓ PROPORTION OF HEIGHT AND WIDTH.
Buildings that are taller than they are wide have a vertical expression, while wider buildings have a horizontal expression.

☞ TYPICAL HEIGHTS AND WIDTHS.



Vertical residential
Cape Charles has many vernacular Victorian houses that are vertical in expression.

Horizontal residential
Many Georgian and Federal buildings are horizontal in expression.

Vertical commercial
The typical turn-of-the-century downtown building is vertical.

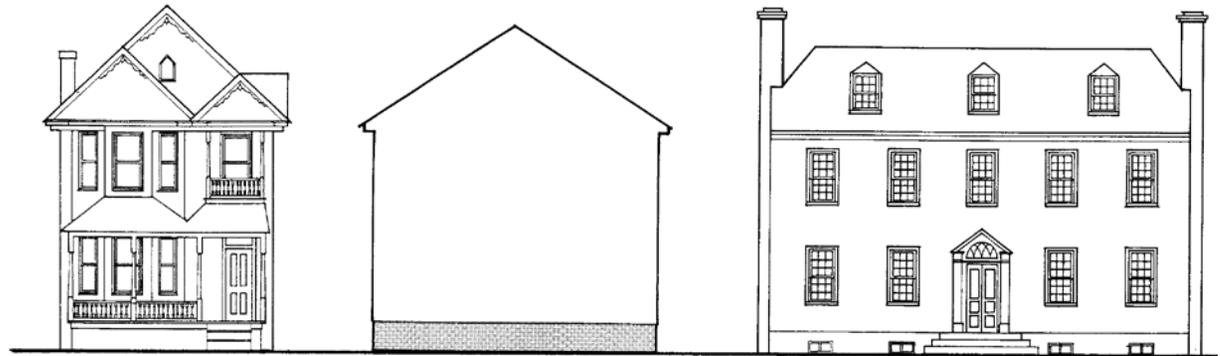
Horizontal commercial
Large traditional commercial buildings tend to be horizontal in expression because their added size results from greater street frontage rather than an increase in height.

FOUNDATION

existing historic materials as closely as possible. Consider appropriate overall coverage for incompatible treatments.

2 Insure that water flows away from the foundation, and remove any vegetation that may damage the structure or foundation.

3 In new construction, distinguish the foundation from the rest of the building. Respect the height above grade of foundations on surrounding historic buildings.



