

**THE CODE OF
THE TOWN OF URBANNA, VIRGINIA
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July 1, 1998

PART I.

THE CHARTER.

Editor's Note. – The town Charter as set out herein as enacted by section 1 of chapter 131 of the Acts of 1964, approved March 2, 1964. Section 2 of that Act repealed the prior, original, charter, chapter 682 of the Acts of 1901-02, approved April 2, 1902; and section 3 provided that this charter be in force from its passage. Some of the section catchlines have been changed by the editors to better indicate the contents of the text, and the frontal section analysis has been added for the convenience of users. No other changes have been made. (1973)

- § 1. Incorporation; general powers of town.
- § 2. Boundaries.
- § 3. Powers Enumerated in Code of Virginia, §§ 15.1-841 through 15.1-907 conferred on town.
- § 4. Mayor.
- § 5. Council.
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Section 1. Incorporation; general powers of town.

The inhabitants of the territory comprised within the limits of the Town of Urbanna, in the County of Middlesex, as the same now are or may hereafter be established by law, shall continue to be a body politic and corporate under the name of the Town of Urbanna, and as such shall have perpetual succession, may sue and be sued, contract and be contracted with and may have a corporate seal which it may alter, renew and amend at its pleasure. (Acts 1964, § 1.)

Section 2. Boundaries.

The boundaries of the Town of Urbanna shall be and remain as now established, but the boundaries thereof are incorporated herein by reference to paragraph 1 of Chapter 682 of the Acts of the Assembly of 1901-02, approved April two, nineteen hundred two, and entitled: "An Act to incorporate the Town of Urbanna, in the County of Middlesex." (Acts 1964 § 1.)

Section 3. Powers Enumerated in Code of Va., §§ 15.1-841 through 15.1-907 conferred on town.

The powers set forth in §§ 15-77.5 to 15-77.70¹ (15.1-841 to 15.1-907), inclusive, of the Code of Virginia as in force on the first day of January, nineteen hundred sixty-four, are hereby conferred on and vested in the Town of Urbanna. (Acts 1964, § 1.)

Section 4. Mayor.²

¹. Editor's note: Sections 15-77.5 to 17-77.70 of the Code of Virginia stood repealed as of July 1, 1964, sections 15.1-841 to 15.1-907 are presently in effect.

². Editor's note. – See Acts 1972, ch. 747, approved April 10, 1972, which enacts two amendments of Code of Va., Section 24.1-90, the first such amendment to be in force from its passage, and the second to be in force January 1, 1973. The first amendment provides, in pertinent part: "In every town, unless otherwise provided by charter, there shall be elected every two years one qualified voter of the Town, who shall be the mayor, and other qualified voters who shall be the councilmen of the Town. Notwithstanding any other provision of law, any election of mayor or councilmen shall take place on the first Tuesday in May, and the persons so elected shall enter upon the duties of their office pursuant to [Code of Va.] Section 24.1-73, and shall continue in office until their successors are qualified." Pursuant to these provisions, a mayor and six councilmen were elected on the first Tuesday in May, 1972, to take office as provided in Code of Va., Section 24.1-73 i.e., on the first day of July next succeeding their election. The second amendment provides in pertinent part: "(a) The qualified voters of each city and town of this Commonwealth shall elect a mayor, if the same be provided for by charter, and a council, which shall be the governing body thereof, for their terms provided for by charter. Notwithstanding any other provision of law, general or special, any election of mayor or councilman of a city or town whose charter provides for such elections at two-or-four-year intervals shall take place on the first Tuesday in May of an even-numbered year. Unless otherwise provided by charter, the persons so elected shall enter upon the duties of their offices on the first day of July succeeding their election, and remain in office until their successors have qualified. (b) In any city or town in which elections are held for mayor or councilmen at two-or-four-year intervals: (1) Any mayor or councilman elected in the year 1972 for a two year term shall hold office until his successor has qualified. His successor shall be elected on the first Tuesday in May, 1974, and unless otherwise provided by the charter, shall take effect on the first day of July following his election." As to compensation of mayor, see Code of Va., Section 15.1-827. Editor's Note 1993. – § 4 of Chapter 131 of the Acts of Assembly of 1964, approved March 2, 1964, which provided a charter for the Town of Urbanna, was amended and reenacted by the General Assembly of Virginia to amend § 4 of the Town Charter as it relates to day of election and commencement of duties of the mayor.

The Mayor shall be elected for a term of two years, on the first Tuesday in May, nineteen hundred seventy-four and every two years thereafter. The mayor so elected shall enter upon the duties of his office on the first day of July succeeding his election, and remain in office until his successor has qualified. The mayor's compensation shall be fixed by the council. (Acts 1964 § 1, Acts 1973 § 1)

Section 5. Council.³

Six electors of the Town of Urbanna shall be elected as councilmen of the Town on the first Tuesday in May, nineteen hundred seventy-four and every two years thereafter. The councilmen so elected shall enter upon the duties of their offices on the first day of July succeeding their election, and remain in office until their successors have qualified. (Acts 1964 § 1, Acts 1973 § 1)

Section 6. Officers and Employees Incumbent as of March 2, 1964.

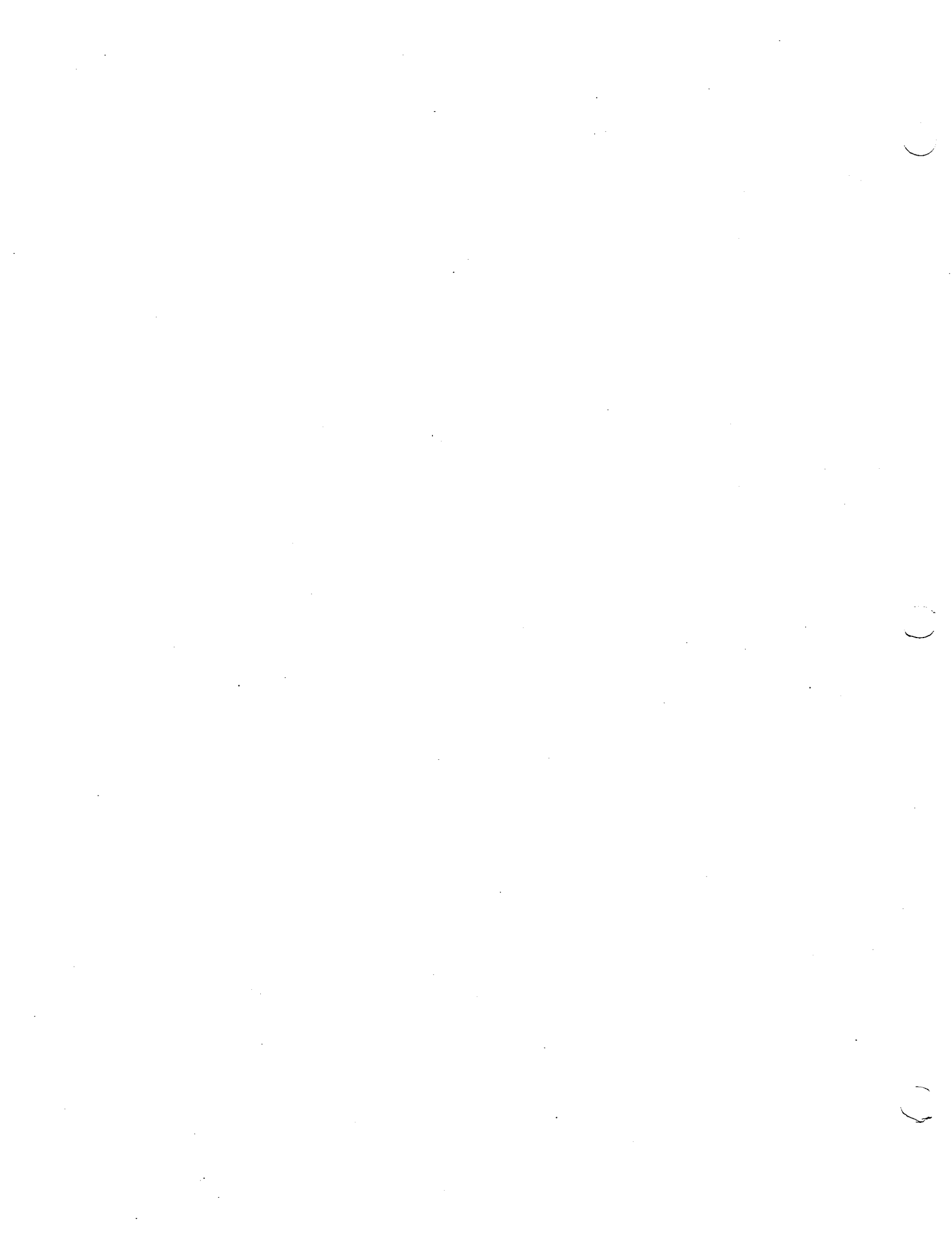
All town officers and employees heretofore elected or appointed shall remain in office and continue in their employment and be vested with the powers and duties heretofore imposed upon them by the council or by operation of law or hereafter imposed upon them under the provisions of this act until their successors are duly elected or appointed as provided by law or until action is taken by the Town as set forth in §15-77.9 (§15.1-845, chapter 18, title 15.1) of Chapter 5.1 of Title 15 of the Code of Virginia as in force on January one, nineteen hundred sixty-four⁴ (Acts 1964, § 1.)

Section 7. Ordinances and Resolutions in Effect as of March 2, 1964.

All ordinances and resolutions heretofore made and adopted by the Town, not in conflict with this Charter shall be and remain in full force and effect until altered, amended or repealed by the Council of the Town. (Acts 1964, § 1.)

³. Editor's note (1993). – See preceding footnote. § 4 of Chapter 131 of the Acts of Assembly of 1964, approved March 2, 1964, which provided a charter for the Town of Urbanna, was amended and reenacted by the General Assembly of Virginia to amend § 5 of the Town Charter as it relates to day of election and commencement of duties of councilmen.

⁴. Editor's note. – Sec. 15-77.9 of ch. 5.1 of tit. 15 of the Code of Va., stood repealed as of July 1, 1964, § 15.1-845 is currently in effect.



PART II.
THE CODE
CHAPTER 1.

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Section 1-1. How Code designated and cited.¹

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of the Town of Urbanna, Virginia" and may be so cited. Such Code may also be cited as the "Urbanna Town Code." (Code 1936, T.1., § 1.)

Section 1-2. Definitions and rules of construction.²

In the construction of this Code, and of all ordinances and resolutions of the town, the following rules shall be observed, unless otherwise specifically provided or unless such construction would be inconsistent with the manifest intent of the town council:

And; or. "And" may be read "or", and "or" may be read "and", if the sense requires it.

¹ For state law as to codification and recodification of municipal ordinances and admissibility thereof in evidence, see Code of Va., §15.1-37.3.

² Editor's Note (1993).-- Footnotes 2, 3, 4, 5 and 6 deleted 16 August 1993.

Council; town council. Wherever the term "the council" or "the town council" is used, it shall be construed to mean the Council of the Town of Urbanna, Virginia.

County. Wherever the term "the county" or "this county" is used, it shall be construed to mean the County of Middlesex, in the Commonwealth of Virginia.

Health officer; health director. The terms "health officer" and "health director" shall mean the health director of Middlesex County, Virginia, or such other public health officer having jurisdiction within the town by authority of state law, or his duly authorized representative.

Joint authority. Words purporting to give authority to three or more public officers or other persons shall be construed as giving authority to a majority of such officers or other persons.

May; shall. The word "may" is permissive, and the word "shall" is mandatory.

Owner. The word "owner", applied to any property, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or a part of such property.

Preceding; following.⁷ The words "preceding" and "following" mean next before and next after, respectively.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

Signature; subscription. "Signature" or "subscription" includes a mark when a person cannot write.

State; commonwealth. The terms "the state", "this state", "the commonwealth" and "this commonwealth" shall mean the Commonwealth of Virginia.

Statute citations. All references to the Code of Virginia shall mean the 1950 Code of Virginia, as currently amended or succeeded, and presently in full force and effect.

7. For similar state law relating to construction of statutes, see Code of Va., §§ 1-13.6, 1-13.23.

Street. The word "street" shall include public avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the Town, and shall mean the entire width thereof between abutting property lines; it shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the town council.

Time. Words used in the past or present tense include the future as well as the past and present.

Town. The terms "the town" and "this town" shall mean the Town of Urbanna, Virginia.

Written. "Written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Other words. Any other words not defined by this section shall be construed according to the Rules of Construction promulgated in Title 1, Chapter 2 of the Code of Virginia.

Section 1-3. Catchlines of sections.⁸

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Section 1-4. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, insofar as they are the same or substantially the same as those of ordinances in effect immediately prior to the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

Section 1-5. Repeal not to revive former ordinances.

⁸. For similar state law applicable to statutes, see Code of Va., § 1-13.9.

When an ordinance which has repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

Section 1-6. Severability of parts of Code.

It is hereby declared to be the intention of the town council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Section 1-7. General penalty; continuing violation.⁹

Wherever in this Code or in any ordinance or resolution of the Town or any rule, regulation, notice or order promulgated by any officer or agency of the Town under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or a misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of this Code or of any such ordinance, resolution, rule, regulation, notice or order shall be punished as a Class 1 misdemeanor as such punishment may then be prescribed by the Code of Virginia, except that in no event shall the punishment exceed that prescribed for a substantially similar offense defined by the Code of Virginia. Each day any violation of this Code or any such ordinance, resolution, rule, regulation, notice or order shall continue shall constitute, except where otherwise provided, a separate offense.

Section 1-8. Jurisdiction of town authorities in criminal matters.¹⁰

⁹. For charter provision adopting Code of Va., § 15.1-901 as to penalties for ordinance violations, see Char., § 3.

¹⁰. For state law as to the exercise of police powers beyond town limits, see Code of Va., §§ 15.1-131, 15.1-131.1, 15.1-141. Editor's note (1997). Title 15.1 recodified; see § 15.2-1724 et seq for interjurisdictional law enforcement authority and §19.2-250.

The jurisdiction of the corporate authorities of the town in criminal matters shall extend one mile beyond the corporate limits of the town, and shall conform to the general laws as provided by the Code of Virginia. (Code 1936, T. 2, § 1.)

Section 1-9. Elections; who may vote.¹¹

All elections for town officers and all referenda elections shall be held and conducted in accordance with the applicable provisions of state law governing elections; and all residents of the Town who are qualified to vote for members of the General Assembly of Virginia shall be entitled to vote in all town elections.

Five days prior to any Town election the town sergeant shall post notices of the time and place for such election at not less than three public places within the town. (Bylaws 1936, § 5; Code 1936, T. 3., § 1.)

Section 1-10. Town seal.¹²

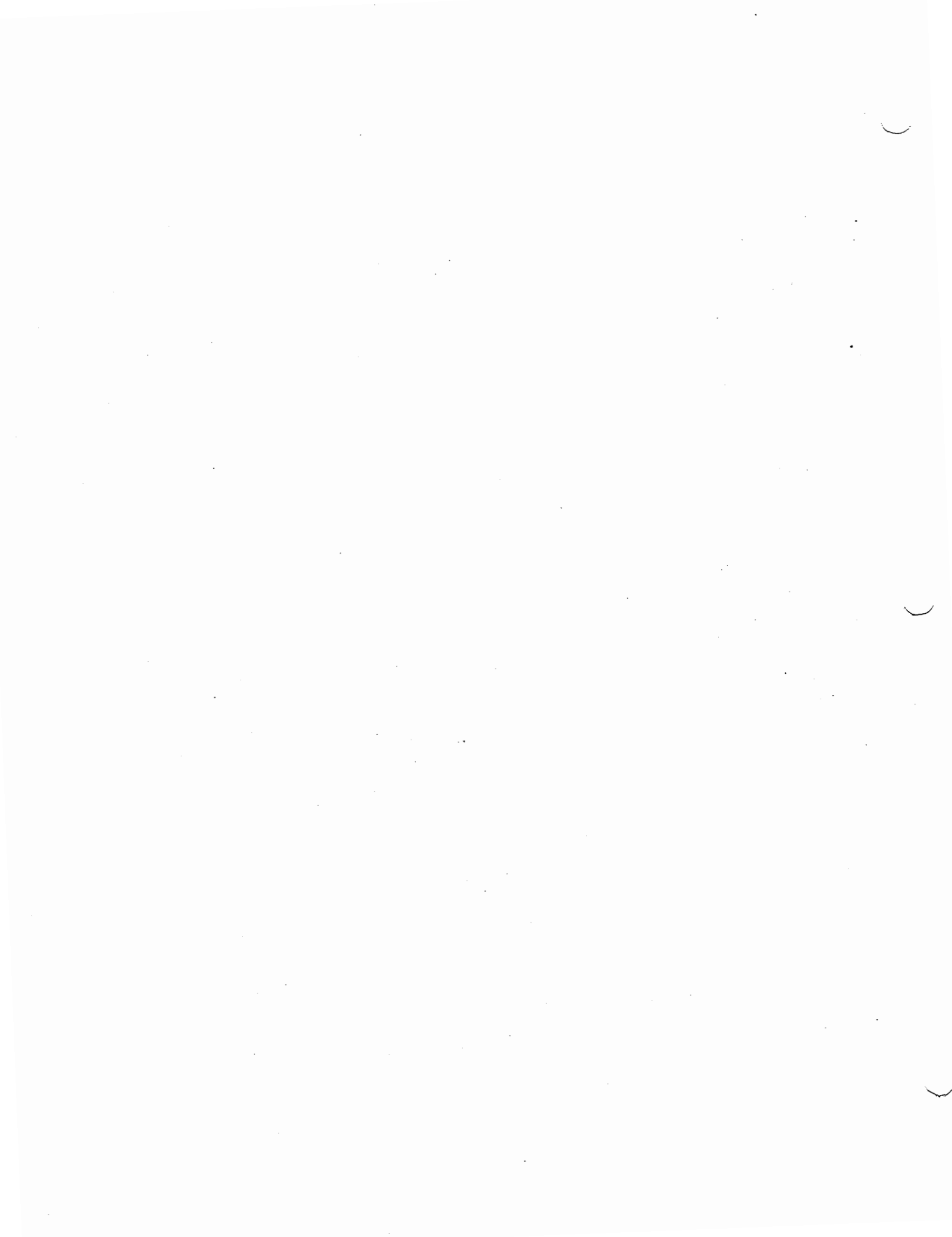
The town seal shall be an unbroken line of figures "❁" arranged to form a complete circle, within which shall be a smaller circle composed of the figures "<>" not touching each other; and between the upper half of these two circles and conforming to the arcs thereof shall be the words "TOWN OF URBANNA", and between the lower half of these two circles and conforming to the arcs thereof shall be the figures and word "❖ VIRGINIA ❖"; and in the center of the inner circle, on a horizontal line, shall be the figure "•••••".

The Town Clerk shall be the custodian of the Town Seal.

Editor's Note 1993: For additional state law as to the exercise of police powers beyond town limits, see Code of Va., §§ 15.1-131.5, 15.1-142.1, 19.2-250. Editor's note (1997). Title 15.1 recodified; see § 15.2-1724 et seq for interjurisdictional law enforcement authority and §19.2-250.

^{11.} For charter provisions as to election of mayor and councilmen, see Char., §§ 4, 5. For general election law of the state, see Code of Va., tit. 24.1. As to qualification of voters and registration, see Code of Va., § 24.1-41 et seq. As to election of local officers, see Code of Va., § 24.1-90 et seq. As to elections on issues of indebtedness, see Code of Va., § 15.1-235.1.

^{12.} For charter provisions as to authority of town to adopt a town seal, see Char., § 1.



Administration

CHAPTER 2.

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Article I. In General. ¹

Section 2-1. Official bonds. ²

(a) Each officer, employee and agent of the town who in the course of his official duties will have in his possession, custody or control any money, negotiable instruments, securities or other liquid assets belonging or due to the town which at any time exceeds in value the sum of one hundred dollars shall, before entering upon the discharge of his duties, give bond payable to the town, with corporate surety and in such amount as shall be determined by the town council, conditioned upon the faithful performance of his duties and a true accounting to make of all town assets coming within his possession, custody or control; provided, that the bond of the town treasurer and the town secretary, their deputies and assistants shall be in amount not less than ten thousand dollars; and provided further, that any person holding two or more offices or positions concurrently shall give bond in amount not less than the highest amount which may be specified for any such office or position.

(b) Each officer, employee and agent of the town who, in the course of his official duties is authorized to carry a firearm shall, before entering upon the discharge of his duties, give bond to the town, with corporate surety and in such amount as shall be determined by the town council, conditioned upon the payment of all claims, judgments and decrees resulting from the negligent or unlawful use of such firearm by himself or by any other person with his knowledge and consent.

(c) In lieu of individual bonds, the town council may provide for a system of blanket bonding covering all persons who, by this section, are required to be bonded.

(d) All bonds required by this section shall be approved by the town attorney as to legality and form, and by the town council as to sufficiency; and the premiums thereon shall be paid by the town. Bonds shall be filed in the office of the town clerk.

¹. For state law as to administration and government of counties, cities and towns generally, see Code of Va., title 15.1. **Editor's note (1997). Title 15.1 recodified. See Title 15.2.**

². For state law as to bonds of town officers and employees, see Code of Va., §§ 15.1-13, 15.1-797. **Editor's note (1997). Title 15.1 recodified. See §15.2-1527.**

Section 2-2. Compensation of Town officers and employees; fees.³

Town officers and employees shall receive such compensation for their services as may be fixed in the annual budget or as may be fixed from time to time by other ordinances or resolutions of the town council; and all fees collected by town officers and employees shall be paid into the town treasury and no town officer or employee shall have any personal interest therein except as may be specifically provided otherwise by the town council.

Section 2-3. Authority of deputies, assistants and acting town officers and employees.

(a) Authority vested in and duties imposed upon town officers by state law, this Code or other ordinances and resolutions of the town council may, when they so authorize, be exercised or performed by their deputies, assistants and other subordinates, to the extent not prohibited by state law, this Code or other ordinance or resolution of the town council.

(b) When any town officer or employee is absent or disabled, or when any officer or position in the town government is vacant, the person designated by competent authority to act in the place of such absent or disabled town officer or employee or to hold temporarily the vacant office or position shall have the powers and perform the duties of such absent or disabled officer or employee or appertaining to such vacant office or position.

Section 2-4. Fiscal year.⁴

The fiscal year of the town shall begin on the first day of July of each calendar year and shall expire with the expiration date of the next succeeding thirtieth day of June. (Bylaws 1936)

³. For state law as authority of council to appoint, and fix salaries of, town officers and employees, see Code of Va., § 15.1-797 and, see also §15.1-13. As to salary of mayor, see Code of Va., §15.1-827. **Title 15.1 recodified. See Title 15.2.**

⁴. For state law as to authority of town to levy taxes on fiscal year basis of July 1 to June 30, etc., see Code of Va., §58-831.6. As to effective date of assessments when fiscal year begins July 1, see Code of Va., §58-851.7. As to fiscal year and fiscal year accounting procedures for all town school boards, see Code of Va., § 15.1-13.2. **Title 15.1 recodified. See Title 15.2.**

Editor's Note (1993).--Title 58, Code of Va. was repealed by Acts of 1984. For state law as to authority of town to levy taxes on fiscal year basis of July 1 through June 30, etc., see Code of Va., § 58.1-3010.

Section 2-5. Town depository; Urbanna Historic Trust.

(A) Biennially, as soon as may be practicable following the election and qualification of a new town council, the town council shall by ordinance or resolution, designate the place of deposit for all town funds, which shall be kept by the town treasurer separate and apart from his personal funds.

(B) Nothing in this section shall be construed so as to prevent the designation of such a depository at any other time, or to prevent any change being made, by ordinance or resolution of the town council.

(C) The town council shall maintain a Historic Preservation Fund on the books of the town, which shall be hereinafter be known as the Urbanna Historic Trust. (1989)

(1) The Trust may accept or decline donations of tangible or intangible property, including but not limited to, cash, real property, securities, personal property, or anything else of value. The Trust may also accept or decline transfers from the town general fund or other trusts. All donations received shall form the base of the Trust and may not be sold, spent, or otherwise removed from the Trust except after a two-thirds vote of the entire town council. The mayor, or his designated representative, may sell, transfer, or otherwise manage any asset of the Trust so as to seek an increase in the Trust's value.

(a) The mayor, or his designated representative, may sell, spend, or otherwise use assets in the base of the Trust if such action is in the best interest of the Trust and if the mayor reports to the council of such action at the next regular council meeting.

(2) Revenue derived from interest, dividends, or other similar revenue shall upon council approval, be used to promote, enhance, or maintain the historic character of the town. Revenue may only be use for promotion, enhancement, or maintenance of the historic character of the town, except that up to ten percent of such revenues may be used to reimburse the town for administrative expenses relating to maintenance or operation of the Trust.

(3) The Trust may receive grant moneys from intergovernmental and private sources, or such grant moneys may be used for the purposes of receiving such grants, and the restrictions of (1) and (2) above need not necessarily apply if approved by a two-thirds vote of the mayor and town council.

(4) Upon majority vote approval of the town council, the Trust may be administered in whole or part by a firm or person other than the town and that person or firm may receive compensation from the Trust for such administration.

(5) The town council may establish rules and regulations not in conflict with this section for the administration, maintenance, or operation of the Trust.

Section 2-5.1. Bad checks.

Any person uttering, publishing or passing any check or draft for payment of taxes or any other sums due to the town, which is subsequently returned for insufficient funds or because there is no account or because the account has been closed, shall pay a fee of twenty dollars (\$20.00) in addition to any taxes, penalties, fees, charges or other sums due to the town. (1990)

Section 2-6. Right of entry for purposes of inspection.

Whenever any officer or employee of the town is required or authorized by statute, the provisions of this Code or any ordinance or resolution, or rules and regulations or orders issued thereunder, in order to carry out his duties thereunder, to enter any premises or vehicle for the purpose of making an inspection thereof or of anything therein contained, such officer or employee shall have the right to enter any such premises or vehicle in accordance with law at any reasonable time in pursuance of such duties.

Section 2-7. Federal social security for eligible officers and employees.

(a) In order to provide for the coverage of eligible officers and employees of the town under the provisions of title II of the federal Social Security Act, the town shall subscribe to the applicable provisions of sections 51-111.1 to 51-111.8 of the Code of Virginia; and the plan heretofore submitted to and approved by the state agency⁵ pursuant to section 51-111.5 of the Code of Virginia is hereby ratified, confirmed and continued in full force and effect.

(b) The town council shall, each year, appropriate sufficient funds to make its required employer contributions to the state agency, and the town treasurer shall withhold from the salaries and wages of those town officers and employees who are so covered by federal social security to make their required contributions pursuant to the approved plan.

⁵ Editor's Note.--The town's copy of the agreement mentioned herein is on file in the office of the town clerk. **Title 15.1 recodified. See Title 15.2.**

(c) The town treasurer shall be responsible for the performance by the town of all duties imposed upon the town and its officers and employees who are so covered by federal social security under the applicable provisions of sections 51-111.1 to 51-111.8 of the Code of Virginia.

Article II. Town Council. ⁶Section 2-8. Meetings⁷—Regular and special; quorum; record of members present.

Regular meetings. The town council shall fix the time of its stated meetings, and it shall meet at least once a month, and except as herein provided, the council shall establish its own rules of procedure. A journal shall be kept of its official proceedings. (1993)

Special meetings of the town council may be called by the mayor or by any three councilmen at any time, upon notice of twenty-four hours to all members not joining in the call; provided, that notice may be waived by those not joining in the call and such waiver shall be recorded in the journal.

A quorum shall consist of a majority of the members of the town council, and no business shall be transacted at any meeting without a quorum being present. The names of all members present at any meeting shall be recorded in the journal. (Bylaws 1936)

⁶. For charter provisions as to election and term of mayor, see Char., § 4. As to number, qualifications, election and term of councilmen, see Char., § 5. As to powers enumerated in Code of Va., §§ 15.1-841 to 15.1-907 being conferred on town, see Char., § 3. For state law as to mayor and councilmen constituting town council, see Code of Va., §24.1-90. As to residence of members, see Code of Va., § 15.1-51. As to oath of office of members, see Code of Va., § 15.1-830. As to council being judges of election of members, see Code of Va., §§ 15.1-63 to 15.1-65, 15.1-831. As to conflicts of interest, see Code of Va., §§ 15.1-73, 15.1-73.2. As to filling vacancies, see Code of Va., §15.1-799. As to ineligibility of members to hold other town offices, see Code of Va., § 15.1-800. As to powers of town being vested in its governing body, see Code of Va., § 15.1-7. **Title 15.1 recodified. See Title 15.2.**

Editor's Note (1993)— As to oaths of councilmen and mayor, see Code of Va., § 15.1-829. §§ 15.1-63 through 15.1-65 repealed by Acts 1975, for provisions as to removal of public officers, see § 24.1-79.1 et seq. §§ 15.1-73 through 15.1-73.2 repealed by Acts 1970, for provisions as to standards governing state and local officers and employees with respect to conflict of interest and related matters, see § 2.1-639.1 et seq. **Title 15.1 recodified. See Title 15.2.**

⁷. For state law as to how town council convened, see Code of Va., § 15.1-832. As to meetings being open to public, executive sessions, etc., see Code of Va., § 2.1-340 et seq. **Title 15.1 recodified. See Title 15.2.**

Section 2-9. Same—Annual budget and tax levy meeting.⁸

At the regular meeting in April, annually, the town council shall determine the sum total necessary to be appropriated for defraying expenses of the town during the ensuing fiscal year and to cover the deficiency in the current fiscal year, on which as a premise the Council shall proceed to lay a levy on the real and personal property in the town and assess any business which by law a license may be required, for raising a revenue sufficient to meet the several appropriations decided to be requisite for the ensuing fiscal year. (1936)

Section 2-10. Procedure in absence of quorum.

If a quorum fails to attend any regular or special meeting of the town council within twenty minutes following the hour fixed for convening of the Council, those members present may direct any police officer of the town to apprehend the absent members, if they may be found within the town or at any place within one mile beyond the town limits, and bring them to the council chamber forthwith; or those members present may adjourn to another day, in which case the clerk of the council shall give notice of such adjournment to the absent members at least twelve hours prior to the time fixed for such adjourned meeting, and in either case, the clerk of the council shall enter into the minute book the proceedings taken. (1973)

Section 2-11. Duties of presiding officer;⁹ preservation of order.

(a) At all meetings of the town council the presiding officer shall preserve order and decorum, and shall discharge all duties prescribed by state law for presiding officers of town council meetings and such other duties usually pertaining to presiding officers.

(b)¹⁰ If any person behaves in a riotous or disorderly manner in any public meeting

⁸. For state law as to time for preparation of budget, contents thereof, procedure for adoption, etc., see Code of Va., § 15.1-160 et seq. As to vote required to levy tax or incur corporate debt, see Code of Va., § 15.1-826. **Title 15.1 recodified. See Title 15.2.**

⁹. For state law as to mayor being presiding officer of town council, and as to council appointing a president pro tempore in the absence of mayor, see Code of Va., § 15.1-827. **Title 15.1 recodified. See Title 15.2.**

¹⁰. For state law as to authority of town council to enact this subsection and impose penalty therein provided, see Code of Va., § 18.1-253.3. As to penalty for commission of misdemeanor, see Code of Va., § 18.1-9. Editor's Note (1993): Title 18.1 repealed by Acts of 1975. As to authority of town council to enact this subsection see Code of Va., § 18.2-415. As to penalty for commission of misdemeanor, see Code of Va., § 18.2-11.

of the town council or any division, committee, agency or authority thereof, or causes any unnecessary disturbance therein, by force, shouting or any other action calculated to disrupt such meeting, or shall refuse to obey any ruling of the presiding officer of such meeting relative to the orderly process thereof, he shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one thousand dollars or confinement in jail not exceeding twelve months, or both, in the discretion of the jury or court trying the case without a jury.

Section 2-12. Clerk; journal; recording of votes. ¹¹

The town clerk shall be ex officio clerk of the town council. The clerk of the council shall keep the journal of the council and perform such other secretarial duties as the council may prescribe.

At the request of any member present at a meeting, the yeas and nays shall be recorded on any question. (Bylaws 1936, §§ 4, 7.)

Section 2-13. Ordinances amendatory of this Code; maintenance of Code in current status.

Each ordinance amendatory of this Code shall be so drafted as to indicate clearly the chapter, article, division, section, subsection or paragraph added, deleted or altered thereby, and, where feasible, chapter or article headings or section or subsection catchlines shall be supplied. It shall be the duty of the clerk of the council to maintain in his office one volume of this Code in current status at all times, with deleted portions omitted therefrom, amended portions included therein so as to replace the portions superseded by such amendments, and new portions included therein, each at its proper place; and he shall amend the index accordingly. In making each insertion in or removal from such volume, the clerk of the council shall make any appropriate note in the margin as to the number and date of passage of the amendatory ordinance and the effective date thereof, and if publication or a public hearing was required, the date and manner of such publication and the date of such public hearing.

Section 2-14. Filing of ordinances and resolutions.

The clerk of the council shall preserve the original copies of all ordinances and resolutions of the town council in appropriate files in his office, and shall maintain a record thereof in the form of an index so as to facilitate ready access to each ordinance and

¹¹. For state law as to journal of town council, entry therein of yeas and nays, and requirement that minutes be read and signed, see Code of Va., § 15.1-828.

resolution. He shall transcribe such originals in the minutes of the meetings at which they were adopted, or, if the town council so orders, in appropriate ordinance and resolution books, in which case the council minutes shall clearly indicate the book and page number where each ordinance or resolution is transcribed.

Section 2-15. Rules of the council;¹² committees.

The town council may from time to time adopt and amend resolutions for the transaction of its business; the procedure and order of business at its meetings; the appointment and jurisdiction, power and duties of standing and special committees; the official conduct of its members; the manner of calling and conducting hearings and investigations and the issuance of subpoenas for the attendance of witnesses and the production of books and papers;¹³ the presentation of petitions and other communications to the council and recognition of non-members to address the council thereon; and such other matters not inconsistent with state law, this Code or other ordinances as may be deemed appropriate to facilitate the execution of the powers and the performance of the duties of the town council as provided by state law and the town Charter.

Section 2-16. Expulsion and suspension of councilmen;¹⁴ fines for disorderly conduct.

The town council may, with the concurrence of two-thirds of the members, expel or suspend any councilman; provided, that no such expulsion or suspension shall be made without reasonable notice to the councilman complained of and an opportunity afforded him to be heard in his defense.

The town council may fine any of its members for disorderly conduct. (Bylaws 1936, § 7.)

¹². For state law as to authority of town council to adopt rules for the regulation of its proceedings, see Code of Va., § 15.1-826. **Title 15.1 recodified. See Title 15.2.**

¹³. For state law as to investigative powers of town council, see Code of Va., § 15.1-801. **Title 15.1 recodified. See Title 15.2.**

¹⁴. For state law as to power of town council to expel and suspend all elective and appointive town officers other than mayor, see Code of Va., § 15.1-831. **Title 15.1 recodified. See Title 15.2.**

Article III. Town Officers.

Division 1. Generally.¹⁵

Section 2-17. Designation of town officers.

In addition to the Mayor and six councilmen as provided in Sections 4 and 5 of the town Charter, there shall be a town clerk, a town treasurer, a town sergeant, and a town attorney., and The town council may appoint, employ, or contract with qualified persons to accomplish the goals and functions of the town. The council may establish a set of policies to govern the management of employee conduct, and may delegate all or part of its authority to a town administrator to implement the policies and functions established by the council.

Section 2-18. Oath of office for all elective and appointive officers of town.¹⁶

The mayor and councilmen and all officers, appointed or elected for the town, shall take and subscribe the oath of office hereinafter set forth before some officer authorized by law to administer an oath. This shall be done before entering upon the discharge of any function as an officer of this town. The oath is as follows:

" _____ 19__ "

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge and perform all of the duties incumbent on me as _____

" _____ "

¹⁵. For state law as to authority of town council to appoint officers, define their duties, etc. see Code of Va., §§ 15.1-13, 15.1-794. As to residence requirements, see Code of Va., §§ 15.1-51, 15.1-52. As to qualification procedure, see Code of Va., §§ 15.1-38 to 15.1-40. As to conflicts of interest, see Code of Va., §§ 15.1-73, 15.1-74. As to removal or suspension, see Code of Va., §§ 15.1-63 to 15.1-65, 15.1-831. **Title 15.1 recodified. See Title 15.2.**

Editor's Note (1993): § 15.1-73 repealed by Acts of 1970, see § 2.1-639.1 et seq. for present provisions as to standards governing conduct of state and local officers and employees with respect to conflicts of interest and related matters. **Title 15.1 recodified. See Title 15.2.**

¹⁶. For similar state law, see Code of Va., § 49-1.

"The foregoing oath was sworn to and subscribed by _____ before me this ____ day of _____, 19__."

" _____ "

Section 2-19. Holding of two or more town offices concurrently by one person designation of deputies and assistants.

(a) The town council may provide by ordinance or resolution that one person may serve concurrently in any two or more specific offices which are authorized to be filled by appointment by the town council, subject to any limitation imposed by state law¹⁷; and in any such ordinance or resolution the council may specify an appropriate title for a person holding more than one office concurrently, as, for example, "town clerk-treasurer."

(b) Any deputy or assistant to any town officer who holds two or more town offices concurrently may be designated by resolution of the town council according to the office or offices in which he serves as such. For example, if and when there shall be a "town clerk-treasurer," any deputy or assistant who performs duties appertaining to both such offices shall be "deputy (or assistant) town clerk-treasurer," but if he performs duties relating only to the office of Town Clerk, his title shall be "deputy (or assistant) town clerk." (Bylaws 1936, § 6.)

Section 2-20.1. Town records; definitions.

(A) Town records are defined as being all written books, papers, letters, documents, photographs, tapes, microfiche, microfilm, photostats, sound recordings, other documentary material or information in any recording medium regardless of physical form or characteristics, including data processing devices and computers, made or received in pursuance of law or in connection with the transaction of public business by any office or department of the town.

(B) Non-record materials, meaning reference books and exhibit materials made or acquired and preserved solely for reference use or exhibition purposes, extra copies of

¹⁷. For state law as to ineligibility of any member of town council, during his term of office or for one year thereafter, to hold any office to be filled by the council, see Code of Va., § 15.1-800. **Title 15.1 recodified. See Title 15.2.**

documents preserved only for convenience of reference, and stocks of publications, shall not be included within the definition of town records as used in this section.

Section 2-20.2. Same – Property of town; delivery to successor.

(A) All Town records as defined in Section 2-20.1 are hereby declared to be the property of the Town of Urbanna. No town official or employee has, by virtue of their position, any personal or property right to such records.(1990)

(B) Any custodian of public records shall, at the expiration of the term of office, appointment or employment, deliver to a successor, or if there be none, the town records manager, all books, writings, letters, documents, public records, or other information, recorded on any medium kept or received in the transaction of official business.(1990)

Section 2-20.3. Same – Council records.

The town clerk shall retain the records of the town council. The minutes of the meetings of the town council shall be microfilmed for security purposes and the master microfilm copy shall be stored in the Virginia State Library and Archives.(1990)

Section 2-20.4. Same – Records management program.

It shall be the duty of the town administrator to develop a comprehensive records management program, establishing procedures for the management of records from their creation to their ultimate disposition and to provide for the efficient and economical creation, distribution, maintenance, use, preservation and disposition of town records.(1990)

Section 2-20.5. Same – Records manager.

The town administrator shall establish and fill the position of records manager. The records manager shall be responsible for implementing the records management program of the town. The records manager shall implement the policies and procedures for a comprehensive records management program as approved by the town administrator.(1990)

Section 2-20.6. Same – Duty of employees.

It shall be the duty of all town employees to cooperate with the town administrator in implementing the provisions of the comprehensive records management program. Nothing in this section shall be construed to compel the removal of records from the custody of the town employee when such records are deemed necessary in the performance of statutory duties.(1990)

Division 2. Specific Officers. ¹⁸

Section 2-21. Mayor¹⁹—Powers and duties generally.

(a) The mayor shall be the official head of the town government and the chief executive officer of the town, and he shall have the powers and perform the duties prescribed by state law for the mayor of a town and as prescribed for his office by this Code and by other ordinances, resolutions and orders of the town council. The mayor shall see that the ordinances and resolutions of the town are enforced, and shall be the chief law enforcement officer of the town who may call upon the Governor for aid in case of any breach of the peace, tumult, riot or resistance of law or imminent danger thereof, or in case of any disaster wherein the lives or property of citizens are imperiled, pursuant to authority of section 44-78.1 of the Code of Virginia.

(b) The mayor shall have general supervision over the officers and units of the Town Government, and may suspend or dismiss any appointed officer for misfeasance or malfeasance in office, which suspension or dismissal shall be confirmed or revoked by the council, but the officer shall stand suspended until his case is acted on by the council.

(c) The town council may appoint and employ a town administrator who shall be the chief administrative officer of the town, and whose powers, duties and responsibilities are otherwise established by resolution of the council. In the event of a vacancy in the position of town administrator and the absence of the town council appointing an interim town administrator, the mayor shall have the powers, duties and responsibilities assigned to the town administrator by state law and this Code.

¹⁸. As to the building official, see § 4-1 of this Code. As to town sergeant and chief of police, see § 11-2.

¹⁹. For charter provisions as to election, term of office and compensation of mayor, see Char., § 4.

(d) The town council may, by resolution, establish powers, duties and responsibilities for all officers and employees of the town.

Section 2-22. Same—Mayor pro tempore.

In the event of the death, absence or disability of the mayor, the town council shall elect one of the councilmen to be mayor pro tempore, and the mayor pro tempore shall then have the powers and perform the duties of mayor while continuing to serve as councilman, until a new mayor is elected or appointed pursuant to law.²⁰ (Bylaws 1936, §§ 2,3.)

Section 2-23. Repealed ²¹

Section 2-24. Town clerk.

(a) The town clerk shall be the custodian of all records, documents and other papers of the town for which no other officer is designated as custodian, and he shall maintain them in a systematic manner so as to facilitate ready reference thereto, and in a secure and fireproof safe or in a locked filing cabinet in his office; provided, that a safe deposit box of a bank or a trust company designated by the town council for such purpose may be used as the place of maintenance for papers of unusual value to the town.

(b) The town clerk shall cause the publication or service of all notices, orders, processes and other official papers of the town council which are to be published or served; and he shall cause the publication or service of all other official town papers which are to be published or served and for which purpose no other town officer has been designated.

(c) The town clerk shall issue all town licenses and permits for which no other issuing officer has been designated.

(d) The town clerk shall have such other powers and perform such other duties as may be specified for his office by state law, this Code or other ordinances, resolutions or orders of the town council or which are incidental to his office generally. (Bylaws 1936, § 4.)

²⁰. For state law as to filling vacancies in town offices, see Code of Va., § 15.1-799. **Title 15.1 recodified. See Title 15.2.**

²¹. Editor's Note: As to town clerk being custodian of the town seal, see § 1-10 of this Code. As to issuance of town licenses by the town clerk, see § 7-2. Editor's Note (1993): Section 2-23 repealed by Resolution of the Urbanna Town Council, 19 July 1993.

Section 2-25. Town treasurer.(a) Powers and duties generally.²²

The town treasurer, for the purposes of collecting money due to the town from town taxes and license taxes, town levies, town assessments, town water and sewer service charges and other debts however incurred, shall have the same powers as prescribed by State law for a county treasurer with respect to the collection of money and debts owing to a county insofar as not inconsistent with this Code or other ordinances and resolutions of the town council.

(b) Collections; penalty on delinquent accounts²³. The town Treasurer shall collect all taxes, levies and licenses due the Town. On all taxes, levies, licenses and other claims which remain unpaid as to December fifth of the year in which they are due, ten per centum shall be added, and the Treasurer shall collect the principal and penalties by distress, garnishment or otherwise as the law directs.

(c) Receipts and disbursement of money. The town treasurer shall receive all money payable into the Town Treasury and disburse the same by order of the town council; checks are to be signed by the mayor or chairman of the council committee for finance and administration and countersigned by the town treasurer.

(d) Books, papers and accounts.²⁴ The town treasurer shall keep accurate books and accounts. Such books and accounts shall always be subject to the inspection of the town council or any committee thereof. The books, papers and accounts, concerning his office, shall be kept in a fireproof safe, all of which shall be the property of the town.

²². For state law as to powers of a town treasurer to distrain on goods and chattles for nonpayment of taxes, see Code of Va., § 58-850. As to powers and duties of county treasurers relating to collection of taxes, see Code of Va., § 58-958 et seq. Editor's Note (1993). Title 58 repealed by Acts of 1984. See Code of Va., § 58.1-3123 et seq. as to powers and duties of county treasurers relating to collection of taxes.

²³. For state law as to penalty for failure to pay taxes by Dec. 5th, see Code of Va., § 58-963. As to town treasurers having same power as county treasurer to collect taxes and to distrain therefor for goods and chattles, see Code of Va., § 58-850. Editor's Note (1993). Title 58 repealed by Acts of 1984. See Code of Va., § 58.1-3915 et seq. for state law as to penalty for failure to pay taxes by Dec. 5th.

²⁴. For state law as to disbursement of money and quarterly itemization of accounts, see Code of Va., § 15.1-802. **Title 15.1 recodified. See Title 15.2.**

(e) Segregation of money received on special assessment. All money received on any special assessment shall be held by the treasurer as a special fund to be applied to the payment for which the assessment was made, and the money shall be used for no other purpose whatsoever.

(f) Refusal of payment of warrant of person indebted to town. The town treasurer shall refuse payment of any town warrant presented to him when the person presenting or holding such warrant is indebted to the town or delinquent in the payment of taxes or other dues to the town. The treasurer is authorized to withhold payment of such warrant until such taxes or indebtedness shall have been paid. (Bylaws 1936, § 3.)

Section 2-26. Town Attorney and assistant.

The town attorney shall be a member in good standing of the Virginia State Bar, who shall perform such professional services and receive such compensation as may be agreed upon by him and the town council at the time of his appointment, specifically including the following: the town attorney shall be legal counsel for the town council and town officers, boards and agencies and he shall render opinions to them upon request of the mayor, majority vote of the council, or the town administrator; he shall prepare contracts and other instruments to which the town is a party or in which the town has an interest; and at the request of the mayor or councilmen issuing the call, he shall attend regular and special meetings of the town council; and he shall represent the town in court with respect to any proceeding to which the town is a party.

The town attorney, with the consent of the town council, may (1) appoint an assistant town attorney who shall be a member in good standing of the Virginia State Bar, who shall perform the duties of the town attorney when the town attorney is absent, disabled or otherwise unavailable, and (2) such staff as may be deemed necessary to the performance of his duties.

CHAPTER 3.

ANIMALS AND FOWL.¹

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Section 3-1. Certain animals prohibited to be kept on premises or to be at large.

No person shall keep or harbor on any premises within the town any hog, sheep, mule, horse, pony, donkey, goat or other like animal or permit any such animal within his custody or control to go at large within the town. (1963)

Section 3-2. Female dogs in heat.

(a) It shall be the duty of each person owning, keeping or harboring a female dog within the town to keep such dog confined on his own premises, or on the private premises of another with the consent of the owner of such premises, while such dog is in heat.

¹. Editor's note.-- The county dog ordinance set out in the board of supervisors Order Book on pages 282 to 284 is in effect within the town and should be read in conjunction with those sections of this chapter as they may appertain.(1973) For charter provisions adopting Code of Va., § 15.1-870 granting town authority to regulate or prohibit the running at large and keeping of animals and fowl, etc., see Char., §3. For state law as to estrays, see Code of Va., §§ 55-202 to 55-206. For state dog laws, see Code of Va., §§ 29-183 to 29-213. Editor's Note (1993).-- Title 29 Code of Va. was repealed by Acts of 1987. For comprehensive animal laws see Code of Va., §3.1-796.66 et seq. Editor's Note (1997).-- § 15.1-870 replaced by § 3.1-796.94:1.

(b) Any female dog which is in heat and is found running at large within the town shall be subject to impoundment by the county dog warden; and any town police officer may take into custody any such dog and release it to the county dog warden. (1936)

Section 3-3. Impoundment and redemption; disposition of unredeemed animals.

The owner or tenant of any premises on which the animals named in §3-1 of this chapter usually frequent are held as responsible owners.

It shall be the duty of the town sergeant or any other police officer to take up and impound, when practicable, any animal named in §3-1 of this chapter going at large or ranging the streets or unenclosed parts of the town or give information of such violation to a councilman or the mayor.

Either of such animals when taken up or empaneled may be redeemed by the owner or his agent on the payment of the prescribed fine, and the cost for feeding the animal while in custody; provided, that if not properly attended to after ten days' public notice, the arresting officer shall sell the same to the highest bidder for cost and pay over the proceeds of the sale after deducting his fees and the expenses of the arrest to the town treasurer. (1936)

Section 3-4. Maintenance of pens, coops, etc.

Each person owning or having the custody or control of an animal or fowl within the town shall provide therefore a suitable pen, coop or other enclosure or place of habitation therefor; and it shall be his or her duty to maintain such place at all times in a safe, clean and sanitary condition, free of excrement and other unsanitary or offensive substances or liquids, and so as not to constitute a hazard to the health or safety of any person or to become a nuisance. Any violator of this section shall be penalized in accordance with Section 3-10. (9/20/99)

Section 3-5. Disposition of carcasses.²

The owner of any animal or grown fowl, which has died, when he knows of such death, shall forthwith have its body cremated or buried, and if he fails to do so any judicial officer or court having jurisdiction after notice to the owner, if he can be ascertained shall cause any such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose, and the officer or other person shall be entitled to recover of the owner of every such animal so cremated or buried, a fee of five dollars, and of the owner of every such fowl so cremated or buried a fee of one dollar, to be recovered in the same

². For corresponding state law, see Code of Va., § 32-70. For state law as to depositing dead animals in road or failing to bury, see Code of Va., § 32-70.1. As to disposal of dead dogs, see Code of Va., § 29-200. Editor's Note (1993).-- Title 29, Code of Va., was repealed by Acts of 1987. For comprehensive animal laws, see Code of Va., §3.1-796.66 et seq.

manner as officers' fees are recovered, free from all exemptions in favor of such owner. Any person violating the provisions of this section shall be subject to a fine not exceeding twenty dollars for each offense. (1973)

Section 3-6. Vicious dogs.

Any vicious dog may be killed upon order of the mayor (1936) or, in his absence, if such dog poses an immediate threat or danger, or could cause serious injury to any one present, in the judgement of the town sergeant or town officer who is on the scene of the incident. (1976)

Section 3-7. Animals and fowl.

No person shall keep within the town a dog, owned or kept by him or her, which by its conduct disturbs the peace and quiet of any person, or is otherwise a nuisance to the public. For the purposes of this section, a dog shall be deemed a nuisance to the health, safety and welfare of the citizens of the town, when found to bark excessively, continuously, or in an untimely manner; to molest passersby by biting or viciously charging in a frightening manner; to upset refuse storage container and/or scatter refuse or garbage; to chase vehicles; to attack habitually other domestic animals; to habitually use property beyond the premises of the owner or custodian of such dog for evacuation of bowels or bladder; or to cause an offensive odor. Any violator of this section shall be penalized in accordance with Section 3-10. (9/20/99)

Section 3-7.1. Impounding of dogs found running at large, reclamation or disposal of impounded dogs.

It shall be unlawful for any person to permit his or her dog to run at large, within the town, unless such dog is collared with proper and adequate identification. For the purpose of this Section, a dog shall be considered running at large when it is off the property of the owner, unless such dog is wearing a collar with adequate and proper identification attached thereto, which identification, for the purpose of this section, shall be the county dog tags obtained from the treasurer of Middlesex County. Any violator of this section shall be penalized in accordance with Section 3-10. (9/20/99)

Section 3-8. Mayor may require confining of dogs.

At any time not exceeding four ten-day periods, or such lesser time as the mayor may designate, the mayor may proclaim that all dogs within the town be confined to the homes or lots of their owners. For such period of ten days, or such lesser time as the Mayor may designate, town law enforcement personnel, the county dog warden or state game wardens may canvass the town for unlicensed and unconfined dogs. The mayor, in proclaiming the confinement of dogs for such ten day period, or such lesser time as the mayor may designate, shall do so by having notice thereof published in a local newspaper

of general circulation in the Town of Urbanna at least once a week for two weeks preceding the date of confinement. Any owner or custodian of a dog failing to confine his or her dog(s) under immediate control during such proclaimed confinement period shall be penalized in accordance with Section 3-10. Any violator of this section shall be penalized in accordance with Section 3-10. (9/20/99)

Section 3-9. Confinement of dogs suffering from or suspected of having rabies.

Any dog which is known to be suffering from rabies, or which is suspected of suffering from such disease, shall be at once confined by the owner until it is definitely known whether the animal is so infected. If it is found to have such disease, the owner shall at once cause such animal to be killed and the body to be burned or buried. In the event of the failure of the owner to obey the terms of the section, the police may cause such animal to be killed or confined under order of the mayor. (1973)

Section 3-10 Enforcement of Chapter 3 of the Urbanna Town Code.

Any person unlawfully violating the provisions of this Chapter for which no other penalty is prescribed shall be subject to the penalties provided for in Section 1-7 of the Urbanna Town Code. In lieu of court appearance, the offender may elect to pay a civil penalty of seventy-five dollars (\$75) for a first offense and a civil penalty of one hundred-fifty dollars (\$150) for a second or subsequent offense. In addition, the offender must pay all costs of court in the event of a misdemeanor conviction, or costs of processing the civil penalty, whichever course is selected by the offender. If a third offense occurs, the offender may be charged in accordance with Section 1-7 of the Urbanna Town Code and shall be required to remove the animal from the Town within seven (7) days or have the animal impounded and disposed of by the Town. (9/20/99)

Buildings

CHAPTER 4.

BUILDINGS AND BUILDING REGULATIONS.¹

Article I. In General.

- § 4-1. Building official.
- § 4-2. Mobile homes and house trailers.

Article II. Building Code.

- § 4-3. Adoption of the Building Code of Middlesex County, Virginia.
- § 4-4. Permits; fees.

¹. See the Building Code of Middlesex County, Virginia.

Article 1.

Section 4-1. Building official.

The county building official shall act as the town building official for purposes of this Code.

Section 4-2. Mobile homes and house trailers.²

It shall be unlawful within the town for any person to park or place or allow to be parked or placed any trailer, mobile home or similar type vehicle or dwelling on any street or other place in town. Nothing in this section shall be construed so as to prevent or prohibit the parking or placement of trailers, mobile homes or similar type vehicles or dwellings if permitted by the provisions of this Code and other ordinances of the town, except, that no living quarters shall be maintained or any business practiced while such vehicle is so parked or stored unless specifically permitted by the provisions of this Code and other ordinances of the town.

Article II. Building Code.

Section 4-3. Adoption of the Building Code of Middlesex County, Virginia..

The Town hereby adopts and incorporates by reference the "Building Code of Middlesex County, Virginia" which was adopted on December 17,1996, including all amendments thereto, and as the same may be from time to time amended in the future which shall control all matters concerning the construction, alteration, addition, repair, removal, demolition, use location, occupancy and maintenance of all buildings, and all other functions which pertain to the installation of systems vital to all buildings and

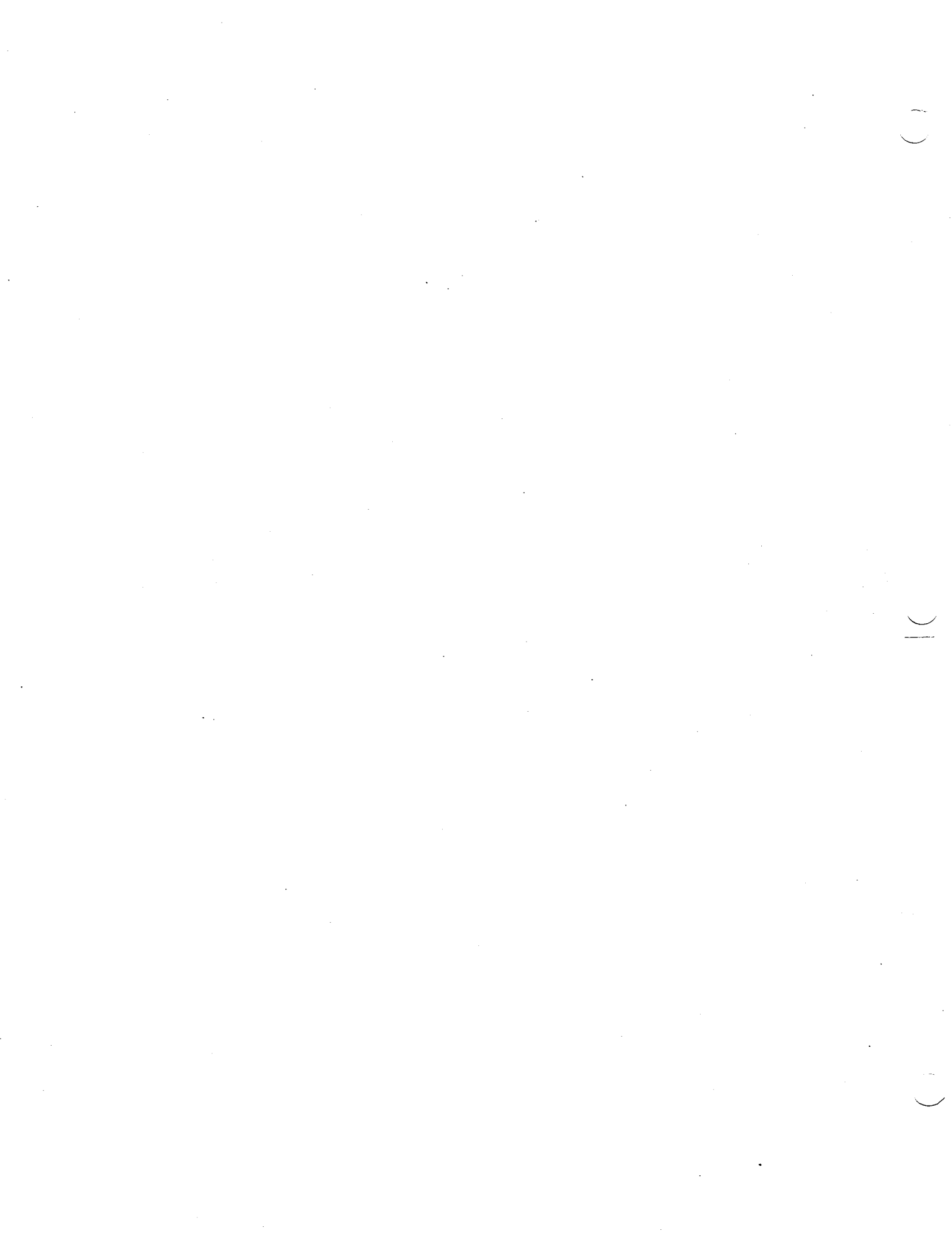
². As to other provisions regarding mobile homes and house trailers, etc., see Chapter 17, Zoning, this Code..

structures and their service equipment as defined by the " Building Code of Middlesex County", and shall apply to existing and proposed buildings or structures in the town.

Any person who shall violate a provision of the building code hereby adopted or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter, repair, or use a building or structure in violation of an approved plan or directive of the building official, or of a permit or certificate issued under the provisions of the building codes hereby adopted shall be guilty of a misdemeanor pursuant to § 36-106 of the Code of Virginia.

Section 4-4. Permits; fees

Before the issuance of any permit for new or expanded construction as required in the building codes, as adopted by section 4-3, the building official shall obtain documented approval from the town zoning administrator regarding applicable town zoning and subdivision ordinances. Any permit fee schedule in effect by the town shall be applicable and shall be collected and retained by the Town. Any permit fee or inspection fee schedule in effect by the county shall be applicable in the town and shall be collected and retained by the county.



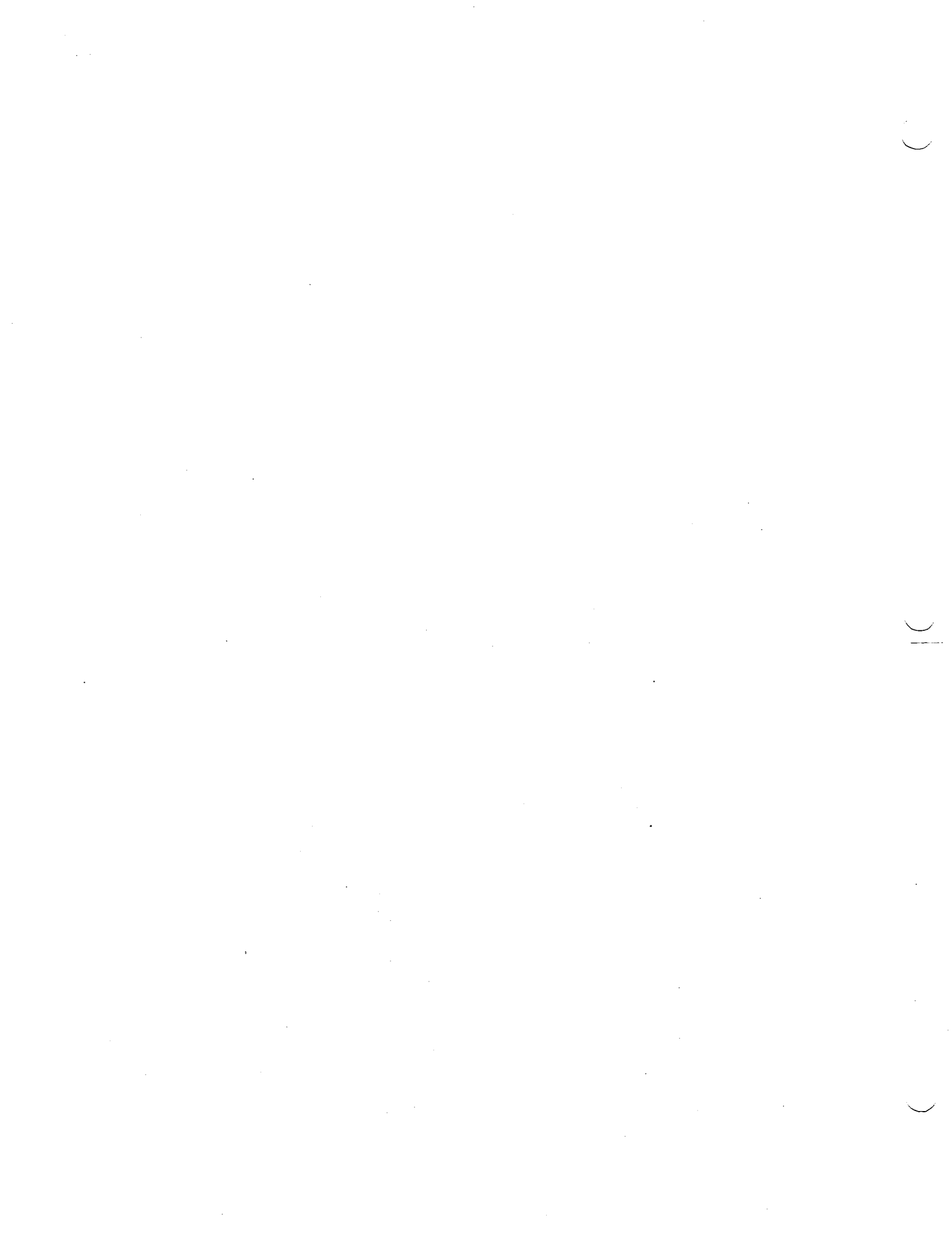
Section 5-6. Administrative Practices.

The State Fire Marshall shall establish such procedures or requirements as may be necessary for administration and enforcement of this chapter.

Article II. In General.

Section 5-7. Bonfires and outdoor rubbish fires.

- (a) Except as otherwise provided in this article, it shall be unlawful for any person to kindle or maintain any bonfire or rubbish fire within the town limits.
- (b) It shall be unlawful for any owner or lessee of land within the town to set fire to, or procure another to set fire to, any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to, or procure another to set fire to, any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land. Further, no person shall kindle or maintain any bonfire or rubbish fire to authorize any such fire to be kindled or maintained on any private land unless (1) the location is not less than fifty feet from any structure and adequate provision is made to prevent fire from spreading to within fifty feet of any structure, or (2) the fire is contained in a waste burner of a type approved by the chief of the fire department, which is located safely not less than fifteen feet from any structure.
- (c) Bonfires and rubbish fires shall be constantly attended by a competent person until such fire is extinguished. This person shall have a garden hose connected to the water supply, or other fire extinguishing equipment readily available for use.
- (d) During the period beginning February 15th and ending April 30th of each year, even though the precautions required by the foregoing subsection have been taken, it shall be unlawful for any person to set fire to or procure another to set fire to, any brush, leaves, grass, debris, or field containing dry grass or other flammable material capable of spreading fire, located in or within 300 feet of any woodland, brushland, or fields containing dry grass or other flammable material, except between the hours of 4:00 PM and 12:00 Midnight, provided, that the chief of the fire department may prohibit any or all outdoor fires.



- (e) throughout the year when atmospheric conditions or local circumstances make such fires hazardous.
- (f) No person shall kindle a fire upon the land of another without permission of the owner thereof or his agent.

Section 5-7.1. Title.

This article shall be known as the Town of Urbanna Ordinance for the Regulation of Open Burning.

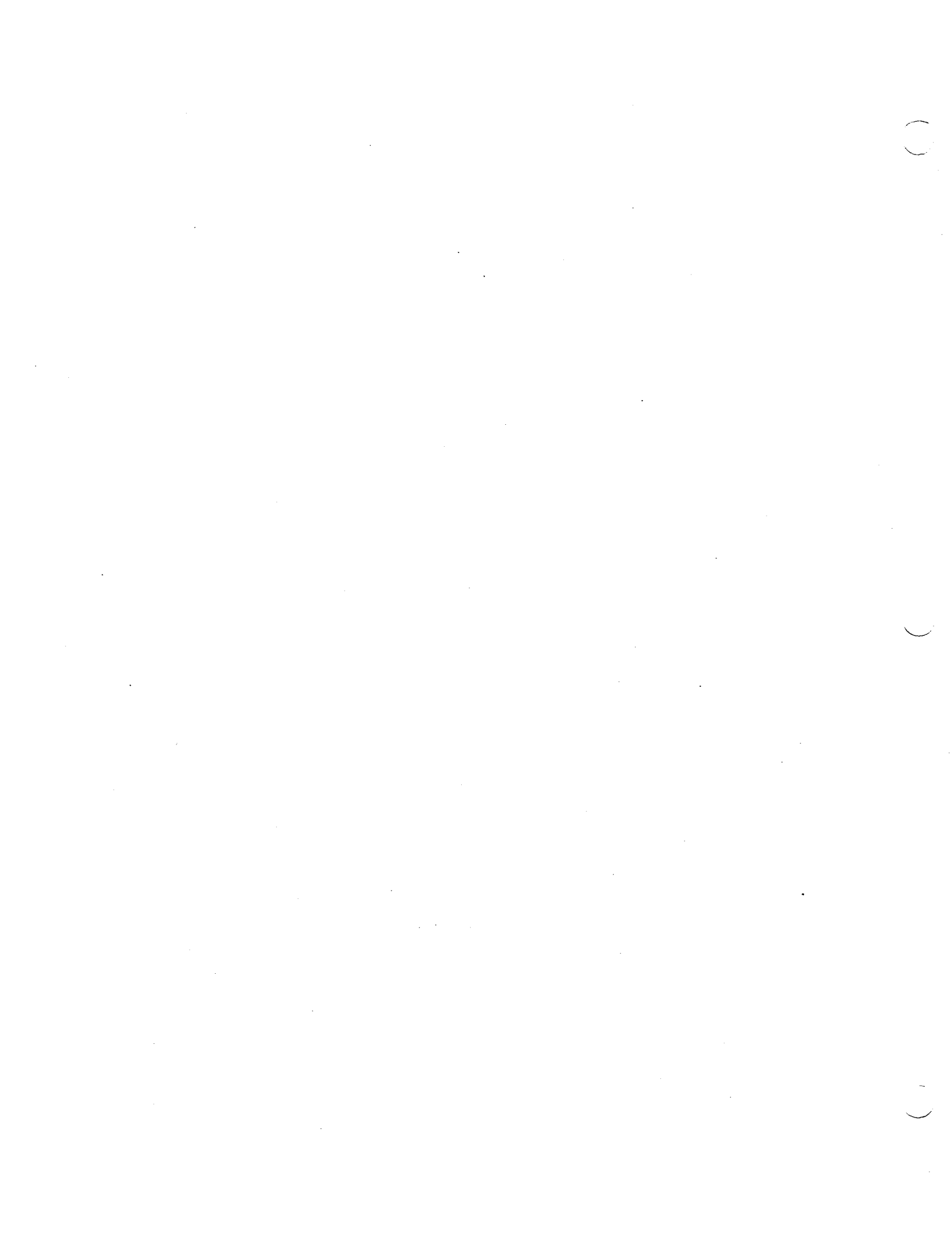
Section 5-7.2 Purpose of Article.

The purpose of this article is to protect public health, safety, and welfare by regulating open burning within Town of Urbanna to achieve and maintain, to the greatest extent practicable, a level of air quality that will provide comfort and convenience while promoting economic and social development. This article is intended to supplement the applicable regulations promulgated by the State Air Pollution Control Board and other applicable regulations and laws.

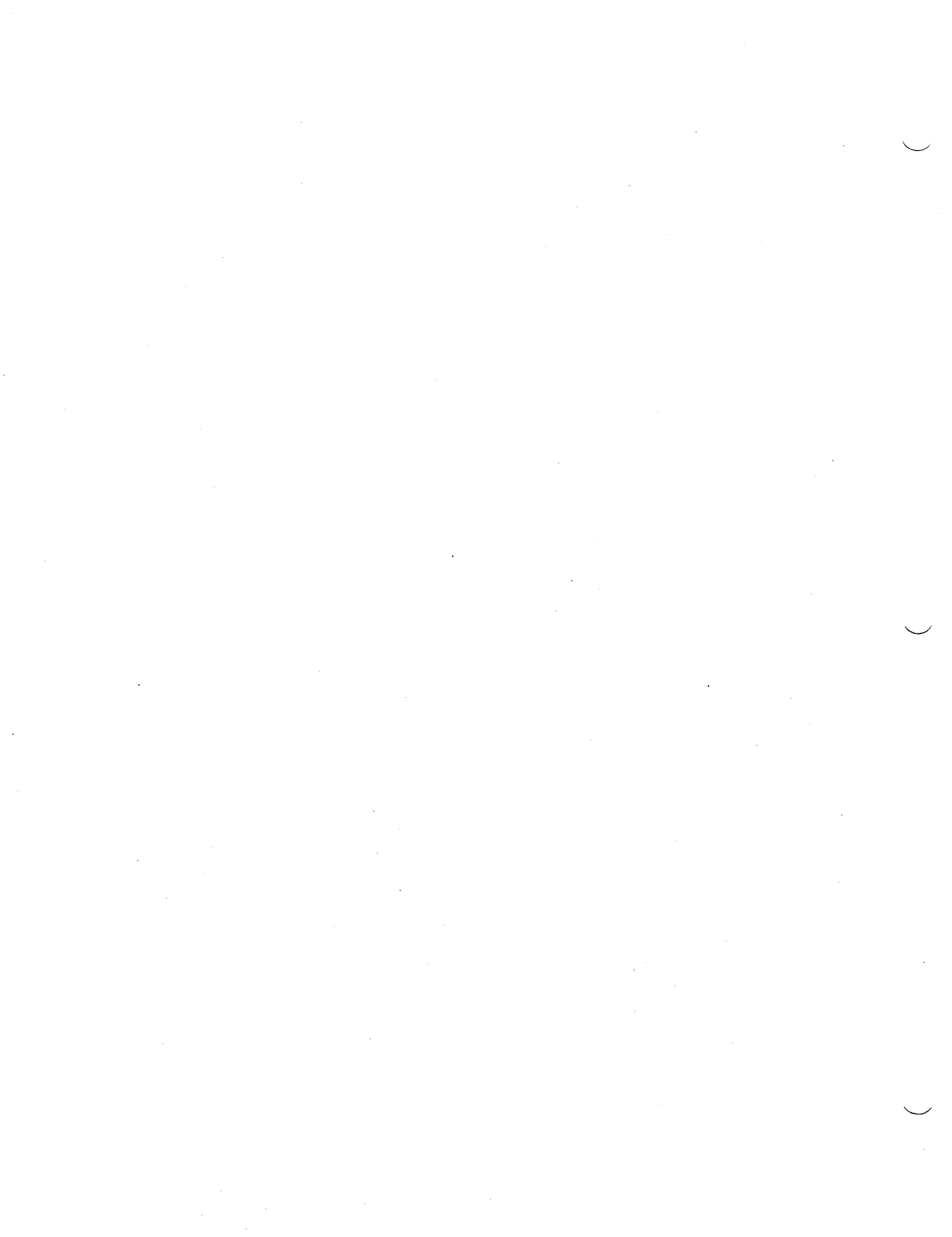
Section 5-7.3 Definitions

For the purpose of this article and subsequent amendments or any orders issued by Town of Urbanna, the words or phrases shall have the meaning given them in this section.

- (a) “Clean burning waste” means waste, which does not produce dense smoke when burned and is not prohibited to be burned under this ordinance.
- (b) “Construction waste” means solid waste that is produced or generated during construction of structure. Construction waste consists of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes and the disposal of such materials must be in accordance with the regulations of the Virginia Waste Management Board.
- (c) “Debris waste” means stumps, wood, brush, and leaves from land clearing operations.



- (d) "Demolition waste" means that solid waste which is produced by the destruction of structures and their foundations and includes the same materials as construction waste.
- (e) "Garbage" means rotting animal and vegetable matter accumulated by a household in the course of ordinary day-to-day living.
- (f) "Hazardous waste" means refuse or combination of refuse which, because of its quantity, concentration or physical, chemical or infectious characteristics may:
 - a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or
 - b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.
- (g) "Household refuse" means waste material and trash normally accumulated by a household in the course of ordinary day to day living.
- (h) "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.
- (i) "Refuse" means trash, rubbish, garbage and other forms of solid or liquid waste, including, but not limited to, wastes resulting from residential, agricultural, commercial, industrial, institutional, trade, construction, land clearing, forest management and emergency operations.
- (j) "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.
- (k) "Special incineration device" means a pit incinerator, conical or teepee burner, or any other device specifically designed to provide good combustion performance.



Urbanna Town Code

Chapter 5 – Fire Prevention Code

- (a) No owner or other person shall cause or permit open burning except as provided in this ordinance within the limits of the Town of Urbanna.
- (b) No owner or other person shall cause or permit the use of a special incineration device for disposal of any material.

Section 5-7.5 Exemptions

The following activities are exempted to the extent covered by the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution:

- (a) Open burning for training and instruction of government and public fire fighters under the supervision of the designated official and industrial in-house fire fighting personnel;
- (b) Outdoor grills and cooking devices for the non-commercial preparations of foods and the commercial preparation during Town approved special events.
- (c) Open burning for forest management and agriculture practices approved by the State Air Pollution Control Board: and
- (d) In the absent of other means of disposal open burning may be used destroy undesirable vegetation such as Kudzu or vines on banks and in ravines.

Section 5-7.6 Permits

- (a) When open burning is to occur within Town of Urbanna, the person responsible for the burning shall obtain a permit from the Chief Administrative Officer and Fire Chief prior to the burning. Such a permit may be granted only after confirmation by Chief Administrative Officer and Fire Chief that the burning can and will comply with the provisions of this ordinance and any other conditions which are deemed necessary to ensure that the burning will not endanger the public health and welfare or to ensure compliance with any applicable provisions of the State Air Pollution Control Board's Regulations for the control and Abatement of Air Pollution. The permit may be issued for each occasion of burning or for a specific period of time deemed appropriate by the Chief Administrative Officer and Fire Chief.
- (b) Permits granted for open burning shall at a minimum contain the following conditions:
 - 1. All reasonable effort shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of logs and firewood.

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Urbanna Town Code

Chapter 5 – Fire Prevention Code

2. The material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material.
 3. The burning shall be at least 300 feet from any structure. If the Chief Administrative Officer and Fire Chief determines that it is necessary to protect public health and welfare, they may direct above cited distance be increased.
 4. The burning shall be attended at all times and conducted to ensure the best possible combustion with minimum of smoke being produced. Under no circumstances should the burning be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials.
 5. The burning shall be conducted only when the prevailing winds are away from the Town or built- up area.
 6. The use of special incineration devices shall be allowed only for the disposal of debris waste, clean burning construction waste, and clean burning demolition waste.
- (c) An application for a permit under Section 5-7.6.A or 5-7.6B shall be accompanied by a processing fee of \$25.00 and must notify adjoining and surrounding property owners.

Section 5-7.8 Penalties for violation.

- (a) Any violation of this ordinance is punishable as a Class 4 misdemeanor. (See§ 15.2-901 of the Code of Virginia.)
- (b) In lieu of court appearance, the offender may elect to pay a civil penalty of Fifty (\$50.00) for a first offense and a civil penalty of two hundred dollars (\$200.00) for a second or subsequent offense not to exceed \$3,000.00 in a 12 month period.

Section 5-8. Enforcement of article; penalty.

The chief of the fire department or any law enforcement officer shall enforce the provisions of this article. Any person violating any provisions of this article shall be guilty of a misdemeanor for each separate offense.

Article III. Fireworks



Section 5-9. Purpose of article.

The regulations contained in this article are hereby adopted to provide for the issuance of permits, upon application in writing to the chief of the fire department for the display of fireworks by fair associations, amusement parks, or by any organization or group of individuals, under such terms and conditions as the chief of the fire department may prescribe.

Section 5-10. Application for permit.

- (a) Written application for a permit to display fireworks shall be made to the chief of the fire department stating the time, place, type of fireworks, and circumstances under which they are proposed to be displayed.

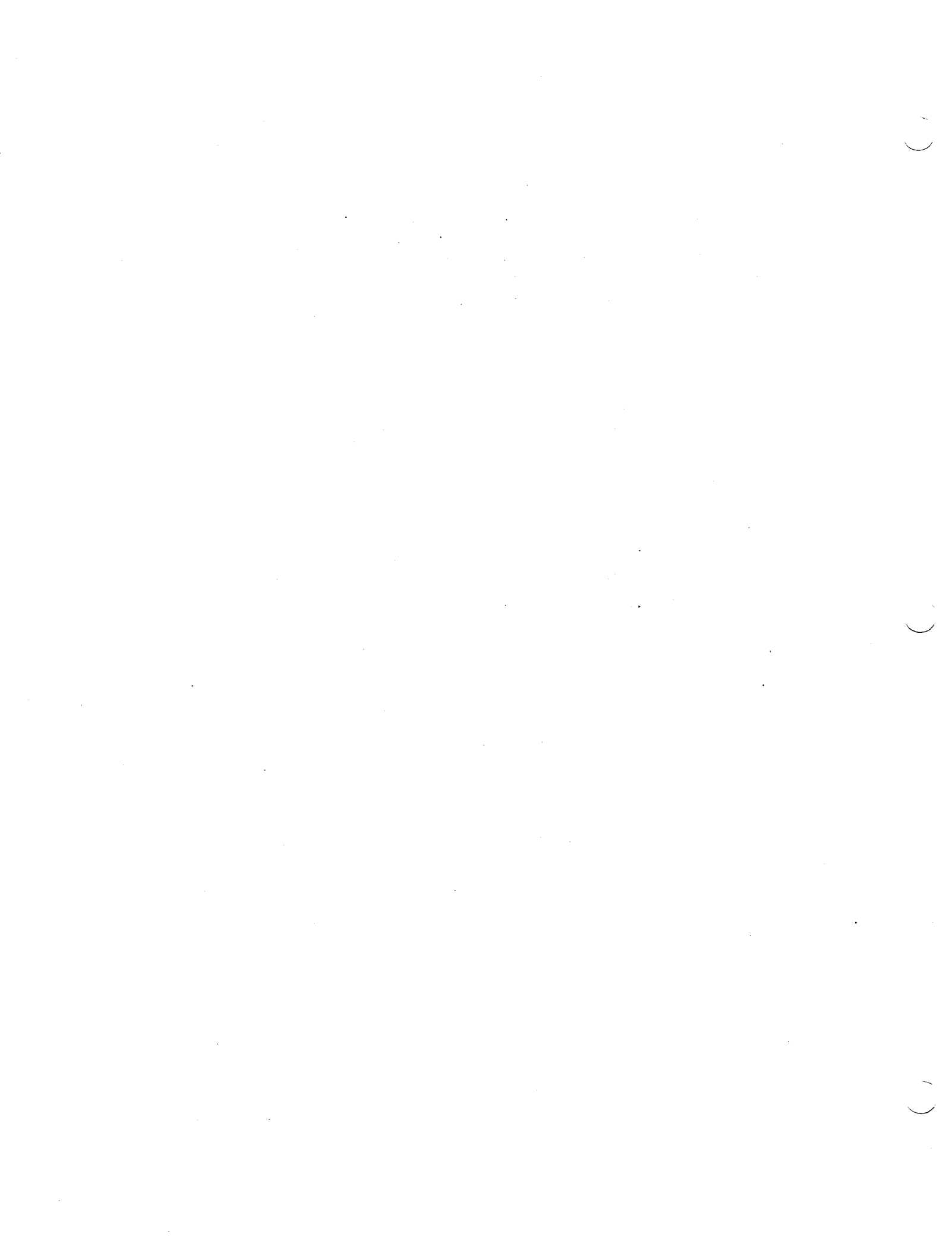
- (b) Each such application shall name at least one person who shall participate in displaying the fireworks who has had experience in displaying the type of fireworks proposed to be displayed.

- (c) After such permit has been issued by the chief of the fire department, sales of fireworks may be made for use under such permit, and the association, organization, group, or individual to which it is issued may make use of such fireworks under the terms and conditions of such permit.

Section 5-11. Approval of application; start of thirty-day period approved for storage of fireworks.

Upon approval, the application shall be dated and signed by the chief of the fire department which date shall constitute the beginning of a thirty-day storage period permitted for such fireworks, and all fireworks covered by such permit shall be displayed or discharged within such thirty-day period.

Section 5-12. Approved application constitutes permit.



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One copy of each application for a permit to display fireworks shall be forwarded to the Town Clerk and kept on file for the chief of the fire department. The approved application and permit shall be in the possession of the person in charge of displaying the fireworks at the time and place they are being displayed.

Section 5-13. Manner and duration of fireworks storage.

Prior to the use of fireworks pursuant to a permit, they shall be stored in a metal container in a building of masonry construction, so that members of the public cannot have access to them, and such fireworks shall not be stored in the town for a period in excess of thirty consecutive days.

Section 5-14. Regulation of spectators.

No spectator or member of the public other than those who are participating in displaying or discharging the fireworks shall be closer than fifty feet to the place where such fireworks are being displayed or discharged.

Section 5-15. When manufacture, transportation, sale, display, etc., of fireworks unlawful.

A. Except as otherwise provided in this article, it shall be unlawful for any person, firm or corporation to transport, manufacture, store, sell, offer for sale, expose for sale, or to buy, use, ignite or explode any firecracker, torpedo, skyrocket, or other substance or thing of whatever for or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known, as fireworks and which explodes, rises into the air or travels laterally, or fires projectiles into the air, other than sparks or those fireworks exempted under the provisions of this article.

B. The provisions of subsection A., above, shall not be applicable to any person, firm or corporation that manufactures, stores, markets and distributes fireworks for the sole purpose of fireworks displays permitted pursuant to this article.

Section 5-16. Exemptions from provisions of this article.

This article shall have no applications to any officer or member of the armed forces of this Commonwealth, or of the United States, while acting within the scope of his authority and duties as such, nor to any offer of sale or sale of fireworks to any authorized agent of such armed forces; nor shall it be applicable to the sale or use of materials or equipment, otherwise prohibited by this article, when such materials or equipment are used or to be used by any person for signaling or other emergency use in the operation of any boat or vehicle for the transportation of persons or property.

Section 5-17. Seizure and destruction of certain fireworks.



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Any law enforcement officer arresting any person for a violation of this article shall seize any article mentioned in section 5-15, above, in the possession or under the control of the person so arrested and shall hold the same pursuant to title 59.1, Chapter 11, of the Code of Virginia.

Section 5-18. Article inapplicable to certain fireworks; such fireworks to be used only on private property.

This article shall not apply to the use or the sale of sparklers, fountains, Pharoah's serpents, caps for pistols or to pinwheels commonly known as whirligigs or spinning jennies, provided however, that these listed fireworks may only be used, ignited, or exploded on private property with the consent of the owner of such property.

Section 5-19. Enforcement of article; penalty for violation.

The chief of the fire department or any law enforcement officer shall enforce the provisions of this article. Any person violating any provisions of this article shall be guilty of a misdemeanor for each separate offense.



Garbage, Refuse and Weeds

CHAPTER 6.

GARBAGE, REFUSE AND WEEDS¹

- § 6-1. Prohibited disposal of garbage, trash, etc.
- § 6-2. Duty of owners, etc., of premises— To remove prohibited wastes, etc.
- § 6-3. Maximum height of weeds, grass, etc.
- § 6-4. Clearance of sidewalk or street and overhanging shrubs or trees.
- § 6-5. Recourse of town upon noncompliance.
- § 6-6. Lien created for charges incurred by town.

Section 6-1. Prohibited disposal of garbage, trash, etc.

It shall be unlawful for any person to dispose of any garbage, trash, junk or waste of any kind or description upon any street, sidewalk or public place in the town other than at a public dumping ground designated as such by the town council, or upon the property of another without the knowledge and consent of the owner or occupant of such property, or in any well, cistern, spring or watercourse within the town. (1936, amended 1989)

Section 6-2. Duty of owners, etc., of premises—To remove prohibited wastes, etc.

It shall be unlawful for owners, occupants and persons in charge of lots and premises within the town not to remove therefrom any and all trash, garbage, refuse, litter and other substances and liquids which might endanger the health or safety of persons or constitute a menace toward starting or spreading fire, or afford a breeding place for insects, rodents or reptiles.

Section 6-3. Maximum height of weeds, grass, etc.

1. For charter provisions as to adoption of Code of Va., § 15.1-867 granting town authority to compel the removal of weeds and accumulations of offensive, unwholesome, insanitary or unhealthy substances from private property, etc., and recovery of costs by town, see Char., § 3. As to adoption of Code of Va., § 15.1-857 granting town authority to regulate garbage and trash dump, see Char., § 3. For state law as to authority of town to provide for removal of trash, garbage, etc., weeds and other foreign growth and to require property owners to comply with town regulations relating thereto, and liens created for noncompliance, see Code of Va., § 15.1-11.. **Title 15.1 recodified. See Title 15.2.**

It shall be unlawful for any owner, lessee or occupant, or the agent, representative or employee of any owner, lessee or occupant, having control of any lot or parcel of land within the town, whether developed or undeveloped subdivided or not subdivided, to allow, permit or maintain any growth of weeds, grass or other natural growth thereon which exceeds an average of twelve (12) inches from the general level of the ground. Bona fide agricultural land, wooded parcels of land, marsh land and land not visible from any public street or private right-of-way are exempt from this section. (1989)

Section 6-4. Clearance of sidewalk or street and overhanging shrubs or trees.

It shall be unlawful for any owner, lessee or occupant, or agent, representative or employee of any owner, lessee or occupant, having control of any lot or parcel of land within the town to allow or permit any part of any shrub or tree to overhang any sidewalk at a height of less than eight (8) feet or to overhang any street or alley at a height of less than fourteen (14) feet. (1989)

Section 6-5. Recourse of town upon noncompliance.

(a) Whenever deemed necessary by the town administrator, or the chief of police in the absence of the town administrator, after not less than seven (7) days from date of written notice mailed to the owner at the address shown on the town real estate tax records, the town administrator may direct town employees or an agent for the town to abate any unlawful condition provided for in sections 6-2, 6-3 and 6-4, in which event the cost or expenses thereof shall be chargeable to and paid by the owner of such property, and may be collected by the town as taxes and levies are collected.

(b) A property owner who has received a written notice as provided for in subsection (a) of this section may appeal the terms of the notice to the town council by submitting, in writing, an appeal and the grounds therefore within five (5) days of the date of such notice. Any appeal submitted to the town council pursuant to this section shall cause a stay in the terms of the notice pending action by the town council, which action shall be final. (1989)

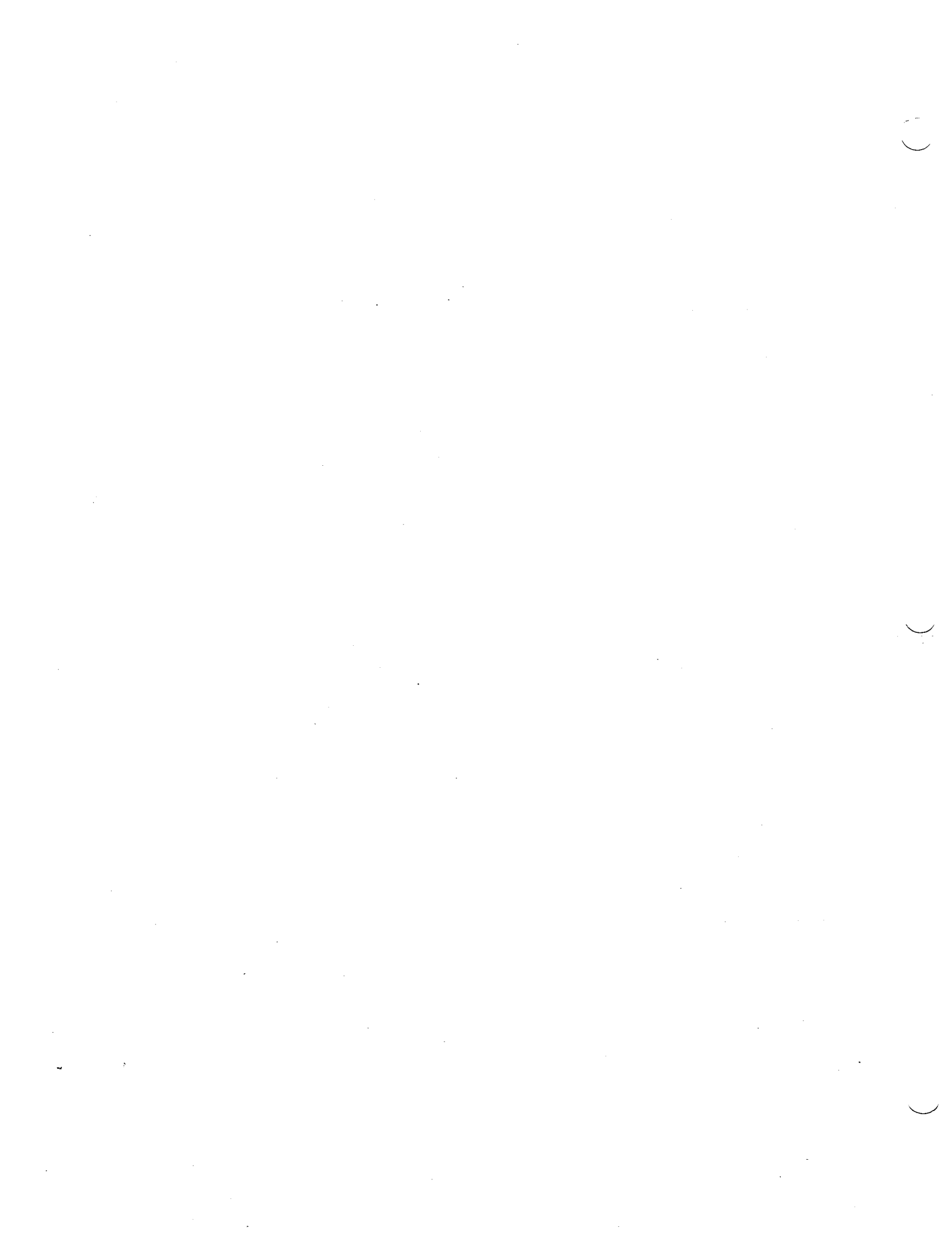
(c) For purpose of this section, "cost and expense" shall mean the total cost to the town for performing the work, including, but not limited to labor, material, and equipment costs; depreciation of vehicles and equipment and an administration fee not less than fifty

dollars (\$50.00) but any fee charged in excess of fifty dollars (\$50.00) shall be itemized to include any other expenses incurred by the town in enforcing this chapter.²

Section. 6-6. Same-Lien created for charges incurred by town.

Every charge authorized by this chapter with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property. (1973, amended 1989)

². Fifty dollar administrative fee taken from § 33-22, Code of the City of Roanoke, as amended November 1, 1990.



Licenses and Business Taxes

CHAPTER 7.1

LICENSES AND BUSINESS TAXES

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¹ Editor's Note (1996). -- Chapter 7.1 adopted January 15, 1996 to incorporate provisions of the Model BPOL Ordinance. Article III renumbered as Article IV and incorporated in Chapter 7.1 on January 15, 1996.

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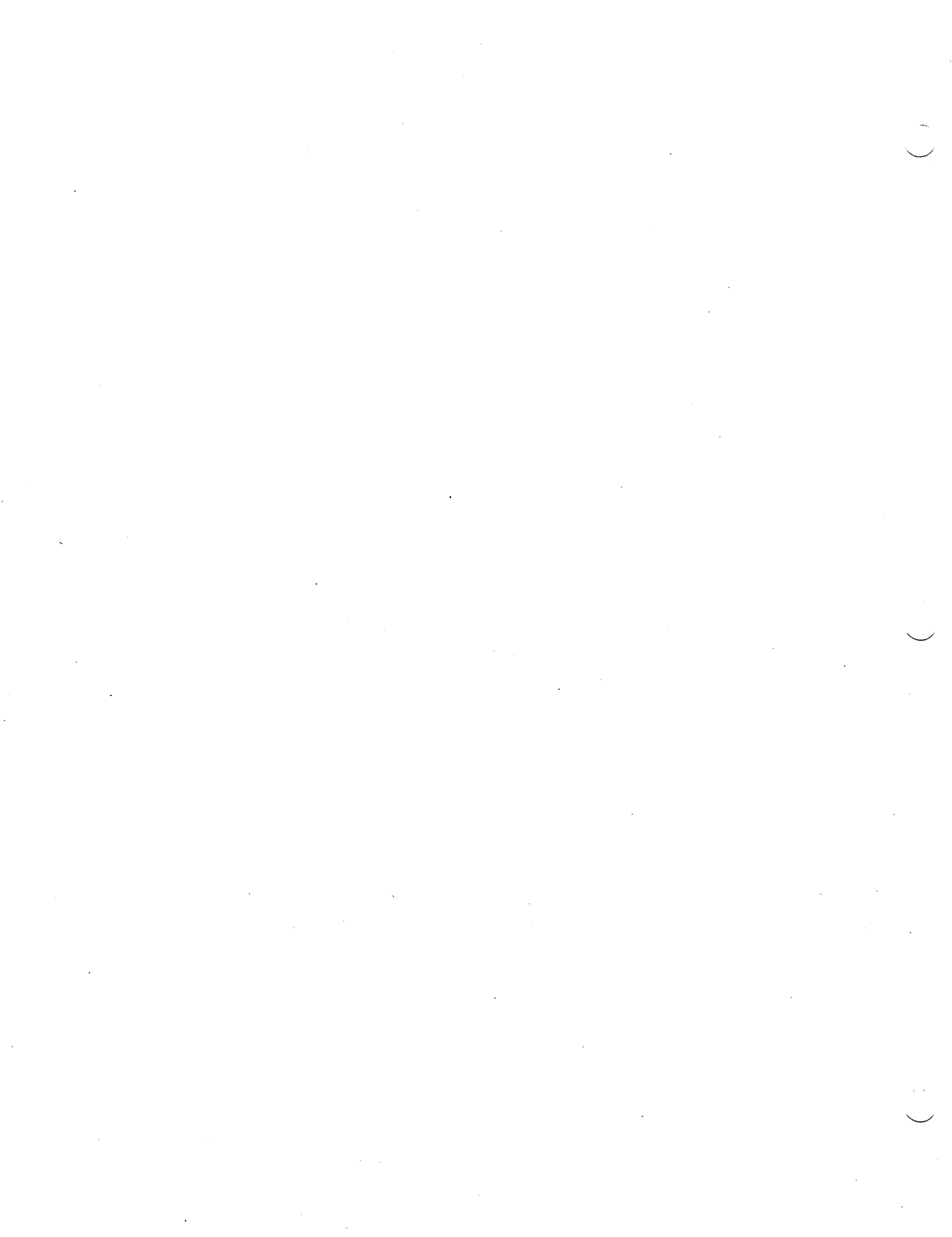
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Article I - General

Section 7.1-1. Overriding Conflicting Ordinances and Statute Citations.

A. Except as may be otherwise provided by the laws of the Commonwealth of Virginia, and notwithstanding any other current ordinances or resolutions enacted by this governing body, whether or not compiled in the Code of this jurisdiction, to the extent of any conflict, the following provisions shall be applicable to the levy, assessment, and collection of licenses required and taxes imposed on businesses, trades, professions and callings and upon the persons, firms and corporations engaged therein within this locality.

B. All references to the Code of Virginia shall mean the 1950 Code of Virginia as amended, substituted, or succeeded thereto without the necessity of specific revisions hereof.

Section 7.1-2. Definitions.

For the purposes of this ordinance, unless otherwise required by the context:

"Affiliated group" means:

(a) One or more chains of includable corporations connected through stock ownership with a common parent corporation which is an includable corporation if:

(i) Stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of each of the includable corporations, except the common parent corporation, is owned directly by one or more of the other includable corporations; and

(ii) The common parent corporation directly owns stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of at least one of the other includable corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. The term "includable corporation" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

(b) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

(i) At least eighty percent of the total combined voting power of all classes of stock entitled to vote or at least eighty percent of the total value of shares of all classes of the stock of each corporation, and

(ii) More than fifty percent of the total combined voting power of all classes of stock entitled to vote or more than fifty percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the includable corporations, including the common parent corporation is a nonstock corporation, the term "stock" as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

"Assessment" means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

"Assessing official" means the Town Treasurer of the Town of Urbanna.