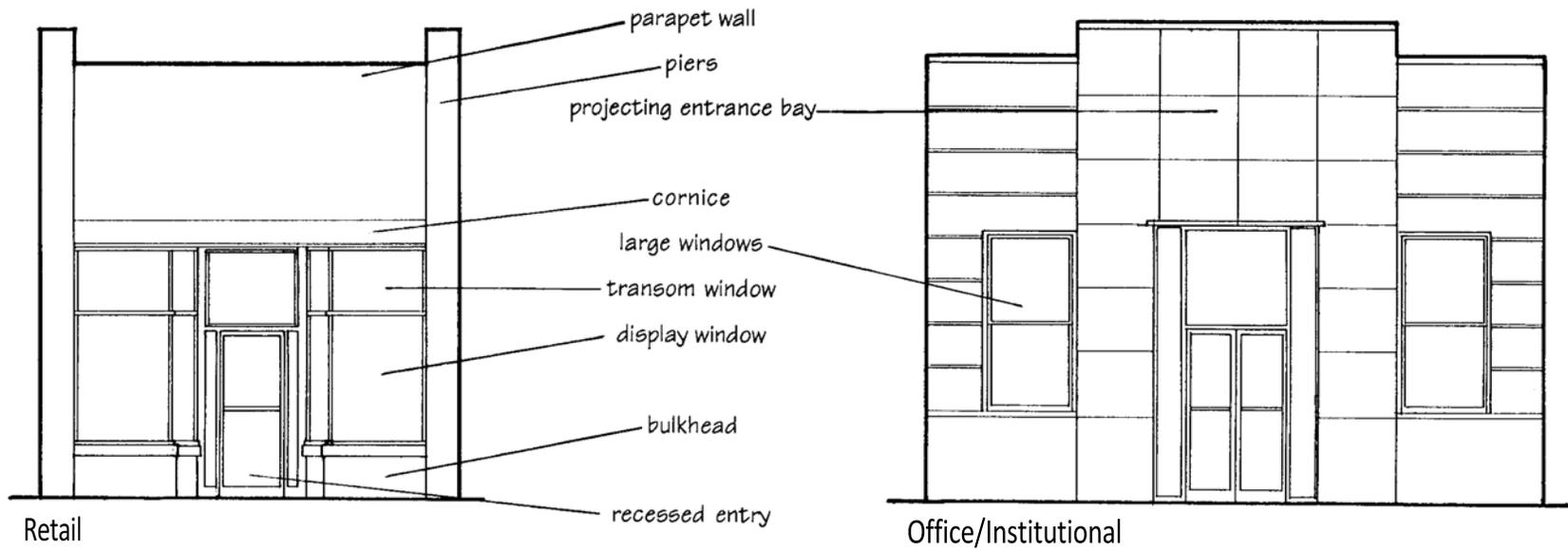
Inappropriately removed porch

Inappropriately enclosed porch

STOREFRONTS

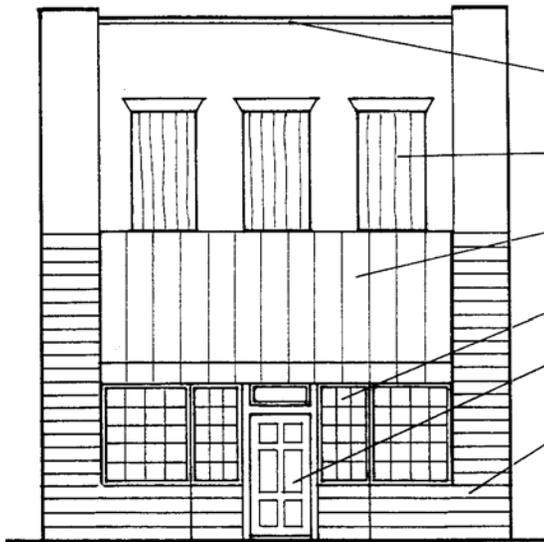
BUILDING ELEMENTS

☞ Many of the traditional storefronts in the downtown date from the early 1920s. To determine what type of storefront your building has, conduct pictorial research to find the appearance of the original storefront or early changes



STOREFRONTS

BUILDING ELEMENTS



Inappropriate changes:

- cornice removed
- covered-up windows
- mansard roof
- small-paned windows
- "Colonial" doors
- bulkhead + piers covered with siding

Inappropriately changed storefront

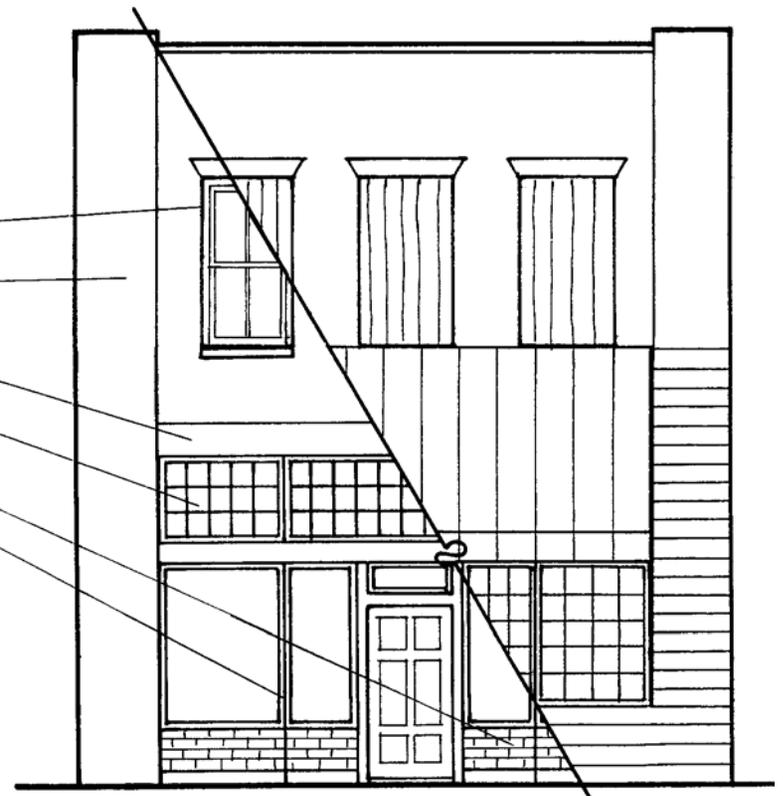
What you may find underneath:

- windows
- brick piers
- storefront beam
- transom windows
- brick bulkhead
- original storefront supports

What you may find stored away:

- windows
- doors

cornices, decorative features, or significant portions of the wall alters the building's proportions and changes its appearance.