"Base year" means the calendar year preceding the license year, except for contractors subject to the provisions of §58.1-3715.

"Business" means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business; or (ii) filing

tax returns, schedules and documents that are required only of persons engaged in a trade or business.

"Contractor" shall have the meaning prescribed in §58.1-3714.B of the Code of Virginia, as amended, whether such work is done or offered to be done by day labor, general contract or subcontract.

"Definite place of business" means an office or a location at which occurs a regular and continuous course of dealing for thirty consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis; and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

"Financial services" means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities and other investments and shall include the service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in this ordinance.

"Broker" shall mean an agent of a buyer or a seller who buys or sells stocks, bonds, commodities, or services, usually on a commission basis.

"Commodity" shall mean staples such as wool, cotton, etc. which are traded on a commodity exchange and on which there is trading in futures.

"Dealer" for purposes of this ordinance shall mean any person engaged in the business of buying and selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

"Security" for purposes of this ordinance shall have the same meaning as in the Securities Act (§13.1-501 et seq.) of the Code of Virginia, or in similar laws of the United States regulating the sale of securities.

Those engaged in rendering financial services include, but without limitation, the following:

- Buying installment receivables
- Chattel Mortgage financing
- Consumer financing
- Credit card services
- Credit Unions
- Factors
- Financing accounts receivable
- Industrial loan companies
- Installment financing
- Inventory financing
- Loan or mortgage brokers
- Loan or mortgage companies
- Safety deposit box companies
- Security and commodity brokers and services
- Stockbroker
- Working capital financing

"Gross receipts" means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Chapter 37 of Title 58.1 of the Code of Virginia.

"License year" means the calendar year for which a license is issued for the privilege of engaging in business.

"Personal services" shall mean rendering for compensation any repair, personal, business or other services not specifically classified as "financial, real estate or professional service" under this ordinance, or rendered in any other business or occupation not specifically classified in this ordinance unless exempted from local license tax by Title 58.1 of the Code of Virginia.

"Professional services" means services performed by architects, attorneys-at-law, certified public accounts, dentists, engineers, land surveyors, surgeons, veterinarians and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Virginia Department of Taxation may list in the BPOL guidelines promulgated

pursuant to 58.1-3701 of the Code of Virginia. The Department shall identify and list each occupation or vocation in which a professed knowledge of some department of

science or learning, gained by a prolonged course of specialized instruction and study is used by its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit .

"Purchases" shall mean all goods, wares and merchandise received ~~or offered~~ for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by a any wholesaler or wholesale merchant and sold or offered for sale. Such merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine or chooses not to disclose the cost of manufacture.

"Real estate services" shall mean rendering a service for compensation as lessor, buyer, seller, agent or broker and providing a real estate service, unless the service is otherwise specifically provided for in this ordinance, and such services include, but are not limited to, the following:

- Appraisers of real estate
- Escrow agents, real estate
- Fiduciaries, real estate
- Lessors of real property
- Real estate agents, brokers and managers
- Real estate selling agents
- Rental agents for real estate

"Retailer" or "Retail Merchant" shall mean any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users.

"Services" shall mean things purchased by a customer which do not have physical characteristics, or which are not goods, wares, or merchandise.

"Wholesaler" or "Wholesale Merchant" shall mean any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial, government and industrial users which because of the quantity, price, or other terms indicate that they are consistent with sales at wholesale.

Section 7.1-3. License Requirement.

(a) Every person engaging in this jurisdiction in any business, trade, profession, occupation or calling (collectively hereinafter "a business") as defined in this ordinance, unless otherwise exempted by law, shall apply for a license for each such business if (i) such person maintains a definite place of business in this jurisdiction, (ii) such person does not maintain a definite office anywhere but does maintain an abode in this jurisdiction, which abode for the purposes of this ordinance shall be deemed a definite place of business, or (iii) there is no definite place of business but such person operates amusement machines, is engaged as a peddler or itinerant merchant, carnival or circus as specified in §§ 58.1-3717, 3718, or 3728, respectively of the Code of Virginia, or is a contractor subject to §58.1-3715 of the Code of Virginia, or is a public service corporation subject to §58.1-3731 of the Code of Virginia. A separate license shall be required for each definite place of business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: (i) each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of this jurisdiction; (ii) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (iii) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

(b) Each person subject to a license tax shall apply for a license prior to beginning business, if he was not subject to licensing in this jurisdiction on or before January 1 of the license year, or no later than March 1 of the current license year if he had been issued a license for the preceding license year. The application shall be on forms prescribed by the assessing official.

(c) The tax shall be paid with the application in the case of any license not based on gross receipts. If, the tax is measured by the gross receipts of the business, the tax shall be paid on or before July 1.

(d) The assessing official may grant an extension of time, not to exceed 90 days, in which to file an application for a license, for reasonable cause. The extension shall be conditioned upon the timely payment of a reasonable estimate of the appropriate tax, subject to adjustment to the correct tax at the end of the extension together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of ten percent of the portion paid after the due date.

(e) A penalty of ten percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within thirty days the Town Treasurer may impose a ten percent late payment penalty. The penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

"Acted responsibly" means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

"Events beyond the taxpayer's control" include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax

compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(f) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax paid under this ordinance from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under §58.1-3916.

No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, in event of such adjustment, provided the refund or the late payment is made not more than thirty days from (i) the date of the payment that created the refund, (ii) or the due date of the tax whichever is later.

(g) Any person or entity who shall operate, or engage in, in violation of this article, any business, employment, calling, occupation, profession or concession without a license for a longer period than one month shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by section 1-7 of this Code. Each day's continuance without a license in the exercise of any such business, employment, calling, occupation, profession or concession for which a license is required shall constitute a separate offense.

Section 7.1-4. Applications--Required; contents.

Every person desiring to obtain a license to prosecute any business, employment, calling, occupation or profession shall make application therefor in writing to the town, which such application shall state:

- (a) The name of the applicant and the address of his residence/principal office;
- (b) Whether the applicant is an individual, firm or corporation;

(c) If the applicant is a firm, the name and the address of the residence of each member of the firm; and if the applicant is a corporation, the names and addresses of its principal shareholders and, if it is a foreign corporation, the date of its authority to do business in the state as issued by the State Corporation Commission;

(d) The nature of the business, employment, calling, occupation or profession for which the application for a license is made;

(e) Wherever required, the gross receipts derived from such business, employment, calling, occupation or profession during the preceding calendar year. (1981)

Section 7.1-5. Same--Affidavits of correctness.

Every application for a license shall have incorporated therein or annexed thereto the affidavit of the applicant to the effect that the statements contained in the application are true. If the applicant be an individual, the affidavit must be made by him/her, if a firm, by one of its members, and if a corporation, by an officer thereof having knowledge of the correctness of the statements made in the application. (1981)

Section 7.1-6. Same--Penalty for false statements.

Any person who makes a false or fraudulent statement in application for a license shall, in addition to other penalties that may be imposed, be subject to a penalty of twenty-five percent of the license tax properly due. (1981)

Section 7.1-7. Issuance of licenses; limitations.

Upon receipt of application for a license, the town treasurer or his designated agent, if he/she is satisfied of the correctness of the application and upon payment of the tax prescribed by law, shall issue the license applied for from a serially numbered license book prepared with a stub. The town treasurer or his designated agent shall not issue any license for any other amount than that fixed by this chapter. Any applicant for a license under this section whose business, trade, profession, occupation or calling is not one of those specifically listed herein will be issued a license on the basis of the nearest like category. No Annual Town of Urbanna Business License, however, shall be issued to a business entity or individual for a business activity which is solely or primarily for a special event or festival being held by a qualified sponsoring

organization (as defined in Section 7.1-17 of the Town Code) in the Town of Urbanna. (1981)

Section 7.1-8. Licenses subject to inspection.

The town treasurer or his designated agent is hereby charged with the duty of inspecting all licenses which may hereafter be issued by the town treasurer or designated agent. It shall be his duty to ascertain all persons in the town who are required by this chapter to obtain licenses, and further to ascertain if such persons have obtained licenses and have otherwise complied with the provisions of this chapter relating to their respective licenses. (1981)

Section 7.1-9. Situs of Gross Receipts.

(a) General rule. Whenever the tax imposed by this ordinance is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a licensable privilege at a definite place of business within this jurisdiction. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of §58.1-3715 of the Code of Virginia.

(2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases by the definite place of business at which or from which deliveries of the purchases goods, wares and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the Department of Taxation

for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then the definite place of business at which the rental of such property is managed.

(4) The gross receipts from the performance of personal services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then the definite place of business from which the services are directed or controlled.

(b) Apportionment. If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule and the affected jurisdictions are unable to reach an apportionment agreement, except as to circumstances set forth in §58.1-3709 of the Code of Virginia, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to this jurisdiction solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) Agreements. The assessor may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100% of its gross receipts from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved.

Section 7.1-10. Limitations, extensions, appeals and rulings.

(a) Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this ordinance, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) Notwithstanding § 58.1-3903 of the Code of Virginia, the assessing official shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding years.

(c) The period for collecting any local license tax shall not expire prior to the period specified in §58.1-3940 of the Code of Virginia, two years after the date of the assessment if the period of assessment has been extended pursuant to this subdivision, two years after the final determination of an appeal for which collection has been stayed pursuant to the following subsection F (b) or F (d) of this ordinance, or two years after the final decision in a court application pursuant to § 58.1-3984 of the Code of Virginia or similar law for which collection has been stayed, whichever is later.

(d) Any person assessed with a licensing tax under this ordinance as the result of an audit may apply within 90 days from the date of the assessment to the assessing official for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, further audit, or other evidence deemed necessary for a proper and equitable determination of the applications. The assessment shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in the jurisdiction (e.g., the name and address to which an application should be directed).

(e) Provided an application is made within 90 days of an assessment, collection activity shall be suspended until a final determination is issued by the assessor, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a

reasonable time. Interest shall accrue in accordance with the provisions of Section 7.1-3 (f) of this ordinance, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires (i) to depart quickly from the locality, (ii) to remove his property therefrom, (iii) to conceal himself or his property therein, or (iv) to do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(f) Any person assessed with a license tax under this ordinance as a result of an audit may apply within ninety (90) days of the determination by the assessing official on a application pursuant to 7.1-9 (d) above to the Tax Commissioner for a correction of such assessment. The Tax Commissioner shall issue a determination to the taxpayer within ninety days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The application shall be treated as an application pursuant to § 58.1-1821 of the Code of Virginia, and the Tax Commissioner may issue an order correcting such assessment pursuant to § 58.1-1822 of the Code of Virginia. Following such an order, either the taxpayer or the assessing official may apply to the appropriate circuit court pursuant to § 58.1-3984 of the Code of Virginia. However, the burden shall be on the party making the application to show that the ruling of the Tax Commissioner is erroneous. Neither the Tax Commissioner nor the Department of Taxation shall be made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.

(g) On receipt of a notice of intent to file an appeal to the Tax Commissioner under 7.1-9 (f) above, the assessing official shall further suspend collection activity until a final determination is issued by the Tax Commissioner, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of § 7.1-10 (e) above, but no further penalty shall be imposed while collection activity is suspended. The term "jeopardized by delay" shall have the same meaning as set forth in §7.1-10 (e) above.

(h) Any taxpayer may request a written ruling regarding the application of the tax to a specific situation from the assessor. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or

(ii) the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

Section 7.1-11. Recordkeeping and audits.

Every person who is assessable with a license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for the license years assessable and to enable the assessor to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within this jurisdiction. The assessor shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside this jurisdiction, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

Section 7.1-12. Exclusions and deductions from "gross receipts."

(a) General Rule. Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business or profession.

(b) The following items shall be excluded from gross receipts:

(1) Amounts received and paid to the United States, the Commonwealth or any county, city or town for the Virginia retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, for any federal or state excise taxes on motor fuels.

(2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction

previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

(3) Any amount representing returns and allowances granted by the business to its customer.

(4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.

(5) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.

(6) Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the licensee in consideration of the sale of goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.

(7) Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than inventory, whether or not a gain or loss is recognized for federal income tax purposes.

(8) Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

(c) The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:

(1) Any amount paid for computer hardware and software that are sold to a United States federal or state government entity provided that such property was

purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.

(2) Any receipts attributable to business conducted in another state or foreign country in which the taxpayer is liable for an income or other tax based upon income.

Article II. Rates

Section 7.1-13.

Rates of license taxes.

Except as may be specifically otherwise provided by ordinance or other law, the annual license tax imposed hereunder shall be thirty dollars or the rate set forth below for the class of enterprise listed, whichever is greater.

1. For contractors and persons constructing for their own account for sale, ten (10) cents per \$100 of gross receipts;
2. For retailers, seven (7) cents per \$100 of gross receipts;
3. For financial, real estate and professional services, twenty (20) cents per \$100 of gross receipts;
4. For repair, personal and business services and all other businesses and occupations not specifically listed or exempted in this ordinance or otherwise by law, seven (7) cents per \$100 of gross receipts;
5. For wholesalers, two (2) cents per \$100 of purchases ;
6. For carnivals, circuses and speedways, \$100 for each performance held in this jurisdiction;
7. For fortune tellers, clairvoyants and practitioners of palmistry, \$30 per year;
8. For itinerant merchants or peddlers, \$30 per year [see limitation in §58.1-3717 of the Code of Virginia];
9. For photographers, \$10 per year;
10. For savings and loan associations and credit unions, \$30 per year, or seven (7) cents per \$100 of gross receipts, whichever is greater;

11. For direct sellers as defined in §58.1-3719.1 of the Code of Virginia with total annual sales in excess of \$4,000, twenty (20) cents per \$100 of total annual retail sales or five (5) cents per \$100 of total annual wholesale sales, whichever is applicable.

12. On every electric light and power company operated in the town there shall be an annual license tax of one-half of one percent of the gross business done in the town.

13. On every person engaged in the telephone and telegraph business in the town there shall be an annual license tax of one-half of one percent of the gross business done in the town.

ARTICLE III. Bank Franchise Tax

Section 7.1-14. Imposition of town bank franchise tax.

A. Pursuant to provisions of Chapter 12 of Title 58.1 of the Code of Virginia, there is hereby imposed upon each bank located within the boundaries of the Town of Urbanna a tax on net capital equalling eighty (80) per centum of the state rate of franchise tax set forth in Section 58.1-1204 and 58.1-1204.1 of the Code of Virginia.

B. In the event that any bank located within the boundaries of the Town of Urbanna is not the principal office but is a branch extension or affiliate of the principal office located outside the corporate limits hereof, the tax upon such branch shall be apportioned as provided by Section 58.1-1211 of the Code of Virginia.

Section 7.1-15. Filing of return and payment of tax.

A. On or after the first day of January of each year, but not later than March 1 of any such year, all banks whose principal offices are located within the Town of Urbanna shall prepare and file with the Town's Treasurer a return as provided by Section 58.1-1207 of the Code of Virginia in duplicate which shall set forth the tax on net capital computed pursuant to Chapter 12 of Title 58.1 of the Code of Virginia. The Town's Treasurer shall certify a copy of such filing of the bank's return and schedule and shall forthwith transmit such certified copy to the State Department of Taxation.

B. In the event that the principal office of a bank is located outside the corporate boundaries of the Town of Urbanna and such bank has branch offices located within the Town of Urbanna, in addition to the filing requirements set forth in Section A hereof, any bank conducting such branch business shall file with the Town's Treasurer a copy of the real estate deduction schedule, apportionment and other items which are required by Sections 58.1-1207, 58.1-1211, and 58.1-1212 of the Code of Virginia.

C. Each bank, on or before the first day of June of each year, shall pay into the treasurer's office of the Town of Urbanna all taxes imposed pursuant to this article.

Section 7.1-16. Penalty upon failure for bank to comply with article.

Any bank which shall fail or neglect to comply with any provision of this article shall be fined not less than one hundred nor more than five hundred dollars, which fine shall be recovered upon motion, after five day's notice in the circuit court of Middlesex County. The motion shall be in the name of the Commonwealth and shall be presented by the attorney for the Commonwealth of Middlesex County.

Article IV. Special License and Business Tax.

Section 7.1-17. Special license tax, special license required.

Any person or entity which engages in or conducts any business, calling, profession, or concession in the Town of Urbanna solely or primarily during the Oyster Festival or similar Festival event held by a qualified sponsoring organization in the Town of Urbanna, shall qualify for and obtain a Special Business License from the Town of Urbanna prior to engaging in any business activity and shall pay the special license tax provided herein. However, any such person or business entity that does not receive remuneration for its activities shall not be required to pay the Special Business License tax provided herein. Any such person or business entity receiving remuneration whose gross receipts is less than the maximum de minimus gross receipts amount set by resolution by the Town Council from any such individual business, calling, profession, or concession may apply for a refund of the applicable Special Business License tax provided the person or business entity provides a certified accounting of actual gross receipts on forms provided by the Town of Urbanna within 10 calendar days after the close of the event. Policies and procedures governing the application for and approval of authorized refunds of Special Business Licenses taxes shall be made by resolution of the Town Council from time to time.

No Special Business License, however, shall be issued to any such business entity unless entered into a reciprocal agreement with the qualified sponsoring organization to comply with the Master Plan, the Ordinances of the Town of Urbanna, and the officers and regulations of the Virginia State Police, the Virginia Department of Health and the Virginia Department of Highways and Transportation. (1986)

Section 7.1-18. Applications--Required; contents.

Every person desiring to obtain a license to prosecute any business, employment, calling, occupation or profession shall make application therefor in writing to the town, which such application shall state:

(a) The name of the applicant and the address of his residence, or if a corporation, its principal office;

(b) Whether the applicant is an individual, partnership, unincorporated association, or corporation;

(c) If the applicant is a partnership or unincorporated association, the name and the address of the individual(s) authorized to act on behalf of the group, and if the applicant is a corporation, the name and address of its official representative (s) and, if it is a foreign corporation, the date of its authority to do business in the state as issued by the State Corporation Commission;

(d) The nature of the business, employment, calling, occupation or profession for which the application for a license is made;

(e) Wherever required, the gross receipts derived from such business, employment, calling, occupation or profession during the preceding special license period.

(f) Where the concession stand is to be located on property under the direction and control of the organization sponsoring the Oyster Festival, the application shall include the booth number assigned by such organization, and where the property to be used is not under the direction and control of such sponsoring organization, applicant shall attach written proof of his/her permission to use such land. (1994)

Section 7.1-19. Same--Affidavit of correctness.

Every application for a license shall have incorporated therein or annexed thereto the affidavit of the applicant to the effect that the statements contained in the application are true. If the applicant be an individual, the affidavit must be made by him/her, if a firm, by one of its members, and if a corporation, by an officer thereof having knowledge of the correctness of the statements made in the application.

Section 7.1-20. Same--Penalty for false statements.

Any person who makes a false or fraudulent statement in application for a license shall, in addition to other penalties that may be imposed, be subject to a penalty of twenty-five percent of the special license tax properly due.

Section 7.1-21. Issue of licenses, denial and appeal, miscellaneous conditions.

(a) After receiving an application for license, the Town Treasurer, if he/she is satisfied of the correctness of the application, and payment of the minimum license tax for each concession, shall issue the special license applied for. (1994)

Upon denial of the special license application, the applicant may appeal such denial to the Urbanna Town Council at a regular meeting thereof. If application is denied by Town Council, applicant may appeal to the court of appropriate jurisdiction.

(b) No special license shall be issued unless and until the Town Treasurer has determined that the following conditions have been met: (1994)

(1) Applicant has complied with the requirements of Section 7.1-18.

(2) The Master Plan for the Oyster Festival or similar festival event has been approved by the Urbanna Town Council.

(3) Applicant is covered by either the sponsoring organization's liability insurance policy or a valid liability insurance policy in the name of the applicant. The Urbanna Town Council shall establish by resolution the minimum insurance limits for bodily injury and property damage to be covered under such liability insurance policies. (1994)

(c) No licensee may operate more than one concession under one license.

(d) The Urbanna Town Council may provide additional requirements by resolution as they deem necessary or proper.

Section 7.1-22.

Sponsoring organization; requirements.

In order to be a qualified sponsoring organization, an organization proposing to hold the Oyster Festival or similar festival event in the Town of Urbanna, shall meet the following requirements:

(a) The organization or entity must be approved by the Town Council.

(b) The organization must submit a written Master Plan for the event containing the following:

1. Proof of non-profit civic status, including a copy of the organization's charter, if non-profit organization.

2. Time and nature of the event.

3. Crowd and traffic control methods.

4. Proof of State Police and Virginia Department of Highways and Transportation approval if streets or roads are to be used.

5. Execution of an Insurance and Indemnification Agreement to save, indemnify and hold harmless the Town of Urbanna, Virginia against all liability claims, demands, losses, damages, judgments or actions of any nature whatsoever arising from acts, omissions, accidents, or claims thereof, to persons or property occasioned in connection with the sponsoring organization and the agents, invitees, employees, volunteers, or others under the general aegis and control of the sponsoring organization. The sponsoring organization shall provide a general liability policy which covers both bodily injury and property with an occurrence limit as set by resolution of the Urbanna Town Council to include a liquor legal liability endorsement products coverage, and personal and advertising injury. Said insurance shall insure against any and all liability of the Town of Urbanna with respect to the Oyster Festival or similar festival event, in any connection therewith, whether before, during, or after the actual event. Any such policy of insurance shall be issued by a company acceptable to the Town of Urbanna and the sponsoring organization. The sponsoring organization shall provide the Town Treasurer a certificate of such insurance, without demand therefor, not less than twenty-five days prior to the date of the event showing evidence of current insurance as above stipulated with the Town of Urbanna as an additional insured. Such policy shall provide therein that such policy shall not be canceled or terminated without thirty days prior notice from the insurance company to the Town of Urbanna.

(1994)(1997)(1998)

6. Plan for Virginia Department of Health certification of all food concessions, and a copy of said Department's approval of such event,

7. Plan for all organizations conducting business during such event or festival under the auspices of the sponsoring organization to obtain Town of Urbanna Special Business Licenses,

8. A sworn statement that the sponsoring organization shall guarantee that all subordinate organizations and concessions shall obtain such Special License and

comply with Town of Urbanna's Ordinances and Virginia Police and regulatory authorities.

9. Designation of Information Officer to whom requests for information are directed and from whom response will be made in a timely manner. (1994)

(c) The organization shall submit its Master Plan to the Urbanna Town Council at least 120 days prior to the proposed event. (1994)

(d) Organizations that have conducted the Oyster Festival or similar festival events pursuant to this chapter shall furnish their most recent IRS Return of Organization Exempt From Income Tax Return or, if not an exempt organization, their most recent audited annual financial statement to the Urbanna Town Council at such time that they submit their Master Plan. (1994)

Section 7.1-23. Licenses, inspection.

The Town Treasurer is hereby charged with the duty of inspecting and issuing all licenses. It shall be his duty to ascertain all persons in the Town who are required by this chapter to obtain special licenses, and further ascertain if such persons have obtained special licenses and have otherwise complied with the provisions of this chapter relating to their respective licenses. (1994)

Section 7.1-24. Display of special licenses.

Any licensee under this article shall display the special licenses in a conspicuous location in the place of business in plain view.

Section 7.1-25. Duration, expiration of special license.

Special licenses issued pursuant to this Article shall be valid for the time stated thereon, provided however that no Special License shall be issued which provides for a licensing period of more than a time period as designated in the Master Plan for the special event.

Section 7.1-26. Special license rates.

The Special License Tax shall be set by the Urbanna Town Council by resolution at the time it approves its annual budget for the Oyster Festival, or by resolution at the time it approves the master plan for similar Festival events which shall be paid at the time the application is filed. (1994)

Section 7.1-27. Exclusions, limitations.

Any person, partnership, or corporation which has obtained a regular Urbanna business license and is in compliance with the terms of Article I and II of this chapter and whose business activities within the Town of Urbanna, Virginia are not limited to the Urbanna Oyster Festival or similar festival in the Town of Urbanna shall be exempt from the provisions of Article IV of this chapter, provided that such person, partnership or corporation does not allow unlicensed parties to conduct any business activity ostensibly under the authority of their Urbanna business license during the annual Urbanna Oyster Festival or similar festival held in the Town of Urbanna.

Section 7.1-28. Penalties--Generally.

It shall be unlawful for any person or entity to operate or engage in, in violation of this Article, any business, employment, calling, occupation, profession or concession in the Town of Urbanna solely or primarily for the time of the Festival or other special event held by a qualified sponsoring organization without a Special Business License. The penalty for such violation shall be a misdemeanor, and upon conviction thereof, shall be punishable as provided by section 1-7 of this Code. Each day's continuance without a license in the exercise of any such business, employment, calling, occupation, profession or concession for which a license is required shall constitute a separate offense.

Section 7.1-29. Penalties--Civil; Increase in tax for commencing business without special business license; criminal; fine.

In addition to other penalties that may be imposed, if any person, corporation or partnership shall commence to operate or engage in any business, employment, calling, occupation, profession, or concession without a Special Business License, such person or entity shall be fined a civil penalty of two hundred fifty dollars. In addition to the civil penalty, such persons or entity shall be subject to paying the applicable Special Business License Tax plus a penalty of ten (10%) of the amount of the Special License

Tax which was due and payable at the commencement of such business, employment, calling, occupation or profession, in addition to the Special License Tax plus interest at the applicable judgment rate of interest until paid in full.



Article V - Food & Beverage Tax

§7.1-30 Definitions.

Unless the context clearly indicates a different meaning, the following words and phrases, as used in this article, shall have the following respective meanings:

Caterer. A person who furnishes food on the premises of another for compensation.

Food and beverages. All food, beverages, or both, including alcoholic beverages, which are meant for refreshment or nourishment value, purchased in or from a restaurant, whether prepared in such restaurant or not, and whether consumed on the premises or not.

Person. Any individual, firm, partnership, corporation, company, association, or other form of business entity or combination of individuals of whatever form or character.

Restaurant. Any place in or from which food and beverages are sold within the corporate limits of the Town of Urbanna, Virginia, and shall include, but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, café, convenience store, snack bar, lunch counter, theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shops, lunch wagon/truck, or other mobile facility from which food is sold, public or private club, resort, bar, or lounge.

Seller. Any person who sells food and beverages, and who is required to collect, report, and remit the tax due pursuant to this article.

§7.1-31 Tax Levied.

[a] There is hereby imposed and levied by the Town, in addition to any other taxes, fees or charges now or hereafter imposed by law, tax upon all food and beverages sold in the Town in or from a restaurant, whether prepared in such restaurant or not, and whether consumed on the premises or not, such tax to be at a rate of four percent (4%) on the total amount charged by the seller for the food or beverage. In the computation of the tax, any fraction of one-half cent or

more shall be rounded up to one cent; while fractions of less than one-half cent shall not be collected.

[b] The tax in every case shall be paid by the purchaser to the seller; and shall be collected by the seller from the purchaser for the benefit of the Town at the time the charge for the food or beverage shall become due and payable.

§7.1-32 Exemptions.

[a] The tax imposed by §7.1-31 shall not be levied on the following items when served exclusively for off-premises consumption:

[1] Pre-packaged snacks including chewing gum, candy, popcorn, nuts, donuts, nabs, chips, cookies, crackers and items of essentially the same nature;

[2] Food sold in bulk. For the purpose of this section, a bulk sale shall mean the sale of food or beverages that would exceed the normal, customary and usual portion which would be sold for on-premises consumption (*e.g.* a whole cake, a whole pie, a gallon of ice cream, *etc.*).

[3] Beverages sold in factory sealed containers.

[b] A grocery store, supermarket or convenience store shall not be subject to the tax imposed by §7.1-31; except that the tax shall be imposed on those portions of such stores which are designated as a delicatessen or designated for the sale of prepared food such as sandwiches or single-meal platters and beverages.

[c] The tax imposed by §7.1-31 shall not be levied on the following purchases of food and beverages:

[1] Furnished by restaurants to employees as part of their compensation when no charge is made to the employee;

[2] Sold by, through, or under the aegis of, non-profit day care centers, public or private schools, colleges, or universities to its students or employees;

[3] For use or consumption by the Commonwealth, any political subdivision thereof, or the United States of America, or any subdivision thereof;

[4] Furnished to patients or residents by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, or handicapped, or other extended care facility;

[5] Furnished by non-profit charitable organizations, or churches, to elderly, infirm, handicapped, or needy persons in their homes, or at central locations;

[6] Sold by a non-profit educational, charitable, benevolent, or service club organization, church or religious body as a fund-raising activity, the proceeds of which are to be used by such organization exclusively for non-profit educational, charitable, benevolent, or religious purposes;

[7] Sold through vending machines;

§7.1-33 Tips and Service Charges.

[a] An amount or percent, whether designated as a tip or service charge, which is added to the price of a meal by the seller, and is required to be paid by the purchaser, is a part of the selling price of the meal and is subject to the tax imposed by this article.

[b] Where the purchaser provides a tip for an employee of seller, which amount is wholly within the discretion of the purchaser, the tip is not subject to the tax imposed by this article, whether paid in cash or charged to the account of the purchaser.

§7.1-34 Certain Advertising Prohibited.

No person shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of the tax imposed by this article will be paid or absorbed by such person, seller, or anyone else, or that any purchaser will be relieved of the payment of all or any part of the tax.

§7.1-35 Collection; Report; Remittance.

[a] Every seller of food and beverages shall, at the time of collecting the purchase price for the food and beverages sold, collect from the person making payment the tax imposed under this article. Such tax shall be due and payable whether such payment shall be made in cash, on credit, by use of a credit card, or otherwise. The seller shall separately state the amount of such tax and add such tax to the amount charged for the food and beverages.

[b] Every seller shall make a report for each calendar month, showing the amount of food and beverage charges collected and the tax required to be collected, upon forms setting forth such information as may be prescribed the Town Council, through the Town Clerk or Town Administrator as the case may

be. The report shall be delivered to the Town Clerk, at the Town Office, together with the remittance of the tax due, on or before the twentieth day of the calendar month following the month being reported.

[c] Taxes collected under this article shall be deemed to be held in trust by the person required to collect such taxes until remitted to the Town as required by this article.

§7.1-36 Failure or Refusal to Collect or Report Tax.

If any seller shall fail or refuse to collect the tax imposed and levied by this article, or to make a timely report and remittance as required by this article, the Mayor, or such delegate thereof (which may be any member of Town Council, a Town Administrator, or the Town Clerk) shall proceed in such manner as may be deemed best to obtain facts and information on which to base an estimate of the tax due. When sufficient facts and information have been obtained to base the assessment of any tax due and payable by such seller who has failed or refused to collect such tax or to make such report and remittance, the Mayor, or delegate thereof, shall proceed to determine and assess against such seller such tax, penalty, and interest as are provided for in this article, and shall notify such seller by certified or registered mail, sent to seller's last known mailing address, of the amount of such tax, penalties, and interest, and the total amount thereof, including penalties and interest, shall be payable within ten (10) days of the date of such notice.

§7.1-37 Interest and Penalties

If any seller fails or refuses to remit the tax required to be collected, reported, and remitted within the time and in the amount specified in this article, there shall be assessed against such seller a penalty in the amount of ten dollars (\$10.00) or ten percent (10%) of the tax which has not been timely collected and/or remitted to the Town, whichever amount is greater. An additional penalty at the same rate shall be added for each additional thirty (30) days or fraction thereof during which such tax is not duly remitted to the Town; provided, however, that the total aggregate penalties shall not exceed the amount of the tax due. In addition to the penalties provided above, interest at the rate of ten percent (10%) per annum shall be computed upon the taxes and penalties due on the first day of the calendar month next following the month in which such taxes became due and payable, which interest shall be payable by the seller whose duty it was to collect, report, and remit the tax.

§7.1-38 Suspension of License.

In addition to any other penalties which may be imposed by this article, the Town may immediately suspend any business license of any person violating the provisions of this article, and may refuse to issue any further new or renewal licenses to such person to do business within the Town until all taxes, penalties, and interest imposed by this article have been paid to the Town.

§7.1-39 Tax Due Upon Cessation Of Business.

Whenever any person required to collect and remit to the Town a tax under this article shall cease to operate and shall otherwise close or dispose of the business, any tax payable under this article shall become immediately due and payable; and such person shall immediately make a report and remit the tax due to the Town.

§7.1-40 Record To Be Preserved.

Every person required to pay to the Town the taxes imposed by this article shall keep and preserve complete sales records for a period of three (3) years showing all such sales, the charges made against each purchaser with respect to each purchase, the date thereof, the date of payment thereof, the amount of tax imposed by this article, and such records shall be kept open for inspection, copy, or transcription by the duly authorized agents of the Town at reasonable times.

§7.1-41 Power To Collect.

The Town Council, or the Town Administrator if so designated, shall promulgate rules and regulations for the interpretation, administration and enforcement of this article. It shall be the duty of the Mayor, or authorized delegate, to ascertain the name of every person liable for the collection of the tax imposed by this article who fails, refuses, or neglects to collect such tax or to make the reports and remittance required by this article,

§7.1-42 Violations.

[a] Any person willfully violating, falsifying, failing, refusing, or neglecting to comply with any of the provisions of this article shall be guilty of:

[1] A Class 2 misdemeanor, as punishable according to the Code of Virginia, as amended, if the amount of the tax lawfully assessed in connection with the return is ~~\$1,000.00 or less~~; or

[2] A Class 1 misdemeanor, as punishable according to the Code of Virginia, as amended, if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.00.

[b] Conviction of such violation shall not relieve any person from the payment, collection, or remittance of the tax, penalties, or interest provided for in this article. Any agreement with the Town by any person to pay the taxes prescribed by this article by a series of installment payments shall not relieve any person of criminal liability for violation of this article until the full amount of taxes agreed to be paid by such person is received by the Town. Each failure, refusal, neglect, or violation and each day's continuance thereof shall constitute a separate offense.

SECTION THREE:

This ordinance shall become effective July 1, 1999 adoption by the Urbanna Town Council.

Article VI. Lodging Tax

Section 7.1-43

Definitions.

Unless the context clearly indicates a different meaning, the following words and phrases, as used in this article, shall have the following respective meanings:

"Hotel" means any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house, bed and breakfast, or other lodging place within the Town offering lodging for compensation.

"Lodging" means all rooms or space furnished any transient.

"Person" means any individual, firm, partnership, corporation, company, association, or other form of business entity or combination of individuals of whatever form or character.

"Transient" means any person, as defined, who, for a period of less than thirty (30) consecutive days, obtains lodging, as defined, at a hotel, as defined, whether at his own or another's expense.

Section 7.1-44

Tax Levied.

- A. There is hereby imposed and levied by the Town, in addition to any other taxes, fees or charges now or hereafter imposed by law, a tax upon each room or space rented to a transient within the Town in the amount of four percent (4%) on the total amount charged for such room or space. In the computation of the tax, any fraction of one-half cent or more shall be rounded up to one cent; while fractions of less than one-half cent shall not be collected.
- B. The tax in every case shall be paid by the transient or person paying on account of the transient and shall be collected by the hotel for the benefit of the Town at the time the charge for lodging shall become due and payable.

Section 7.1-45

Exemptions

- A. If charges made by any hotel include charges for services, food and beverages, or items other than lodging, then such portion of the total charges representing only lodging, as defined, shall be distinctly set forth and billed to the transient or responsible person, by the hotel as a separate item.
- B. No lodging tax shall be collected from any transient or person responsible therefore, who obtains lodging at any hotel for a period in excess of thirty (30) consecutive days.

Section 7.1-46 Certain Advertising Prohibited.

No person shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of the tax imposed by this article will be paid or absorbed by the hotel, or anyone else, or that any transient will be relieved of the payment of all or any part of the tax.

Section 7.1-47 Collection; Report; Remittance.

- A. Every hotel shall, at the time of collecting the price for the lodging furnished, collect from the person making payment the tax imposed under this article. Such tax shall be due and payable whether such payment shall be made in cash, on credit, by use of a credit card, or otherwise. The hotel shall separately state the amount of such tax and add such tax to the amount charged for the lodging.
- B. Every hotel shall make a report for each calendar month, showing the amount of lodging charges collected and the tax required to be collected, upon forms setting forth such information, as may be prescribed by the Town Council, through the Town Clerk or Town Administrator as the case may be. The report shall be delivered to the Town Clerk, at the Town Office, together with the remittance of the tax due, on or before the twentieth day of the calendar month following the month being reported.
- C. Taxes collected under this article shall be deemed to be held in trust by the hotel or person required to collect such taxes until remitted to the Town as required by this article.

Section 7.1-48 Failure or Refusal to Collect or Report Tax.

If any hotel shall fail or refuse to collect the tax imposed and levied by this article, or to make a timely report and remittance as required by this article, the Mayor, or such delegate thereof (which may be any member of Town Council, the Town Administrator, or the Town Clerk) shall proceed in such manner as may be deemed best to obtain facts and information on which to base an estimate of the tax due. When sufficient facts and information have been obtained to base the assessment of any tax due and payable by such hotel which has failed or refused to collect such tax or to make such report and remittance, the Mayor, or delegate thereof, shall proceed to determine and assess against such hotel such tax, penalty, and interest as are provided for in this article, and shall notify such hotel by certified or registered mail, sent to hotel's last known mailing address, of the amount of such tax, penalties, and interest, and the total amount thereof, including penalties and interest, shall be payable within ten (10) days of the date of the mailing of such notice.

Section 7.1-49 Interest and Penalties.

If any hotel fails or refuses to remit the tax required to be collected, reported, and remitted within the time and in the amount specified in this article, there shall be assessed against such hotel a penalty in the amount of ten dollars (\$10.00) or ten percent (10%) of the tax which has not been timely collected and/or remitted to the Town, whichever amount is greater. An additional penalty at the same rate shall be added for each additional thirty (30) days or fraction thereof during which such tax is not duly remitted to the Town; provided, however, that the total aggregate penalties shall not exceed the amount of the tax due. In addition to the penalties provided above, interest at the rate of ten percent (10%) per annum shall be computed upon the taxes and penalties due on the first day of the calendar month next following the month in which such taxes became due and payable, which interest shall be payable by the hotel whose duty it was to collect, report, and remit the tax.

Section 7.1-50 Suspension of License.

In addition to any other penalties which may be imposed by this article, the Town Administrator may immediately suspend any business license of any hotel or person violating the provisions of this article, and may refuse to issue any further new or renewal licenses to such hotel or person to do business within the Town until all taxes, penalties, and interest imposed by this article have been paid to the Town.

Section 7.1-51 Tax Due Upon Cessation of Business.

Whenever any hotel or person required to collect and remit to the Town a tax under this article shall cease to operate and shall otherwise close or dispose of the business, any tax payable under this article shall become immediately due and payable; and such hotel or person shall immediately make a report and remit the tax due to the Town.

Section 7.1-52 Record to be Preserved.

Every hotel or person required to pay to the Town the taxes imposed by this article shall keep and preserve complete lodging rental records for a period of three (3) years showing all such rentals, the charges made against each transient with respect to each lodging, the date thereof, the date of payment thereof, the amount of tax imposed by this article, and such records shall be kept open for inspection, copy, or transcription by the Mayor or any duly authorized agent thereof, at reasonable times.

Section 7.1-53 Power to Collect.

The Town Council, or the Town Administrator if so designated, shall promulgate rules and regulations for the interpretation, administration and enforcement of this article. It shall be the duty of the Mayor, or authorized delegate, to ascertain the name of every person liable for the

collection of the tax imposed by this article who fails, refuses, or neglects to collect such tax or to make the reports and remittance required by this article.

Section 7.1-54

Violations.

- A. Any person willfully violating, falsifying, failing, refusing, or neglecting to comply with any of the provisions of this article shall be guilty of:
 - 1. A Class 2 misdemeanor, as punishable according to the Code of Virginia, as amended, if the amount of the tax lawfully assessed in connection with the return is \$1,000.00 or less; or
 - 2. A Class 1 misdemeanor, as punishable according to the Code of Virginia, as amended, if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.00.
- B. Conviction of such violation shall not relieve any person from the payment, collection, or remittance of the tax, penalties, or interest provided for in this article. Any agreement with the Town by any hotel or person to pay the taxes prescribed by this article by a series of installment payments shall not relieve any person of criminal liability for violation of this article until the full amount of taxes agreed to be paid by such person is received by the Town. Each failure, refusal, neglect, or violation shall constitute a separate offense.

Section 7.1-55

Severability.

If any provision of this article, or any application of such provision to any person or circumstance shall be ruled invalid by any court of competent jurisdiction, the remainder of this article shall nevertheless remain in full force and effect and not be affected thereby.

CHAPTER 8.

MUSIC OR ENTERTAINMENT FESTIVALS.

[Repealed]

§§ 8-1 to 8-10 : Repealed by the Urbanna Town Council June 15, 1998

July 1, 1998

Nuisances.

CHAPTER 9.

NUISANCES.

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Article I. In General.¹

Section 9-1. Chapter supplemental to other provisions of Code relating to nuisances.

Various nuisances are defined and prohibited in other chapters of this Code, and it is the intent of the town council in enacting this chapter to make it supplemental to those other chapters in which nuisances are defined and prohibited; and the provisions of this chapter relating to the abatement of nuisances shall be regarded as alternative methods and procedures for the abatement of nuisances in those instances where other methods and procedures for abatement are provided.

Section 9-2. Nuisances prohibited within town and within area one mile beyond town limits.²

It shall be unlawful for any person to cause, harbor, commit or maintain, or to suffer to be caused, harbored, committed or maintained any nuisance as defined by the statute or common law of this state or as defined by this Code or other ordinance of the town at any place within the town or any place within the area surrounding the town and within one mile of the town limits.

Section 9-3. Certain nuisances enumerated, but list not exclusive.³

1. For charter provisions as to adoption of Code of Va., § 15.1-867 granting town authority to compel the abatement and removal of nuisances, and authority of town to abate nuisances at expense of property owners who fail to comply with notice, see Char., § 3. For state law as to authority of town to prevent injury or annoyance from anything dangerous, offensive or unhealthy, and to cause any nuisance to be abated, see Code of Va., § 15.1-141. As to nuisances generally, see Code of Va., title 48. Editor's note (1993). § 15.1-141 repealed by Acts of 1975. See Code of Va., § 19.2-250, as to how far jurisdiction of corporate authorities extends. Editor's note (1997). Title 15.1 recodified; see Title 15.2, Chapter 9, Article 1, §§ 15.2-900, et seq.

². As to extraterritorial jurisdiction of the town in criminal matters, see § 1-8 of this Code. Editor's note (1997). Title 15.1 recodified; see § 15.2-1724 et seq for interjurisdictional law enforcement authority.

The following acts when committed, or conditions when existing, within the town or area surrounding the town and within one mile of the town limits are hereby defined and declared to be nuisances:

(a) An act done or committed or aided or assisted to be done or committed by any person, or any substance, being or thing kept, maintained, placed or found in or upon any public or private place, which is injurious or dangerous to the public health or safety, including but not limited to:

(1) Unsanitary disposal of trash, garbage, debris, sewage, construction wastes or compost;

(2) Unburied dead animals;

(3) Accumulation of water involving mosquito or other vector breeding or proliferation;

(4) Rodent or insect infestation;

(5) Accumulation of bees, fowl or animals in such a manner as to create a condition which may be injurious to the public health or safety;

(6) Hazards such as open excavations, open wells, or pits; trees or parts thereof in danger of falling; discarded refrigerators, freezers, ovens or other similar appliances with doors attached; unsecured vacant structures; or habitations for venomous pests; and

(7) Any condition which may be injurious to the public health or safety as determined by the Director of the Middlesex County Department of Health, by the principle health professional of any public health agency serving the town, or by the chief of police.

³. As to the matter of pens, coops, etc., for animals and fowl, see § 3-4 of this Code. As to the disposition of carcasses of animals and fowl, see § 3-5.

(b) All buildings, bridges or other structures of whatever character kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.

(c) All trees and other appendages of or to realty kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.

(d) All ponds or pools of stagnant water, and all foul or dirty water or liquid when discharged through any drain, pipe or spout, or thrown into or upon any street, public place or lot to the injury or annoyance of the public.

(e) All obstructions caused or permitted on any street or sidewalk to the danger or annoyance of the public, and all stones, rubbish, dirt, filth, slops, vegetable matter or other article thrown or placed by any person on or in any street, sidewalk or other public place, which in any way may cause any injury or annoyance to the public.

(f) All sidewalks, gutters or curbstones permitted to remain in an unsafe condition, or out of repair.

(g) All stables, cattle yards, hog, sheep or cow or horse pens or yards for poultry located on any lot or parcel not zoned for agricultural use or permitted by the owner thereof or the person responsible therefor to be in such a condition as to become offensive, annoying or injurious to the public.

(h) Storage of powder, dynamite or other explosive substances, except those maintained pursuant to a permit issued by competent authority.

The nuisances described in this section shall not be construed as exclusive, and any act of commission or omission and any condition which constitutes a nuisance by statute or common law of the state is, when committed, omitted or existing within the town or within the area surrounding the town and within one mile of the town limits is hereby declared to constitute a nuisance. (1990)

Section 9-3.1. Noise as nuisance.

(a) It shall be unlawful for any person to cause, make, allow or contribute to creating noise. For the purpose of this section, a noise is hereby defined and declared a nuisance when it is offensive, loud, obnoxious, or disturbing and of such character, intensity or duration as to be unreasonable and causing discomfort to a person of ordinary normal sensibilities or when it disturbs, annoys or otherwise disrupts or infringes on the well-being, comfort or peace and quiet of any person in the town.

(b) Any person found in violation of this section shall be punished as provided by section 1-7 of this Code for each offense and/or shall be required to abate the condition so declared a nuisance. (1990)

Article II. Abatement⁴

Section 9-4. Inspections, investigations and complaints.⁵

It shall be the duty of the town administrator to cause inspections to be made from time to time of all portions of the town and the area surrounding the town and within one mile of the town limits to determine whether any condition exists or activity is being practiced which constitutes a nuisance; or upon written complaint he shall order a prompt investigation by a police officer.(1990)

Section 9-5. Right to enter private premises; duty of occupants.⁶

Police officers shall have the right to enter upon private premises for the purposes specified in section 9-4 upon compliance with all applicable provisions of law. Unless it appears probable that advance warning would defeat the purpose of such entry, occupants of premises to be entered shall be given reasonable notice in advance, and in any case it shall be unlawful for any owner or occupant to prevent such entry which is sought, to be made in compliance with law.

Section 9-6. Notice to cease and desist when activity constitutes nuisance.

If at any time any police officer shall find that an activity or practice which constitutes a nuisance is occurring within town or within the area surrounding the town limits he shall promptly and by the most expeditious means notify the violator to cease and desist forthwith, such notice being made pursuant to regulations promulgated in conformity with section 9-7(b) of this Code. (1990)

⁴. For charter provisions adopting Code of Va., § 15.1-857 granting town authority to compel the abatement and removal of nuisances, see Char., § 3. For state law as to authority of town to cause nuisances to be abated, see Code of Va., § 15.1-14, subsection. (5). Editor's note (1997). Title 15.1 recodified; see Title 15.2, Chapter 9, Article 1, §§ 15.2-900, et seq.

⁵. For state law as to authority of town sergeants within town and for a distance of one mile beyond town limits, see Code of Va., § 15.1-796. Editor's note (1997). Title 15.1 recodified; see § 15.2-1724 et seq for interjurisdictional law enforcement authority.

⁶. As to additional authority of town officers to enter upon private premises for inspection purposes, see § 2-6 of this Code.

Section 9-7. Notice to abate condition constituting nuisance; appeal; implementation regulations.

(a) If at any time any police officer shall find that a condition which constitutes a nuisance exists within the town or within the area surrounding the town and within one mile of the town limits he shall notify the chief of police who shall give notice in writing to the owner, occupant or person in charge of the premises upon which such condition exists, stating therein the condition which constitutes a nuisance, and directing such addressee to remedy the condition within the time stated in such notice, which shall not be more than ten days; and it shall be unlawful for any such owner, occupant or person in charge to fail to comply with the terms of such notice; provided, that any owner, occupant, or person in charge may, within ten (10) days from the service thereof, appeal to the town council, in which case the terms of such notice shall be stayed pending action of the town council, which shall be final; provided further, that if the chief of police shall state in such notice that the condition which constitutes a nuisance is such as to be an imminent hazard to the health, safety or welfare of the public or any person within or near the premises upon which such nuisance exists, then the addressee shall comply with the terms of such notice.

(b) The town administrator may promulgate regulations for the effective and efficient enforcement of this section. (1990)

Section 9-8. Recourse of town when notice to abate is ignored.

(a) Upon the failure of any person to whom notice has been given pursuant to section 9-7 to comply with the terms of such notice, or with the terms imposed by the town council on appeal, as the case may be, the town administrator shall forthwith notify the mayor, who may direct the administrator to remedy the condition which is the subject of such notice, and the expense incurred by the town in so doing shall be charged to the addressee of such notice, to be collected in any manner provided by law; and such expenses shall constitute a lien upon the premises where such condition occurred, to be collected as town taxes are collected if not otherwise first paid to the town.⁷

⁷. For charter provisions adopting Code of Va., § 15.1-857 granting town authority to remove nuisances from private property at the expense of the property owner, and means for collection, see Char., § 3. Editor's note (1997). Title 15.1 recodified; see Title 15.2, Chapter 9, Article 1, §§ 15.2-900, et seq.

(b) Abatement by the town of any condition which constitutes a nuisance and reimbursement to the town of expenses incurred thereby shall not bar prosecution for maintenance of a nuisance. (1990)

Section 9-9. Article does not prohibit arrest for committing or maintaining nuisance.

Nothing in this article shall be construed to prohibit any police officer from arresting any person for committing or maintaining a nuisance when such arrest is made pursuant to law.

Offenses—Miscellaneous

CHAPTER 10.

OFFENSES – MISCELLANEOUS.

- § 10-1. Attempts; aiding and abetting.
- § 10-2. Disorderly conduct.
- § 10-3. Drinking alcoholic beverages, possession in an open container, or offering to another, in public place; penalty.
- § 10-4. Intoxication in public; penalty
- § 10-5. Profane swearing in public; penalty.
- § 10-6. Obscenity.
- § 10-7. Willful and malicious damage or defacement of public facilities; penalty.
- § 10-8. Indecent exposure.
- § 10-9. Loitering.

Section 10-1. Attempts; aiding and abetting.¹

(a) It shall be unlawful for any person to attempt to commit any act which is prohibited by this Code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to this authority thereof; and it shall be unlawful for any person to aid or abet another in the commission or attempted commission of any act which is prohibited by this Code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority thereof.

(b) It shall be unlawful for any person to avoid the doing of any act which is required by the Code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority thereof; and it shall be unlawful for any person to aid or abet another in the avoidance or attempted avoidance of any act which is required by this Code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority thereof.

¹. For state law as to attempts to commit misdemeanors, see Code of Va., § 18.2-27.

Section 10-2. Disorderly conduct in public places. ²

A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

a. In any street, highway, public building, or while in or on a public conveyance, or public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed; or

b. Willfully or being intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts any meeting of the Town Council or of any Commission, Board, or committee of the town, or of any literary society or place of religious worship, if the disruption (i) prevents or interferes with the orderly conduct of the meeting or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.

However, the conduct prohibited under subdivision (a.) or (b.) above shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this Chapter or the Code of Virginia. The person in charge of any such building, place, conveyance, meeting, operation or activity may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any person who may be called upon for such purpose.

A person violating any provision of this section shall be guilty of a Class 1 misdemeanor.

Section 10-3. Drinking alcoholic beverages, possession in an open container, or offering to another, in public place; penalty. ³

Unless otherwise permitted by state law, if any person takes a drink of alcoholic beverages, possesses an open alcoholic beverage container, or offers a drink thereof to another, whether accepted or not, in any public park, playground or public street within the town of Urbanna, he shall be guilty of a Class 4 misdemeanor. Any person previously convicted in the Town of Urbanna for the offense(s) of drinking an alcoholic beverage, possessing an open container of an alcoholic beverage, in public under the provisions of the Code of Virginia, or previously convicted in the Town of Urbanna under the provisions of this section or § 10-4. below, upon conviction of a second or subsequent

². For state law, see Code of Va., § 18.2-415.

³. For state law, see Code of Va., § 4.1-308, 4.1-128.

offense, shall be fined not less than one hundred dollars nor more than two hundred-fifty dollars.

Section 10-4. Intoxication in public; penalty.⁴

If any person is intoxicated in public, whether such intoxication results from alcohol, narcotic drug or other intoxicant or drug of whatever nature, he shall be deemed guilty of a Class 4 misdemeanor. Any person previously convicted in the Town of Urbanna for the offense of drunk in public under the provisions of the Code of Virginia, or previously convicted in the Town of Urbanna under the provisions of this section or §10-3, above, upon conviction of a second or subsequent offense, shall be fined not less than one hundred dollars nor more than two hundred-fifty dollars.

Section 10-5. Profane swearing in public; penalty. ⁵

If any person profanely curses or swears in public he shall be deemed guilty of a Class 4 misdemeanor.

Section 10-6. Obscenity. ⁶

Pursuant to the authority granted by §18.2-389 of the Code of Virginia, all of the provisions and requirements of the laws of the state contained in article 5 and article 6 of chapter 8 of title 18.2 of the Code of Virginia prohibiting obscenity and dissemination to juveniles of, and access to, materials deemed harmful to juveniles as defined in the Code of Virginia in public places frequented by juveniles or where juveniles are or may be invited as part of the general public are hereby adopted and incorporated in this chapter by reference and made applicable within the Town of Urbanna. A person violating any provision of this section shall be guilty of a Class 1 misdemeanor.

Section 10 - 7. Willful and malicious damage or defacement of public facilities; penalty. ⁷

4. For state law, see Code of Va., § 18.2-388..

5. For state law, see Code of Va., § 18.2-388.

6. For state law, see Code of Va., § 18.2-389.

7. For state law, see Code of Va., § 18.2-138.1.

Any person who willfully and maliciously damages or defaces any public buildings, facility or personal property within the Town shall be guilty of a Class 1 misdemeanor.

Sec. 10-8. Indecent exposure. ⁸

Every person who intentionally makes an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a Class 1 misdemeanor.

Sec. 10-9. Loitering. ⁹

(a) No person shall loiter, lounge or sleep in or upon any street, park or public place or in any public building, obstruct the access to any public building or any part thereof or obstruct the passage through or upon any public street, alley, bridge, parking lot, park or other public place who is unable to give satisfactory explanation for his presence on such premises.

(b) No person shall loiter, lounge or sleep between the hours of sunset and sunrise on or upon the parking lot, driveway or quasi-public place in front of or adjacent to any business establishment not open for business who is unable to give satisfactory explanation for his presence on such premises.

(c) For purposes of this section, the term "loiter" shall encompass, but shall not necessarily be limited to, one or more of the following acts:

(1) Obstruction of the free, unhampered passage of pedestrians or vehicles.

(2) Obstructing, molesting or interfering with any person lawfully upon any street, park or other public place.

(3) Remaining idle in essentially one location without being able to establish

⁸. For state law as to, see Code of Va., § 18.2-387.

⁹. For state law, see Code of Va., § 15.1-33.4. (**§ 15.2-926**)

A legitimate business or purpose in so remaining idle or, by general conduct, exhibiting the absence of a lawful purpose.

(4) Conduct involving the concept of standing idly by, loafing, walking about aimlessly without purpose or such similar conduct.

(5) Refusing to move on when so requested by a peace officer.

(d) For the purpose of this section, the term "other public place" shall be deemed to include the quasi-public area in front of or adjacent to any store, shop, restaurant, luncheonette or other place of business and shall include also any parking lots or other vacant private property not owned or under the dominion of the person charged with a violation of this section.

(e) A person violating this section shall be guilty of a Class 4 misdemeanor.

Section 10.10

A Curfew for Minors/Including the Responsibility of Parents, Guardians and Others.

The purpose of this ordinance is to (i) to promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the Town (ii) promote the safety and well-being of the town's youngest citizens, persons under the age of eighteen (18) whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities, particularly unlawful drug activities, and to being victimized by older perpetrators of crime; and (iii) foster and strengthen parental responsibility for children.

- A. Definitions. As used with this section, the following words and phrases shall have the meanings ascribed to them below.

"Curfew Hours" refers to the hours of 12:01 am through 5:00 am on Monday through Friday, and 1:00 am through 5:00 am on Saturday and Sunday.

"Emergency" refers to unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

"Establishment" refers to any privately owned place of business within the county operated for a profit, to which the public is invited, including, but not limited to any place of amusement or entertainment. With respect to such establishment, the term "operator" shall mean any person, and any firm, association, partnership (and the members or partners thereof) and/or any corporations (and the officers thereof) conducting or managing that establishment.

"Minor" refers to any person under eighteen (18) years of age who has not been emancipated by court order entered pursuant to Section 16.1-333 of the Code of Virginia, 1950, as amended.

"Officer" refers to a police or other law enforcement officer charged with the duty of enforcing the laws of the Commonwealth of Virginia, the ordinances of the County of Middlesex, and the Town of Urbanna.

"Parent" refers to:

1. A person who is a minor's biological or adoptive parent and who has legal custody of a minor (including either parent, if custody is shared under a court order or agreement);
2. A person who is the biological or adoptive parent with whom a minor regularly resides;
3. A person judicially appointed as a legal guardian of the minor, and/or
4. A person eighteen (18) years of age or older standing in loco parentis (as indicated by the authorization of an individual listed in parts (1), (2), or (3) of this definition, above, for the person to assume the care of physical custody of the child, or as indicated by any other circumstances.

"Person" refers to an individual, not to any association, corporation, or any other legal entity.

"Public Place" refers to any place to which the public or a substantial group of the public has access, including, but not limited to: streets, highways, roads, sidewalks, alleys, avenues, beaches, parks and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities and shops.

"Remain" refers to the following actions;

1. To linger or stay at or upon a place; and/or
2. To fail to leave a place when requested to do so by an officer or by the owner, operator or other person in control of that place.

"Temporary Care Facility" refers to a non-locked, non-restrictive shelter at which minors may wait, under visual supervision, to be retrieved by a parent. No minor waiting in such facility shall be handcuffed and/or secured (by handcuffs or otherwise) to any stationary object.

B. It shall be unlawful for a minor, during curfew hours, to remain in or upon any public place within the town, to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon the premises of any establishment within the town, unless:

1. The minor is accompanied by a parent; or
2. The minor is involved in any emergency; or
3. The minor is engaged in any employment activity, or is going to or returning home from such activity, without detour or stop; or
4. The minor is on the sidewalk directly abutting a place where he or she resides with a parent; or

5. The minor is attending an activity sponsored by a school, religious, or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults, and/or the minor is going to or returning from such an activity without detour or stop; or
 6. The minor is on an errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the following information; the name, signature, address and telephone number of the parent authorizing the errand; the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor's destination(s) and the hours the minor is authorized to be engaged in the errand; or
 7. The minor is involved in interstate travel through or beginning or terminating in, the Town of Urbanna; or
 8. The minor is exercising First Amendments rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly.
- C. It shall be unlawful for a minor's parent to knowingly permit, allow or encourage such minor to violate any provisions of this ordinance.
- D. It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow or encourage a violation of any provision of the ordinance.
- E. It shall be unlawful for the operator of any establishment, or for any person who is an employee thereof, to knowingly permit, allow or encourage a minor to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution under this subsection that the operator or employee of an establishment promptly notified the police department that a minor was present at the establishment after curfew hours and refused to leave.
- F. It shall be unlawful for any person (including any minor) to give a false name, address, or telephone number to any officer investigating a possible violation of this section.
- G. Enforcement.
1. Minors. Before taking any enforcement action hereunder, an officer shall make an immediate investigation for the purpose of ascertaining whether or not the presence of a minor in a public place, motor vehicle and/or establishment within the town during curfew hours is a violation of this ordinance.
 - a. If such investigation reveals that the presence of such minor is in violation of this ordinance, then;
 - (i) If the minor has not previously been issued a warning for such violation, then the officer shall issue a verbal warning to the minor, which shall be followed by a written warning mailed by the law enforcement department to the minor and his or her parent(s), or

- (ii) If the minor has previously been issued a warning for any such violation, the officer shall charge the minor with a violation of this ordinance and shall issue a summons requiring the minor to appear in court (Ref. VA Code Section 16.1-260(h)(1) and
- b. As soon as practicable, the officer shall:
 - (i) Release the minor to his or her parent(s); or
 - (ii) Place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours, so that his or her parent(s) may retrieve the minor; or
 - (iii) If a minor refuses to give an officer his or her name and address, refuses to give the name and address of his or her parent(s), or if no parent can be located prior to the end of the applicable curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a non-secure crisis center or juvenile shelter and/or may be taken to a judge or intake officer of the juvenile court to be dealt with in the manner and pursuant to such procedures as required by law. (Ref VA Code Section 16.1-260(H)(I); Section 16.1-278; Section 16.1-241(A)(I).
- 2. Others. If an investigation by an officer reveals that a person has violated this ordinance and if the person has not previously been issued a warning with respect to any such violation, an officer shall issue a verbal warning to the person, which shall be followed by a written warning mailed by the appropriate law enforcement department to the person; however, if any such warning has previously been issued to that person then the officer shall charge the person with a violation and shall issue a summons directing the person to appear in court.

H. Each violation of this section shall constitute a Class 4 misdemeanor.

Section Two:

If any language, part or section of this Ordinance is legally declared invalid by a court of competent jurisdiction, then only that language, part, or section shall be invalid and all other language, parts, and sections shall remain in full force and effect.

Police

CHAPTER 11.¹

POLICE.

§11.1.	Town police force.	1
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§11-3.	Execution of processes when town police not available.	2
§11-4.	Police services agreement with the county sheriff.	2

Section 11-1. Town police force.²

The town sergeant and such other police officers as may from time to time be authorized by the town council shall be appointed by the town council and shall constitute the police force of the town. It shall be the duty of the police force to enforce the laws of the state and ordinances of the town and to preserve law and order and maintain the peace within the town and, to the extent provided by law, within the area surrounding the town and within one mile of the town limits.

Section 11-2. Town sergeant;³ chief of police.

1. As to the giving of false reports to the police department, see § 10-10 of this Code.

2. For charter provision adopting Code of Va., § 15.1-887 granting town police jurisdiction over land, buildings and structures used for municipal purposes, see Char., § 3. For state law as to powers and duties of police force of towns, see Code of Va., §§ 15.1-135, 15.1-138. As to exercise of police powers beyond town limits, see code of Va., §§ 15.1-135, 15.1-131.1, 15.1-141. As to power of governor to order law enforcement agencies, the national guard, etc. to town when town authorities not sufficient to suppress riots and preserve the peace, see Code of Va., § 18.1-254.7. Editor's Note (1993): Title 18.1 repealed by Acts of 1975. As to power of governor to summon law enforcement agencies, national guard, etc., to execute process or preserve the peace, see Code of Va., § 18.2-410. As to power of governing body of town to provide by ordinance for the organization of police forces and provide for a chief of police, see Code of Va., § 15.1-131.7. As to qualifications of chief of police and all police officers of town, see Code of Va., § 15.1-131.8. Editor's note (1997). **Title 15.1 recodified; see § 15.2-1124 et seq for police jurisdiction law enforcement authority and § 19.2-250.**

The town sergeant, under the general supervision of the Town Administrator, shall be the principal law enforcement officer of the town police department and ex officio chief of police. He shall have command over such other members of the police force as may from time to time be authorized by the town council, and may assign such duties and delegate such authority to them as he may deem to be in the best interests of the town. (1973;1993)

Wherever the term "town sergeant" is used, it shall be construed to mean the Town of Urbanna Chief of Police. (1993).

The town sergeant is hereby authorized and empowered within the limits of the town to regulate, restrict or prohibit the assembly of persons or movement of persons or vehicles where there exists an imminent threat of civil commotion or disturbance in the nature of a riot, which constitutes clear and present danger. (Bylaws 1936, §5; 9-26-68)

Section 11.3. Execution of processes when town police not available.

In the absence or vacancy in the office or for any other cause of inability of the town sergeant or other town police officer to act, processes under ordinances or state laws may be executed by the sheriff or by any deputy sheriff of Middlesex County.(Bylaws 1936, §5).

Section 11.4. Police services agreement with the county sheriff.

In lieu of appointing a town sergeant and such other police officers as authorized in Section 11.1, above, the town council may contract for the furnishing of law enforcement services to the Town by Middlesex County and its Sheriff, pursuant to § 15.1-131.3 of the Code of Virginia (1950), as amended. Editor's note (1997). Title 15.1 recodified; see § 15.2-1726.

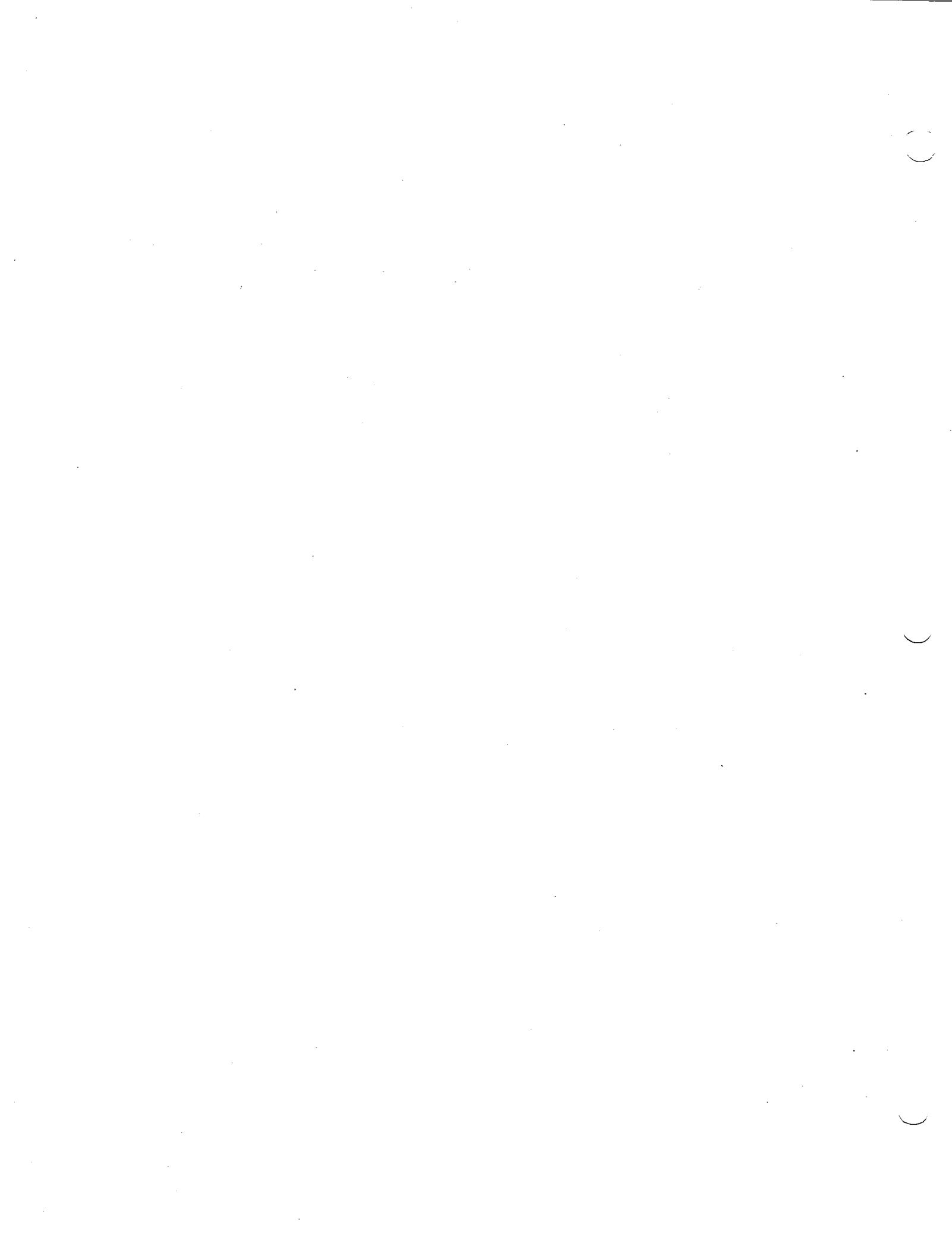
For and during the term of any such agreement, the Sheriff of Middlesex County shall be the Chief of Police of the Town of Urbanna and, in that capacity, shall provide law enforcement services for the Town, including enforcement within the corporate limits, and

³. For state law as to town sergeants having same powers and duties within their respective towns as sheriff has in county, see Code of Va., § 15.1-796. As to sheriffs generally, see Code of Va., § 15.1-74 et seq. As to duty of town sergeant to post certain election notices, see § 1-9. Editor's note (1997). Title 15.1 recodified; see § 15.2-1700 et seq for police and public order.

on real estate owned by the Town without the corporate limits, of all applicable or pertinent laws or ordinances.

Subject to the conditions of such agreement and in addition to all other powers given herein, the Sheriff and any deputy sheriff serving as a Town law enforcement officer shall have the same powers, rights, benefits, privileges and immunities as those of regular Town policemen.

Under such agreement, routine administrative authority, including employment, standards, scheduling, discipline, and supervision of personnel shall be vested in the Sheriff; extraordinary administrative authority and policy decisions shall be vested in the Mayor and the Town Council, to whom the Sheriff shall report.



Sewers and Sewerage

CHAPTER 12.1¹

SEWERS AND SEWERAGE

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Section 12.1-1. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings ascribed to them by this section:

1. Editor's note (1993) – Chapter 12 repealed by Resolution of the Urbanna Town Council (1990).

Developer. Any person, association, partnership or corporation building upon or otherwise improving or developing land other than for his residence.

Hazardous substance. Any chemical element, compound or mixture which are listed as hazardous by the U.S. Environmental Protection Agency or corresponding Virginia agency.

Main sewer. Any sewer laid in a street, road or alley of the Town of Urbanna or elsewhere with which sewer laid in lots abutting thereon are connected.

Multiple family unit. Two or more family units in one building.

Premises. Any building, group of buildings or dwelling units in the town having sanitary facilities therein.

Single family unit. A room or group of rooms including cooking accommodations occupied exclusively by one or more persons living as a housekeeping unit.

Section 12.1-2. General provisions and procedures; permit required.

A permit for the installation of a connection to provide sewerage service to any premises must be obtained from the Town Administrator, and the applicable connection fee must be paid to the Town of Urbanna at the time of application.

Section 12.1-3. Same—Application for permit; requirements.

Said application shall include at least a simple site plan showing proposed construction of any sewer lines, pumps, and other sewerage handling facilities to be installed and list the specifications of any such lines and equipment to be installed. Said application shall:

- (a) state the date on which the applicant desires service to begin;
- (b) be made 30 days prior to the date of the expected connection; and
- (c) be accompanied by a ten dollar (\$10.00) administrative fee.

Section 12.1-4. Same—Prerequisite for building permit.

(A.) Any officer or agent of the Town responsible for issuing or otherwise approving building permits, shall not issue or approve any building permit for construction in the Town of Urbanna until it is shown by the applicant that his proposed sewage disposal plan meets the requirements of the Virginia Department of Health (or successor agency), State Water Control Board (or successor agency), and the Town of Urbanna.

(B.) The Town Council may by resolution adopt standards for the installation, extension, connection, expansion, or any other matter relating to the sewage collection, disposal and treatment system which exceed those standards or regulations established by the Virginia Department of Health or the State Water Control Board.

Section 12.1-5. Connection and service fees; connection fees.

The Town Council of the Town of Urbanna may establish the sewer connection fees no less than semiannually by resolution. Council may also make special assessments in addition to connection fees where the level or nature of the proposed discharge may cause a disproportionate burden on the Town treatment system.

Section 12.1-6. Same—Use of facilities.

Occupants of premises connected with the facilities of the Town shall pay a sewer service fee.

Section 12.1-7. Same—Sewer service fees/rates.

The Council of the Town of Urbanna shall establish a rate schedule and the length of the billing period for sewer service no less than semiannually by resolution. Sewer service bills shall be due and payable when billed.

Section 12.1-8. Same—Non-payment; penalties and interest.

If a sewer bill is not paid within sixty (60) days of billing, the arrears, including late charges if applicable, will be shown on the next bill rendered. Unless such current charges and arrears and late charges are paid in full prior to sixty (60) days from the date of billing, water service will be discontinued as delinquent.

Section 12.1-9. Duties of Owners of premises; connected to sewer.

Each owner of premises connected to the Town sewer shall, without undue delay, discontinue the use of privies, outside toilets, septic tanks or any other sewage disposal system; and this shall include human excrement, waste water from kitchen sinks, bathrooms, lavatories, washing machines, or any other source.

Section 12.1-10. Same—Required to connect to sewer.

Each owner of premises required to connect to the Town sewer shall do so at his own expense. Any failure to connect shall be treated under Section 12.1-19. of this chapter.

Section 12.1-11. Same—Not required to connect to sewer.

Premises not required by this chapter to be connected to a main sewer shall be provided, by the owners and at their own expense, with a toilet and sewage disposal facilities of such type, construction and installation that meet all minimum standards and requirements of the State Board of Health and the Health Director of this County, and they shall be maintained at all times in a safe, clean and sanitary condition and so as not to constitute a hazard to the health of persons or otherwise constitute a nuisance.

Section 12.1-12. Subdividers and/or developers to install sewers; when and where; fees.

Any developer engaged in developing land in the Town of Urbanna, when required by this chapter to install a sewer system, shall at his expense lay mains, laterals and pump stations if necessary to service each house on lots therein not abutting a street, road or alley wherein there is an existing main sewer line. There shall be a connection fee for each single family unit connected to the sewer system from the effective date of the ordinance establishing this section of the chapter, excepting however, those projects which are already covered by the existing agreements.

Section 12.1-13. Same—Conditions for such installations.

Prior to construction the developer shall agree by written contract that upon approval by Council and completion of construction, the sewer mains and pumps so

connected will become the property of the town and will thereafter be subject to the town's regulations.

Section 12.1-14. Extension of facilities.

The extension of the town sewer service beyond the corporate limits of the Town of Urbanna, Virginia shall not be approved by the Town Council except by (1) an affirmative vote of the majority of the members of the Town Council at a public meeting called in whole or in part for the consideration of such extension, which meeting and purposes were advertised in a newspaper of general local circulation, and (2) after a detailed study by the town staff on the effects of such expansion on the capacity of the town sewer facilities, the plans of such extension, and the amount of revenues which would be gained by such extension. Any extensions of the sewer system, other than those of the Town of Urbanna under its own auspices, shall be at the sole cost of the person or persons requesting the extension and shall be subject to approval by the Town Council as noted above.(1992)

Section 12.1-15. Private lines and pumps.

The owners of all premises shall be responsible for maintaining and repairing the sewer line extending from the premises to the point of connection to the main sewer. The town shall not be responsible for the repair to any sewer line unless the necessity of such repair can be proven to have been caused by the improper functioning of the facilities of the town to which such line is connected.

Section 12.1-16. Types of discharge prohibited; hazardous and/or toxic substances.

No person, partnership or corporation shall discharge any toxic or chemical substance listed as hazardous by the U.S. Environmental Protection Agency, the Food and Drug Administration, or corresponding Virginia state agency, petroleum distillates, acids or other hazardous substances into the town sewer system.

Section 12.1-17. Same-Run-off water.

No person, partnership, or corporation shall discharge water from storm drains, gutters, or any other source of run-off water into the town sewer system. Each day of such act(s) shall constitute a separate offense.

Section 12.1-18. Same—Penalty.

The Town Administrator may shut off the water or disconnect the sewer service of any violator of this chapter until he is satisfied the violation will cease. In addition, the Town Council, in addition to imposing civil penalties under section 12.1-22 of this Code, may assess the violator to pay for any damages done to the town sewer system.

Section 12.1-19. Penalty for failure to make required connection.

The owner of any premises in the town required to connect to the facilities of the town sewer system who fails or refuses to connect herewith, shall be punished by a fine of not less than ten (10) dollars nor more than fifty (50) dollars, each day after the first, during which he shall fail and refuse to so connect, shall constitute a separate offense; and for each day after the first the fine shall be ten (10) dollars.

Section 12.1-20. Capital improvement/expansion fund.

The Town shall set aside 75% of all sewer connection fees and 100% of all special assessments received after the effective date of the ordinance establishing this section in an interest bearing account. This fund shall be used solely for future sewer plant improvements and/or expansion required by an increased level of demand on the sewage collection system, sewage treatment plant, and component facilities.

Section 12.1-21. Street repairs.

Where the town incurs expenses for the resurfacing of streets in furnishing sewer service to a consumer or developer, such consumer or developer shall pay for the resurfacing.

Section 12.1-22. Other violations.

(A) Any non-compliance with any provision of this chapter for which a penalty is not otherwise stated herein, in addition to being a civil cause of action, shall be punishable as a Class I misdemeanor.

(B) In addition to any other penalties, fines, or charges due to the Town for noncompliance with any provision of this chapter, the Town Administrator may discontinue service to the consumer(s) until such time as the non-complying action has been brought into compliance with provisions of this chapter.

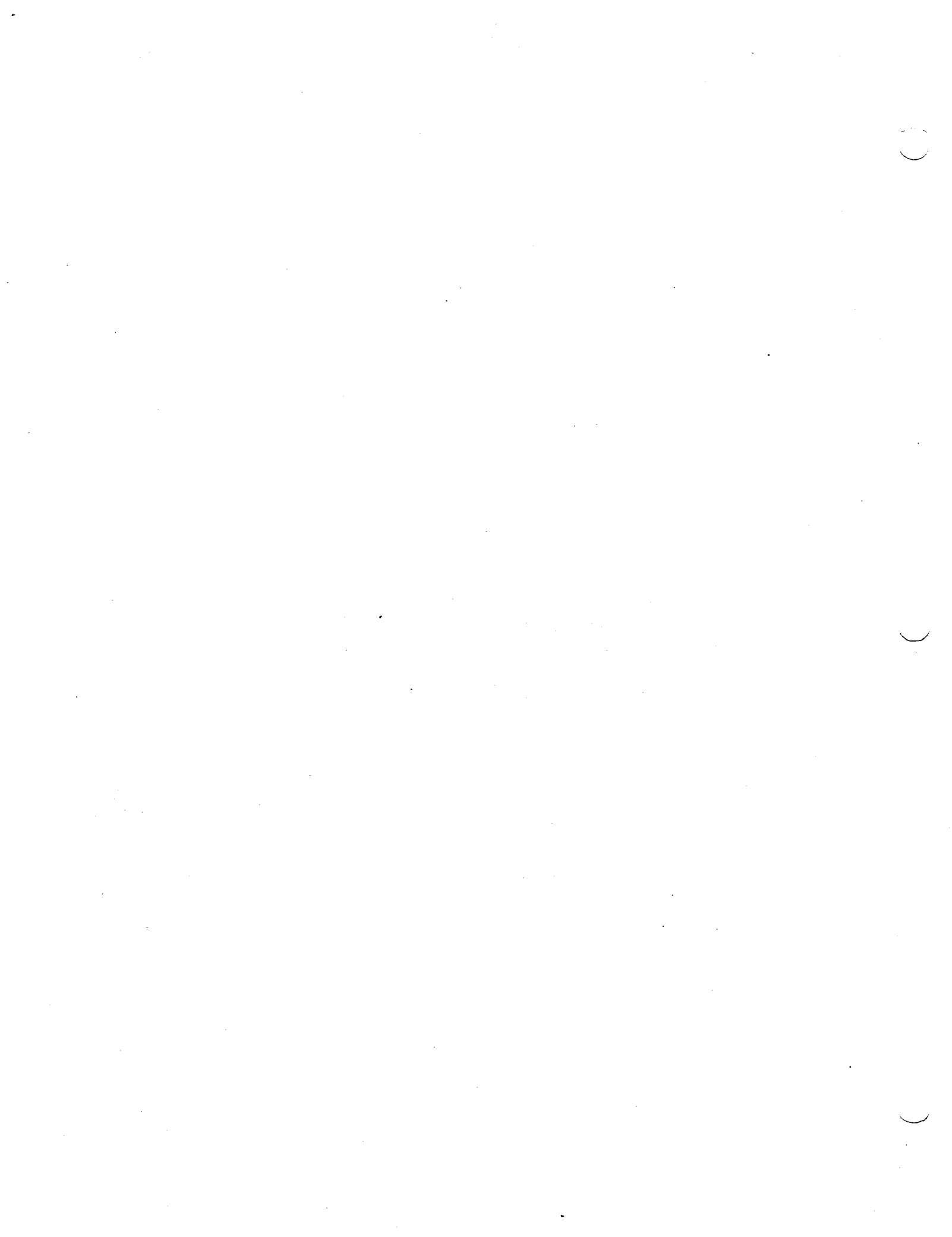
Section 12.1-23. Appeal.

Any sewer service consumer or applicant may appeal a decision of the Town Administrator to the Town Council by submitting such appeal in writing and stating the grounds therefore. The Town Council shall hear the appeal at its next regular meeting, and shall uphold, reverse, or modify the decision of the town administrator within thirty (30) days after the date of the council meeting. The town council shall consider only those grounds stated in the written notice of appeal.

Section 12.1-24. Fresh water run-off; penalty.

(A) It shall be unlawful for anyone connected to the Town of Urbanna Sanitary Sewage Collective System to have any type of down spouts, surface drainage, or any fresh water run-off from their property entering the Sanitary Sewage System.

(B) Any person found in violation of this section shall be punished by section 1-7.



Streets, Sidewalks and Public Places

CHAPTER 13.

STREETS, SIDEWALKS AND PUBLIC PLACES

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¹. For charter provisions adopting Code of Va., §§ 15.1-888 to 15.1-896, granting certain powers to town relating to streets, alleys and other public ways, places and property, see Char., §3. For state law as to authority of town to lay off streets, walks, alleys and public grounds, and to permit the temporary use of streets for other than public purposes, etc., see Code of Va., § 15.1-14. As to authority of town with respect to limited access streets, see Code of Va., § 15.1-16. As to general powers of town relating to streets and alleys, see Code of Va., § 15.1-363 et seq. As to prohibited depositing of glass and other articles dangerous to tires, etc., upon the streets, see § 14-5. **Editor's note (1997).** Title 15.1 recodified; see § 15.2-2000 et seq for streets and alleys authority.

Article I. In General.

Section 13-1. Streets which are subject to improvement at public expense.

No street in this town shall be deemed entitled to improvement at public expense unless it shall have been openly and legally recognized or accepted as such by the town through the town council; and no street which has been vacated shall be reopened, recognized or accepted by the town except by resolution of the town council, entered in the records of the town. (Code 1936, T. 4, Section 1)

Section 13-2. Encroachments—Prohibitions generally; enforcement by town.

It shall be unlawful for any person to encroach upon any street, sidewalk or public place by the erection thereon of any porch, veranda, portico, steps, building, fence or other thing or otherwise and any such encroachment shall be deemed an obstruction and shall be removed by the owner or occupant of the premises where such encroachment may occur, within ten days after notice from the mayor requiring the encroachment to be removed. Any person violating this section shall be subject to a fine of five dollars for each day such encroachment is allowed to continue after expiration of the notice to remove the encroachment, and on the failure of such person to remove it after such notice the mayor shall cause it to be removed and all reasonable charges therefor, with costs, shall be collected of the owner or occupant by the same process by which taxes are collected. (Code 1936, T. 4, Section 2)

Section 13-3. Same—By merchants, etc.

It shall be unlawful for any merchant or other person to encroach upon the sidewalks or footways within the limits of the town, so as to prevent a clear and open way of six feet on the sidewalk in front of his storehouse or place of business by placing thereon or suspending thereover in any way at less than eight feet from the surface any wares, goods, merchandise or other things for sale, display, as a sign or for other purpose; and any such encroachment shall be deemed an obstruction, and any merchant or other person violating this section shall be subject to the penalty provided in section 1-7. (Code 1936, T. 4, Section 3.)

Section 13-4. Gates not to swing over sidewalks; exception.

No owner, occupant or person in charge of any lot abutting upon any sidewalk in this town shall permit any gate on the lot to open outward or across any part of the sidewalk, but those gates so hung as to close themselves shall be excepted. Every person having such a gate shall remove it after ten days notice from the mayor, and failure so to do shall subject the offender to the penalties provided in section 1-7. (Code 1936, T. 4, Section 5.)

Section 13-5. Obstruction of culverts and drains.

It shall be unlawful for any person to change, obstruct or interfere with in any manner the culverts or drains of the streets, or loading from any street in the town, without the permission of the town council. (Code 1936, T. 4, Section 6.)

Section 13-6. Bicycles, velocipedes and roller skates prohibited on sidewalks.

No person shall ride a bicycle or velocipede or use roller skates or skateboards on any of the sidewalks of the town. (Code 1936, 1986)

Section 13-7. Clearance of snow and ice from sidewalks.

Each owner, occupant or person in charge of any real estate within the town shall remove from any paved sidewalk thereon or abutting thereon all snow and ice within six hours after any snowfall; provided, that when a snowfall terminates during the period of 3:00 P.M. to 6:00 A.M. the six hour period shall begin to run at 6:00 A.M. next following the termination of the snowfall. (Code 1936, T. 4, Section 15.)

Section 13-8. Grade, alignment, etc., of streets, sidewalks, curbs and pavements.

(a) When a street line, grade of center line or curb of any street or sidewalk is established by the town council or by a town officer duly designated for such purpose, such grade and alignment shall be official, and no person shall change such grade or alignment so fixed.

(b) The situation, range, height, width and pitch of the curbstones and pavements shall be determined and established by the town council or by a town officer duly designated for such purpose, and shall be complied with.

Section 13-9. Construction, repair, etc., of sidewalks and private driveways by individuals.

Any person owning, occupying or in charge of any property in the town who is required or holds a town permit to construct, maintain, alter or repair any sidewalk on or adjacent to such property or to construct, maintain, alter or repair a private driveway extending from a street into such property shall, in the performance of such work, comply with all applicable standards and specifications Of the town relating to such work.

Section 13-10. Repealed (1980).

Section 13-11. Injuries to trees, fences or herbage on grounds of town or in any public square.

It shall be unlawful for any person to (1) cut down, pull up, girdle or otherwise injure or destroy any tree growing in the grounds of the town, or in any public square or grounds, without the consent of the town council; of (2) willfully and maliciously injure the fences or herbage of the town grounds.

Article II. Excavations.

Section 13-12. Permit required.

No person shall dig a ditch or otherwise excavate any street, sidewalk or public place in town without having procured from the mayor a permit so to do. (1936)

Section 13-13. Bond or cash deposit may be required.

The mayor, as a condition precedent for the issuance of a permit under this article, may require the applicant therefore to post bond, with corporate surety, payable to the town, in such amount as the mayor may deem necessary to reimburse the town for

expenses which may be incurred by the town should the permittee fail to abide by the conditions of the permit or of this article or fail to restore the surface to a satisfactory condition; or in lieu of such bond a cash deposit may be made with the town treasurer.

Section 13-14. Use of streets for excavated earth.

In any permit issued pursuant to this section the mayor may grant to a building contractor or other permittee doing construction work permission to place excavated earth upon such portion of a street as not to impede vehicular traffic, if no other space for such excavated earth be available, but no earth shall be placed upon a street in such manner as to interfere with the drainage of the street or any gutter, and all earth so placed upon a street shall be removed at the end of each day. (1936)

Section 13-15. Barricades and safety precautions.

All persons making excavations pursuant to this article shall, at places of such excavations, erect adequate barriers, provide light during periods of darkness, and take such other measures as may be reasonably necessary to protect persons, animals and property against any dangerous conditions; provided, that in no case shall the town be considered to have waived its immunity from liability by reason of the failure of any permittee to comply with this section.

Section 13-16. Restoration of surface.

Each person holding a permit under this article shall restore the surface of the place of excavation to such a condition as good, in the opinion of the mayor upon inspection, as before the excavation was made. The mayor may require the street force of the town to restore the surface to its former condition and charge the actual cost of such work to the person who obtained the permit. Such charge shall be collected in the same manner as the town taxes, if adequate bond or cash deposit has not been made.

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Vehicles and Traffic

CHAPTER 14.

VEHICLES AND TRAFFIC.

Article I. In General.

- § 14-1. Short title.
- § 14-2. Adoption of state law.
- § 14-3. Display of state license plates required.
- § 14-4. State inspection sticker required.
- § 14-5. Required compliance with official traffic control signs, signals, markings and devices.
- § 14-6. Authority of fire department officials to direct traffic.
- § 14-7. Speed limits.
- § 14-8. Reckless Driving and Improper Driving.
- § 14-9. Mufflers on Motorcycles.
- § 14-10. Unnecessary noise in the operation of motor vehicles.
- § 14- 11. Driving over fire hose.
- § 14-12. Compliance with chapter; violations and penalties generally.

Article I. In General.¹Section 14-1. Short title.

This chapter shall be known and may be cited as the Traffic Ordinance of the Town of Urbanna, Virginia, or simply as the Traffic Ordinance.

Section 14-2. Adoption of state law; violations of this section; penalties..

Pursuant to the authority of § 46.2-1300 of the Code of Virginia, all of the provisions and requirements of the laws of the state contained in title 46.2 and in article 2 of chapter 7 of title 18.2 of the Code of Virginia, except those provisions which are contained in this chapter and except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which by their very nature can have no application within the town, are hereby adopted and incorporated in this chapter by reference and made applicable within the town. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways in the town. Such provisions and requirements are hereby adopted, mutatis mutandis, and made apart of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person, within the town to violate or fail, neglect or refuse to comply with any provision of title 46.2 or of article 2 of chapter 7 of title 18.2 of the Code of Virginia which is adopted by the section; provided, that in no event shall the penalty imposed for the violations of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.2 or under title 18.2 of the Code of Virginia.

Unless otherwise stated, these violations shall constitute traffic infractions punishable by a fine of not more than \$200. Penalties set forth in Title 46.2 of the Code of Virginia for the violation of provisions of Title 46.2 are included in the provisions adopted by reference by this article and are to be applied in the same manner that such penalties would be applied had the violation been cited on state law only. Violations of other provisions of this article are to be punished pursuant to section 1-7 of this code.

1. For charter provision adopting Code of Va., § 15.1-891 granting town authority to regulate and control the operation of vehicles and the movement of vehicular and pedestrian travel on the streets, etc., see Char., § 3. For state law as to powers of local authorities generally to regulate the operation of vehicles on the highways in such localities, see Code of Va., § 46.2-1300 et seq. **Editor's note (1997). Title 15.1 recodified; see § 15.2-2028 for regulation of traffic authority.**

Section 14-3. Display of state license plates required.²

It shall be unlawful for any person to operate, or for the owner or person in control thereof to knowingly permit the operation of, upon a street or highway of the town, any motor vehicle, trailer or semi-trailer without having displayed thereon the license plate or plates assigned thereto by the state division of motor vehicles for the current registration year, whenever such license plate or plates are required by article 9 of chapter 6 of title 46.2 of the Code of Virginia.

Section 14-4. State inspection sticker required.³

Except as otherwise expressly provided by state law, it shall be unlawful for any person to operate or cause or permit the operation of a motor vehicle, trailer or semi-trailer upon the streets or highways of this town unless there is properly displayed thereon a valid state inspection sticker showing that such vehicle, trailer or semi-trailer has been inspected and approved under the provisions of article 21 of chapter 10 of title 46.2 of the Code of Virginia.

Section 14-5. Required compliance with official traffic-control signs, signals, markings and devices.⁴

All traffic-control signs, signals, markings and devices which are in place anywhere within the town pursuant to authority of state law, this Code or other ordinance shall be complied with, and it shall be unlawful for the driver of any vehicle or for any pedestrian to violate or fail to comply with any requirement, prohibition or directive contained in any such traffic-control sign, signal, marking or device except by directive of a police officer.

Section 14-6. Authority of fire department officials to direct traffic.⁵

The fire chief, or other officer in charge, and deputies of the fire department may direct or assist the police in directing traffic at or in the immediate vicinity of a fire or other emergency. Any person or persons refusing to obey the orders of the

2. For corresponding provisions of state law, see Code of Va., § 46.2-715.

3. For corresponding provisions of state law, see Code of Va., § 46.2-1157.

4. For state law as to uniform marking and signing of highways, and duty of drivers to obey signs, see Code of Va., § 46.2-830 .

5. For state law as to authority of towns to adopt ordinances relating to powers and duties of fire companies, etc., see Code of Va., § 27-14.. For state law in connection with this section, see Code of Va., § 27-15.1.

fire chief or other officer in charge at that time or the fire chief's deputies shall be guilty of a Class 4 misdemeanor. The chief or other officer in charge shall have the power to make arrests for the violation of the provisions of this section.

Section 14-7. Speed limits.⁶

Except as provided by state law with respect to drivers of specified emergency vehicles, no person shall drive or propel a vehicle upon any street or public way of this town at a speed in excess of the speed posted in authorized traffic-control signs upon such street or public way or, in the absence of any such signs, at a speed in excess of twenty-five miles per hour.

Section 14-8. Reckless Driving and Improper Driving. penalties⁷

Irrespective of the maximum speeds permitted by law, no person shall operate a motor vehicle within the town at a speed or in a manner so as to endanger the life, limb, or property of any person. Every person convicted of reckless driving under the provisions of this section shall be guilty of a Class 1 misdemeanor.

Notwithstanding the foregoing provisions of this section, upon the trial of any person charged with reckless driving where the degree of culpability is slight and the court finds the accused not guilty of reckless driving but guilty of improper driving, the violation shall be punishable as a traffic infraction punishable by a fine of not more than \$500.

Section 14-9. Mufflers on Motorcycles⁸

It shall be unlawful for any person to operate or cause to be operated any motorcycle not equipped with a muffler or other sound dissipative device in good working order and in constant operation. No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for the purposes of maintenance, repair or replacement, any muffler or sound dissipative device on a motorcycle.

Section 14-10. Unnecessary noise in the operation of motor vehicles.

⁶. For state law in connection with this section, see Code of Va., § 46.2-870 et. seq.. For state law as to authority of towns with regard to increasing or decreasing speed limits, see Code of Va., § 46.2-1300.

⁷. For corresponding provisions of state law, see Code of Va., §§ 46.2-852-869.

⁸. For state law basis of this section, see Code of Va., § 46.2-1050.

It shall be unlawful for any person to violate any of the provisions of this section.

(a) The use in, upon or attached to any vehicle operating on any street of the town of any radio, cassette player, compact disc player, musical instrument, bell, whistle, loud speaker, amplifier or device of any kind whatsoever whereby sound therefrom creates a nuisance. Such sound is hereby defined and declared a nuisance when it is offensive, loud, obnoxious, or disturbing and of such character, intensity or duration as to be unreasonable and causing discomfort to a person of ordinary normal sensibilities or when it disturbs, annoys or otherwise disrupts or infringes on the well-being, comfort or peace and quiet of any person in the town.

(b) The use in, upon or attached to any vehicle operating on any street of the town of any radio, cassette player, compact disc player, musical instrument, bell, whistle, loud speaker, amplifier or device of any kind whatsoever whereby sound therefrom cast upon any street to promote or advertise the sale of goods, wares or merchandise, or for the purpose of advertising auction sales, sporting events or other businesses or things advertised thereby, is prohibited. The provisions of this subsection shall not apply to vehicles driven in a duly authorized parade. The use of a loudspeaker on a vehicle for making auctions sales in streets directly in front of the property then being sold, and entirely outside the business districts of the town, shall not be construed as a violation of this subsection when such use is limited strictly to the selling at auction of such property.

(c) It shall be unlawful for any person in operating a vehicle or motorcycle within the town to create in the operation thereof any unreasonably loud, disturbing or unnecessary noise.

(d) In operating a vehicle or motorcycle, the following acts, among others, are declared to create loud, disturbing or unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive, namely:

(1) The use of a vehicle or motorcycle so out of repair as to cause thereby loud and unnecessary grating, grinding, rattling or any such noises, or any other unnecessary noise.

(2) The practice of unnecessarily racing the motor of a motor vehicle or motorcycle while standing or moving thereby causing unnecessary noise from such motor.

(3) The practice of unnecessarily retarding the spark to the motor of a motorcycle and thereby causing unnecessary, loud and explosive noise from the motor.

(4) In starting a motor vehicle or motorcycle from a standing position, the practice of gaining speed unnecessarily quickly and thereby causing unnecessary and loud noise from the motor and screeching of tires, or either of such noise.

(5) The practice of coming to an unreasonably quick stop with a motor vehicle or motorcycle and thereby causing unnecessary grinding of brakes and screeching of tires or either of such noises.

Section 14-11. Driving over fire hose.⁹

It shall be unlawful, without the consent of the fire department official in command, for the driver of any vehicle to drive over any unprotected hose of a fire department laid down for use at any fire or alarm of fire.

Section 14-12. Compliance with chapter; violations and penalties generally.

(a) It shall be unlawful for any person to violate or fail to comply with any of the provisions of this chapter or of any rule or regulation promulgated pursuant thereto, unless such violation is by one of such provisions declared by state law to be a felony.

(b) Every person convicted of a violation of any of the provisions of this chapter for which no other penalty is provided shall, for a first conviction thereof, be punished by a fine of not more than one hundred dollars; for a conviction of a second violation within one year such person shall be punished by a fine of not less than thirty dollars nor more than one hundred - fifty dollars for a conviction of a third or subsequent violation within one year such person shall be punished by a fine of not less than seventy-five dollars nor more than two hundred dollars

⁹. As to state law regarding this section, see Code of Va., § 46.2-922.

Article II. Stopping, Standing and Parking.