Exploratory demolition of storefront

1 Retain all elements, materials, and features that are original to the building or are sensitive remodelings and repair them as necessary.

2 Remove any inappropriate elements, materials, signs, or canopies that obscure original architectural elements. Covering up windows,

STOREFRONTS

BUILDING ELEMENTS

3 Conduct exploratory demolition to determine what original elements remain and their condition.

4 Restore as many original elements as possible, particularly the materials, windows, decorative details, and cornices.

5 Reconstruct missing elements (such as cornices, transoms, and bulkheads) if documentation is available. Otherwise, design new elements that respect the character, materials, and design of the building.

Avoid using materials and elements that are incompatible with the building or district, including aluminum-frame windows and doors, natural aluminum panels or display framing, enameled panels, textured wood or artificial siding, wood shingles, mansard roofs, metal awnings, coach lanterns, small-paned windows, plastic shutters, inoperable shutters, or shutters on windows where they never previously existed. False historical appearances like “Colonial,” “Olde English,” or other theme designs should not be used.

Restored facade

rebuilt cornice

restored windows

rebuilt cornice

restored transom windows

rehabilitated brick piers

reconstructed storefront elements

original door reinstalled
(or new wood door)

rehabilitated bulkhead



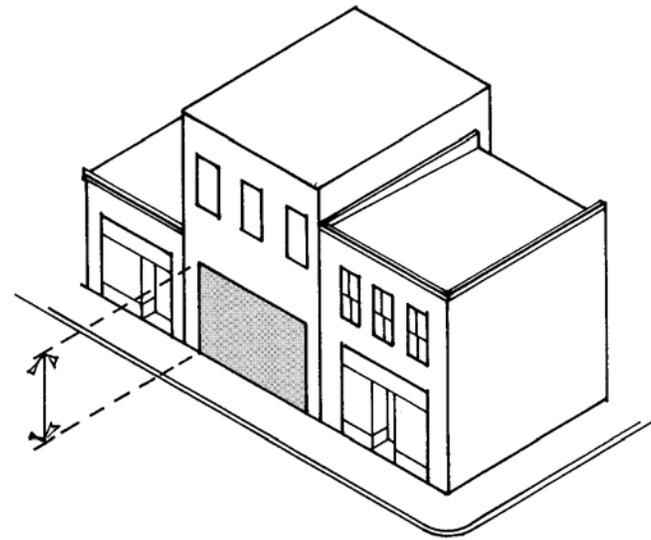
Storefront after facade improvement

STOREFRONTS

BUILDING ELEMENTS

6 When designing new storefronts or elements for storefronts, conform to the configuration and materials of traditional storefronts. Keep the ground levels of new retail commercial buildings at least 50 percent transparent up to a level of 10 feet. Articulate the bays of institutional or office buildings to provide visual interest. Include doors in all storefronts to reinforce street-level vitality. Discourage “mini-malls” with one central door to the interior unless individual storefronts also have usable entrances and display windows.

The ground level of retail commercial buildings should be 50 percent transparent up to 10 feet in height.



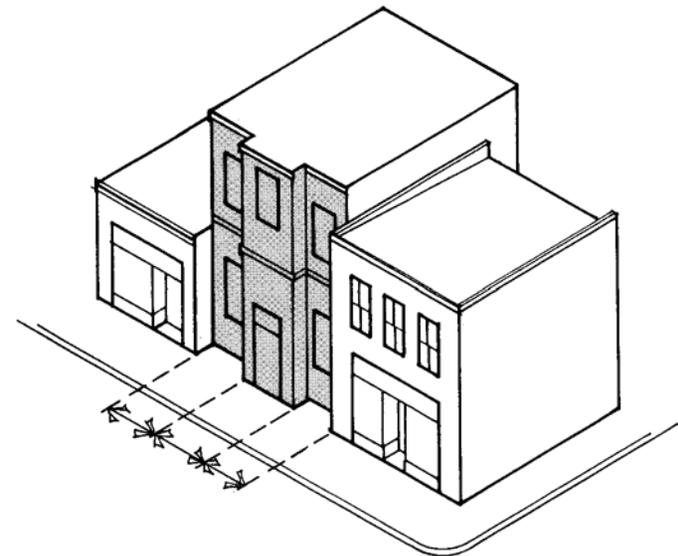
Residential Cornices

Boxed eaves are simple cornices on buildings with pitched roofs. The rafter ends and the eaves are boxed in with wood.