- § 14-13. Traffic-control parking device directives must be obeyed; authority of town council to erect traffic - control parking devices.
- § 14-14. Parking prohibited in specified places.
- § 14-15. Presumption where vehicle illegally parked.
- § 14-16. Duty of police officers upon finding vehicles parked in violation of article; notice to vehicle owners.
- § 14-17. Parking ticket citation; fine schedule.
- § 14-18. Moving vehicle into prohibited area.
- § 14-19. Manner of parking generally.
- § 14-20. Backing up to curbs.
- § 14-21. Washing, greasing, etc., vehicle on street or sidewalk.
- § 14-22. Removal and disposition of unattended vehicles generally.
- § 14-23. Parking on private property generally.

Article II. Stopping, Standing and Parking.¹⁰

Section 14-13. Traffic-control parking device directives must be obeyed; authority of town council to erect traffic-control parking devices.¹¹

(a) At any place where a traffic-control sign or marking is in place, indicating that parking at such place is prohibited during certain hours of the day or days of the week or in excess of a certain period of time, or is restricted to certain vehicles or certain uses, or is limited in any other respect, no person shall stand or park a vehicle or permit a vehicle to remain standing or parked at such place in violation of the prohibition or limitation indicated by such sign or marking.

¹⁰. For charter provision as to adoption of Code of Va., § 15.1-884 granting town authority to provide and operate, and limited to, the parking or storage of vehicles by the public, etc., see Char., § 3. For state law as to authority to towns to prohibit or regulate the parking of vehicles, see Code of Va., § 46.2-1220. As to authority of towns to provide off-street parking facilities for public use, with or without charge, see Code of Va., § 15.1-14. As to abandoned vehicles generally, see Code of Va., § 46.2-1200 et seq. Editor's note (1997). Title 15.1 recodified; see § 15.2-1122 for parking or storage of vehicles authority.

¹¹. For state law as to general authority of town council to enact this section, see Code of Va., § 46. 2-1200 et seq.

(b) The town council may designate streets and public places, or portions thereof, within the town upon which or at which parking shall be prohibited, restricted or limited in such manner and to such extent as may be considered necessary by the council for the regulation and use of such streets and public places in the best interests of the public, and may direct an appropriate town officer to place or cause to be placed traffic-control signs or markings at such places to give notice of the prohibitions, restrictions or limitations so imposed. Included within the meaning of this section are traffic-control signs and markings, among others not specified herein, as follows: (1) No parking; (2) no parking tow-away zone (3) two hour parking, 8AM to 6PM Monday-Saturday; (4) no parking from here to corner; (5) do not block drive , and (6) other prohibitions, restrictions and limitations on parking, as determined by the town council.

(c) In any case where, by state law, permission of the state highway commissioner or other state authority is required prior to erection of any traffic-control device, such permission shall be obtained prior to installation of such device.

(d) Penalties set forth in Title 46.2 of the Code of Virginia for the violation of provisions of Title 46.2 are included in the provisions incorporated by reference by this article and are to be applied in the same manner that such penalties would be applied had the violation been cited on state law only. Violations of other provisions of this article are to be punished pursuant to section 1-7 of this code.

Section 14-14. Parking prohibited in specified places.¹²

(a) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public driveway or private driveway;
- (3) Within an intersection;
- (4) Within fifteen (15) feet of a fire hydrant;
- (5) On a cross walk;

(6) Within twenty (20) feet of a crosswalk at an intersection; provided, however, that where there is no crosswalk at an intersection, no person shall so park

¹². For corresponding provisions of state law, see Code of Va., §§ 46.2-888-890, 46.2- 921

a vehicle within twenty (20) feet from the intersection of curb lines or, if none, then within fifteen feet (15) of the intersection of property lines;

(7) Within thirty (30) feet upon the approach of any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;

(8) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings;

(9) Within fifteen (15) feet of any emergency driveway entrances and on the side of a street opposite the entrance to any emergency driveway within seventy-five (75) feet of the entrance when properly sign posted;

(10) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic;

(11) On the roadway side of any vehicle parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a street or highway;

(13) At any place where official signs prohibit parking;

(14) In an alley in such a position as to block the alley or the driveway or entrance to any abutting property.

(b) It shall be unlawful for any person to violate any of the provisions of subsection (a) above. These violations shall constitute traffic infractions and shall be punishable by a fine of not more than \$200.¹³

Section 14- 15. Presumption where vehicle illegally parked.¹⁴

In any prosecution charging a violation of any parking regulation contained in this article, proof that the vehicle described in the complaint, summons, parking ticket citation, or warrant was parked in violation of such regulation, together with proof that the defendant was at the time of such parking the registered owner of the

¹³. For state law basis of this section, see Code of Va., §§ 46.2-100, 46.2-113, 46.2-937, 46.2-1300.

¹⁴. For state law basis of this section, see Code of Va., § 46.2-1220.

vehicle, as required by the Code of Virginia, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation.

Section 14-16. Duty of police officers upon finding vehicles parked in violation of article; notice to vehicle owners.

Each police officer charged with the duty of enforcing this article shall attach to such vehicle a parking ticket citation providing notice to the owner thereof that such vehicle has been parked in violation of a provision of the parking regulations and instructing such owner when and where to report with reference to such violation; provided, that if the owner, driver or person in charge of such vehicle is then and there present in person, such notice may be served personally.

Section 14-17. Parking ticket citation; fine schedule.

The Town Council shall establish by resolution a schedule of fines pertaining to section 14- 14 of this article. The schedule of parking ticket fines which is adopted by reference and declared to be a part of the chapter shall be included on a town parking ticket citation form to be used as directed in section 14- 16 of this article.

Section 14-18. Moving Vehicle into prohibited area, etc.

No person other than a police officer shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful, or start or cause to be started the motor of any motor vehicle, or shift, change or move the levers, brake, starting device, gears or other mechanism of a parked motor vehicle to a position other than that in which it was left by the owner or driver thereof, or attempt to do so.

Section 14-19. Manner of parking generally.¹⁵

No vehicle shall be stopped or parked except close to the right-hand edge of the curb or roadway; except, that a vehicle may be stopped or parked close to and parallel to the left-hand curb or edge of the roadway on one-way streets or may be parked at an angle where angle parking is permitted; but nothing in this section shall be construed to permit stopping or parking at any place where stopping or parking is prohibited.

Section 14-20. Backing up to curbs.

¹⁵. As to state law regarding this section see § 46.2-1220, Code of Virginia.

No vehicle shall be backed up to a curb, except during the time actually engaged in loading or unloading merchandise therefrom.

Section 14-21. Washing, greasing, etc., vehicle on street or sidewalk.

No person shall wash, polish, change oil and other vehicle fluids, or grease a vehicle upon a public street or sidewalk, nor shall the owner of a vehicle permit it to be washed, polished, serviced with oil and other vehicle fluids, or greased upon a public street or sidewalk.

Section 14-22. Removal and disposition of unattended vehicles generally.¹⁶

Motor vehicles, trailers, semi-trailers, or parts thereof may be removed for safekeeping if:

1. It is left unattended on a public highway or other public property and constitutes a traffic hazard;
2. It is illegally parked;
3. It is left unattended for more than ten (10) days either on public property or on private property without the permission of the property owner, lessee or occupant;
4. It is immobilized on a public roadway by weather conditions or other emergency situation.

Such removal shall be carried out by or under the direction of a law enforcement officer; however, no such vehicle shall be so removed from private property without the written request of the owner, lessee or occupant of the premises. The person at whose request such motor vehicle, trailer or semi-trailer is removed from privately owned property shall indemnify the town against any loss or expense incurred by reason of removal, storage or sale thereof. It shall be presumed that such motor vehicle, trailer, semi-trailer, or part thereof is abandoned if it (i) lacks either a current license plate or sticker; or a valid state safety inspection certificate or sticker; and (ii) it has been in a specific location for four days without being moved. Each removal shall be reported to the owner of the motor vehicle, trailer or semi-trailer as promptly as possible. Before obtaining possession of the motor vehicle, trailer, semi-trailer, or part thereof, the owner shall pay to the town all costs incidental to its removal, and storage and locating the owner. Should such owner fail or refuse to

¹⁶. For corresponding provisions of state law, see Code of Va., § 46.2-1200 et. seq.

pay the cost or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address and to the holder of any lien of record with the office of the Department of Motor Vehicles against the motor vehicle, trailer or semi-trailer, the vehicle shall be treated as an abandoned vehicle and shall be disposed of in accordance with §46.2-1200 et. seq. of the Code of Virginia..

Section 14- 23. Parking on private property generally.

No person shall stand or park a vehicle on any private lot or lot area without the express or implied consent of the owner thereof. Whenever signs or markings have been erected on any lot or lot area, contiguous or adjacent to a street, thoroughfare or alley, indicating that no vehicles are permitted to stand or park thereon, it shall be unlawful for any person to drive a vehicle across any curb or lot line or over any driveway from a street or alley into such lot or area for the purpose of standing or parking such vehicle, or for any person to stop, stand or park any vehicle in such lot or lot area.

Article III. Town of Urbanna Motor Vehicle License.

- § 14- 24. Display required.
- § 14- 25. Imposition of license tax on motor vehicles in Town.
- § 14-26. Application for motor vehicle license.
- § 14-27. Issuance of license plates to residents of Town; form of license plates.
- §14-28.- Proration of license tax; expiration date of licenses issued during license tax year.
- 14-29. Payment of personal property taxes on motor vehicle as prerequisite to licensing.
- § 14-30. Procedure when license plate is lost, mutilated or destroyed.
- § 14-31 Procedure when licensed vehicle is disposed of and another vehicle of same class is not purchased.
- § 14-32. Procedure for transfer of license plates from vehicle to vehicle.
- § 14-33. Disposition of fees collected under article.
- § 14-34. License tax year.
- § 14-35. Display and condition of license plates or decals.
- § 14-36. Penalty for violation of Article.
- § 14-37. Definitions.

Article III. Town of Urbanna Motor Vehicle License.

State Law Reference: Authority of towns to levy and assess taxes and charge license fees upon motor vehicles, trailers and semi-trailers, with certain limitations, Code of Virginia § 46.:2-752 et. seq.

Section 14-24 Display required.

It shall be unlawful for any resident to operate or for the owner or person in control of a motor vehicle upon which a town license is imposed, to knowingly permit the operation of, upon a street or highway in the Town of Urbanna, any motor vehicle without having displayed thereon the Town license plate or decal assigned thereto by the Town for the current registration year, whenever such Town license plate or decal is required pursuant to this Code or other ordinances of the Town.

Section 14-25. Imposition of license tax on motor vehicles in town.

There is hereby imposed, subject to the limitations in the state law, an annual license tax of \$15.00 on each motor vehicle normally garaged, parked, or otherwise kept in the Town of Urbanna on the first day of January of each calendar year and/or for a period of 60 days. Pursuant to § 46.2-752, Code of Virginia, one (1)

annual license tax and decal may be issued free of charge for vehicles owned by active members of volunteer fire departments and rescue squads, and qualified former members of volunteer fire departments and rescue squads.

Section 14-26. Application for motor vehicle license.

Any person desiring a motor vehicle license as required under this Article shall make application therefor to the Town Clerk.

Section 14-27. Issuance of license plates to residents of town; form of license plates.

Residents of the Town, when licensing a motor vehicle under this Article, shall be issued a Town license plate or decal in a form determined by the Urbanna Town Council, provided however, that on each license plate shall appear the name "Urbanna" or "Town of Urbanna, VA." and the Urbanna Coat of Arms shall appear on each decal. In all cases, whether plate or decal, the numerals indicating the year of issue shall appear on each license.

Section 14-28. Proration of license tax; expiration date of licenses issued during the licenses tax year.

Only one-half of the Town license tax provided for in this Article shall be assessed and collected whenever such license tax first becomes assessable during the period beginning on the fifteenth day in August in any license tax year and ending on the fifteenth day of November in the same license tax year and only one-third of such license tax shall be assessed and collected whenever such license tax first becomes assessable after the fifteenth day of November in the same license tax year. Licenses so issued during a license tax year shall expire at the end of the license tax year, namely, on the fifteenth day of February .

Section 14-29. Payment of personal property taxes on motor vehicle as prerequisite to licensing.

No motor vehicle subject to a license tax under this Article shall be locally licensed until the applicant has produced satisfactory evidence that all personal property taxes on the vehicle to be licensed have been paid, and satisfactory evidence that any delinquent motor vehicle personal property taxes owing have been paid which have been properly assessed or are assessable against the applicant by the town.

Section 14-30. Procedure when license plate is lost, mutilated or destroyed.

A replacement license plate or decal shall be issued, upon the payment of a charge of one dollar (\$1.00) and upon affidavit of the applicant therefor that the original license plate or decal has been lost, mutilated or destroyed.

Section 14-31. Procedure when licensed vehicles disposed of and another vehicle of same class is not purchased.

(a) Every person disposing of a motor vehicle for which a license plate or decal was issued and not purchasing another motor vehicle of the same class, subject to a license tax, shall be entitled to a refund of the unused portion of license tax paid by him, upon surrender, on or before the fifteenth day of August of the then current license tax year, of the license plate or old decal issued and the production of a certificate from the state motor vehicle commissioner or other proper state officer to the effect that the state license plates and registration certificate for the vehicle in question have been surrendered. Such refund shall be one-half) of the license tax paid. If the surrender of the license plate is made on or after the sixteenth day of August and on or before the fifteenth day of November of the then current license tax year, there shall be a similar refund of one-third of the license tax paid. Such a refund shall be made by the Town Treasurer from the general funds of the Town. However, such refund to residents of the Town shall be a like proration of that portion of the tax actually paid to and receivable by the Town.

(b) The foregoing provisions of this section as to refunds shall not apply to persons required to surrender license plates to the state motor vehicle commissioner because of violations of the provisions of the laws of the state relative to motor vehicles.

Section 14-32. Procedure for transfer of license plates from vehicle to vehicle.

Any owner who sells or transfers a motor vehicle for which a license plate was issued may have such license plate assigned to another vehicle of like design and titled in such owner's name, upon application to the Town Clerk, such application shall be made upon a form indicating the name and address of the Applicant and giving a description of the motor vehicle for which such license plate was issued as well as a description of the motor vehicle to which such license plate is to be transferred. Such application shall be accompanied by a fee of five dollars (\$5.00).

Section 14-33. Disposition of fees collected under article.

All fees collected under this article shall be paid to the Town and shall be credited to the general fund and deposited by the Town Treasurer in the same manner as other town monies.

Section 14-34. License tax year.

For the purpose of this Article, the license tax year shall begin on the 16th day of February of each year and end on the following 15th day of February.

Section 14-35. Display and condition of license plates or decals.

Each license plate or decal issued under this article shall always be displayed as follows:

(a) If license plate, then license shall be displayed on the front of the motor vehicle for which it was issued and shall be maintained in such condition as to be legible at all times.

(b) If decal, then decal shall be displayed on the right side of the front windshield of the vehicle for which it was issued next to the Virginia Dept. of Highways and Transportation's inspection sticker and shall be maintained in such condition as to be legible at all times.

Section 14-36. Penalty for violation of article.

It shall be unlawful for any owner or operator of a motor vehicle to fail to obtain and display the town motor vehicle license required by this article or to display upon a motor vehicle such license after its expiration date. Violations of this article shall constitute a Class 4 misdemeanor punishable by a fine of not more than \$250. In the case of a motor vehicle registered to a resident of the town, local law-enforcement officers are authorized issue a citation or uniform traffic summons for violations of this article. Violations of this article by the registered owner of the vehicle may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license has been obtained.

Section 14-37. Definitions.

For the purposes of this ordinance, the terms contained herein with the sole exception of "decal", shall be defined as provided in Section 46.2-100 of the Code of Virginia (1950) as now in force. The term "decal" shall be construed to be a sticker of the size and composition as may be approved by the Urbanna Town Council for use on the front windshield of a vehicle or on a metal tag.

Water

CHAPTER 15.1

WATER ORDINANCE

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Article I. In General.

Section 15.1-1.1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Commissioner. The town administrator or any other person appointed or designated by the town council to fill the office of water commissioner, or his duly authorized representative,

Consumer. Any person to whom water is furnished by the town from the town water supply through water system meters, and the owner of premises to whom the water supply is available for service through service connections installed on such premises.

Meter. A water meter installed on premises by the town or its predecessors in title, as a component part of the service connections on the premises.

Owner. Any party or parties owning premises in severalty or as co-tenants.

Premises. Any lot or parcel of land, with or without improvements thereon, lying in the town or its vicinity to which water service can be made available from the water system.

Service connections. All physical installations and connections designed to connect the water pipes or fixtures on premises to a water main of the water system in such manner that a flow of water from the town water supply is available to such premises.

Billing period. The billing period shall be bi-monthly, or as otherwise set by resolution of the town council from time to time.

Town. The Town of Urbanna, Middlesex County, Virginia.

Water System. The property purchased by the town from East Coast Water Company to furnish water to consumers from its water supply, and any subsequent additions thereto.

Section 15.1-1.2. Applicability of chapter.

The provisions of this chapter shall apply to any premises on which service connections have been made or may hereafter be installed, and shall be binding upon all consumers of water furnished by the town through its water system.

Section 15.1-1.3. Inquiries, etc.

All inquiries and/or complaints respecting water service or of the agents or employees of the town shall be in writing to the water commissioner and signed by the consumer. The commissioner shall report all complaints to the town council at its next regular meeting.

Section 15.1-1.4. Violations; rules and regulations.

It shall be unlawful for any person to violate or fail to comply with any of the provisions of this chapter or with any rule or regulation promulgated by the commissioner and approved by the town council.

Article II. Service Connections and Maintenance.

Section 15.1-2.1. When service connections deemed to be available.

Service connections shall be available for installation whenever there is a water main installed on the street on which the premises abut, at a point opposite such premises, and whenever the town council determines that a water main shall be extended to a point on such street opposite such premises.

Section 15.1-2.2. Connections required for service.

Service connections shall consist of a water line running from a water main to the premises, and its component meter, and a service lateral connecting such line and meter to the water pipe or pipes on the premises.

Section 15.1-2.3. Installation of water lines, meters, etc.

A water line and its component meter and parts shall be provided by the town at the property owner's expense. The water line and meter shall be installed at the property owner's expense by a licensed contractor approved by the water commissioner. The water line and meter shall be installed at a location to be determined by the water commissioner and shall remain the property of the town. The property owner and contractor shall be responsible for all work done in making the required extensions and connections, and shall be liable for any damages to the Town directly or indirectly caused by the work. No such installation shall be made without compliance by owner/developer with the provisions of this ordinance.

Section 15.1-2.4. Installation of service lateral.

A service lateral shall be installed by the owner of the premises at his own expense and risk. The service lateral and its component parts shall meet the requirements of the Building Code of Middlesex County, Virginia and the Waterworks Regulations of the Virginia Department of Health.

Section 15.1-2.5. When additional installations to be made by owner, developer.

In high level sections where pressure is low the owner shall, if he desires a higher pressure than that furnished at the water main, install at his own expense and risk a tank or booster pump, either or both, of a type and installation that meets the requirements of the Building Code of Middlesex County, Virginia and the Waterworks Regulations of the Virginia Department of Health.. Where the pressure to premises at the water main is greater than the owner desires, he may install the proper regulating device to reduce pressure to the extent desired. Such device shall be of a type and installation that meets the requirements of the Building Code of Middlesex County, Virginia and the Waterworks Regulations of the Virginia Department of Health. and shall be installed by the owner at his own expense and risk.

Any person or corporation who subdivides land within the jurisdiction of the town into two (2) or more parcels for resale to residential users, or any person developing or subdividing land for commercial, industrial, rental, or condominium purposes, shall procure all necessary easements and permits, and shall construct, at his own expense, all extensions and connections from the individual units, or parcel, to be so connected, to the town water system. All such work shall be done by a licensed contractor approved by the town water commissioner. The subdivider or developer shall be responsible for all work done in making the required extensions and connections, and shall be liable for any damages to the Town directly or indirectly caused by the work.

Section 15.1-2.6. Prohibited installations.

No person shall make any connection to the water system unless authorized to do so by the water commissioner.

No service lateral or other installation made by an owner for connection with the water line shall be so installed that damage may occur if water is shut off without notice.

No water pipe or fixture, or service lateral of the owner, nor part of the Town water system, shall be connected with any water pipe, line or fixture leading from or to another source of water supply than the town water supply.

No water pipe or fixture, or service lateral, shall be connected to the service connection on other premises, unless such installation is approved by the water commissioner.

Section 15.1-2.7. Building permits; standards for extension, connection, etc.

(A.) Any officer or agent of the town responsible for issuing or otherwise approving building permits, shall not issue or approve any building permit for construction in the Town of Urbanna until it is shown by the applicant that his proposed water distribution plans meet the requirements of the Virginia Department of Health (or successor agency), State Water Control Board (or successor agency), and the Town of Urbanna.

(B.) The town council may by resolution adopt standards for the installation, extension, connection, expansion, or any other matter relating to the water distribution system which exceed those standards or regulations established or promulgated by the Virginia Department of Health or the State Water Control Board.

Section 15.1-2.8. Applications for service connections—How made.

Application for the installation of service connections shall be made in writing upon a form provided by the town and filed with the town clerk. It shall be signed by the owner of the premises for which the connections are requested, or his agent, and shall designate the location of the premises to be served and the size of the meter desired, and shall state by whom the installation of the service connection is to be accomplished, and whether the premises are designed or intended to accommodate more than one dwelling unit or business unit. Such application shall contain an agreement by the owner to convey to the town necessary easement over the premises for the installation of the water line. No zoning or building permit shall be issued to the owner or his agent unless and until said owner has complied with this provision.

Section 15.1-2.9. Same—Approval.

Every application for service connections filed with the town clerk shall be submitted promptly to the water commissioner. For connections within the corporate limits of the town of Urbanna that do not require an extension or upgrade of a water main, the water commissioner shall be the approval authority for the application. For all applications for water connections outside of the corporate limits of the Town of Urbanna, and all

applications for water connections inside the corporate limits of the Town of Urbanna that require an extension or upgrade of a water main, the water commissioner shall submit such application to the next regular meeting of the town council with his recommendations. The water commissioner shall inform the council whether an extension of the water main will be necessary to supply such connections, and whether such proposed installation complies with the Virginia Department of Health Water Works Regulations. The Town Council may by resolution delegate to the water commissioner the authority to approve applications for water connections outside the corporate limits of the Town of Urbanna that do not require an extension or upgrade of a water main.

Upon approval of the application by the town council or the water commissioner, as appropriate, the applicant shall pay the required availability fee, and shall deliver to the water commissioner a deed for any easement that may be necessary before the service connections can be installed. The permit so approved and issued shall be conditional upon a final inspection by the water commissioner, or his agent, that determines the installation complies with this ordinance.

Extensions to the water system outside the corporate limits of the town shall be in accordance with Section 15.1-3.24, this Chapter.

Section 15.1-2.10. Same-Denial

No application shall be approved for service connections which are 1) designed to serve premises other than the premises for which application is made, or 2) in violation of Town of Urbanna or Middlesex County ordinances or state or federal laws or regulations, including without limitation, Virginia Department of Health Waterworks Regulations. Further, the town council may deny an application whenever it appears that a building is intended to accommodate or is being occupied by more than one family or business in such a manner as to constitute an evasion of the minimum monthly charge for water consumption, unless the owner provides for the installation of more than one meter to the single service lateral.

Section 15.1-2.11. Service availability fees.

For each water line and component meter installed, there shall be an availability fee as provided by resolution of the town council from time to time. All availability fees collected by the town clerk shall be deposited in an interest bearing account and shall be used by the town council for future expansion of the town water system.

Section 15.1-2.12. Extensions for service connections.

No new extension to the town water system shall be made at the cost of the town for any one new applicant for a water connection permit. In the event the person filing the application, as hereinbefore provided, requires an extension of the water line from the water line as it exists at the time of the application, such applicant shall pay the cost of extending water service. Further, all such extensions shall be under the supervision of the water commissioner and subject to inspection and approval by the town or its agent.

Section 15.1-2.13. Maintenance and inspection of service connections.

The water line and its component meter shall be maintained by the town and the service lateral and water pipe or pipes and fixtures on the premises shall be maintained by the owner.

The town shall have the right of access to premises at all reasonable times, and at any time in an emergency, for the purpose of inspecting, maintaining, repairing, replacing, removing, connecting or disconnecting service connections, and for the purpose of reading and testing water meters.

Section 15.1-2.14. Defective service laterals, water pipes and fixtures.

All damage or loss from defects in service laterals and water pipes and fixtures on premises shall be borne by the owner, and no abatement shall be made for leaks or waste or loss of water resulting from improper or damaged service laterals or other installations made by the owner. Loss from defects in service laterals and water pipes and fixtures that are not the result of improper actions or installations by the water customer may be abated by the water commissioner as the situation warrants and with reference to Section 15.1-3.9, this chapter..

Section 15.1-2.15. Meter tests and fees.

All meters shall be accurately tested by the commissioner before installation, and as regularly hereafter as may be required by the commissioner or as directed by the town council. The town may at any time remove any meter for routine tests, repairs or replacements.

Upon notice to the commissioner by a consumer that he or she believes a meter to be inaccurate or otherwise defective, the commissioner shall cause such meter to be tested, in place or by removal, as he deems necessary.

If a meter is found to operate inaccurately, the test and any adjustments found to be necessary shall be made at the expense of the town. If a meter is found upon testing to operate accurately, it will be restored to service and any water meter testing and shipping expenses shall be paid by the owner/customer for the test.

Section 15.1-2.16. Injuries to meters.

Any meter damaged from any cause directly attributable to the installation of a service lateral or the water pipe or pipes and fixtures on premises, or to a customer's use of the water service, shall be renewed and repaired at the expense of the owner of the property serviced.

Section 15.1-2.17. Unauthorized acts.

No person shall disconnect or remove any parts of any service connection, or adjust any meter, or turn the water on or off at any water main, water line or other distribution valve, unless authorized to do so by the commissioner.

Article III. Service, Rates, Billings and Administration.

Section 15.1-3.1. Application for service—How made.

Application for water service from the town water system shall be made in writing on a form provided by the town and filed with the town clerk

Section 15.1-3.2. Same—Approval.

The commissioner shall approve an application for water service if the applicant is not then indebted to the town for water service previously furnished him, or for charges incident to service previously furnished him, and if applicant is in compliance with all of the provisions of this chapter.

Section 15.1-3.3. Same—Denial.

The denial of any application for water service shall be reported by the commissioner promptly to the applicant, and he shall report such action to the town council at its next regular meeting, or if in the commissioner's opinion the circumstances require it, to the mayor, who may call a special meeting of the town council to consider such application.

The town council may approve such application for water service which has been denied by the commissioner on such terms and conditions of performance by the applicant as it may direct.

Section 15.1-3.4. Cash deposits.

The town council may require any applicant for water service or for renewal of water service to make a cash deposit in advance of approval of such application, to secure the payment by the applicant of the monthly charge and any other charges imposed as incident to such service.

Section 15.1-3.5. Water rates.

A schedule of water rates shall be established by resolution of the town council which may be revised no more than quarterly by resolution.

Section 15.1-3.6. Deposit required when tenant applies for water service.

A schedule of renter's deposit rates shall be established by resolution of the town council. Such deposit for water service shall be prerequisite for receiving water service provided by the town.

Section 15.1-3.7. Applicant responsible for road cut permits and repairs to street surfaces.

Applicants for the installation of service connections shall be responsible for obtaining required Virginia Department of Transportation road cut permits, and shall be responsible for full compliance with such permit including the repair of street surfaces.

Section 15.1-3.8. Charges when meter defective.

If a meter fails for any reason to register the water actually consumed on premises, an estimated charge for water furnished may be imposed for each billing period in which the meter is determined to have been defective.

Section 15.1-3.9. How estimated charges determined.

Estimated charge shall be based upon the average monthly consumption of water at premises served as shown by three consecutive service months immediately preceding the period in which a meter is unread or fails to register, and such average or monthly maximum allowance for such premises, whichever is the greater, shall be deemed to have been consumed at such premises for each month for which no accurate reading is available.

Section 15.1-3.10. Service availability charge.

When premises are unoccupied the minimum monthly charge for service to such premises shall continue to be imposed as a service availability charge, whether or not service has been disconnected; provided, that if the premises remain vacant for a period of Twelve (12) consecutive months, the service will be disconnected if not previously disconnected and no further charge will be made until service to the premises is renewed, unless the consumer requests that service be continued.

Section 15.1-3.11. Liability for charges.

The consumer in whose name water service is furnished or is available for service shall be liable for the charges therefore until such service is discontinued or disconnected in his name. This shall include a late fee of Five Dollars (\$5.00) for each month the water bill remains unpaid for thirty (30) days or more.

The owner of record of premises to which water service is furnished or available shall be liable for the charges therefor at all times when service is not being furnished to such premises in the name of another consumer, and such service shall be transferred by the town clerk at the direction of the commissioner to the name of the owner of record, whether or not request is made therefor by such owner, upon discontinuance or disconnection of such service in any other name, unless such service is re-established in the name of the former consumer or of a new consumer before the meter reading date following such discontinuance or disconnection.

Section 15.1-3.12. Transfer of service.

Water service will be discontinued in the name of a consumer and established in the name of the record owner of the premises or of a new consumer upon proper application therefore.

Section 15.1-3.13. Disconnection of service.

(a) Water service will be disconnected at the request of a consumer on the next meter reading date after receipt of such request, but such disconnection shall not relieve the consumer of liability for the service availability charge unless such service is also discontinued in his name.

(b) Water service may be discontinued by the town for delinquency in the payment of water bills, and for any of the following causes:

- (1) Willful or indifferent waste of water at the premises;
- (2) Failure properly to maintain the service lateral and water pipes and fixtures on the premises;
- (3) Failure to permit inspection of service connections or meter readings, or interference or obstruction of the town in rendering service or repairs; or
- (4) Molesting or tampering with service connections.
- (5) Nonpayment of water bill for sixty days.
- (6) Noncompliance with any provision of this chapter.

Section 15.1-3.14. Notice of disconnection.

Notice of disconnection may be made by regular mail or by posting on the front door of the premises. Notice shall be deemed given as of the date of mailing or posting.

Section 15.1-3.15. Disconnection charge.

A disconnection charge shall be established by resolution of the town council and shall be added to the total amount due by a consumer for water service when such service

is disconnected unless such service is discontinued in the name of such consumer at the same time, or is disconnected at his request.

Section 15.1-3.16. Bills--When rendered; when payable.

Bills will be rendered as established by resolution of the town council for water furnished during the previous billing period, and charges for water service as shown by the previously meter reading shall be due and payable when billed.

Section 15.1-3.17. Same--Where payable.

Payment of water bills may be made by mailing or delivering same to the town clerk, at the Urbanna Town Office, Urbanna, Virginia, and shall not be made to any other person or in any other manner.

Section 15.1-3.18. Same--Delinquent accounts.

If a water bill is not paid within sixty (60) days of billing, the arrears, including interest if applicable, will be shown on the next succeeding bill rendered. Unless such current charges and arrears and interest are paid in full prior to sixty days from the date of the billing, service may be disconnected as delinquent.

Section 15.1-3.19. Change of address.

Each consumer shall notify the water commissioner in writing of any change of address given in his application for service. If a customer desires that bills be sent to tenants or agents he shall notify the water commissioner to that effect in writing.

Bills will be mailed to owners of premises for whom no address has been furnished by mailing to the same address to which tax bills are mailed for such purposes.

No owner or consumer shall be relieved of liability for water service charges by reason of the failure to pay a bill or other notice sent to him or his tenant or agent at his request, or for any error in billing. However, any billing found in error may be adjusted in amount it is in error by the water commissioner, and the decision of the water commissioner to change or not correct any such bill may be appealed to the town council within 60 days provided such owner or consumer has paid the bill to the town clerk.

Section 15.1-3.20. [Reserved]

Section 15.1-3.21. Appeal from water commissioner, town administrator.

Any water service consumer or applicant may appeal a decision of the water commissioner or town administrator to the council by submitting such appeal in writing and stating the grounds therefore. The town council shall hear the appeal at its next regular meeting, and shall uphold, reverse, or modify in whole or in part the decision of the water commissioner or the town administrator within thirty (30) days after the date of the council meeting. The town council shall consider only those grounds stated in the written notice of appeal.

Section 15.1-3.22. Interruptions and restrictions in service.

Water may be shut off at the mains with or without notice, as the town may find expedient or necessary, at any time in case of accident or for the purpose of making connections, alterations or repairs, or for other reasons, and the town council may restrict the use of water to reserve a sufficient supply for the public health or public safety when in its opinion the public welfare may require it.

Section 15.1-3.23. Efficiency of service.

The town shall provide water service in compliance with the Virginia Department of Health Waterworks Regulations.

Section 15.1-3.24. Extensions of the town water system beyond the corporate limits.

The extension of Town water service beyond the corporate limits of the Town of Urbanna, Virginia shall not be approved by the town council except by (1) an affirmative vote of the majority of the members of the town council at a public meeting called in whole or in part for the consideration of such extension, which meeting and purposes were advertised in a newspaper of general local circulation, and (2) after a detailed study by the water commissioner and the town engineer on the effects of such expansion on the capacity of the town water facilities, the plans of such extension, and the amount of revenues which would be gained by such extension.

Section 15.1-3.25. Point of connection.

The point of connection to the town water system by all new consumers, wherever practical, shall be at the point where the Town has reserve capacity.

Article IV. Cross-connection Control and Backflow Prevention

§15.1-4.1. Definitions.

In the construction of this article, the following definitions shall be observed, unless otherwise specifically provided or unless such construction would be inconsistent with the manifest intent of the town council.

(1) Auxiliary water system: Any water system on or available to the premises other than the waterworks. These auxiliary water systems may include water from another purveyor's waterworks; or water from a source such as wells, lakes or streams; or process fluids; or used water. They may be polluted or contaminated or objectionable, or constitute a water source or system over which the town does not have control.

(2) Backflow: The flow of contaminants, pollutants, process fluids, used water, untreated waters, chemicals, gases, non-potable waters into any part of a waterworks.

(3) Backflow prevention device: Any device, method or type of construction intended to prevent backflow into a waterworks approved by the Virginia Department of Health.

(4) Consumer: The owner or person in control of any premises supplied by or in any manner connected to a waterworks.

(5) Consumer's water system: Any water system located on the consumer's premises, supplied by or in any manner connected to a waterworks.

(6) Contamination: Any introduction into pure water of micro-organisms, waste water, undesirable chemicals, or gases.

(7) Cross-Connection: Any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

(8) Health hazard: Any condition, device, or practice in a waterworks or its operation that creates, or may create, a danger to the health and well-being of the water consumer.

(9) Owner: The person having legal title to the property or the person in charge, care, and control of the property where the facilities in question are located; also, the tenants of said property.

(10) Pollution: The presence of any foreign substance (chemical, physical, radiological or biological) in water that tends to degrade water quality so as to constitute an unnecessary risk or impair the usefulness of the water.

(11) Pollution hazard: A condition through which an aesthetically objectionable or degrading substance may enter the waterworks or a consumer's water system.

(12) Pure water or potable water: Water fit for human consumption and use which is sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in supply for the minimum health requirement of the person served.

(13) Water purveyor: An individual, group of individuals, partnership, firm, association, institution, corporation, municipal corporation, county or authority which supplies water to any person within this state from or by means of any waterworks.

(14) Waterworks: All structures and appliances in connection with the collection, storage, purification and treatment of water for drinking or domestic use and the distribution thereof to the public or residential consumers as set forth in title 62.1, chapter 4, section 62.1-45(a), Code of Virginia (1950), as amended, owned by or under direct control of the town.

§15.1-4.2. Adoption of Waterworks Regulations.

The town council hereby adopts by reference Section 6.00, "Cross-Connection and Backflow Prevention Control in Waterworks," Commonwealth of Virginia Waterworks Regulations, as amended.

§15.1-4.3. Supplement to building codes.

This article is a supplement to any applicable building codes.

§15.1-4.4. Penalties for violation(s).

Any person violating any provision of this article shall, upon conviction thereof, be punished as provided in section 1-7 of this Code.

§15.1-4.5. Town cross-connection control and backflow inspections.

It shall be the duty of the town administrator, or his designated representative, to cause inspections to be made of properties served by the waterworks where cross-connection with the waterworks is deemed possible. The frequency of inspection and re-inspection, based on potential health hazards involved, shall be established by the town administrator, subject to approval of the Town Council, in a cross-connection control and backflow prevention program as approved by the Virginia Department of Health.

§15.1-4.6. Right of town to enter properties for inspections.

The town administrator, or his duly appointed representative or representatives, shall have the right to enter at any reasonable time properties served by connection to the waterworks of the town water system or the sewer system, for the purpose of inspecting the piping system or systems of such property. The refusal of access, when requested, shall be deemed prima facie evidence of the presence of cross-connections.

§15.1-4.7. Discontinuance of water service.

The town administrator, or his duly appointed representative, may deny or discontinue water service to a customer of the town water system or sewer system if the required backflow prevention device is not installed and/or access as provided in section 15.1-4.6. of this Code is denied. If it is found that the device(s) has been removed or bypassed or if a cross-connection exists on the premises, or if the pressure in the waterworks is lowered below ten (10) psi gauge, then positive action shall be taken to insure that the waterworks is adequately protected at all times, including discontinuing water or sewer service. Water or sewer services to such premises shall not be restored until the deficiencies have been corrected or eliminated in accordance with the Commonwealth of Virginia Waterworks Regulations and to the satisfaction of the town administrator, or his duly appointed representative.

§15.1-4.8. Protection of potable water.

The potable water made available on the properties served by the town waterworks shall be protected from possible contamination or pollution by enforcement of this article and the BOCA Basic Plumbing Code. Any water outlet which could be used for potable or domestic purposes and is not supplied by a potable system must be labeled as "Water Unsafe for Drinking" in a conspicuous manner.

Article V. Water Emergencies and Conservation

§15.1-5.1 Definitions

For purposes of this section, unless the context clearly requires a contrary meaning, the term "water" shall mean potable water withdrawn from any water utility system that is owned and/or operated "by a locality, authority, or company distributing water for a fee or charge".

§15.1-5.2 Purpose and Authority

In the event of an actual or anticipated shortage of potable water due to climatic, hydrological, mechanical and/or other extraordinary conditions, the Town of Urbanna may determine that certain uses of water should be reduced, restricted, curtailed and/or prohibited. These reductions, restrictions, curtailments and/or prohibitions are intended to protect the health, safety and welfare of the residents of the Town of Urbanna.

(1) The Town Administrator, with the approval of the Town Council, or its subsequent ratification by the Council within 48 hours, is authorized to declare water emergencies in the Town of Urbanna, as a whole or portions thereof, affecting the use of water.

(2) A Drought Emergency declaration will be issued after consideration of the conditions of individual affected systems. The Town Administrator may order mandatory restrictions on water use in response to specific conditions, such as when any system exceeds 90 percent of the permitted capacity for 3 consecutive months. The Town Administrator may intervene to declare a drought emergency for privately-owned systems if the private system operation is unable to restrict water usage when needed.

§15.1-5.3 Drought Monitoring to Anticipate Water Emergency Conditions

The Town of Urbanna, in cooperation with other jurisdictions of the Middle-Peninsula Water Supply Planning Region, will monitor the U.S. Drought Monitor operated by the U.S. Geological Service and made available through DEQ's website at: <http://www.deq.virginia.gov/waterresources/drought.php>. When the USGS Drought Monitor registers a condition "D1-Moderate Drought" for The Town of Urbanna, the Town Administrator shall declare a Drought Watch alert for all water systems addressed by this ordinance.

§15.1-5.4 Water Conservation Measures

After the declaration of a water emergency under the authority provided by Virginia Code Sections 15.2-923 and 15.2-924, and upon a determination by the Town Administrator of the existence of the following one or more conditions, the Town Administrator shall take the following actions which shall apply to any person whose water supply is furnished from an affected water utility system:

(1) Condition 1 (Drought Warning). When moderate but limited supplies of water are available or when a "D2-Severe Drought" condition is registered on the USGS Drought Monitor,

the Town Administrator may, through appropriate means, call upon the affected population and entities to employ prudent restraint in water usage and to conserve water voluntarily by whatever methods available.

(2) Condition 2 (Drought Emergency). The Town Administrator is hereby further authorized during the duration of a water emergency for which voluntary measures would be insufficient to order the restriction or prohibition of any or all of the following water uses by users of an identified, affected water system after consultation with the affected water system owner/operator:

a. Watering of outside shrubbery, trees, lawns, grass, plants, home vegetable gardens, or any other vegetation except from a watering can or other container not exceeding five gallons in capacity. This limitation shall not apply to commercial greenhouses, nursery stocks and sod growing, which may be watered in the minimum amount required to preserve plant life between 6:00 p.m. and 8:00 a.m.

b. Washing of automobiles, trucks, trailers, or any other type of mobile equipment, except in licensed commercial vehicle wash facilities.

c. Washing of sidewalks, streets, driveways, parking lots, service station aprons, exteriors of homes or apartments, commercial or industrial buildings or any other outdoor surface, except where mandated by federal, state or local law.

d. The operation of any ornamental fountain or other structure making a similar use of water.

e. The filling of swimming or wading pools requiring more than five gallons of water, or the refilling of swimming or wading pools that were drained after the effective date of the declaration of emergency, except that pools may be filled to a level of two feet below normal, or water may be added to bring the level to two feet below normal, or as necessary to protect the structure from hydrostatic damage.

f. The use of water during outdoor recreational activities. This limitation shall not apply to water utilized for drinking and sanitary purposes during such activities.

g. The use of water from fire hydrants for any purposes other than fire suppression and related training exercises, unless otherwise approved by the county administrator.

h. The serving of drinking water in restaurants, except upon request.

i. The operation of any water-cooled comfort air conditioning that does not have water-conserving equipment in operation.

(3) Condition 3. In addition to the restrictions and prohibitions authorized under subsection (2) above, the Town Administrator is hereby further authorized during the duration of

a water emergency to implement any or all of the following for any of the affected water systems:

a. Industrial, institutional, commercial, governmental, wholesale and all other nonresidential customers shall be allotted a percentage reduction based on that customer's average monthly water consumption for the same billing period of the previous calendar year's consumption.

b. Individual residential customers shall be limited to a specific volume or percentage reduction of water per month.

c. If the allotted monthly water usage, as determined in subsection (3)a. and (3)b. above, is exceeded, the customer shall be charged two times the existing service rate for consumption over the minimum monthly charge for every 1,000 gallons of water consumed above the allotted volume. Where prior consumption data is not available, the county administrator shall estimate allocations based upon the data available from similar activities of equal intensity.

d. Declaration of a moratorium on new and expanded connections to the public water utility system, unless such connections are primarily intended and designed to provide fire protection and/or potable drinking water to lawfully permitted residential or nonresidential buildings that are existing or substantially constructed at the time that a water emergency is declared.

(4) Condition 4. When crucially limited supplies of water are available, the Town Administrator shall restrict the use of water from any affected water system to purposes which are absolutely essential to life, health and safety. Such permitted uses of water may include, but may not be limited to, the provision of limited quantities of water for drinking and sanitation purposes to residents, health care facility patients and/or emergency shelter evacuees, who are unable to utilize their potable water supplies due to the loss of electrical power, storm events or other natural or manmade causes.

§15.1-5.5 Failure to Address Leaks

It shall be unlawful for the owner of any residential unit or units, or the owner of any commercial or industrial establishment which is found to be an excessive user of water due to leakage from waterlines or plumbing fixtures on the premises, to fail to take immediate action to repair and to stop such leakage after being so ordered by the Town Administrator or his agent.

§15.1-5.6 Effective Date

The imposition of the restrictions above shall become effective upon their being printed in any newspaper of general circulation in the Town of Urbanna, or broadcasted upon any radio or television station serving the Town of Urbanna.

§15.1-5.7 Appeals for Exemptions

(1) Upon implementation of §15.1-5.4(2), (3) or (4) above, the Town Administrator shall establish an appeals procedure to review customer applications for exemptions from the provisions of §15.1-5.4 (2), (3) or (4) on a case-by-case basis and, if warranted, to make equitable adjustments to such provisions. The Town Administrator shall also be empowered to establish regulations governing the granting of temporary exemptions applicable to all or some of the uses of the water supply set forth in §15.1-5.4(2), (3) or (4). The Town Administrator shall, in rendering a decision on such applications, balance economic and other hardships to the applicant resulting from the imposition of water use restrictions or allocations against the individual and cumulative impacts to the water supply resulting from the granting of such exemptions and may impose reasonable conditions to ensure compliance with the terms of the exemption.

(2) Any person subject to a decision rendered by the Town Administrator under this section may appeal such decision to the Town Council. The appeal shall be in writing and shall be submitted to the Town Administrator, as agent for and clerk to the Town Council.

(3) The Town Administrator may issue temporary waivers or exemptions within the provisions of this subsection for such periods of time as may be necessary for the Town Council to formally consider action on the appeal.

(4) The Town Council shall render a decision on the appeal and may: affirm, with or without modification, the Town Administrator's decision; or approve the requested exemption, with or without modification. The Town Council may impose reasonable conditions to ensure compliance with the terms of any exemption granted hereunder.

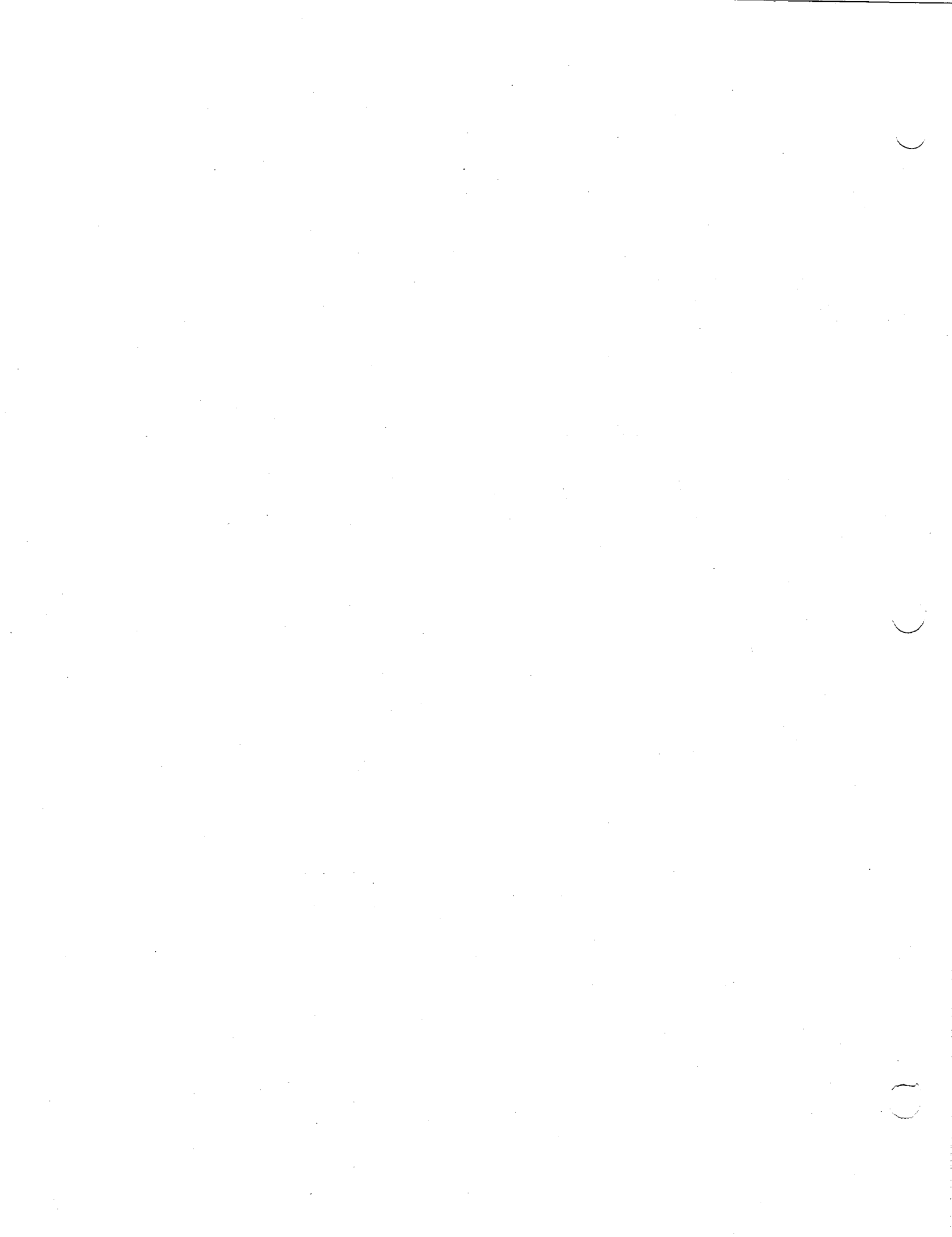
(5) Any decision rendered by the Town Council shall be subject to remedies provided by statute.

§15.1-5.8 Penalty for Violation

Any person who shall violate any of the provisions of this section, or of any of the conservation regulations promulgated by the Town of Urbanna pursuant thereto, shall, upon conviction thereof, be subject to the penalties provided in section 1-7 of this Code. Each act or each day's continuation of a violation shall be deemed a separate offense. In addition to the foregoing, the Town Administrator may suspend public water utility service to any person continuing to violate the provisions of this ordinance or the regulations promulgated hereunder. If such public water utility service is terminated, the person shall pay a reconnection fee of \$50.00 before service is restored.

§15.1-5.9 Declaration of End of Water Emergencies

The Town Administrator shall notify the Town Council when, in his opinion, the water emergency situation no longer exists. Upon concurrence of the Town Council, the water emergency shall be declared to have ended.



Planning Commission

CHAPTER 16.

PLANNING COMMISSION.

- §16-1. Creation of the Urbanna Planning Commission.
§16-2. Duties of the Planning Commission.
§16-3. Members of the Planning Commission.

Section 16-1. Creation of the Urbanna Planning Commission,

There is hereby created a planning commission of the Town of Urbanna, which may also be called the Urbanna Planning Commission. (1989)

Section 16-2. Duties of the Planning Commission,

The duties of the Urbanna Planning Commission shall be to:

A. Review all proposed amendments to the Urbanna Zoning Ordinance and make recommendations to the governing body; and

B. Such other duties as allowed under laws of the Commonwealth and as requested by the Town Council. (1989)

Section 16-3. Members of the Planning Commission,

The Planning Commission shall be comprised of 5 (five) members all of whom shall be residents of the Town. One member shall be a member of the Town Council and one member may be a member of the administrative branch of the Town government, both of whom shall serve at the pleasure of the Town Council and shall only be members so long as they hold the same or similar posts on the Town Council or in the administrative branch, respectively.

Matters pertaining to the appointment to, or membership on, the Planning Commission, shall be governed by this ordinance and the laws of the Commonwealth. In the event the laws of the Commonwealth are in conflict with this ordinance, the laws of the Commonwealth shall govern the appointments to, membership on, and actions of the Planning Commission. (1989)

Zoning

Chapter 17.

ZONING.

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ZONING ORDINANCE OF URBANNA, VIRGINIA

PREFACE:

A. This chapter is enacted for the general purpose of promoting the health, safety and general welfare of the public and of further accomplishing the objectives of Section 15.1-427 of the Code of Virginia.¹

B. By Act of the General Assembly of Virginia as provided in Section 15.1-486² of the Code of Virginia, as amended, the Governing Body of any municipality may, by ordinance, classify the territory under its jurisdiction, or any substantial portion thereof into districts of such number, shape, and size as it may deem best suited to carry out the purpose of Article 8³, Zoning, of the Code of Virginia and in each district it may regulate, restrict, permit, prohibit, and determine the following:

(1) The use of land, buildings, structures and other premises for agriculture, business, industrial, residential, flood plain and other specific uses;

(2) The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures;

(3) The areas and dimensions of land, water, and air space to be occupied by buildings, structures and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used;

(4) The excavation or mining of soil or other natural resources;

C. The purpose of this ordinance is:

(1) To provide for adequate light, air, convenience of access, and safety from fire, flood, and other dangers;

(2) To reduce or prevent congestion in the public streets;

¹ Editor's Note(1998): Title 15.1, Code of Virginia recodified as Title 15.2. See § 15.2-2200 et seq.

² See § 15.2-2280 et seq.

³ Chapter 22, Article 7, Title 15.2, Code of Virginia .

- (3) To facilitate the creation of a convenient, attractive and harmonious community;
- (4) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, forests, parks, playgrounds, recreation facilities, airports, and other public requirements;
- (5) To protect against destruction of or encroachment upon historic areas;
- (6) To protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic, or other dangers;
- (7) To encourage economic development activities that provide desirable employment and enlarge the tax base;
- (8) To provide for the preservation of agricultural and forest lands;
- (9) To protect approach slopes and other safety areas of licensed airports; and
- (10) To protect surface water and ground water in accordance with applicable State water quality standards;

D. This Ordinance was adopted as the Zoning Ordinance of Urbanna, Virginia, Urbanna Town Code (1973), together with its accompanying Zoning Map, by the Urbanna Town Council effective 15 November 1991.

ARTICLE 1.

TITLE, INTERPRETATION, AND ENACTMENT

Section 17-1.1. Title.

This chapter shall be known and may be cited as the "Zoning Ordinance of Urbanna, Virginia".

Section 17-1.2. Application.

This chapter shall apply to the incorporated territory of the Town of Urbanna, Virginia. It is the intent of this chapter that the extent of its applicability be automatically changed in accordance with the provisions hereof or provisions of State Law which may affect the applicability of this chapter.

Section 17-1.3. Purpose.

The zoning regulations and districts as herein established have been made in accordance with a comprehensive plan, to promote, in accordance with present and future needs, the health, safety, and general welfare of the citizens of Urbanna, Virginia. This Zoning Chapter and districts have been drawn and applied with reasonable consideration for the existing use and character of property, the Comprehensive Plan, the suitability of property for various uses, the trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, recreation areas and other public services, the conservation of natural resources, the preservation of flood plains, the preservation of agricultural and forest lands, the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the incorporated territory of Urbanna, Virginia.

Section 17-1.4. Interpretation.

It shall be the responsibility of the Zoning Administrator to interpret the provisions of this chapter as provided herein.

- (1) In the interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- (2) Where the conditions imposed by any provisions of this chapter upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable

conditions imposed by any other provision of this chapter or of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

(3) This chapter is not intended to abrogate any easement, covenant or any other private agreement; provided, that where the regulations of this chapter are more restrictive or impose higher standards or requirements than such easement, covenants or other private agreements, the requirements of this chapter shall govern.

(4) No building, structure or use which was not lawfully existing on 15 November 1991 shall become or be made lawful solely by reason of the adoption of this chapter; and to the extent that, and in any manner that such unlawful building, structure or use is in conflict with the requirements of this chapter, such building, structure or use remains unlawful hereunder.

(5) Where requirements are deemed vague or unclear relative to a particular situation, the Zoning Administrator, or his agent, shall be responsible for interpreting the provisions of the chapter.

(6) For the purposes of this chapter, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the lists or other regulations of this chapter, uses not specifically listed are prohibited.

(7) For interpretation of terms and words in this chapter, reference should be made to Article 13, Definitions, of this chapter.

Section 17-1.5. Repeal of Conflicting Ordinances.

All ordinances or parts of ordinances in conflict with this chapter are hereby repealed.

ARTICLE 2.

PROVISIONS FOR OFFICIAL ZONING MAP AND DISTRICTS

Section 17-2.1. Official Zoning Map.

The location and boundaries of the zoning districts established by this chapter are as indicated on a map entitled, "Official Zoning Map, Urbanna, Virginia", identified by the signature of the Mayor of Urbanna, attested to by the Clerk, together with the date of adoption of this chapter. Said map shall be deemed a part of this chapter as if it were fully set forth herein.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the Town Administrator, shall be the final authority as to the current zoning status of land, structures, and other uses in the Town.

Section 17-2.2. Amendment of the Official Zoning Map.

Whenever any amendment is made to the Official Zoning Map by action of the Governing Body such change shall be incorporated onto said map at such time and in such manner as the Governing Body prescribe. The Mayor shall affix his signature thereto, thereby certifying that approved amendments to the Official Zoning Map have been correctly incorporated. The date of official action and nature of the change shall be entered on the map. Any such change shall have the effect of law at 12:01 a.m. on the day following its legal adoption or on its effective date, if such effective date is officially established as other than the day following its legal adoption, whether or not it has been shown on the Official Zoning Map.

Section 17-2.3. Unauthorized Changes.

No changes of any nature shall be made on the Official Zoning Map or any matter shown thereon, except in conformity with the procedures and requirements of this chapter. It shall be unlawful for any person to make unauthorized changes on the Official Zoning Map. Violations of this provision shall be punishable as provided in Section 17-12.12. of this Code.

Section 17-2.4. Replacement of the Official Zoning Map.

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Governing Body may by

ordinance adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendments thereof.

The new Official Zoning Map shall be identified by the signature of the Mayor of the Town of Urbanna, attested by the Clerk, and bear the following words: "This is to certify that this Official Zoning Map was adopted on _____ as part of the Zoning Chapter of Urbanna, Virginia." Unless the prior Official Zoning Map has been lost, or totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

Section 17-2.5. Enumeration of Districts.

In order to regulate and restrict the location and use of buildings and land, to promote the health safety or general welfare of the citizens of Urbanna in trade, industry, residence, and other purposes in accordance with the objectives of the Comprehensive Plan, the following zoning districts are hereby established:

- R-1 Low Density Residential
- R-2 High Density Residential
- B-1 General Commercial
- B-2 Special Waterfront Mixed Use
- M-1 Light Industrial

The purpose statements which accompany each district are intended to describe in a general way the character of uses to be encouraged in the district, to assist with selection of appropriate districts for application to various conditions of land use, existing or planned, and to assist with interpretation of questions which may arise with respect to particular land uses in particular locations. In any case of difference between the purpose statement and the use regulations for the district, the use regulations shall control.

Section 17-2.6. Special District.

The districts outlined in Section 17-2.5. may also be within special overlay districts. These special districts include:

- H-1 Historic Preservation
- F-1 Flood Plain

CB-1 Chesapeake Bay Preservation Area

Section 17-2.7. Interpretation of District Boundaries.

(A) A district name or letter-number combination shown on the district maps indicates that the regulations pertaining to the district designated by that name or letter-number combination extend throughout the whole area in the Town bounded by the district boundary lines within which such name or letter-number combination is shown or indicated, except as otherwise provided by this section.

(B) Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of these regulations the following rules apply:

(1) Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries;

(2) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines, or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map.

(3) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries; and

(4) Where a district boundary is indicated to follow a river, creek, branch or other body of water, said boundary shall be construed to follow the center line at low water or at the limit of the jurisdiction, and in the event of change in the shoreline such boundary shall be construed as moving with the actual shoreline.

(C) If no distance, angle, curvature description or other means is given to determine the boundary line accurately, and the foregoing provisions do not apply, the boundary line shall be a property line or extension of a property line determined by the scale shown on the Official Zoning Map. In case of subsequent dispute, the matter shall be referred to the Board of Zoning Appeals, as described in Article 11, which shall determine the boundary.

Section 17-2.8. Regulations of Areas Under Water.

All areas within Urbanna which are under water are considered to be within a zoning district and controlled by applicable district regulations. District boundaries over water areas are located by noted or scaled dimensions, by relation to physical features, by coincidence with Town limits, or by a straight line projection of the district boundaries as indicated on the district maps. Straight line district boundaries over water areas shall be assumed to continue as straight lines until they intersect with each other or with the Town limit line.

Section 17-2.9. Annual Revision of Zoning Map.

Copies of the Official Zoning Map, clearly showing the zoning district boundaries and zoning district names and designations for the incorporated area of Urbanna, shall be made available to the public. At the end of each calendar year, if there have been any changes in the Official Zoning Map or Maps, zoning district boundaries, special use permits, zoning conditions or classifications in the preceding year, such publicly available map or maps shall be revised no later than March 31 of the following year, reflecting all such changes as of December 31 of that preceding year.

Section 17-2.10. Information Copies of Zoning District Map.

Information copies of the Zoning Map shall be made available for inspection at the office of the Administrator and such other locations as may be necessary or convenient. These maps shall be revised as described above, to show changes in zoning district boundaries as officially approved.

Drafting errors or omissions may be corrected, but no changes in zoning district boundaries may be made except to show amendments properly adopted by the Town Council.

Any person desiring a copy of said Zoning Map shall pay a reasonable fee as established by the Town Administrator for each copy thereof, to the appropriate Town official.

Section 17-2.11. Periodic Review.

As Section 15.1-454⁴, Code of Virginia, requires the review of the Town's Comprehensive Plan at least once every five years, the Planning Commission and the Board of Zoning Appeals should review the zoning regulations, and the zoning map or map and its boundaries, to determine whether it is advisable to amend the regulations or the map, or both, to bring them in accord with the objectives of the revised Comprehensive Plan. The Commission and the Board shall submit reports on their findings to the Town

⁴ Editor's Note (1998) See § 15.2-2230

Council. In the preparation of these reports the Commission and the Board shall consult with officials in the Town responsible for the administration of this chapter and such other persons as they believe may contribute to the review.

Section 17-2.12. Interim Zoning of Annexation Areas.

Pursuant to Section 15.1-491(b)⁵, Code of Virginia, all land which shall come into the territorial jurisdictions of the Town shall be classified R-1 Low Density Residential District for such reasonable time until changed by amendments, in order to provide for reasonable orderly interim regulation of use and development of land within the said annexation area.

ARTICLE 3.

GENERAL PROVISIONS

Section 17-3.1. Conformance with Regulations Required.

No building or land shall hereafter be used, and no building or part thereof shall be erected, reconstructed, converted, enlarged, moved, or structurally altered unless in conformity with the regulations as set forth in this chapter. Permits approved prior to adoption of this chapter are considered transition permits and are subject to provisions described in Article 8, Non-Conforming Uses, of this chapter.

Section 17-3.2. Location of a Lot Required.

Every building erected, reconstructed, converted, moved or structurally altered shall be located on a lot of record and in no case shall there be more than one main building on one lot unless otherwise provided in this chapter.

Section 17-3.3. Vacation of Boundary Lines.

The Town may provide as part of its subdivision chapter that boundary lines of any lot or parcel of land may be relocated or otherwise altered as a part of an otherwise valid and properly recorded plat provided such action does not involve the relocation or alteration of streets, alleys, easements, or other public areas.

⁵ Editor's Note (1998) See § 15.2-2286

Section 17-3.4. Street Frontage Required.

No lot shall be used in whole or in part for dwelling purposes unless such lot abuts upon a street, alley or permanent easement in accordance with the minimum street frontage requirements of this chapter or is part of an approved planned unit development. No lot or parcel of land abutting the terminus of a public street shall be deemed to comply with street frontage requirements unless such lot abuts on an approved permanent cul-de-sac.

Section 17-3.5. Encroachment; Reduction of Lot Area.

The minimum yards, parking space, open spaces, including lot area per family or dwelling unit, required by this chapter for each and every building existing at the time of the passage of these regulations or for any building hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, except as hereinafter provided, nor shall any lot area or lot dimensions be reduced by private action below the requirements of these regulations.

Section 17-3.6. Flood Plain and Water Areas.

No more than thirty (30) percent of the required minimum area of any lot shall be located in a flood plain area and no part of the area of any lot shall be covered by any body of water except that no more than thirty (30) percent of the required minimum area of any lot may be covered by the waters of a lake, pond, or canal planned and approved as a part of and wholly within the subdivision.

Section 17-3.7. Accessory Buildings; Prior Construction and Use.

Except for buildings accessory to a farm, no accessory building shall be constructed upon a lot for more than six months prior to beginning construction of the main building and no accessory building shall be used for more than six months unless the main building on the lot is also being used or unless the main building is under construction. No accessory building, on a farm or otherwise, shall be used for dwelling except in accord with the specific provisions of this chapter.

Section 17-3.8. Use of Certain Facilities for Dwelling Not Permitted.

Travel trailers, campers, motor homes, other recreation vehicles, tents, camp cabins and the like shall not be used for permanent or full time dwellings in any district, whether or not connected to utilities, wells or septic systems, except as permitted by the terms of this chapter.

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ARTICLE 4.

DISTRICTS AND DISTRICT REGULATIONS

Section 17-4.1. Intent.

(A) For the purpose of this Chapter, the incorporated areas of Urbanna, Virginia are hereby divided into the following districts:

- R-1 Low Density Residential
- R-2 High Density Residential
- B-1 General Commercial
- B-2 Special Waterfront Mixed Use
- M-1 Light Industrial
- H-1 Historic Preservation
- F-1 Flood Plain
- CB-1 Chesapeake Bay Preservation Area

(B) The specific purpose of each zoning district shall be as established in this chapter.

Section 17-4.2. Low Density Residential District (R-1).

Section 17-4.2.1 Purpose of the District

The purpose of this district is to provide for low-density single-family detached residential development together with those public and semi-public uses and accessory uses as may be necessary or are normally compatible with residential surroundings. Since substantial tracts of vacant land are or may be included in the district, agricultural and open uses are permitted, but in general, urbanization is planned and utilities and public services exist or are planned to be adequate for the type or types of development contemplated. In order to increase the supply of housing and to recognize the changes in demography of a neighborhood while continuing to maintain the character of the district, accessory dwelling units are permitted by special use permit approved by the Zoning Administrator or the Planning Commission. In addition, certain special care facilities and certain governmental, educational, recreational and utility uses are permitted by special use permit subject to such restrictions and requirements as will ensure compatibility with residential surroundings.

Section 17-4.2.2.

Permitted Uses and Structures.

A building or land shall be used only for the following purposes:

- (1) Detached single-family dwellings.
- (2) For parcels greater than five (5) acres, general agriculture, farming and forestry, including raising of crops, truck gardens, field crops, orchards or nurseries for growing or propagation and harvesting of plants, turf, trees and shrubs and other general agricultural uses; provided that temporary open air stands shall not exceed 200 square feet in area for seasonal sales of products raised on the premises and provided that no retail or wholesale business office or store shall be permanently maintained on the premises.
- (3) Livestock and animals; the raising of large animals, such as pigs, cows, horses, sheep, or goats, on a farm of ten acres or more, or the raising for sale of birds, bees, fish, rabbits, or other small animals on a lot of five acres or more shall be permitted.
- (4) Facilities, structures and right-of-ways necessary for rendering public utility service, including poles, wires, transformers, telephone booths and the like for electrical power distribution or communication service, and underground pipelines or conduits for electrical, gas, sewer, or water service.
- (5) Public parks, parkways, playgrounds, and athletic fields; public and private forests, wildlife preserves and conservation areas. Public and private facilities requiring night illumination or associated buildings and facilities require a special use permit.
- (6) Yard sale or garage sale for disposal of used household items as defined in Article 13 of this chapter, and provided such sales comply with the regulations therein. Signs associated with the sale shall comply with the district regulations and shall not be attached to trees, utility poles, or street name poles.
- (7) Accessory buildings and uses, including but not limited to accessory private garages, storage buildings and workshops, farm buildings and structures, servants or caretakers quarters, guest houses, swimming pools, tennis courts and similar recreation facilities.
- (8) Boat houses, covered docks and piers which have an absolute total height equal to or less than twenty (20) feet above mean high water.

Section 17-4.2.3.

Uses Permitted by Special Use Permit

The following uses shall only be permitted by special use permit in accordance with the procedures, guides and standards set forth in Article 9 of this chapter.

- (1) Additional dwelling units.
- (2) Duplexes or two-family dwellings, subject to the special regulations in Section 17-4.2.7.
- (3) Bed and Breakfasts.
- (4) Cemeteries.
- (5) Churches and Sunday Schools, rectories, parish houses, convents and monasteries, temples, and synagogues.
- (6) Home occupations, subject to regulations in §17-5.2.
- (7) Nursery schools, kindergartens, child care centers, day nursery, or day care centers.
- (8) Private schools, colleges, or universities.
- (9) Public or governmental buildings and uses, including schools, libraries, fire stations, and rescue squad facilities.
- (10) Publicly or privately operated parks, playgrounds, and athletic fields; including buildings and facilities customarily associated with these recreational activities.
- (11) Recreational uses or facilities for a private membership, such as clubs and lodges, golf courses, game courts, swimming pools, archery range, fishing or boating lakes, picnic grounds, or similar activities, and accessory facilities, including sale of food, beverages, bait, incidentals, supplies and equipment.
- (12) Recreational vehicle storage for a period of longer than six (6) months.
- (13) Trailers used for storage or work space. This includes long term (nine months or more) storage of utility and recreational trailers.

(14) Convalescent homes, rest homes, nursing homes or homes for the aged.

(15) Family care homes, foster homes or group homes serving nine (9) or more mentally retarded or other developmentally disabled persons.

(16) Hospital or clinic.

(17) Private stable for the keeping of horses, ponies or other livestock for personal enjoyment and not as a business, provided that any building for keeping of animals shall be located at least 100 feet from any side or rear lot line and provided that no more than one such animal shall be kept for each acre of land on the premises.

(18) Radio or television transmission or receiving tower more than 50 feet in height, and satellite transmission receiving dishes.

Section 17-4.2.4. [Reserved]

Section 17-4.2.5. Lot Size and Setback Standards.

The following conditions shall be met for all residential development in the R-1 District:

(1) Required lot area. Each dwelling, together with its accessory buildings, with public water and sewer, hereafter erected shall be located on a lot having an area of not less than 10,000 square feet and a front width of not less than eighty (80) feet.

Each dwelling, together with its accessory buildings, with either public water or sewer, hereafter erected shall be located on a lot having an area of not less than 15,000 square feet and a front width of not less than eighty (80) feet.

Each dwelling, together with its accessory buildings, having neither public water nor sewer, hereafter erected shall be located on a lot having an area of not less than 20,000 square feet and a front width of not less than eighty (80) feet.

A greater minimum lot area for dwellings or other uses served by individual or on-site sewage disposal systems may be required by the Health Department.

- (2) Percentage of lot coverage. All buildings, including accessory buildings, on any lot shall not cover more than twenty-five (25) percent of the area of such a lot.
- (3) Minimum street frontage shall be forty (40) feet.
- (4) Front yard. Each lot shall have a front yard having a depth of not less than forty (40) feet.
- (5) Side yard. Each lot shall have two side yards, each having a width of not less than ten (10) feet; and the sum of the side yards being not less than twenty (20) feet.
- (6) Rear yard. Each lot shall have a rear yard of not less than twenty-five (25) feet in depth.
- (7) Accessory buildings. No accessory structure may be within eight (8) feet of any party lot line. Notwithstanding the foregoing, one (1) storage shed accessory building or structure no larger than two hundred (200) square feet in floor area and eight (8') feet in height may be placed within the eight (8') foot setback of a lot line but not closer than two (2') feet from any lot line provided, however, that the property owner or tenant with the property owner's written consent (a) obtains the written consent of all adjoining property owners agreeing to the location of the storage shed accessory building or structure; and (b) provides the Zoning Administrator with a scaled drawing of the proposed storage shed accessory building or structure containing the proposed material and color; and (c) provides the Zoning Administrator with a site plan indicating the proposed placement of the storage shed accessory building or structure with the requisite set back of at least two (2') feet. For the purposes of this provision, a "storage shed accessory building or structure" is a building or structure used solely for the storage of furniture, tools and equipment, including without limitation yard furniture, lawnmowers/lawn tractors, garden equipment, tools and pool equipment. Nothing herein contained shall be construed as a waiver of any other requirements or provisions, if any, contained in Chapter 17 of the Town Code regarding accessory buildings or structures. The Zoning Administrator shall issue a zoning permit for the storage shed accessory building once the property owner or tenant with the property owner's written consent has complied with all of the requirements of this provision.

Section 17-4.2.6.

Height Standards

- (A) Principle buildings and accessory buildings shall not exceed three stories or thirty-five (35) feet in height, whichever is less.

(B) No accessory structure which is within ten (10) feet of any part lot line shall be more than one story or twelve (12) feet in height. All accessory structures shall be of less height than the main buildings on the lot.

(C) A public or semi-public building such as a school, church, or library, may be erected to a height of forty-five (45) feet from grade provided that required front, side and rear yards shall be increased one foot for each foot in height over thirty-five (35) feet.

Section 17-4.2.7. Special Regulations for Two-Family or Duplex Dwelling.

(A) The dwelling units and individual lots of a two-family dwelling may be sold separately if separate utilities systems are provided and if separate lots for all dwelling units in a building are created at the same time and in conformance with the Subdivision Regulations. If units are to be sold separately, minimums for each unit for lot area and lot width are one-half of values above. All other requirements remain unchanged.

(B) Site landscaping shall be employed to maximize the privacy of the single family and two-family duplex dwelling units and help define boundaries and public and private areas on the lot or lots.

(C) Common refuse bins shall be completely screened from view and enclosed by a fence or wall, with an appropriately designed gate which can be latched open and closed.

Section 17-4.3 [Reserved.]

Section 17-4.4. High Density Residential District (R-2).

Section 17-4.4.1. Purpose of the District.

The purpose of this district is to provide for high density residential uses and to provide for variety in housing types and densities as well as for those public and semi-public uses and accessory uses as may be necessary or are normally associated with residential surroundings. In general, utilities and public services exist or are planned to be adequate for the type or types of development contemplated. Certain special care facilities and certain governmental, educational, recreational and utility uses are permitted by special use permit subject to such restrictions and requirements as will ensure compatibility with residential surroundings.

Section 17-4.4.2. Permitted Uses and Structures.

A building or land shall be used only for the following purposes:

- (1) Those buildings and uses permitted by right in the R-1 Low Density Residential District.
- (2) Multiple-family dwellings, subject to the special regulations of this article.
- (3) Attached single-family dwellings or townhouses, subject to the special regulations of this article.

Section 17-4.4.3. Uses Permitted by Special Use Permit.

The following uses may be permitted by special use permit approved by the Town Council following a report by the Planning Commission in accordance with the procedures, guides and standards of Article 9, of this chapter.

- (1) Accessory buildings and uses, including but not limited to accessory storage and accessory off-street parking.
- (2) Bed and breakfast facilities.
- (3) Boarding and rooming houses.
- (4) Churches and Sunday Schools, rectories, parish houses, convents and monasteries, temples and synagogues.
- (5) Convalescent homes, rest homes, nursing homes or homes for the aged.
- (6) Family care homes and foster homes.
- (7) Home Occupations subject to the regulations of Article 5, §17-5.2, this chapter.
- (8) Nursery schools, kindergartens, child care centers, day nursery, or day care centers.
- (9) Private schools, colleges, or universities.

- (10) Public or governmental buildings and uses, including schools, libraries, fire stations, and rescue squads facilities.
- (11) Publicly or privately operated parks, playgrounds, and athletic fields; including buildings and facilities customarily associated with these recreational activities.
- (12) Radio or television transmission or receiving tower more than fifty (50) feet in height, and satellite transmission receiving dishes.
- (13) Recreational uses or facilities for private membership, such as clubs and lodges, game courts, swimming pools, fishing or boating, picnic grounds, or similar activities, and accessory facilities, including sale of food, beverages, bait, incidentals, supplies and equipment.
- (14) Residential Planned Unit Developments, subject to the special regulations of this article.
- (15) Manufactured home subdivisions, subject to the special regulations of this article.
- (16) Manufactured or mobile home parks, subject to the special regulations of this article.
- (17) Group homes serving nine (9) or more mentally retarded or other developmentally disabled persons.

Section 17-4.4.4. [Reserved]

Section 17-4.4.5. Lot Size and Setback Standards.

- (A) Multiple-family dwellings, townhouses, residential planned unit developments, manufactured home subdivisions, and manufactured or mobile home parks lot size and setback standards are indicated in their respective sections within this Article.
- (B) The following conditions shall be met for single-family detached dwellings in the R-2 Residential District:
 - (1) Required lot area. All buildings, together with accessory buildings, hereafter erected shall have individual water and sewer service and be located on a lot having an area of not less than 8,000 square feet and a front width of not less than forty (40) feet. A greater minimum lot area for dwellings or

other uses served by individual or on-site sewage disposal systems may be required by the Town of Urbanna and the Middlesex County Department of Health.

(2) Percentage of lot coverage. The construction footprint, which includes all buildings, accessory buildings, parking lots, and any land covered by any material other than vegetation, on any lot shall not cover more than thirty-five (35) percent of the area of such a lot.

(3) Street Frontage. Minimum street frontage for each lot shall be forty (40) feet.

(4) Front yard. Each lot shall have a front yard having a depth of not less than forty (40) feet.

(5) Side yard. Each lot shall have two side yards, each having a width of not less than ten (10) feet;

(6) Rear yard. Each lot shall have a rear yard of not less than twenty-five (25) feet in depth.

(7) Accessory buildings. No accessory structure may be within eight (8) feet of any party lot line.

(C) The following conditions shall be met for all two-family duplex dwellings in the R-2 Residential District:

(1) Required lot area. All two-family duplex dwellings, together with accessory buildings, hereafter erected shall have individual water and sewer service and be located on a lot having an area of not less than 9,000 square feet and a front width of not less than seventy-five (75) feet. A greater minimum lot area for dwellings or other uses served by individual or on-site sewage disposal systems may be required by the Town of Urbanna and the Middlesex County Department of Health.

(2) Percentage of lot coverage. All buildings, including accessory buildings, on any lot shall not cover more than thirty-five (35) percent of the area of such a lot.

(3) Street Frontage. Minimum street frontage for each lot shall be forty (40) feet.

(4) Front yard. Each lot shall have a front yard having a depth of not less than forty (40) feet.

(5) Side yard. Each lot shall have two side yards, each having a width of not less than ten (10) feet;

(6) Rear yard. Each lot shall have a rear yard of not less than twenty-five (25) feet in depth.

(7) Accessory buildings. No accessory structure may be within eight (8) feet of any party lot line.

Section 17-4.4.6. Height Standards.

Buildings may be erected up to three stories or thirty-five (35) feet in height, whichever is less, except that:

(1) A public or semi-public building such as a school, church, library, or general hospital may be erected to a height of sixty (60) feet provided that required front, side and rear yards shall be increased one foot for each foot in height over thirty-five (35) feet.

(2) No accessory structure within fifteen (15) feet of the party lot line may be more than one story or twelve (12) feet in height. All accessory structures shall be of less height than the main buildings on the lot.

Section 17-4.4.7. Landscaping, Screening.

(A) Site landscaping shall be employed to maximize the privacy of the duplex, two-family duplex dwelling units and help define boundaries and public and private areas on the lot or lots.

(B) Trash and garbage storage and pick-up areas must be screened from view and enclosed by a fence at least four (4) feet high around which a hedge of shrubbery is planted and maintained.

(C) Regulations for landscaping, screening and open space for multiple-family dwellings, residential planned unit developments, manufactured home subdivisions, and manufactured home parks are indicated in their respective sections within this Article.

Section 17-4.4.8.Special Regulations for Multiple-Family Dwellings.

Multi-family attached dwellings or apartment buildings are permitted in the R-2 zoning district. A site plan and a subdivision plan must be submitted for the proposed development, and such other descriptive material, special conditions or considerations as described in article 12 of this chapter prior to the review by the Planning Commission.

(1) The development or project shall be designed to respect the harmonious relationships with surrounding properties, and to this end may employ such design techniques as including use of various building types, orientation, spacing and setback of buildings, careful use of topography, grading and berms, natural vegetation, landscaping, screening, location of access points, recreation areas, open spaces, and parking areas.

(2) The minimum project size shall be 8,000 square feet and the maximum site coverage shall not exceed eighty (80) percent. Overall project density shall not exceed fifteen (15) dwelling units per acre, exclusive of public rights-of-way. Minimum lot width shall not be less than eighty (80) feet, and maximum building height shall not exceed three stories or thirty-five (35) feet, whichever is less.

(3) The principal means of access to an apartment development or project containing more than twenty-four (24) dwelling units shall be from an arterial or collector thoroughfare of adequate physical and functional design to handle anticipated traffic needs. Secondary access to a local street will be permitted only in cases where there are overriding factors of health or safety for future residents of the project or where the arrangement and conditions of the minor streets are such that the projected increase in traffic will not substantially affect the use and enjoyment of the street by present or future residents.

(4) No apartment building shall contain more than twelve (12) dwelling units and no more than three apartment buildings shall be contiguous.

(5) No apartment building shall be located closer than thirty-five (35) feet from any public right-of-way or closer than fifteen (15) feet from a private drive, access road or open common parking area whether oriented to the front, sides or rear of the buildings, except that parking areas may be located within five (5) feet and private drives may be located within ten (10) feet of any blank or windowless wall.

(6) No apartment building shall be located closer than twenty-five (25) feet from a side or rear property line. This regulation does not apply to existing buildings which are converted to apartment use.

(7) A minimum distance of twenty-five (25) feet shall separate any two buildings or groups of apartment buildings from any other abutting use or building type.

(8) At least four hundred (400) square feet of commonly useable open space shall be provided for each dwelling unit.

(9) Where community refuse containers are provided as accessory uses to apartment developments, such containers shall be conveniently located for pick-up vehicle access and completely screened from view by means of a fence or wall and an appropriately designed gate which can be latched open and closed.

Section 17-4.4.9. Special Regulations for Attached Single Family Dwellings or Townhouses

Townhouse developments are permitted in the R-2 zoning district. A site plan and a subdivision plan must be submitted for the proposed development, and such other descriptive material, or special conditions as described in Article 12 prior to review by the Planning Commission.

(1) The overall project design shall be prepared to preserve natural topography and vegetation and to minimize adverse impact of moving and parked vehicles within the development and its surroundings by means of town-scale grid and curved streets, clustered building groups, careful distribution of open space, interior screened parking, interrupted parking bays or courts, landscape screening, and other design features.

The minimum project area shall be 20,000 square feet.

(2) A maximum density of twelve (12) units per gross acre, excluding flood plain and slopes exceeding twenty-five (25) percent, shall be permitted. Each unit shall have individual public water and sewer attachments.

(3) The maximum lot area to be covered shall not exceed thirty-five (35) percent. The minimum lot area per dwelling unit shall be 800 square feet. The minimum lot width shall be fourteen (14) feet for interior lots and twenty-five (25) feet for end and corner lots. Lots must be delineated on the Subdivision plat by dashed lines and need not be sold separately in qualified condominium projects.

(4) The minimum front yard per dwelling unit shall be twenty-five (25) feet and the minimum rear yard shall be twenty-five (25) feet with modification being available with the provision of usable

common open space, as described in the section below. The minimum side yard for end and corner lots shall be ten (10) feet.

(5) Maximum building height for townhouses shall be three stories or thirty-five (35) feet.

(6) All townhouse dwellings except end dwellings and corner lots shall occupy the full width of the lot, excluding setbacks.

(7) A minimum of six (6) dwellings are required for each development.

(8) Rear access may be required for emergency vehicles as determined by the Zoning Administrator.

(9) A usable common open space may be provided in lieu of a part of the minimum yard requirements or to meet maximum project density requirements, subject to the following provisions:

(a) The usable common open space may be utilized only for lawns, trees, planting area, ornamental pools, sidewalks or paved play areas, and landscaping uses. No part of the common green area may be utilized for automobile driveways or parking areas.

(b) When a usable common open space is provided, the minimum lot area may be reduced where the Planning Commission and Town Council find that such reduction results in the provision of active recreational facilities such as swimming pools, tot lots, multi-purpose courts or playing fields.

(c) In connection with townhouse developments, provisions satisfactory to the Town Council shall be met by the developer to assure that non-public common open space for use and enjoyment of occupants, shall be properly maintained without expense to the Town of Urbanna in accordance with the Condominium Act, Code of Virginia, as amended.

(10) No motor vehicle shall be parked on any lot upon which a townhouse has been or is to be erected unless a garage is provided as part of the unit.

(11) Townhouse dwellings abutting each other shall have complementary but not identical facades.

(12) There shall be at least three but no more than ten (10) townhouse dwellings continuously connected; provided that the average number of units continuously connected shall

not exceed eight. There shall be an open space of at least fifteen (15) feet between any two such groups of continuously connected buildings.

(13) No more than two abutting townhouse dwellings shall have the same front yard setbacks. Building setback variations as required shall be at least two feet. No more than two abutting townhouses shall have a common roof line.

(14) Soundproof and fireproof walls shall be provided between adjoining dwellings at least up to and including the underside of the roof, in accordance with the standards of the Unified Statewide Building Code.

(15) Service areas and rear yards visible from a street shall be appropriately screened.

(16) Each lot containing a townhouse shall provide a private rear yard at least 200 square feet in area and at least fifteen (15) feet in depth enclosed visually by uniform fences or walls.

(17) Each dwelling shall be self contained as to heating, air conditioning and utilities.

(18) The developer shall provide lawn and appropriate shrubbery planting except on areas designated for walks and driveways.

(19) Common refuse bins shall be completely screened from view by means of a fence or wall, and an appropriately designed gate which can be latched open and closed.

(20) Each development site shall have a publicly-dedicated or approved private street throughout the development so as to adjoin all private parking lots and access courts. Townhouse lots which abut a private street and/or parking lot or access court shall meet the following criteria:

(a) Private streets, parking lots and access courts shall be constructed in conformance with the standards set forth in this Article. For the purpose of this regulation, an access court is a series of parking spaces served directly by a private accessway which has only an access connection to a public or private street.

(b) An access court may be connected to no more than one other access court so that the two together have two access connections to public or private streets and together serve no more than fifty (50) units.

(c) No more than twenty-five (25) lots shall abut a parking lot or access court.

(d) A Homeowners' Association shall be formed to insure maintenance of private streets, parking lots and access courts.

(e) Parking lots and access courts shall be landscaped according to Article 6 of this chapter.

(f) Private streets, parking lots and access courts shall be clearly identified as private. A single sign, not to exceed two square feet in area, shall be posted at the entrance of each such street or parking court, displaying only the words "Private Drive" and the addresses of any residences utilizing the private street or parking court.

(g) All private streets shall be at least twenty-four (24) feet in width, shall be of a paved surface and constructed in accordance with applicable Virginia Department of Transportation pavement design standards and in accordance with the Subdivision chapter. All private streets abutting dwellings shall also provide a sidewalk between the private street and such dwellings. All private cul-de-sacs shall conform to the recommendations of the Town Administrator.

(21) Each development site shall have a publicly-dedicated or approved private street to serve the entire development area.

(22) Accessory structures shall not exceed twelve (12) feet in height and shall be located only to the rear of the main structure and shall be no closer than one foot from the side or rear property line or ten (10) feet from the outside line of end and corner lots.

Section 17-4.4.10. Residential Planned Unit Development (RPUD).

Residential planned unit developments are allowed by Special Use Permit in the R-2 zoning district, in order to encourage variety in housing type and affordability, improved housing designs, innovative site planning and other special circumstances. A site plan and a subdivision plan must be submitted for the RPUD and such other descriptive material, or special conditions prior to review by the Planning Commission. Procedures and general standards for approval of an application under this section shall be the same as those as described in Article 9, of this chapter. The proposed project shall comply with the following regulations:

(1) One or more major features of the development, such as unusual natural features, topography, public and private spaces, open spaces, and building uses and arrangement, are such as to

justify application of this section rather than a conventional application of the other regulations of the R-2 District.

(2) Materials submitted, drawings, models, descriptions, proffers and covenants shall be sufficiently detailed to assure compliance with the intent of this section.

(3) The project itself, or a larger project of which it is a part, is of sufficient size in the location proposed so as to permit assessment of the impacts of adjacent existing uses, and will not adversely affect existing and future development in the surrounding area.

(4) The overall dwelling unit density does not exceed twenty dwelling units per acre, except in the case of the project being used for elderly or physically handicapped citizens.

(5) The development is designed to promote harmonious relationships with surrounding adjacent and nearby developed properties and to this end may employ such design techniques as may be appropriate to a particular case, including use of building types, orientation, and spacing and setback of buildings, careful use of topography, maintenance of natural vegetation, location of recreation areas, open spaces, and parking areas, grading, landscaping, and screening.

(6) Restrictive covenants or proffered conditions in a conditional zoning action provided to the satisfaction of the Planning Commission, and approved by the Town Council shall be made to assure that non-public areas for the common use and employment of occupants, but not in individual ownership by such occupants, shall be maintained in a satisfactory manner without expense to the general taxpayer.

Section 17-4.4.11.

Special Regulations for Manufactured Home Subdivisions.

(A) Manufactured home dwellings are allowed by Special Use Permit in the R-2 zoning district. A site plan and a subdivision plan must be submitted along with such other descriptive material, special conditions or proffers as described in Article 9, of this chapter.

(B) Procedures and general standards for approval of an application under this section shall be the same as those as described in Article 9. The proposed project shall comply with the following regulations:

(1) The manufactured homes subdivision shall include at least two acres and comply in all respects with the dimensional requirements of two-family attached dwellings in the R-1 zoning district. Preliminary and final plats as well as deeds to individual lots shall bear a notation as to the nature of the subdivision.

(2) The manufactured home subdivision shall be surrounded by a landscaped or wooded strip of open space at least fifty (50) feet wide along all street or road frontage and along all other exterior boundary lines. This space shall be in addition to minimum area required for each home lot and shall not be used for other facilities, recreation area or accessory storage structures or parking areas, but may be included as extra depth for individual lots if appropriately restricted by easement. The subdivision plan shall include a landscape plan for this open space indicating planting of shade trees and lower plant materials for open portions of the space and a plan for tree maintenance in wooded portions. Continued maintenance of the open area and its plantings shall be the responsibility of the Homeowners' Association or lot owners as the case may require.

(3) All homes shall be placed on an approved and platted lot and shall not obstruct the use of, or project over, any driveway, walkway or public utility easement.

(4) An approved area or areas of at least 10,000 square feet of useable common open space shall be provided for recreational use by residents of the subdivision. This area may be included in total area and for the purpose of density calculations, unless it is in the flood plain. A Homeowners' Association shall be organized for maintenance of recreational areas which are not to be maintained by the developer.

(5) All homes shall be completely skirted with materials approved by the Zoning Administrator.

Section 17-4.4.12. Special Regulations for Manufactured or Mobile Home Parks.

Manufactured home or mobile home parks are allowed by Special Use Permit in the R-2 zoning district. A site plan and a subdivision plan must be submitted along with such other descriptive material, special conditions or proffers as described in Article 9. Procedures and general standards for approval of an application under this section shall be the same as those as described in Article 9 of this chapter. The proposed project shall comply with the following regulations:

(1) The park shall contain not less than two contiguous acres and shall be under single ownership or control, except that the minimum area may be one acre where the proposed park is to be located adjacent to an existing manufactured or mobile home park containing an area of one acre or more.

(2) The minimum width and minimum depth for a manufactured or mobile home park shall be at least 200 feet.

(3) If a portion of a manufactured or mobile home park shall be used for temporary parking of travel trailers, campers, or other recreational vehicles, an area within the park shall be permanently designated for this use.

(4) The overall density of the manufactured or mobile home park shall not exceed nine units per gross acre and the net density of any particular acre within such park, whether used for manufactured homes or travel trailers, shall not exceed twelve (12) units per acre. Land inside the F-1 Flood Plan District or otherwise unsuitable for residential use shall be excluded from density computations.

(5) The minimum width for each site shall be two and a half (2.5) times the width of the home, or twenty-five (25) feet, whichever is greater. Minimum site widths shall be measured at right angles to the long axis of the site at the setback line or rear of the lot, whichever is less. No more than one home shall be placed on any one site and no home sites shall be offered for sale or sold. Minimum site area for travel trailer or camper sites shall be 1,000 square feet.

(6) Corners for each home site shall be clearly defined by permanent ground markers corresponding to the approved site plan.

(7) Each home site shall be provided with a concrete foundation pad a minimum of fifteen (15) feet long and at least five (5) feet wider than the manufactured or mobile home to be located there. Each manufactured or mobile home shall be securely anchored to the site.

(8) The manufactured or mobile home park shall comply with all sanitary and other requirements prescribed by law or regulations. Unless otherwise provided for by the Town Council, each home site (permanent and temporary) shall be provided with individually metered water and sewer connections to central sewer and water systems designed to serve the entire park.

(9) Each home site shall be provided with electrical service buried underground and installed in accordance with applicable Codes and chapters.

(10) Where community refuse containers are provided as accessory uses to manufactured home park developments, such containers shall be conveniently located for pick-up vehicle access and completely screened from view by means of a fence or wall with an appropriately designed gate which can be latched open and closed.

(11) No home shall be placed closer than eighty (80) feet from a public street or road, or twenty (20) feet from an interior access drive, or twenty-five (25) feet from any other home or service building, and no part of a home shall extend closer than ten (10) feet to the boundaries of the individual home site.

(12) Access to the manufactured or mobile home park shall not be from a minor residential street. Number and location of access drives shall be controlled for traffic safety and protection of surrounding properties, and no home space shall be designed for direct access to a street outside the boundaries of the park. Interior access drives shall be properly lighted and right-of-ways shall be at least fifty (50) feet in width; streets shall be hard surfaced and maintained at least twenty-four (24) feet in width in accordance with applicable Town specifications and chapters. Turning radius at the end of a cul-de-sac shall have a radius of at least fifty (50) feet.

(13) At least two off-street parking spaces shall be provided on each home site, and in addition one off-street parking space shall be provided per home site in other locations convenience to groups of homes. Additional parking area shall be designated for accessory storage of boats and boat trailers, camping equipment and other recreational vehicles. No parking shall be permitted on the street.

(14) The topography of the site shall be such as to facilitate drainage and adequate drainage facilities shall be provided.

(15) The overall site design of the manufactured mobile or home park shall demonstrate a reasonable effort to preserve the natural amenities of the site, particularly mature trees and existing vegetation. Other areas of the subdivision shall be planted with appropriate ground cover, trees, shrubs, and grass lawns, all of which shall be properly maintained. Where no trees exist, at least two shade trees shall be planted and properly maintained on each home site.

(16) Each manufactured or mobile home park shall provide not less than one multiple purpose developed recreational area of at least 10,000 square feet in area for the use of occupants of the park.

(17) The park owner shall require and the unit owner shall insure that open space beneath each home shall be skirted with approved material in accordance with the requirements of the Zoning Administrator.

(18) No manufactured or mobile home park existing at the effective date of these regulations shall be enlarged or extended unless the enlargement area is in compliance with all requirements for a

new manufactured or mobile home park. Homes may be added within the established boundaries of an existing park so long as the overall density within said boundaries does not exceed nine (9) units per gross acre.

Section 17-4.5. [Reserved.]

Section 17-4.6. General Commercial District (B-1).

Section 17-4.6.1. Purpose of the District

The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, and miscellaneous recreational and service activities, generally serving the Town, a wide area of the County, and the traveling public. These commercial uses are generally located along major thoroughfares or near development centers where a general mixture of commercial and service activity now exists or is planned, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, or the nuisance factors of dust, odor, and noise, associated with manufacturing.

Section 17-4.6.2. Permitted Uses.

A building or land shall be used only for the following purposes:

- (1) Any principal permitted use permitted by right in the R-1 zoning district. Dwellings are subject to the same lot area and yard space requirements as in the R-1 district.
- (2) Arts, cultural, and historic institutions, including museums and tourist information and orientation facilities.
- (3) Retail automobile or truck parts sales, but not wholesale and not auto salvage or wreckage.
- (4) Bakeries, provided that the majority of products produced on the premises are sold at retail on the premises.
- (5) Banks and other financial institutions.
- (6) Barber shops or beauty parlors.
- (7) Bed and breakfast facility.
- (8) Bicycle sales and repair shops.

- (9) Catering or delicatessen business.
- (10) Churches and Sunday Schools, rectories, parish houses, convents and monasteries, temples, and synagogue.
- (11) Drive-in automatic banking or vending machine station. Groups of three or more vending machines shall be contained in a building.
- (12) Employment service or agency.
- (13) Frozen food lockers for individual or family use.
- (14) Funeral home or undertaking establishment.
- (15) Hospital or clinic.
- (16) Hotel, motel, inn, lodge, or tourist home having less than five (5) rooms for use by transient boarders.
- (17) Janitorial service establishment.
- (18) Laundries, laundromats or dry-cleaning establishments with floor area not exceeding 2,500 square feet.
- (19) Lawn mower, yard and garden equipment, rental and sales and service but no service or repair permitted.
- (20) Libraries.
- (21) Reserved.
- (22) Nurseries for growing and sale of plants, trees and shrubs and related materials.
- (23) Offices; general, business or professional; manufactured or mobile home for temporary (not to exceed 120 days) office use by approved special use permit only.
- (24) Parking lots, parking spaces and parking areas.

(25) Pet shop or dog beauty parlor, provided that any work rooms, cages, pens or kennels be maintained within a completely enclosed, soundproof building and that such shop or parlor be operated in such a way as to produce no objectionable noise or odors outside its walls.

(26) Printing, publishing, and engraving establishments, photographic processing or blueprinting with floor area not exceeding 2,500 square feet.

(27) Radio and television stations and studios or recording studios, but not towers more than 125 feet in height.

(28) Rental of household items, tools and appliances.

(29) Repair shops with floor area not exceeding 2,500 square feet.

(30) Reserved.

(31) Security service office or station.

(32) Shopping Centers.

(33) Stores or shops for the conduct of retail business, including sale of accessories, antiques, appliances, art or art supplies, beverages (alcoholic or otherwise), books, carpets, clothing, drugs, fabrics, flowers, food, furniture, hardware, jewelry, office supplies and stationery, shoes, paint, wallpaper, sporting goods, and similar stores and shops.

(34) Studios or shops for artist, photographers, writers, teachers, jewelers, weavers or other crafts, sculptors or musicians.

(35) Telephone station or booth, including drive-in or talk-from-car stations.

(36) Temporary stands, or outdoor areas or temporary truck parking, for sale of produce, Christmas trees, and other seasonal items.

(37) Video rental and sales.

(38) Accessory buildings and uses, including accessory storage of supplies and merchandise normally carried in stock or used in connection with a permitted use, subject to applicable district regulations.

(39) Massage Therapy practiced by a graduate of a training program certified by the State Board of Education.