Exposed eaves are often found on bungalows. The structure of the roof is expressed and the rafter ends are decorated and exposed.

Decorated cornices use details such as brackets, dentils, egg and dart molding, and friezes. On residences, the decorative pieces usually are shaped

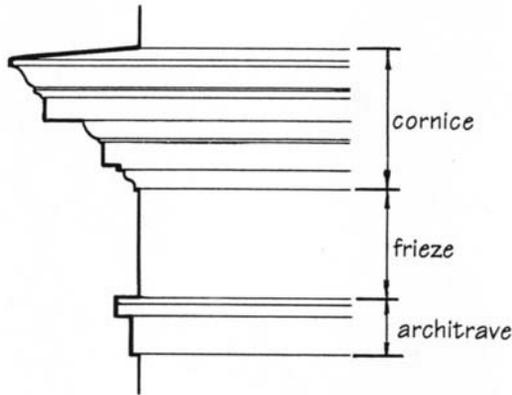
Articulate the facade of office/institutional buildings with bays.



CORNICES

BUILDING ELEMENTS

☞ Cornice Elements

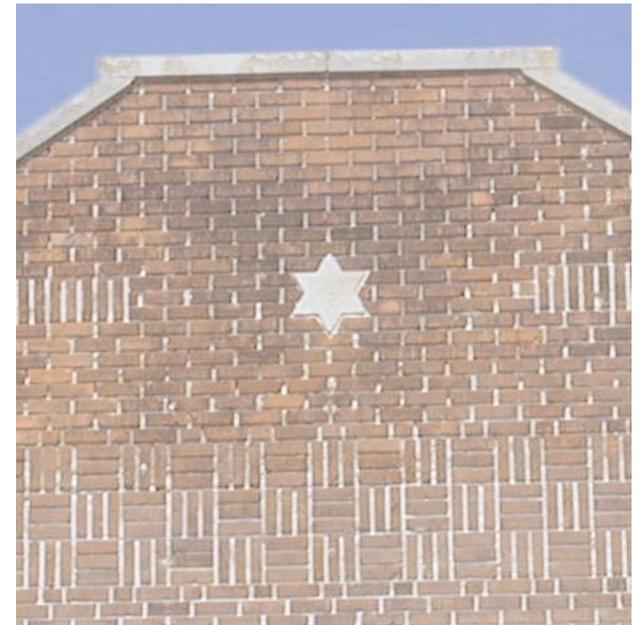


Commercial Cornices

Decorative brick bands are common in commercial districts. The upper part of the façade is decorated with a masonry pattern, either flat or projecting (called corbelled).

A coping is a decorative and protective cap at the top of a parapet wall or any wall that does not have a cornice. Materials used for copings in the district include concrete and metal. Ceramic tile and brick also could be used.

Decorated cornices include features such as brackets, dentils, egg and dart molding, and friezes. Such cornices can be shaped from a variety of materials. Many cornices on commercial buildings are metal.



CORNICES

BUILDING ELEMENTS

from wood.

1 Retain existing cornices that define the architectural character of historic buildings.

2 Repair rather than replace existing cornices. Do not move elements that are part of the original composition without replacing them in kind. Match original materials, decorative details, and profiles.

3 Do not replace an original cornice with one that conveys a different period, style, or theme. If the cornice is missing, the replacement should be based on physical evidence or, barring that, be compatible with the original building.

4 Include cornices in the design of new commercial buildings, particularly if they abut historic buildings with cornices. Choose designs and materials that complement cornices in the district.

1 Use masonry as it traditionally has been used in the historic district:

Brick and rusticated block are the most common types of masonry used in Cape Charles. Study the architectural character of the immediate area to determine appropriate use.

• Use brick or parged block for the foundations of frame residences.