Section 17-4.6.3.

Uses Permitted by Special Use Permit.

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides and standards of Article 9.

- (1) A single-family dwelling, duplex or multi-family dwelling on a case by case basis in association with permitted office, business or commercial use in the same building or on the same premises shall be permitted.
- (2) Billiard parlors or pool rooms, bowling alleys, dance halls, electronic game centers, miniature golf, or similar recreational establishments, indoor or outdoor.
- (3) Carnivals or fairgrounds.
- (4) Nursery schools, kindergartens, child care centers, day nurseries, or day care centers.
- (5) Outdoor sales areas or flea Markets.
- (6) Public or governmental buildings and uses, including governmental offices, schools, fire stations (volunteer or otherwise), parks, parkways, and playgrounds.
- (7) Public utilities or public service or transportation uses, buildings, (including bus stations), generating, purification or treatment plants, water storage tanks, pumping or regulator stations, telephone exchange, substations and major transmission lines.
- (8) Radio, television or other communication tower more than 125 feet in height and all satellite receiving dishes.
- (9) Recreational uses or facilities for a private membership, such as clubs and lodges, golf courses, game courts, swimming pools, archery range, fishing or boating lakes, picnic grounds, or similar activities, and accessory facilities, including sale of food, beverages, bait, incidentals, supplies and equipment.

- (10) Automobile service station, so long as bulk storage of inflammable liquids is underground.
- (11) Automobile or truck sales (new or used) including service, and repair, body or fender repair, auto salvage or wreckage, and car or truck sales or rental storage lot. Storage of equipment or materials or damaged vehicles shall be inside a completely enclosed building. Storage of auto salvage or wreckage is prohibited.
- (12) Automobile or truck parts sales, wholesale or retail, but not auto salvage or wreckage.
- (13) Bakeries, including retail and wholesale sales incidental to these uses.
- (14) Boat and boat trailer sales and storage.
- (15) Bottling works, dyeing and cleaning works, linen service, or laundry, furniture refinishing, plumbing, electrical and heating shop, painting shop, upholstering shop not involving furniture manufacture, shoe repair, tinsmithing shop, appliance repairs, and general service and repair establishments, similar in character to those listed in this item, but provided that no outside storage of material is permitted except as provided in this section.
- (16) Car-wash or automobile laundry, automatic, or attended, or self-service.
- (17) Exterminating establishment.
- (18) Farm supply and service establishments, implement sales, rental and service, feed and seed store, including custom milling of grain and feed, fertilizer storage in bags or bulk storage of liquid or dry fertilizer in tanks or in a completely enclosed building.
- (19) Garages, parking, storage, or repair.
- (20) Green houses, commercial, wholesale or retail.
- (21) Hotel, motel, inn, motor lodge, or tourist home, having less than five (5) rooms available for rent or lease.
- (22) Institutions, educational or philanthropic, including museums, libraries and art galleries.
- (24) Laundries, laundromats or dry-cleaning establishments, having less than 2,500 square feet of space.

- (25) Lawn mower, yard and garden equipment, rental, sales and service, and repair. All damaged machines and small engines for repair must be stored in an enclosed building.
- (26) Lumber, building supply and plumbing and electrical supply, with storage enclosed and screened.
- (27) Monument sales establishments with incidental processing to order, but not including the shaping of headstones.
- (28) Motorcycle or off-road vehicle sales, service and repair. All damaged machines for repair must be stored in an enclosed building.
- (29) Muffler sales and installation.
- (30) Plumbing and electrical supply sales.
- (31) Printing, publishing, and engraving establishments, photocopying, photographic processing or blueprinting.
- (32) Private club, lodge, meeting or assembly hall, or fraternal organization or sorority, game courts, swimming pools, archery ranges, health club or fitness center.
- (33) Rental or sale of luggage racks, trailers, pick-up truck cabs, campers and travel trailers, but not including truck trailer bodies.
- (34) Repair shops with floor areas exceeding 2,500 square feet.
- (35) Retail or wholesale sales and service incidental to a permitted manufacturing, processing, storing or distributing use.
- (36) Sign fabricating and painting shop.
- (37) Taxidermists.
- (38) Tire sales, service and installation.
- (39) Veterinary hospital or clinic for small pets, livestock, and

other animals, provided that such hospital or clinic and any treatment rooms, cages, pens, or kennels, be maintained within a completely enclosed, soundproof building, and that such hospital or clinic be operated in such a way as to not be a nuisance.

(40) Movie Theaters.

(41) Restaurants. Notwithstanding the foregoing, the owner or designated agent of the owner of a premises that has previously been issued a Special Use Permit by the Town Council to operate a restaurant on the premises, whether or not the owner or designated agent of the owner was the prior holder of the Special use Permit, may apply to the Zoning Administrator for the issuance of a new Special Use Permit to continue to use the premises as a restaurant, provided, however, the owner or designated agent of the owner of the premises shall agree to accept the following conditions and the Zoning Administrator first determines that the following conditions have been satisfied: (a) the prior holder of the Special Use Permit to operate a restaurant on the premises has paid in full all of the meals taxes and water/sewer charges to the Town of Urbanna and Hampton Roads Sanitation Authority, as applicable; (b) the premises was continually used as a restaurant since the issuance of the last Special Use Permit, whether said Special Use Permit was issued by the Town Council or administratively through this provision and the prior restaurant has not been closed for more than 365 days; (c) the proposed restaurant facility must operate within the same footprint of the prior restaurant facility as evidenced by the application, site plan and conditions approved in the prior Special Use Permit process and the use as a restaurant cannot be expanded without the expressed approval of the Town Council through the Special Use Permit process contained in Article 9 of Chapter 17 of the Town Code; (d) the Zoning Administrator determines that the continued use of the premises as a restaurant is appropriate and does not conflict with the Comprehensive Plan and the chapters and regulations of the Town; (e) the new applicant must agree to accept the special requirements and conditions imposed by the Town Council in the prior Special Use Permit; and (f) the new applicant must agree to accept any new standard requirements and conditions contained in the current Special use Permits issued by the Town, including without limitation, the applicant's agreement to limit the hours of operation of the restaurant imposed by any appropriate public safety authority including without limitation, the Sheriff of Middlesex County, Virginia during any special festival event or otherwise. If the applicant cannot comply with or refuses to comply with any or all of the conditions and requirements listed above, then the Zoning Administrator cannot issue a new Special use Permit through this administrative process and the applicant shall follow the procedures in Chapter 17 of the town Code in order to receive a new Special Use Permit to operate a restaurant on the premises.

Section 17-4.6.4.

Lot Size and Setback Standards.

(A) There are no minimum lot size standards for business uses in the B-1 zoning district except as may be required by the Town of Urbanna and the Middlesex County Health Department for uses utilizing individual or on-site sewage disposal systems. Minimum lot size for dwellings is the same as in the R-1 zoning district except as noted in Section 17-4.6.2. above.

Section 17-4.6.5. Height Standards.

Buildings may be erected up to three stories or thirty-five (35) feet, whichever is less, in height except that:

- (1) Any business building or part of such building which is located within 100 feet of any residential district shall not exceed two stories or thirty (30) feet in height, whichever is less.
- (2) A public or semi-public use such as a school, church or library may be erected to a height of sixty (60) feet provided that the required front, side and rear yards shall be increased one foot for each foot in height over thirty-five (35) feet.
- (3) A building may be erected up to five (5) stories or sixty (60) feet with special use permit approval.

Section 17-4.6.6. Special Regulations for Business and Commercial Buildings.

(A) Similar Uses Permitted. Other retail and service uses which, in the opinion of the Zoning Administrator, are of the same general character as those permitted uses listed above shall be permitted provided that these and the above specified stores, shops or businesses shall be retail and service establishments primarily selling new merchandise (except antiques) and rendering a personal service and shall be permitted only in accord with the development standards of this chapter.

(B) Landscaping. The plan shall be designed to promote attractive landscaping of the site and compliment the building and provide some shade on public and parking areas. Large trees should be provided to this end, and in order to promote harmonious relationships with adjacent and nearby residential and business properties. Landscaping shade may provide effective screening along side and rear property lines by means of hedges, planting screens or natural vegetation and fences and walls in accordance with the requirements of this Chapter.

(C) Refuse. Refuse containers or refuse storage shall be located in a paved area and hidden from general public view, either from within or outside the premises, by means of fences, walls, or landscape planting.

(D) Drainage. Provision shall be made for proper storm water drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Provision shall be made for protection against erosion and sedimentation in accord with applicable Town chapters.

Section 17-4.7. **Special Waterfront Mixed Use (B-2)**

Section 17-4.7.1. **Purpose of the District.**

(A) The purpose of this district is to encourage a higher density use of land areas adjacent to and/or overlooking water, and encourage a range of compatible and complimentary mixed-uses, in such a manner that is public and pedestrian oriented, and a strong generator of public and semi-public activities.

Section 17-4.7.2. **Permitted Uses and Structures.**

A building or land shall be used only for the following purposes:

- (1) Marinas, docks, and small-scale associated buildings and uses related to water activities, including but not limited to fuel sales, emergency assistance, short term repair of small boats, and receiving and shipping of seafood and small grains.
- (2) Stores for the sale of retail and wholesale seafood.

Section 17-4.7.2.1. **Uses Permitted by Special Use Permit.**

- (1) Any principle building or use permitted by right in the R-2 zoning district.
- (2) Any principle building or use permitted by right in the B-1 zoning district.
- (3) Health club or fitness center.
- (4) Hotel, motel or time sharing condominium.
- (5) Institutions, educational, or philanthropic, including museums and art galleries.

- (6) Recreation uses or facilities for a private membership, such as clubs or lodges, game courts, swimming pools, picnic grounds, and accessory activities including sale of food, beverages, bait, incidentals and supplies, and equipment.
- (7) Residential Planned Unit Developments and Commercial Planned Unit Developments.
- (8) Restaurants including outdoor and sidewalk eating areas. Drive-ins not permitted.

Section 17-4.7.3. Lot Size and Setback Standards.

Minimum lot size standards There are no specific minimum lot size standards for buildings and uses in the B-2 district utilizing public water and sewer; refer to design guidelines in Article 4, of this chapter. Health Department approval may be required for uses utilizing individual or on-site sewage disposal systems. Minimum lot sizes for residential development are the same as in the R-1 and R-2 zoning districts. Minimum lot sizes for commercial structures are the same as in the B-1 zoning district.

Section 17-4.7.4. Special Regulations for Buildings and Uses in the District.

(A) Residential Uses Permitted. Residential uses shall be permitted provided that these residential uses and the specified stores, shops or businesses in Sections 17-4.2 and 17-4.2.1 are consistent with the intention of the district to create a public oriented mixed use environment adjacent to water facilities, in accord with the development standards of this chapter. Residential Planned Unit Developments are allowed by Special Use Permit in the B-2 zoning district. A site plan and a subdivision plan must be submitted for the RPUD and such other descriptive material, or special conditions as described in Article 9, prior to review by the Planning Commission.

(B) Site Plan. The site plan shall be designed to promote careful use of the waterfront, site features and topography, and to promote harmonious relationships with adjacent and nearby residential and business properties, developed or undeveloped. Public access to the water should be provided in parts of or all of the project, and to this end private access or dedicated right-of ways may provide adequate access.

Special consideration shall be given to the treatment of the waterfront, shoreline and banks, erosion abatement and runoff control. Site design shall conform in all respects to requirements of the CB-1 Chesapeake Bay Preservation Area Overlay District.

Because the intent of this zoning district is to promote a sound mix of commercial and residential uses adjacent to waterfront property, there should be an approximate balance of these uses. To this end, in each waterfront planned unit development project, there shall be approximately twice the square footage allocated to residential uses as there is footage allocated for commercial uses.

Furthermore, usable common open space of at least twenty (20) percent of the project area shall be reserved for public use. Additional space may be developed, in order to utilize the building and density advantages outlined in the sections below, and other private facilities may be set aside for the residents and primary users of the waterfront planned unit development.

(C) Densities The overall residential density of the waterfront planned unit development shall not exceed twelve units per gross acre and the maximum density shall not exceed twenty (20) units per acre of any particular acre within the waterfront planned unit development. Land unsuitable for residential use shall be excluded from density computations.

(D) Utilities Each site shall be provided with telephone and electrical service buried underground and installed in accordance with applicable Codes and chapters.

(E) Building Requirements A public accessway to the water shall be provided for each 100 feet of water frontage the project occupies. The waterfront planned unit development shall provide emergency vehicle access at least twenty (20) feet in width to the waterside portion of the project, and comply with all Uniform Statewide Building Codes, all Health Department regulations, and all regulations of the Town.

No buildings shall be located closer than thirty-five (35) feet from any public right-of-way or closer than 15 feet from a private drive or access road except that parking areas and sidewalks may be located within five (5) feet and private drives may be located within ten (10) feet of any blank or windowless wall.

No more than two abutting buildings shall have the same setbacks. Building setback variations shall be at least two feet. No more than two abutting buildings shall have a common roof line.

(F) Height Standards

(1) Other buildings may be erected up to three stories or thirty-five (35) feet in height, whichever is less, except that:

(a) Buildings or structures located within ten (10) feet from the outside boundary property lines shall not exceed twelve (12) feet in height. Walls, fences or vegetation buffers may permit this height limit to double, or the separation distance to be reduced to five (5) feet.

(2) Service areas and rear yards visible from a street shall be appropriately screened.

(G) Landscaping The overall site design of the waterfront planned unit development shall demonstrate a reasonable effort to preserve the natural amenities of the site, particularly mature trees and existing vegetation. Other areas of the development shall be planted with appropriate ground cover: trees, shrubs, and grass lawns, all of which shall be properly maintained.

Screening and buffers may be appropriate along side and rear property lines and should be provided by means of fences, walls, hedges, planting screen or natural vegetation in accordance with the requirements of this chapter.

(H) Open Space Requirements Each waterfront planned unit development shall provide not less twenty (20) percent of the project for public uses or a recreational area. This usable common open space may include boardwalks, sidewalks, and public areas; trees, lawns and planted area; paved play areas, open fields and other recreational uses. No part of the common green area may be utilized for automobile driveways or parking areas.

When additional usable common open space is provided, the Planning Commission and Town Council may permit an increase in the maximum project density requirements, where such additional set asides result in the provision of active recreational facilities such as, tot lots, multi-purpose courts or playing fields.

In connection with the waterfront planned unit development, provisions satisfactory to the Town Council shall be met by the developer to assure that non-public common open space for use and enjoyment of occupants, shall be properly maintained without expense to the Town of Urbanna unless stipulated and approved by the Town Council.

(I) Streets, Parking, Access and Right-of Way

(1) Each development shall have publicly-dedicated public or approved private streets throughout the development so as to adjoin all public parking and access ways, and the private parking lots and access courts. Streets, parking lots and access courts shall be constructed in conformance with the VDOT standards.

(2) Parking lots and access courts shall be landscaped according to Article 5 of this chapter.

(3) Townhouse lots which abut a private street, parking lot or access court shall meet the following criteria:

(a) Private streets, parking lots and access courts shall be clearly identified as private. A single sign, not to exceed two square feet in area, shall be posted at the entrance of each such street or parking court, displaying only the words "Private Drive" and the addresses of any residences utilizing the private street or parking court.

Section 17-4.8. **Light Industrial District (M-1).**

Section 17-4.8.1. **Purpose of the District.**

The purpose of this district is to provide for a variety of light manufacturing, fabricating, processing, wholesale distributing and warehousing uses appropriately located for access by highways and providing a controlled environment within which signing is limited, uses are to be conducted generally within completely enclosed buildings or within screened areas, and a moderate amount of landscaping is required. In order to preserve the land for industry, to reduce extraneous traffic, and avoid future conflicts between industry and other uses, business and service uses are limited primarily to those which will be useful to employees in the district and future residential uses are restricted.

Section 17-4.8.2. **Permitted Uses.**

A building or land shall be used only for the following purposes:

(1) All uses permitted by right within the B-1 zoning district.

(2) Generally those light manufacturing uses similar to those listed below which do not create any more danger to health and safety in surrounding area and which do not create any more offensive noise, vibration, smoke, dust, lint, odor, heat, glare, or electrical impulse than that which is generally associated with light industries of the types specifically permitted below:

(a) Manufacture, assembly or repair of spacecraft or component parts, medical and dental equipment, office supplies and equipment, drafting, optical, and musical instruments, watches, clocks, toys, games, electrical or electronic apparatus, and communication equipment.

(b) Manufacture, assembly or repair of boats, boat trailers, bolts, buttons, nuts, screws, and rivets, firearms, photographic and metering equipment, electrical appliances, tools, dies, machinery, and hardware products, sheet-metal products, heating, cooling, and ventilating equipment, and vitreous enameled products.

(c) Beverage blending or bottling, bakery products, candy manufacture, tobacco products, dairy products and ice cream, fruit and vegetable processing and canning, fin-fish, shellfish, mean and poultry products, but not distilling of beverages or slaughtering of poultry or animals, or processing or bulk storage of grain or feeds for animals or poultry.

(d) Manufacture of rugs, mattresses, pillows, quilts, millinery, hosiery, clothing and fabrics, shoes and leather products, printing and finishing of textiles and fibers into fabric goods.

(e) Manufacture of boxes, furniture, cabinets, baskets, and other wood products of similar nature.

(f) Compounding of cosmetics, toiletries, drugs, and pharmaceutical products.

(g) Molding of candles and soap.

(h) Manufacture of pottery or other similar ceramic products, from previously pulverized clay, and in kilns fire only by smokeless furnaces.

(i) Monumental Stone works:

In cases of doubt regarding the nature of a process or use, the Zoning Administrator may require an engineering report describing the process or use and the probable impact thereof at property lines in terms of the factors listed above or other significant factors as may be associated with a particular process or use.

(3) Agriculture and forestry as permitted in the R-1 zoning district.

(4) Facilities and structures necessary for rendering utility service, including poles, wires, transformers, telephone booths and the like for normal electrical power distribution or communication service, and pipelines or conduits for electrical, gas, sewer, or water service.

(5) Greenhouse or nursery, commercial, wholesale or retail, including heavy machinery and bulk supplies.

(6) Wholesale merchandising or storage warehouse or distribution center but not a truck or freight terminal or package distribution center.

(7) Accessory buildings and uses, including but not limited to the following:

(a) Any accessory use permitted in the R-1 zoning district.

(b) Coin-operated vending machines for food, tobacco, ice, soft drinks, and sundries inside a building and primarily for the use of occupants thereof.

(c) Retail and service facilities inside a principal building for the use of occupants thereof and occupants of other buildings in the industrial development. Retail and service facilities may include barber shops, beauty parlors, dining rooms, newsstands, restaurants, tobacco, drugs, and sundries.

(d) Storage of supplies, merchandise, equipment, or goods normally carried in stock, used or produced in connection with a permitted office, business, commercial or industrial use subject to applicable district regulations.

Section 17-4.8.3.

Use Permitted by Special Use Permit.

The following uses may be permitted by special use permit approved by the Town Council following report by the Planning Commission in accordance with the procedures, guides and standards of Article 9.

(1) Dwellings for resident watchmen and caretakers employed on the premises.

(2) Private club, lodge, meeting hall, labor union or fraternal organization or sorority.

(3) Public utility buildings, treatment plants, pumping or regulator stations, substations and major transmission lines.

(4) Radio, television or other communications tower more than 125 feet in height.

Section 17-4.8.4. Lot Size and Setback Standards.

- (A) Required lot area. For permitted uses, the minimum lot size shall be 40,000 square feet with a minimum lot width of 150 feet and a minimum lot depth of 150 feet.
- (B) Percentage of lot coverage. All buildings, including accessory buildings, on any lot shall not cover more than thirty (30) percent of the area of such a lot.
- (C) Minimum street frontage. Required street frontage shall not be less than fifty (50) feet.
- (D) Side and Rear Yards. No structure shall be located closer than 100 feet to the boundary of a residential district.
- (E) Special Provisions for Corner Lots See Section 17-5.13. for special requirements.

Section 17-4.8.5. Height Standards.

- (A) Buildings may be erected up to thirty-five (35) feet in height except that:
 - (1) Water towers, chimneys, flues, flag poles, and television antennas and radio aerials up to two hundred (200) feet in height are exempt from height regulations.

Section 17-4.8.6. Special Regulations for Manufacturing and Commercial Buildings.

- (A) Similar Uses Permitted. Other manufacturing uses which, in the opinion of the Zoning Administrator, are of the same general character as those permitted uses listed above shall be permitted. All uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at property line boundaries by reason of odor, dust, smoke, cinders, fumes, noise, vibration, heat, glare, wastes, fire or explosion.
- (B) Enclosed Buildings. All uses, excluding storage, shall be conducted within a completely enclosed building of permanent and durable construction, with no open storage of waste material. Products or equipment used or manufactured on the premises may be stored in the open if screened from the street or from a residential district by landscaping, fences or walls.
- (C) Landscaping. Any part of the front lot not used for parking or accessways shall be appropriately landscaped with large trees, bushes, shrubs, and grass.

(D) Fencing. All areas requiring fencing shall have fencing properly erected and maintained. Preferably, front, side and rear yards will be screened by a buffer of plantings and appropriate trees.

(E) Drainage. Provision shall be made for proper storm water drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Provision shall be made for protection against erosion and sedimentation in accord with applicable Town chapters.

Section 17-4.9. **Historic Preservation Overlay District (H-1).**

Section 17-4.9.1. **Purpose of the District.**

The purpose of this district is to provide for protection against destruction or encroachment upon historic areas, buildings, monuments, or other features, or buildings and structures of recognized architectural significance which contribute or will contribute to the cultural, social, economic, political, artistic, or architectural heritage of the Town of Urbanna and the Commonwealth of Virginia. It is the purpose of the district to preserve the designated historic areas and historic landmarks and other historic or architectural features, and their surroundings within a reasonable distance, from destruction, damage, defacement, and obvious incongruous development or uses of land and to insure that buildings structures, streets, walkways, or signs shall be erected, reconstructed, altered, or restored so as to be kept architecturally compatible with the character of the general area in which they are located and with the historic buildings or structures within the district.

Section 17-4.9.2. **Criteria for Establishing Historic Districts--General Character.**

The boundaries of the H-1 Historic District shall in general be drawn to include areas containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation. The district may include either individual buildings or places of such character, and a reasonable distance beyond, or it may include areas or groupings of structures which have significance relative to their patterns of development or social and economic or architectural interrelationships even though some structures in the area might not possess significant merit when considered alone.

Section 17-4.9.3. **Inventory of Landmarks and Contributing Properties Established.**

The Historic Commission has established as part of this ordinance an inventory map covering the area included in the H-1 Historic District, based on the criteria set fourth in this ordinance. This map herein after called the inventory map shall be as much a part of this ordinance as if fully described herein and shall be filed as a part of this ordinance by the Town Clerk of the Town of Urbanna. Structures or sites designated as properties which contribute to the historic character of the Town but which do not contain landmark structures or sites shall be known as contributing properties for the purpose of this Ordinance. Structures or sites not designated as landmark or contributing properties shall be known as

noncontributing properties. The inventory map may be amended from time to time in the same manner as the zoning district map.

Section 17-4.9.4. Designation of Urbanna Register of Historic Places.

(a) The buildings, sites and areas listed below are hereby declared to be of such historic significance as to warrant special consideration during the planning phase of development activities within the designated Historic District which may affect their historical character.

<u>Name</u>	<u>Street Address</u>
Old Tobacco Warehouse	130 Virginia Street
Lansdowne	271 Virginia Street
Old Customs House	131 Virginia Street
Gressitt House	140 Virginia Street
Wormeley-Lee Montague House	290 Virginia Street
The Tavern	240 Prince George Street
Old Court House	210 Virginia Street
Lansdowne Cemetery	181 Rappahannock Avenue

(b) The sites and structures listed in subsection (a) above shall constitute the Urbanna Register of Historic Places.

Section 17-4.9.5. Additions to the Urbanna Register of Historic Places.

The owner of any building, site, or structure within the Town of Urbanna which is considered by such owner to be of historical significance may petition the Historic Commission to have such building, site, or structure included on the Urbanna Register of Historic Places. Upon receipt of a petition, the Historic Commission shall evaluate its merits and make a recommendation to the Governing body.

Section 17-4.9.6. Application of the District; Relation to Other Zoning Districts.

To enable the district to operate in harmony with the plan for land use and population density embodied in these regulations, the H-1 Historic District is created as a special district to be superimposed on other districts contained in these regulations and is to be so designated by a special symbol for its boundaries on the Zoning District Map. The uses, housing types, minimum lot requirements, minimum yard requirements, maximum height, and accessory uses and accessory signs shall be determined by the regulations applicable to the other districts over which the H-1 Historic District is superimposed except as

these other district regulations may be modified by application of the regulations in the H-1 Historic District.

Section 17-4.9.7. Permitted Uses.

A building or land shall be used only for the following purposes, and except as provided herein, in each case subject to approval by the Zoning Administrator or Historic Commission as the case may require in accordance with the standards set forth in this Section and the standards and procedures for administration and enforcement set forth elsewhere in this Ordinance:

(1) Any use, accessory use, or sign permitted in the zoning district in which the premises are situated and upon which the H-1 Historic District is superimposed. The normal maintenance of an historic area or building or the charging of admission fees for visitors, or the conduct of visitor tours, centers or services within the H-1 Historic District shall not be considered as commercial uses.

(2) Any use permitted by conditional permit in the zoning district in which the premises are located subject to the procedures and standards of this Ordinance for approval of conditional permits and subject in all cases to report by the Historic Commission in accordance with the purposes and standards of the H-1 Historic District.

(3) Any variance permitted in the zoning district in which the premises are located, subject to the procedures and standards of this Ordinance for approval of special exceptions and variances and subject to report by the Historic Commission and specific findings of the Board of Zoning Appeals regarding the purposes and standards of the H-1 Historic District; provided, however, that if said variance is of such a minor nature as to be exempted from review by the Historic Commission by the terms of the regulations in the H-1 Historic District, then no such review or report shall be required.

Section 17-4.9.8. The Board of Historic and Architectural Review; Creation.

For the general purposes of this Article as herein stated and specifically to preserve and protect historic places and areas in their 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 Board of Historic and Architectural Review (hereinafter and hereinbefore referred to as the Historic Commission).

Section 17-4.9.9. Historic Commission; Membership.

The members of said Historic Commission will be appointed by the Town Council. The Membership shall consist of five citizens, at least three of whom shall be residents of Urbanna. All former members of the Historic Commission are eligible to be alternates to present Historic Commission Members. An alternate, upon written or oral request of a Historic Commission member, may serve as a member of the Historic Commission for the meeting(s) for which the alternate has been requested to serve. Alternates shall have all rights, responsibilities and duties as a present Historic Commission member during the meeting(s) during which the alternate(s) shall serve.

Section 17-4.9.10. Historic Commission; Terms.

Members shall be appointed for a term of five years except that original appointments shall be made for such terms that the term of one member shall expire each year. Appointments to fill vacancies shall be only for the unexpired term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until a successor is appointed and qualifies.

Section 17-4.9.11. Historic Commission; Qualifications.

Members of the Historic Commission shall have demonstrated interest and knowledge in the historical and architectural development of the Town and when possible be a licensed architect or engineer, planning commission member, realtor, or licensed building contractor.

Section 17-4.9.12. Historic Commission; Organization.

The Historic Commission shall elect from its own membership a Chairman and Vice Chairman who shall serve annual terms and may succeed themselves. The Chairman shall preside over all meetings in addition to having the duties and responsibilities of other members of the Commission. The Vice Chairman shall preside over meetings of the Commission in the absence of the Chairman. The Historic Commission may appoint a secretary and keep written minutes of its meetings.

Section 17-4.9.13. Historic Commission; Rules.

The Board shall meet in regular session at least once a month whenever an application has been filed requiring their consideration, or in any case at least once per quarter. Special Meetings of the Board may be called by the Chairman or a majority of the members after twenty-four hours written

notice to each member served personally or left at his usual place of business or residence. Such notice shall state the time and place of a meeting and the purpose thereof.

Section 17-4.9.14. Historic Commission; Meetings; Hearings.

Written notice of a special meeting is not required if the time of special meeting has been fixed at a regular meeting, or if all members are present at a special meeting or file a written waiver of notice. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all voting members of the Board. The Board may make, alter, or rescind rules and forms for its procedures, consistent with the ordinances of the Town and the general laws of the State of Virginia.

Section 17-4.9.15. Historic Commission; Procedures.

The Board shall establish procedures for all matters coming before it for review and all meetings shall be open to the public.

Before rendering a final decision on any Certificate of Appropriateness application coming before it, the Historic Commission shall first hold a public hearing at which time any interested person may comment on the application. Such public hearing shall be the subject of a public notice to be published once a week for two successive weeks in some newspaper published or having general circulation in the town. Such notice shall specify the time and place of the public hearing, which shall be held not less than six days nor more than twenty-one days after the second advertisement shall appear in the newspaper. As used in this paragraph, the term two successive weeks shall mean that such notice shall be published at least twice in such newspaper with not less than six days elapsing between the first and second publication.

Section 17-4.9.16. Historic Commission; Powers and Duties.

The Historic Commission 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. In addition, the Board shall have the following duties:

- (1) To assist and advise the Town Council, the Planning Commission and other Town departments, agencies and property owners in matters involving historically significant sites and buildings, or other properties in historic districts such as, but not limited to, appropriate land usage, parking facilities, and signs.

- (2) To continuously evaluate conditions and advise owners of historic landmarks or contributing structures or other properties in historic districts on problems of preservation.
- (3) To conduct studies deemed necessary by the Town Council or Planning Commission concerning location of historic districts, and means of preservation, utilization, improvement and maintenance of historic assets in the Town.
- (4) To propose additional historic districts or additions or deletions to districts.
- (5) To adopt standards for review to supplement the standards set forth in this Ordinance.
- (6) To formulate recommendations to the Town Council concerning the establishment of an appropriate system of markers for selected historic sites and buildings, including proposals for the installation and care of such historic markers.
- (7) To cooperate with and enlist assistance from the Virginia Department of Historic Resources, the National Trust for Historic Preservation, and other interested parties both public and private in its efforts to preserve, restore, and conserve historic landmarks, buildings, sites or areas within the Town.

Section 17-4.9.17.

Summary of Administration Review Procedures.

In general it is the purpose of this ordinance to establish review procedures for actions affecting properties in the H-1 Historic District which will be relatively simple with minimum delay for those actions which will have little if any permanent effect on the character of the historic district or on a significant structure but to require a more thorough review for actions which may have a substantial effect on the character of the district or on a significant structure. To this end some actions are exempted from special historic and architectural review altogether, except as normal review may be necessary for issuance of a building permit. Other actions, depending on the possible consequences thereof, may be reviewed by the Zoning Administrator or by the Historic Commission acting with original jurisdiction, or, in the most serious cases, action by the Town Council following action by the Historic Commission Board. In all cases the decisions of the Zoning Administrator may be appealed to the Historic Commission, the decisions of the Historic Commission may be appealed to the Town Council, and the final decisions of the Town Council may be appealed to the Circuit Court of Middlesex County.

Section 17-4.9.18.

Certain Minor Actions Exempted from Review by the Architectural Review Board.

Within the H-1 Historic District certain minor actions which are deemed not to have permanent effects upon the character of the historic district are exempted from review for architectural compatibility by the Historic Commission. Such actions shall include the following and any similar actions which in the opinion of the Zoning Administrator will have no more effect on the character of the district than those listed:

- (1) Repainting resulting in the same or very similar color to those colors specified in the design guidelines. (Original painting of masonry surfaces is not exempted from review).
- (2) Replacement of missing or broken window panes, roofing slates, tiles or shingles and except on landmark structures outside doors, window frames, or shutters where no substantial change in design or material is proposed.
- (3) Addition or deletion of storm doors or storm windows, window gardens, or similar appurtenances and portable air conditioners located in existing windows, doors or other existing wall openings (if no building permit is required for such addition or deletion).
- (4) Addition or deletion of television and radio antennas, or skylights and solar collectors in locations not visible from a public street or a waterway.
- (5) Landscaping involving minor grading, walks, low retaining walls, temporary fencing, small fountains, ponds and the like, which will not substantially affect the character of the property and its surroundings.
- (6) If consistent with the design guidelines, erection of any sign permitted in a residential district and any permitted non-illuminated flat or wall sign not exceeding three inches from a wall and not exceeding four square feet in area in a commercial or industrial district.
- (7) Construction of off-street loading areas and off-street parking areas containing five spaces or less in a commercial or industrial district.
- (8) Creation of outside storage having a structure footprint of less than forty-one (41) square feet in a commercial or industrial district which does not require structural changes or major grading and is not visible from a public street or waterway.

Section 17-4.9.19.

Certain Actions Recommended in Design Guidelines Exempted from Review by the Architectural Review Board; Delegation of Authority.

(a) Within the H-1 Historic District certain actions which meet established criteria and guidelines may be exempted from review for architectural compatibility by the Historic Commission. Such actions shall include those actions specifically designated as being Recommended Actions within a set of official design guidelines as adopted pursuant to §17-4.9.22 of this article by the Historic Commission and any similar actions which in the opinion of the Historic Commission will have no more effect on the character of the district than those Recommended Actions enumerated in the design guidelines adopted by the Board.

(b) The Historic Commission may delegate and rescind, by affirmative vote of at least three members, all or part of its authority to issue a certificate of appropriateness to the Zoning Administrator. The Zoning Administrator may issue a Certificate of Appropriateness if an application meets the criteria in this section, and if no adjacent property owners make a written request for a public hearing by the Historic Commission within seven (7) days of notification, and if the applicant pays the fee as set by Town Council. If one or more conditions are not met, then the Historic Commission shall meet and decide upon the application as otherwise indicated in this Article.

(1) If a grant of authority to issue a certificate of appropriateness to the zoning administrator is made pursuant to subsection (b) of this section, the grant of authority shall include one of the following two limitations:

(a) The zoning administrator shall require the applicant to notify all adjacent property owners of the applicant's plans and show proof of such notification prior to issuance of a certificate of appropriateness. If no adjacent property owner requests in writing a review by the Historic Commission within seven days of receipt of notification, then the zoning administrator may issue the certificate of appropriateness if the application is in conformity with all other sections of this Code.

(b) The zoning administrator shall require the applicant to notify all adjacent property owners and members of the Historic Commission of the applicant's plans and show proof of such notification prior to issuance of a certificate of appropriateness. If no adjacent property owner or Historic Commission member requests in writing a review by the Historic Commission within seven days of receipt of notification, then the zoning administrator may issue the certificate of appropriateness if the application is in conformity with all other sections of this Code.

(2) In the event the Historic Commission fails to select either subsection (1) (a) or (1) (b) of this section when making its grant of authority to the zoning administrator, then subsection (1) (a) of this section shall be automatically selected and binding.

(c) The delegation or rescision of any authority pursuant to this section to the zoning administrator to issue a certificate of appropriateness shall be reviewed no less than annually nor more often than quarterly by the Commission at its first meeting after July 1. If no annual review is undertaken by the Commission, then the preceding year's grant or rescision of authority shall stand until otherwise changed by the Commission.

(d) The Historic Commission, or the Zoning Administrator, upon receiving a grant of any authority pursuant to this section from the Historic Commission, shall have authority to order that work be stopped and that an appropriate application be filed for review by the Historic Commission in any case where in his opinion the action may have an adverse effect on the Historic District or may produce arresting and spectacular effects, violent contrasts of materials or colors and intense and lurid colors or patterns, or details clearly inconsistent with the character of the present structures or with the prevailing character of the surroundings and the historic district.

(e) The Historic Commission shall periodically review the design guidelines contained in this section.

(f) The authority to perform any action under this section not granted to the Zoning Administrator shall remain with the Historic Commission.

Section 17-4.9.20.

Approval of Historic Commission Required

(a) Except as herein otherwise provided in this article, no building or structure, including signs, shall be erected, reconstructed, restored or substantially altered in exterior appearance and no buildings, structures or significant trees shall be razed or demolished within a historic district and no permit authorizing same shall be granted unless and until the same is approved by the Historic Commission and a Certificate of Appropriateness has been issued by that body, with right of direct appeal to the Town Council as hereinafter provided, as being architecturally compatible with the historical, cultural and/or architectural aspects of the structure and its surroundings.

(b) "Substantial alterations" shall be defined as any and all work done on buildings, structures or sites in a historic district other than those specifically exempted herein:

(1) General examples of "non-substantial" alterations:

(a) Work done to prevent deterioration or to replace parts of a structure with similar materials in order to correct any deterioration, decay of or damage to any structure or on any part thereof, or

(b) To restore same as nearly as practical to its condition prior to such deterioration, decay or damage.

(2) Examples of work not constituting "substantial alteration" include those minor actions exempted from review by §17-4.9.18 of this article.

(3) General examples of work constituting "substantial alterations" include:

(a) Construction of a new building at any location or a new accessory building on a landmark or contributing property or on a site within the Historic District.

(b) Any addition to or alteration of a building which increases the square footage of the building or otherwise alters substantially its size, height, contour or outline.

(c) Any change or alteration of the exterior architectural style of a structure, including removal or rebuilding of porches, openings, dormers, window sash, chimneys, columns, structural elements, stairways, terraces and the like.

(d) Any change or alteration of the exterior color scheme of the structure or any of its significant elements, including porches, openings, dormers, window sashes, awnings, canopies, chimneys, columns, stairways, terraces or any other structural elements, This also applies to all structures on the site.

(e) Addition to or removal of one or more stories or alteration of a roof line.

(f) Landscaping which involves major changes of grade or walls and fences more than three-and-one-half feet in height.

(g) All signs except those exempted in Section 17-4.9.18(6).

(h) Any other major actions not specifically covered by the terms of this section but which would have a substantial effect on the character of the historic district.

(c) In any case in which there might be some question as to whether a project may be exempted from review may constitute a minor action or may constitute "substantial alteration," the Zoning Administrator shall be contacted for an interpretation prior to commencement of work.

Section 17-4.9.21. Certificate of Appropriateness.

Evidence of the approval required under the terms of the H-1 Historic District shall be a certificate of appropriateness issued by the Historic Commission, or the Zoning Administrator as the case may require, stating that the demolition, moving or changes in the exterior architectural appearance of the proposed construction, reconstruction, alteration or restoration for which application has been made are approved by the Historic Commission or the Administrator as the case may require. The Historic Commission, or the Administrator in a case within his authority, may permit modifications of original proposals if such modifications are formally acknowledged, clearly described and recorded in the records of the case. A certificate of appropriateness shall be in addition to any other permits required. Any action by applicants following issuance of a permit requiring certificate of appropriateness shall be in accord with the application and material approved and any conditions appended thereto.

Section 17-4.9.22. Design Guidelines; Standards for Review.

(a) In order to achieve the purposes of the H-1 Historic District, the Administrator and the Historic Commission shall be guided in their decisions by the design guidelines as authorized in subsection B of this section. In application of the standards and guidelines it should be recognized that the H-1 Historic District in Urbanna contains a considerable diversity in its architecture. Therefore, a variety of architectural styles are acceptable. In such an area, architectural detail is the key to preservation of the charm of the historic district.

(b) It shall be the duty of the Historic Commission to prepare, and adopt, and amend specific design guidelines, illustrated as necessary, for buildings, structures, and sites in the historic district.

(c) The Historic Commission may adopt and amend a set of design guidelines after conducting at least one public hearing pursuant to section 15.1-431⁶, Code of Virginia.

⁶ Editor's Note (1998). See §15.2-2204

Section 17-4.9.23.

Demolition; Alternate Procedure: Offer to Sell.

(a) Prior to approval of any application for demolition of a structure within the Historic District, the zoning administrator, the Historic Commission, or the Town Council, as applicable, shall review the application for its compatibility with each of the following guidelines.

(1) Whether or not the building or structure is of such architectural or historic interest that its removal would be to the detriment of the public interest.

(2) Whether or not the building or structure is of such interest or significance that it would qualify as a National, State or local historic landmark.

(3) Whether or not retention of the building or structure would help to preserve and protect an historic place or area of historic interest in the Town.

(4) Whether or not plans for future use of the site after demolition are appropriate at this location in the district.

(b) In addition to the right of appeal herein elsewhere set forth, the owner of a designated landmark, building or structure on the Urbanna Register of Historic Places listed in Section 17-4.2.3. hereof, shall as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that:

(1) He has applied to the Town Council for such right;

(2) The owner has for the period of twelve (12) months and at a price reasonably related to its fair market value, made a bona fide offer to sell such landmark, building or structure, and the land pertaining thereto, to the Town or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that he is willing to preserve and restore the landmark, building or structure and the land pertaining thereof; and,

(3) That no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of twelve (12) months. Any appeal which may be taken to the court from the decision of the Town Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to demolish shall be made more than one year after a final decision by the Town Council, but thereafter the owner may renew his

request to the Town Council to approve the razing or demolition of the designated landmark, building or structure.

Section 17-4.9.24. Hazardous Buildings or Structures.

Nothing in this Article shall prevent the razing or demolition of any building or structure without consideration of the Historic Commission which is in such an unsafe condition that it would endanger life or property, and protection from such condition is provided for in the Building Code and/or other applicable Town ordinances. However, such razing or demolition shall not be commenced without written approval of the Town Administrator verifying the conditions necessitating such action.

Section 17-4.9.25. Maintenance and Repair Required.

(a) The purpose of this section is solely to stop demolition by neglect, whereby owners of property in the H-1 Historic District jeopardize the future prosperity and well-being of the town by allowing historic assets to decay so as to allow the structure, or historic attributes of the structure, to become a hazardous building or structure.

(b) All buildings and structures in the H-1 Historic District shall be preserved against decay and deterioration and maintained free from structural defects to the extent that such decay, deterioration or defects may, in the opinion of the Historic Commission and Town Council, result in the irreparable deterioration of any exterior appurtenance or architectural feature or produce a detrimental effect upon the character of the district as a whole or upon the life and character of the structure itself, including but not limited to:

- (1) The deterioration of exterior walls or other vertical supports, including broken doors and window panes;
- (2) The deterioration of roofs or other horizontal members;
- (3) The deterioration of exterior chimneys;
- (4) The deterioration or crumbling of exterior plaster, wood or mortar;
- (5) The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

(c) After notice by the Historic Commission by certified mail of specific instances of failure to maintain or repair and of an opportunity to appear before the Historic Commission, the owner or person in charge of said structure shall have 90 days to remedy such violation. Thereafter, each day during which there exists any violation of this section shall constitute a separate offense and shall be punishable as provided in this ordinance. In the alternative, if the owner fails to act, the Historic Commission may recommend to the Town Council that the Town Administrator, after due notice to the owner, enter the property and make or cause to be made such repairs as are necessary to preserve the integrity and safety of the structure and the reasonable costs thereof shall be placed as a lien against the property or, in a proper hardship case as determined by the Town Council, paid by the Town from a fund established for such purposes.

Section 17-4.9.26. File of Actions to be Maintained.

In order to provide guidance for application of standards and guideline, for the improvement of standards and guidelines, and for assistance to future applicants and the promotion of consistent policies in guiding applicants toward better standards of design, the Administrator and the Historic Commission shall maintain a file containing a record of all applications brought before them, including drawings and photographs pertaining thereto and the decision of the Administrator or the Historic Commission in each case. The file documents shall remain the property of the Town but shall be held available for public review.

Section 17-4.9.27. Administration; Zoning Administrator.

Except as authorized herein the Zoning Administrator shall not authorize a permit for any erection, reconstruction, integral exterior facade change, demolition or razing of a building or structure in the Historic District until the same has been approved by the Historic Commission as set forth in the following procedures.

Section 17-4.9.28. Receipt of Application.

Upon receipt of an application by the Zoning Administrator for each permit in the historic district, the Zoning Administrator shall:

- (1) Forthwith forward to the Historic Commission a copy of the application, together with a copy of the site plan and the building plans and specifications filed by the applicant if such application requires the Historic Commission to meet and render a decision;

(2) Maintain in his office a record of all such applications and of his handling and final disposition of the same;

(3) Require applicants to submit three (3) copies of material required to permit compliance with the foregoing.

Section 17-4.9.29.

Material to be Submitted for Review.

By general rule, or by specific request in a particular case, the Historic Commission may require submission of any or all of the following in connection with the application: architectural plans, site plans, landscaping plans, construction methods, proposed signs with appropriate detail as to character, proposed exterior lighting arrangements, elevations of all portions of structures with important relationships to public view (with indications as to visual construction materials, design of doors and windows, colors, and relationships to adjoining structures), and such other exhibits and reports as are necessary for its determinations. Requests for approval of activities proposed in historic districts shall be accepted only from the record owner of the land involved in such proposal, or his agent.

Section 17-4.9.30.

Other Approvals Required.

In any case in which an applicant's proposal also requires the approval of the Board of Zoning Appeals, final action by the Board of Zoning Appeals shall precede final action by the Historic Commission. The Board of Zoning Appeals may however, table a proposal in order to request the comments of the Historic Commission. Final action by the Historic Commission shall be taken prior to consideration of proposals requiring site plan approval. Preliminary and final subdivision plats shall be reviewed and commented upon by the Historic Commission prior to final action by the Planning Commission.

Section 17-4.9.31.

Action by the Historic Commission; Issuance of Certificates of Appropriateness.

The Historic Commission shall render a decision upon any request or application for a Certificate of Appropriateness within 60 days after the filing of an application accepted as complete; failure of the Historic Commission to render such a decision within said 60-day period unless such period be extended with the concurrence of the applicant shall entitle the applicant to proceed as if the Historic Commission had granted the Certificate of Appropriateness applied for. Prior to denying the Certificate of Appropriateness, the Historic Commission, on the basis of the review of information received, shall, upon request, indicate to the applicant the changes in plans and specifications, if any, which in the opinion of the Historic Commission, would protect and/or preserve the historical aspects of the landmark, building,

structure, or district. If the applicant determines that he will make the suggested changes and does so in writing, the Historic Commission may issue the Certificate of Appropriateness.

Section 17-4.9.32. Expiration of Certificates of Appropriateness and Permits to Raze.

Any Certificate issued pursuant to this article and any permit to raze a building issued pursuant to this article shall expire of its own limitation twelve months from the date of issuance if the work authorized thereby is not commenced by the end of such twelve-month period; and further, any such certificate and permit shall also expire and become null and void if such authorized work is suspended or abandoned for a period of twelve months after being commenced. Any period or periods of time during which the right to use any such certificate or permit is stayed pursuant to this article shall be excluded from the computation of the twelve months.

Section 17-4.9.33. Inspection by Administrator After Approval.

When a Certificate of Appropriateness has been issued, the Administrator shall from time to time inspect the alteration or construction approved by such certificate and shall give prompt notice to the applicant of any work not in accordance with such certificate or violating any ordinances of the Town. The Administrator may revoke the certificate or the building permit if violations are not corrected by the applicant in a timely manner.

Section 17-4.9.34. Delay of Approval.

In the case of a proposal other than for demolition or moving but involving a designated landmark where the Historic Commission, or, an appeal, the Town Council cannot reach a satisfactory agreement with the owner and where the Historic Commission or, on appeal, the Town Council decides such action to be in the public interest and not in conflict with any provision of law, it may delay the effective date of an approval for a period of three months from the date of application or appeal to enable negotiations to be undertaken and completed for acquisition of the property for preservation or public use. Failure of negotiations within this period shall be the equivalent of a denial of the application by the Historic Commission or, on appeal, by the Town Council.

Section 17-4.9.35. Conditions Imposed by the Historic Commission.

In approval of any proposal under this section, the Historic Commission or, on appeal, the Town Council may limit such approval by such reasonable conditions as the case may require, including, but not limited to, the specifications enumerated for conditional uses and for the Board of Zoning Appeals.

Section 17-4.9.36. Appeals; Decisions of the Historic Commission.

An appeal from a decision of the Historic Commission may be taken to the Town Council by the owner of the property in question or by any part aggrieved by said decision, which shall be taken within thirty (30) days after the decision appealed from by filing with the Administrator a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the Town Council all the papers constituting the record upon which the action appealed from was taken. The Town Council shall fix a reasonable time for the hearing, give public notice thereof as required by Article 9 hereof for the Board of Zoning Appeals and decide the same within 60 days. Upon the hearing any party may appear in person or by agent or by attorney. In exercising its powers, the Town Council may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify, any order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the Historic Commission.

Section 17-4.9.37. Appeals; Decisions of the Zoning Administrator.

An appeal from a decision of the Zoning Administrator made pursuant to §17-4.9.38 of this article may be taken to the Historic Commission by the owner of the property in question or by any part aggrieved by said decision, which shall be taken within thirty (30) days after the decision appealed from by filing with the Administrator a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the Historic Commission all the papers constituting the record upon which the action appealed from was taken. The Historic Commission shall fix a reasonable time for the hearing, give public notice thereof as required pursuant to §15.1-431⁷, Code of Virginia, and decide the same within 60 days. Upon the hearing any party may appear in person or by agent or by attorney. In exercising its powers, the Historic Commission Council may, reverse or affirm, wholly or partly, or may modify, any order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the Zoning Administrator.

Section 17-4.9.38. Appeal to the Circuit Court from a Decision of the Town Council.

An appeal from a final decision of the Town Council may be filed with the Circuit Court within 30 days after said decision in the manner prescribed by law by the owner of the property in question or by the Historic Commission, or by any party aggrieved by said decision, or by any party who recorded an appearance at the hearing before the Town Council. The filing of an appeal shall stay the decision of the

⁷ Editor's Note (1998). See §15.2-2204

Town Council pending the outcome of the appeal to the court, except that the filing of such petition shall not stay the decision of the Town Council if such decision denies the right to raze or demolish a designated landmark, building or structure. The court may reverse or modify the decision of the Town Council, in whole or part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the Town Council.

Section 17-4.9.39. Violations and Penalties.

Any violation of this Article and the penalties for all such violations shall be as set forth in §17-12.12 of this Chapter.

Section 17-4.9.40. Definitions.

For the purpose of this article, certain terms and words pertaining to the H-1 Historic District are hereby defined. The general rules of construction contained in Article 13 of this Chapter are applicable to these definitions.

Alteration is any change, modification nor addition to a part or all of the exterior of any building or structure.

Building is any enclosed or open structure which is a combination of materials to form a construction for occupancy or use.

Administrator, the Zoning Administrator, that person appointed by the Town Council as the individual who issues the permit for the construction, alteration, reconstruction, repair, restoration, demolition or razing of all or part of any building.

Building Permit is an approval statement signed by the Building Permit Office authorizing the construction, alteration, reconstruction, repair, restoration, demolition or razing of all or a part of any building.

Certificate of Appropriateness is a certificate or other statement indicating approval by the Administrator or the Historic Commission as the case may require of plans for construction alteration, reconstruction, repair, restoration, relocation, demolition or razing of a building or structure or part thereof in a historic district.

Contributing Properties are those properties constructed fifty (50) years or more ago.

reconstruction, repair, restoration, relocation, demolition or razing of a building or structure or part thereof in a historic district.

Contributing Properties are those properties constructed fifty (50) years or more ago.

Demolition is the dismantling or tearing down of all or part of any building and all operations incidental thereto.

Design Guidelines are those set of guidelines, standards, and regulations adopted pursuant to §17-4.9.23.(b) of this Code.

Historic District means an area containing buildings or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

Historic Landmark is defined as any building or place listed on the National Register of Historic Places or on the Register of the Virginia Historic Landmarks Commission, or any building or place officially on the Urbanna Register of Historic Places adopted pursuant to §17-4.9.4. of this Code.

Reconstruction is any or all work needed to remake or rebuild all or part of any building to a sound condition, but not necessarily of original materials.

Repairs are any or all work involving the replacement of existing work with equivalent material for the purpose of maintenance, but not including any addition, change, or modification in construction.

Restoration is any or all work connected with the returning to or restoring of a building, or a part of any building, to its original condition through the use of original or nearly original materials.

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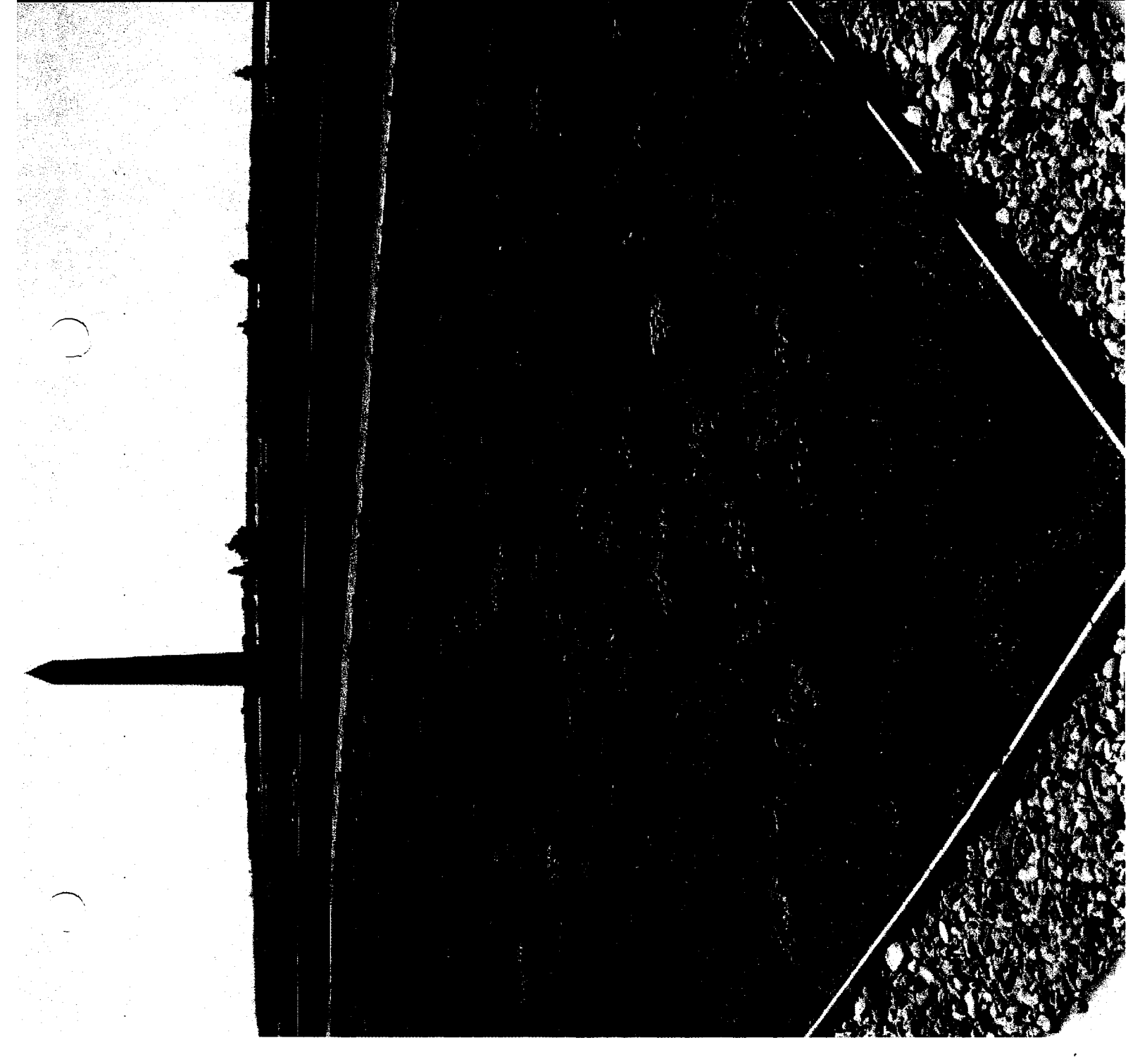
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THE SECRETARY
OF THE INTERIOR'S
STANDARDS FOR
REHABILITATION &

ILLUSTRATED
GUIDELINES ON
SUSTAINABILITY
FOR
REHABILITATING
HISTORIC
BUILDINGS

U.S. Department of the Interior
National Park Service
Technical Preservation Services



Cover Photo: Green roof at the U.S. Department of the Interior, Washington, D.C.

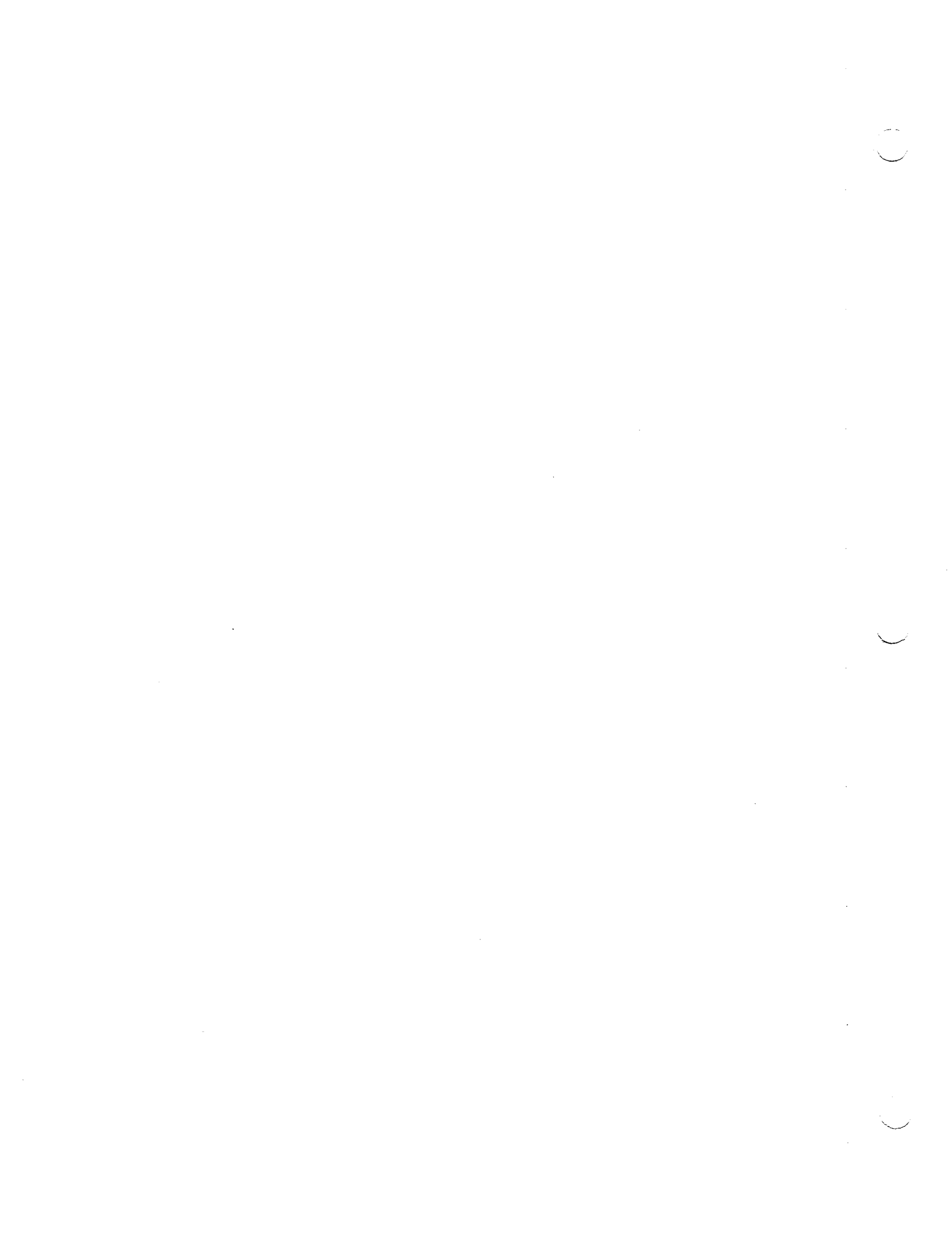
THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION &

ILLUSTRATED GUIDELINES ON SUSTAINABILITY FOR REHABILITATING HISTORIC BUILDINGS

Anne E. Grimmer with Jo Ellen Hensley | Liz Petrella | Audrey T. Tepper

U.S. Department of the Interior
National Park Service
Technical Preservation Services
Washington, D.C.

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8	<i>Weatherization and Insulation</i>
10	<i>Heating, Ventilating and Air Conditioning (HVAC) and Air Circulation</i>
14	<i>Solar Technology</i>
16	<i>Wind Power – Wind Turbines and Windmills</i>
18	<i>Roofs – Cool Roofs and Green Roofs</i>
20	<i>Site Features and Water Efficiency</i>
22	<i>Daylighting</i>

Acknowledgements

The Secretary of the Interior's Standards for Rehabilitation & Illustrated Guidelines for Rehabilitating Historic Buildings was produced by Anne E. Grimmer and Kay D. Weeks, first published in 1992 and reprinted in 1997. The *Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings*, which are presented in the same format, replace the chapter on "Energy Conservation" in the 1992 publication. They have been developed with the guidance and support of numerous public agencies, professional organizations and individuals.

All photographs and drawings included here not individually credited have been selected from National Park Service files.



Foreword

The *Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings* replaces the chapter on “Energy Conservation” in the *Illustrated Guidelines for Rehabilitating Historic Buildings* published in 1992. (This same guidance is presented in the chapter entitled “Energy Retrofitting” in the unillustrated *Guidelines for Rehabilitating Historic Buildings*.) The illustrated version of the *Guidelines for Rehabilitating Historic Buildings* was designed to further enhance overall understanding and interpretation of basic preservation principles. *The Illustrated Guidelines on Sustainability* begin with an overview focusing on the fact that historic buildings are themselves often inherently sustainable and that this should be used to advantage in any proposal to upgrade them. These guidelines offer specific guidance on how to make historic buildings more sustainable in a manner that will preserve their historic character and that will meet *The Secretary of the Interior’s Standards for Rehabilitation*. The written guidance is illustrated with examples of appropriate or “recommended” treatments and some that are “not recommended” or could negatively impact the building’s historic character. The National Park Service Branch of Technical Preservation Services has developed these illustrated guidelines in accordance with its directive to provide information concerning professional methods and techniques to ensure the preservation and rehabilitation of the historic properties that are an important part of the nation’s heritage.

THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

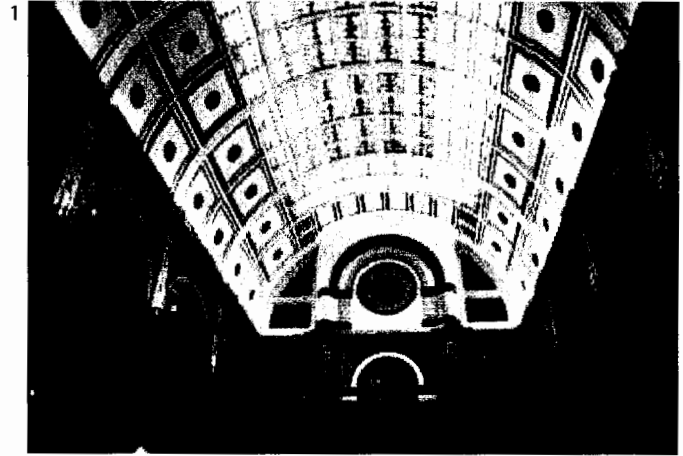
Introduction to the Standards

The Secretary of the Interior is responsible for establishing standards for all programs under Departmental authority and for advising federal agencies on the preservation of historic properties listed in or eligible for listing in the National Register of Historic Places. In partial fulfillment of this responsibility *The Secretary of the Interior's Standards for the Treatment of Historic Properties* have been developed to guide work undertaken on historic properties; there are separate standards for preservation, rehabilitation, restoration and reconstruction. *The Standards for Rehabilitation* (codified in 36 CFR 67) comprise that section of the overall treatment standards and address the most prevalent treatment. "Rehabilitation" is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values."

Initially developed by the Secretary of the Interior to determine the appropriateness of proposed project work on registered properties supported by the Historic Preservation Fund grant-in-aid program, the Standards have been widely used

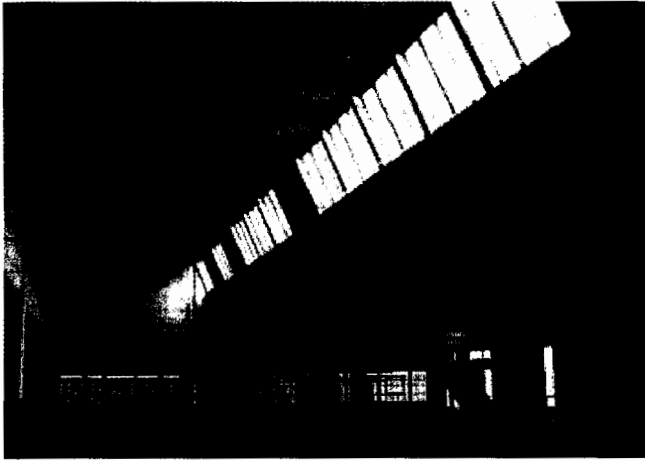
over the years—particularly to determine if a rehabilitation project qualifies as a Certified Rehabilitation for Federal Historic Preservation Tax Incentives. In addition, the Standards have guided federal agencies in carrying out their responsibilities for properties in federal ownership or control; and state and local officials in reviewing both federal and non-federal rehabilitation proposals. They have also been adopted by historic district and planning commissions across the country.

The intent of the Standards is to assist in the long-term preservation of historic materials and features. The Standards pertain to historic buildings of all materials, construction types, sizes and occupancy and include the exterior and the interior of the buildings. They also encompass the building's site and environment, including landscape features, as well as attached, adjacent or related new construction. To be certified for federal tax purposes, a rehabilitation project must be determined by the Secretary of the Interior to be consistent with the historic character of the structure(s) and, where applicable, the district in which it is located.

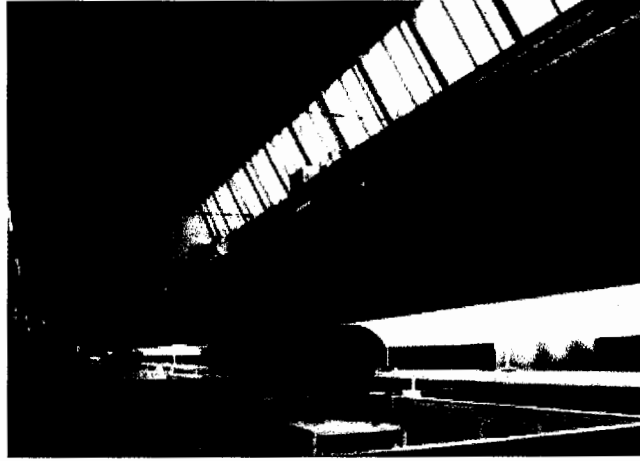


[1] Stained glass skylight provides natural light in a historic train station.

2



3



[2-3] Clerestory windows provide natural light in a historic industrial building: Before and after rehabilitation.

4



[4] Covered walkways and horizontal sun screens are distinctive and sustainable features in some mid-century modern office buildings.

As stated in the definition, the treatment “rehabilitation” assumes that at least some repair or alteration of the historic building will be needed in order to provide for an efficient contemporary use; however, these repairs and alterations must not damage or destroy materials, features or finishes that are important in defining the building’s historic character. For example, certain treatments—if improperly applied—may cause or accelerate physical deterioration of the historic building. This can include using improper repointing or exterior masonry cleaning techniques, or introducing insulation that may damage historic fabric. Any of these treatments will likely result in a project that does not meet the Standards. Similarly, exterior additions that duplicate the form, material and detailing of the historic structure to the extent that they compromise its historic character also will fail to meet the Standards.

The Secretary of the Interior's Standards for Rehabilitation

The Standards (Department of the Interior regulations 36 CFR 67) pertain to all historic properties listed in or eligible for listing in the National Register of Historic Places.

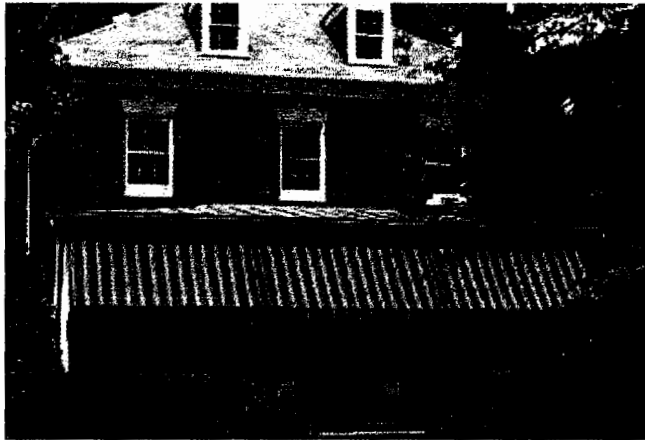
- 1) A property shall be used for its intended historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- 2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- 3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- 4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- 5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
- 6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.



[5-6] Large windows and a roof monitor provide natural illumination in a historic industrial building.

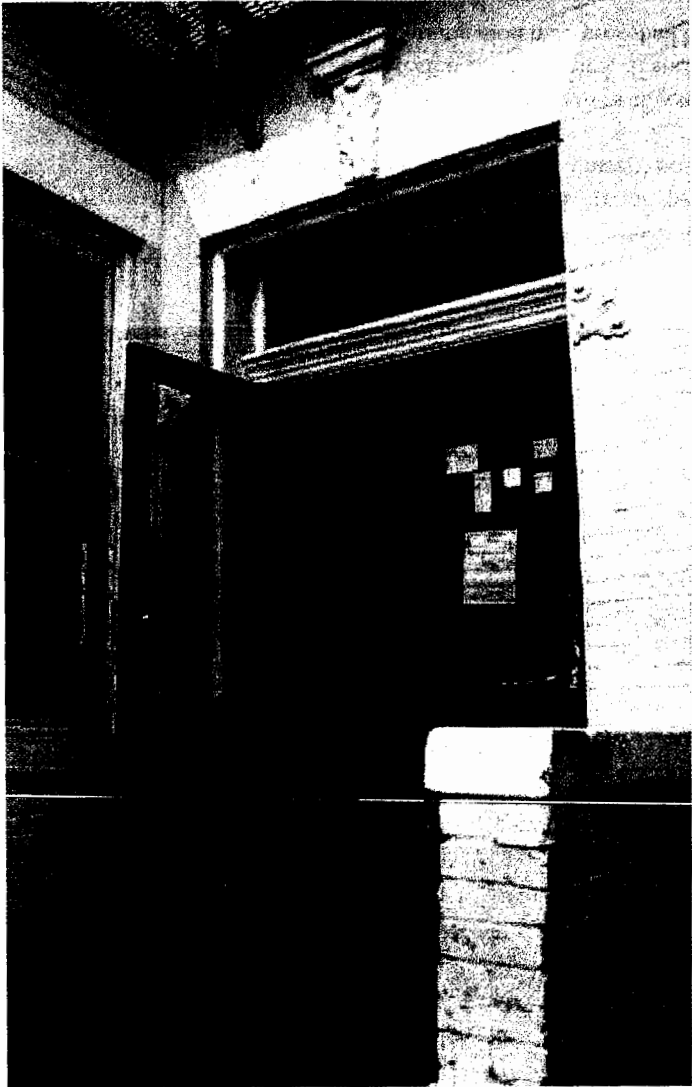


[7-9] Porches and canvas awnings provide shade and keep interiors cool in historic residential and commercial buildings.



- 7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- 8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

- 9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- 10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.



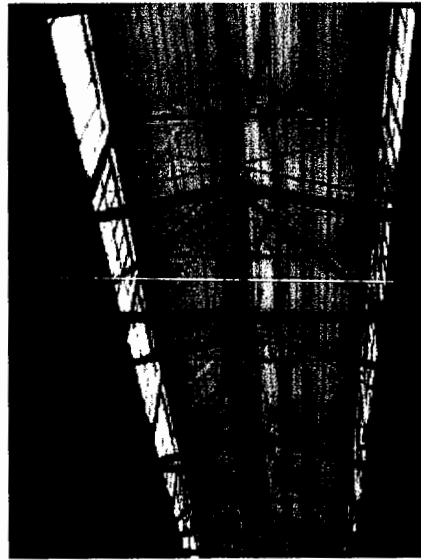
11

[11] A vestibule helps retain interior conditioned air in the living space in this historic row house.



10

[10] Wood shutters provide natural light when open and keep interiors cool when closed in historic residential buildings.



12

[12-14] Roof monitors provide natural light in historic industrial buildings



13



14

GUIDELINES FOR REHABILITATING HISTORIC BUILDINGS

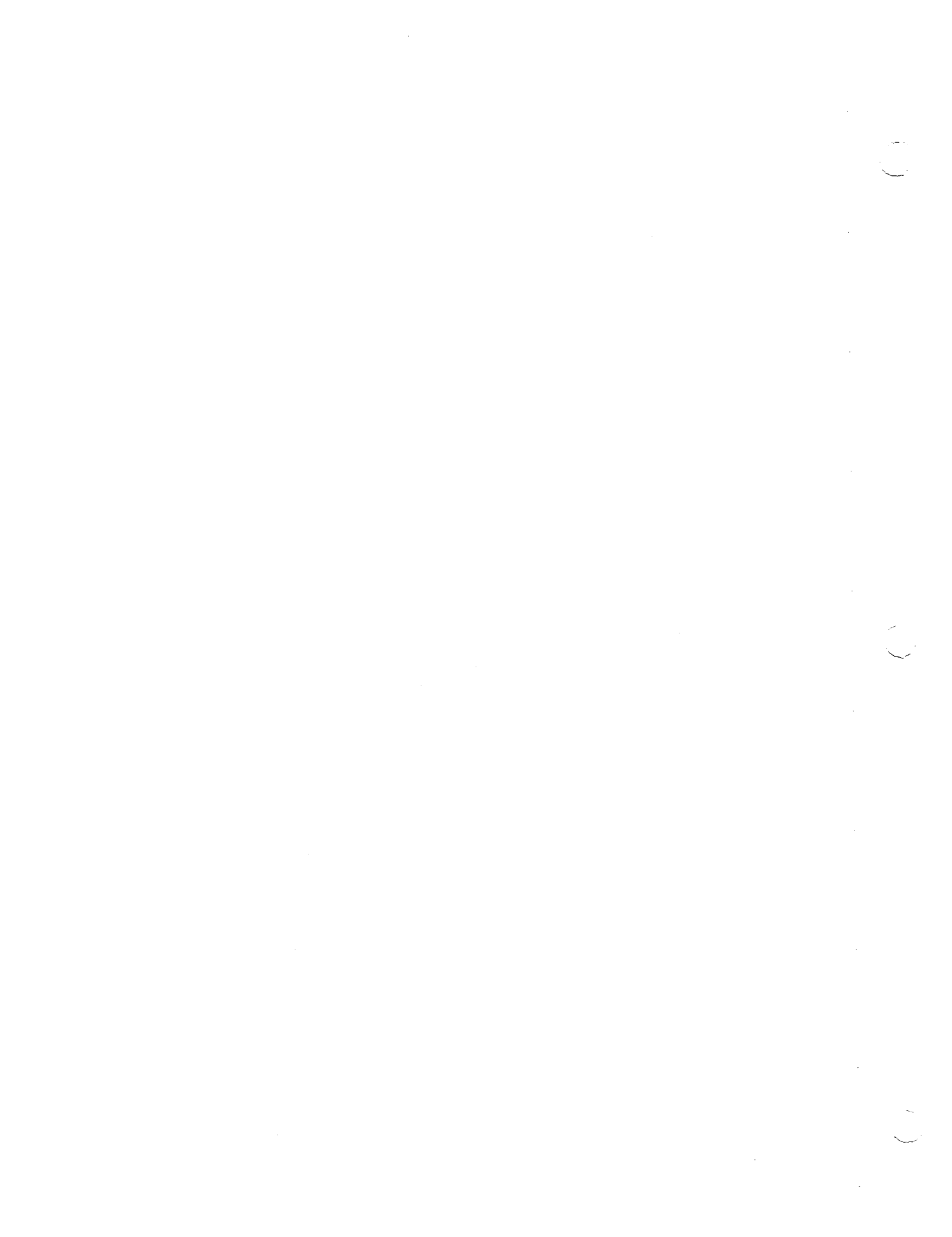
Introduction to the Guidelines

The *Guidelines for Rehabilitating Historic Buildings* were initially developed in 1977 to help property owners, developers and federal managers apply *The Secretary of the Interior's Standards for Rehabilitation* during the project planning stage by providing general design and technical recommendations. Unlike the Standards, the Guidelines are not codified as program requirements.

The Guidelines are general and intended to provide guidance to help in interpreting and applying the Standards to all rehabilitation projects. They are not meant to give case-specific advice. For instance, they cannot tell owners or developers which features in a historic building are important in defining the historic character and must be retained. This case-by-case determination is best accomplished by seeking assistance from qualified historic preservation professionals in the very early stages of project planning.

Like the Standards, the Guidelines pertain to historic buildings of all materials, construction types, sizes and occupancy; and apply to exterior and interior work, as well as new addi-

tions and the building's site and environment. The Guidelines are presented in a "Recommended" vs. "Not Recommended" format. Those approaches, treatments and techniques that are consistent with *The Secretary of the Interior's Standards for Rehabilitation* are listed in the "Recommended" column on the left; those approaches, treatments and techniques which could adversely affect a building's historic character are listed in the "Not Recommended" column on the right. To provide clear and consistent guidance for property owners, developers and federal agency managers, the "Recommended" courses of action are listed in order of historic preservation concerns so that a rehabilitation project may be successfully planned and completed—one that, first, assures the preservation of a building's important or "character-defining" architectural materials, features and spaces and, second, makes possible an efficient contemporary use. The guidance that follows begins with the most basic and least invasive approaches that will help the project achieve the desired goal, before considering work that may involve more change and potentially greater impact on the historic character of the building.



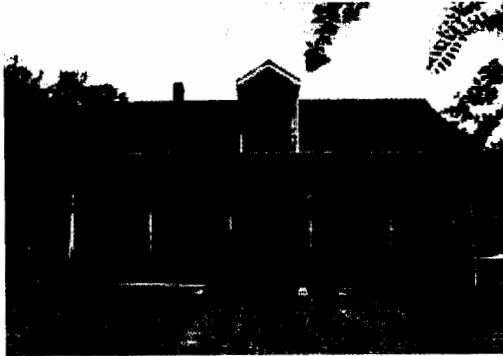
Sustainability

Before implementing any energy conservation measures to enhance the sustainability of a historic building, the existing energy-efficient characteristics of the building should be assessed. Buildings are more than their individual components. The design, materials, type of construction, size, shape, site orientation, surrounding landscape and climate all play a role in how buildings perform. Historic building construction methods and materials often maximized natural sources of heating, lighting and ventilation to respond to local climatic conditions. The key to a successful rehabilitation project is to identify and understand any lost original and existing energy-efficient aspects of the historic building, as well as to identify and understand its character-defining features to ensure they are preserved. The most sustainable building may be one that already exists. Thus, good preservation practice is often synonymous with sustainability. There are numerous treatments--traditional as well as new technological innovations--that may be used to upgrade a historic building to help it operate even more efficiently. Increasingly stricter energy standards and code requirements may dictate that at least some of these treatments be implemented as part of a rehabilitation project of any size or type of building. Whether a historic building is rehabilitated for a new or a continuing use, it is important to utilize the building's inherently-sustainable qualities as they were intended. It is equally important that they function effectively together with any new measures undertaken to further improve energy efficiency.



[15] Glass skylight illuminates historic shopping arcade.

16



17



[16-18] Inherently sustainable features of historic buildings: Shutters and a deep porch keep the interior cool in a historic house in a warm climate (top); a skylight provides natural light to the interior of this mid-20th century house (center); partially glazed partitions and doors allow natural light into the corridor of a historic office building (bottom).

18



PLANNING

RECOMMENDED

NOT RECOMMENDED

Forming an integrated sustainability team when working on a large project that includes a preservation professional to ensure that the character and integrity of the historic building is maintained during any upgrades.

Omitting preservation expertise from a sustainability project team.

Analyzing the condition of inherently-sustainable features of the historic building, such as shutters, storm windows, awnings, porches, vents, roof monitors, skylights, light wells, transoms and naturally-lit corridors, and including them in energy audits and energy modeling, before planning upgrades.

Ignoring inherently-sustainable features of the existing historic building when creating energy models and planning upgrades.

Identifying ways to reduce energy use, such as installing fixtures and appliances that conserve resources, including energy-efficient lighting or energy-efficient lamps in existing light fixtures, low-flow plumbing fixtures, sensors and timers that control water flow, lighting and temperature, before undertaking more invasive treatments that may negatively impact the historic building.

Prioritizing sustainable improvements, beginning with minimally invasive treatments that are least likely to damage historic building material.

Beginning work with substantive or irreversible treatments without first considering and implementing less invasive measures.

MAINTENANCE

RECOMMENDED	NOT RECOMMENDED
Maintaining historic buildings regularly to preserve historic fabric and maximize operational efficiency.	Delaying maintenance treatments which may result in the loss of historic building fabric or decrease the performance of existing systems or features.
Retaining and repairing durable historic building materials	Removing durable historic building materials and replacing them with materials perceived as more sustainable; for instance, removing historic heart pine flooring and replacing it with new bamboo flooring.
Using environmentally-friendly cleaning products that are compatible with historic finishes.	Using cleaning products potentially harmful to both historic finishes and the environment.
Using sustainable products and treatments, such as low VOC paints and adhesives and lead-safe paint removal methods, as much as possible, when rehabilitating a historic building.	



21



22

Not Recommended: [21-22] The peeling paint on an exterior window sill and on the interior of a window indicates that these features have not received regular maintenance. The broken casement window hardware also needs to be repaired to make the window operable.



19



20

Recommended: [19] Caulking the gap between the aluminum storm window and wood window frame helps maximize thermal efficiency in this historic residence.

[20] Using sustainable cleaning products preserves both the environment and the historic building.

23



24



Recommended: [23-25] Historic exterior storm windows have been well maintained and continue to perform as intended.

Recommended: [26] The new metal interior storm window was carefully matched to the exterior window as part of the rehabilitation of this historic armory building.

WINDOWS

RECOMMENDED

NOT RECOMMENDED

Maintaining windows on a regular basis to ensure that they function properly and are completely operable.

Neglecting to maintain historic windows and allowing them to deteriorate beyond repair with the result that they must be replaced.

Retaining and repairing historic windows when deteriorated.

Removing repairable historic windows and replacing them with new windows for perceived improvement in energy performance.

Weather stripping and caulking historic windows, when appropriate, to make them weather tight.

Installing interior or exterior storm windows or panels that are compatible with existing historic windows.

Replacing repairable historic windows with new insulated windows.

25

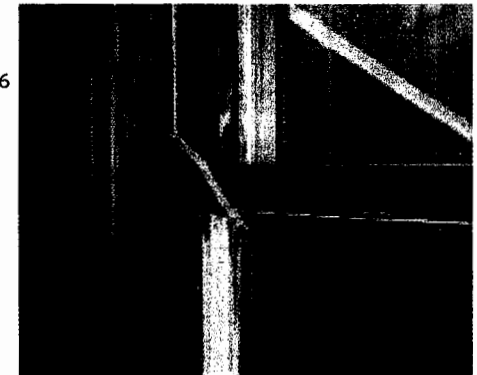


Not Recommended: [27] A broken sash cord can be repaired easily and does not justify replacement of the window.

26



27



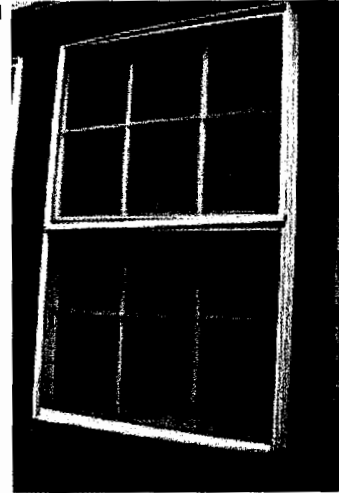
WINDOWS

RECOMMENDED

NOT RECOMMENDED

Installing compatible and energy-efficient replacement windows that match the appearance, size, design, proportion and profile of the existing historic windows and that are also durable, repairable and recyclable, when existing windows are too deteriorated to repair.	Installing incompatible or inefficient replacement window units that are not durable, recyclable or repairable when existing windows are deteriorated beyond repair or missing.
Replacing missing windows with new, energy-efficient windows that are appropriate to the style of historic building and that are also durable, repairable and recyclable.	
Retrofitting historic windows with high-performance glazing or clear film, when possible, and only if the historic character can be maintained.	

31



32



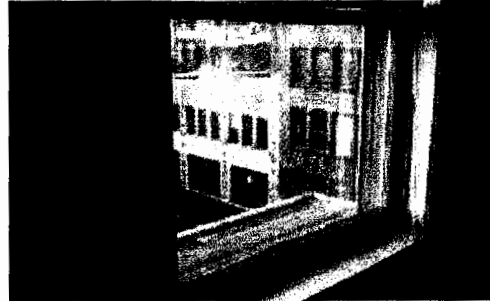
Not Recommended: [31-32] Ill-fitting exterior aluminum storm windows viewed from both inside and outside are clearly not energy efficient.

Not Recommended: [30] Not only have incompatible windows that do not fit the size and shape of the historic window openings been installed, but the original openings have also been shortened to install through-the-wall HVAC units.

28



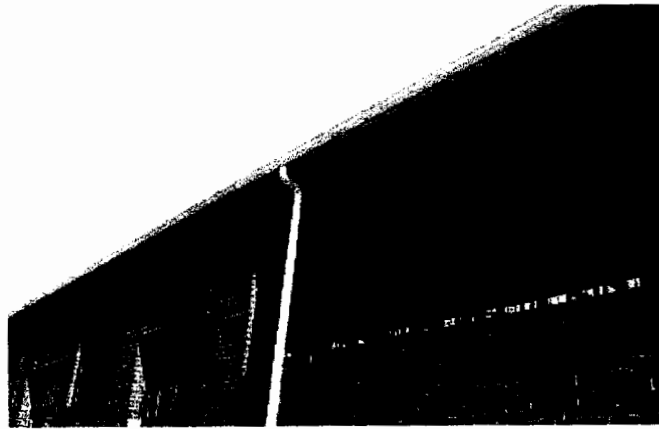
29



Recommended: [28-29] These exterior storm windows match the pane configuration of the historic interior windows in a residence and in a multi-story hotel building.

30

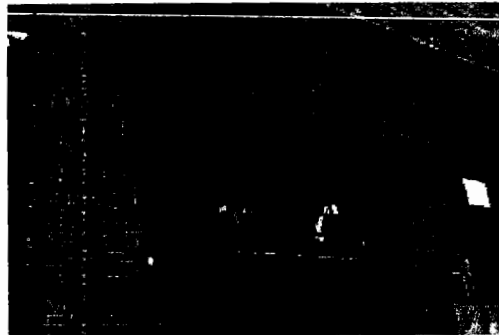




34



35



Recommended: [33-35] Original metal windows were appropriately repaired as part of the rehabilitation of this historic industrial building.

WINDOWS

RECOMMENDED

NOT RECOMMENDED

Retrofitting historic steel windows and curtain-wall systems to improve thermal performance without compromising their character.

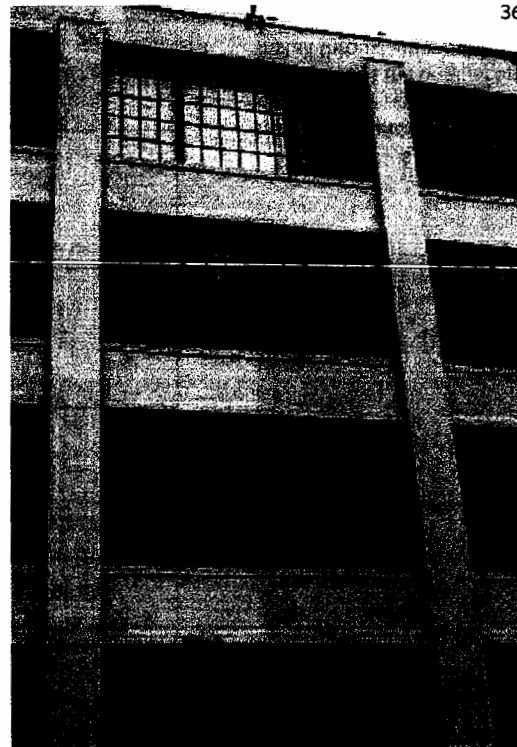
Installing clear, low-emissivity (low-e) glass or film without noticeable color in historically-clear windows to reduce solar heat gain.

Installing film in a slightly lighter shade of the same color tint when replacing glazing panels on historically-dark-tinted windows to improve daylighting.

Retrofitting historically-clear windows with tinted glass or reflective coatings that will negatively impact the historic character of the building.

Introducing clear glazing or a significantly lighter colored film or tint than the original to improve daylighting when replacing historically dark-tinted windows.

36



37



38

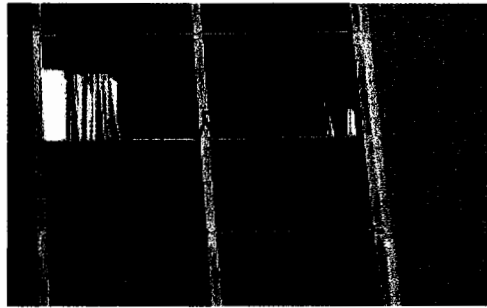
Recommended: [36-38] Original metal windows were retained and made operable during the rehabilitation of this historic mill complex. Installing patio slider doors as interior storm windows was a creative and successful solution to improve the energy efficiency of the existing windows.

WINDOWS

RECOMMENDED

NOT RECOMMENDED

Maintaining existing, reinstalling or installing new, historically-appropriate shutters and awnings.	Removing historic shutters and awnings or installing inappropriate ones.
Repairing or reopening historically-operable interior transoms, when possible, to improve air flow and cross ventilation.	Covering or removing existing transoms.



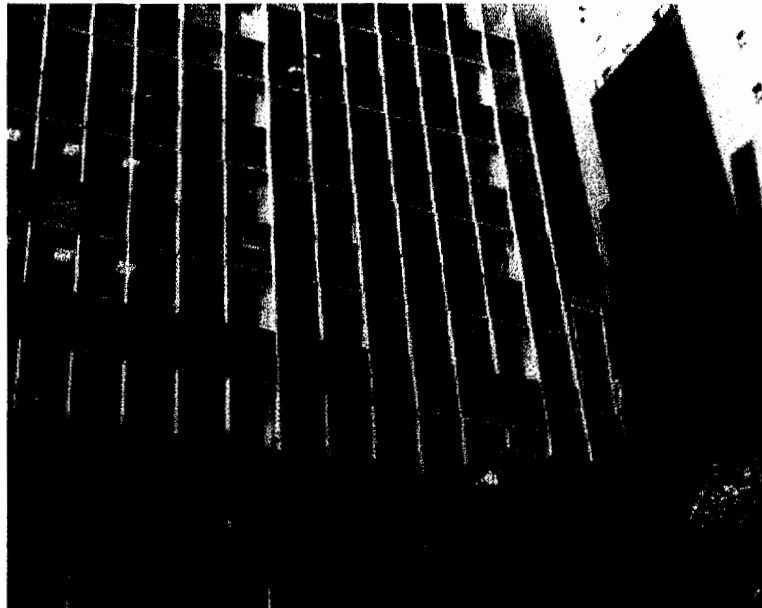
39

Recommended: [39-40] The original windows, which were deteriorated beyond repair, featured a dark tint. They were replaced with a slightly lighter-tinted glazing to improve daylighting in this mid-century modern office building.



41

Recommended: [41] Traditional canvas awnings should be retained when they exist on historic buildings.



40



Recommended: [42] Transoms and screen doors are distinctive and practical features that provided cross ventilation in this historic hotel.



43

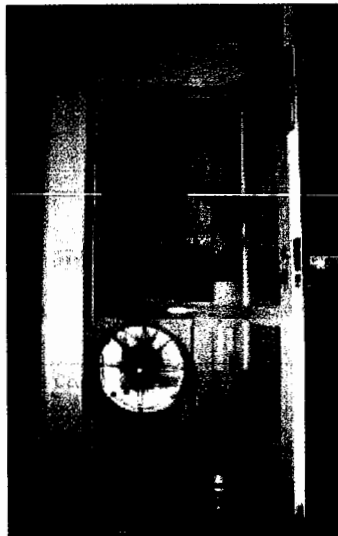
Recommended: [43] The wall and door glazing ensures that the corridor receives natural daylight and the operable transom helps air to circulate in this historic office building.

WEATHERIZATION AND INSULATION

Recommended:
[44-45] A blower door test is a useful tool to help identify air infiltration in a historic building before undertaking weatherization or retrofit treatments.
Top Photo: Robert J. Cagnetta, Heritage Restoration, Inc.



44



45

Recommended: [46] A hand-held infrared scanner reveals areas that are not well insulated and that allow heat transfer through the walls of a building.



46

Recommended: [47-48] Insulation should be installed first in unfinished areas such as attics, crawl spaces and basements of residential buildings.

RECOMMENDED	NOT RECOMMENDED
Using a variety of analytical tools, such as a comprehensive energy audit, blower door tests, infrared thermography, energy modeling or daylight modeling, to gain an understanding of the building's performance and potential before implementing any weatherization or retrofit treatments.	Implementing energy-retrofit measures without first diagnosing the building's performance and energy needs.
Developing a weatherization plan based on the results of the energy analysis of the building's performance and potential.	
Eliminating infiltration first, beginning with the least invasive and most cost-effective weatherization measures, such as caulking and weather stripping, before undertaking more invasive weatherization measures.	Undertaking treatments that result in loss of historic fabric, for example, installing wall insulation that requires removing plaster, before carrying out simple and less damaging weatherization measures.
Understanding the inherent thermal properties of the historic building materials and the actual insulating needs for the specific climate and building type before adding or changing insulation.	
Insulating unfinished spaces, such as attics, basements and crawl spaces, first.	Insulating a finished space, which requires removing historic plaster and trim, before insulating unfinished spaces.



47



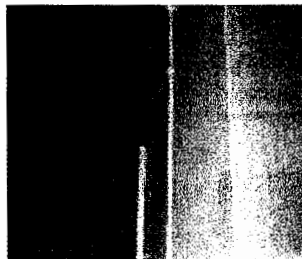
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WEATHERIZATION AND INSULATION

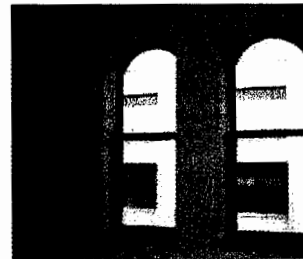
RECOMMENDED	NOT RECOMMENDED
Using the appropriate type of insulation in unfinished spaces and ensuring the space is adequately ventilated.	Using wet-spray or other spray-in insulation that is not reversible or may damage historic materials.
	Adding insulation in cavities that are susceptible to water infiltration.
Ensuring that air infiltration is reduced before adding wall insulation.	Insulating walls without first reducing air infiltration.
Installing appropriate wall insulation, only if necessary, after lower impact treatments have been carried out.	Installing wall insulation that is not reversible and that may cause damage to historic building materials.
	Installing insulation on the exterior of a historic building, which results in the loss of historic materials and may alter the proportion and relationship of the wall to the historic windows and trim.
Removing interior plaster only in limited quantities and when absolutely necessary to install appropriate insulation.	Removing all interior plaster to install appropriate insulation.
Replacing interior plaster—removed to install insulation—with plaster or gypsum board to retain the historic character of the interior, and in a manner that retains the historic proportion and relationship of the wall to the historic windows and trim.	Replacing interior plaster—removed to install insulation—with gypsum board that is too thick and that alters the historic proportion and relationship of the wall to the historic windows and trim.
Reinstalling historic trim that was removed to install insulation.	Replicating trim rather than retaining and reinstalling historic trim that is repairable.

Not Recommended: [49] The original proportion and relationship of the wall to the door trim has been all but lost because the gypsum board installed was too thick.

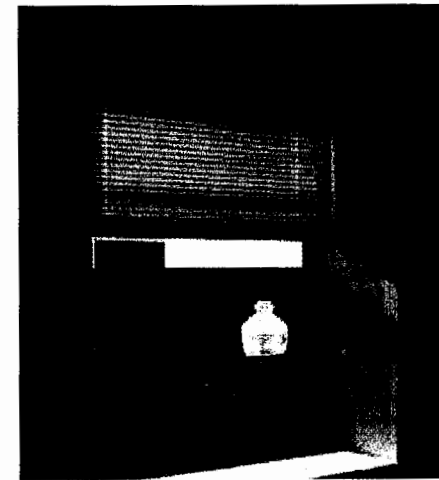
[50-51] When wall insulation was installed here the walls were furred out, which created deep, historically inappropriate window recesses. The repairable historic trim was also not reinstalled.



49



50



51



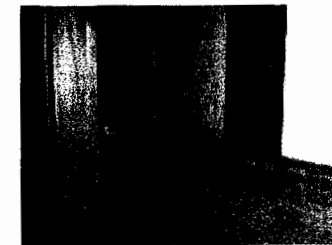
52



53

Recommended: [52-53]

The original proportion and relationship of the wall to the windows and trim, which is important in defining the character of these historic interior spaces, has been retained here.



54

Recommended: [54] This rigid insulation has been correctly installed in the wall cavity so that when the gypsum board is hung the original proportion and relationship of the wall to the trim will be retained.
Photo: Robert J. Cagnetta, Heritage Restoration, Inc.

HEATING, VENTILATING AND AIR CONDITIONING (HVAC) AND AIR CIRCULATION

RECOMMENDED

NOT RECOMMENDED

Retaining and maintaining functional and efficient HVAC systems.	Replacing existing HVAC systems without testing their efficiency first.
Upgrading existing HVAC systems to increase efficiency and performance within normal replacement cycles.	Replacing HVAC systems prematurely when existing systems are operating efficiently.
Installing an energy-efficient system that takes into account whole building performance and retains the historic character of the building and site when a new HVAC system is necessary.	Installing an inefficient HVAC system or installing a new system based on pre-retrofit building performance when a smaller system may be more appropriate.

55

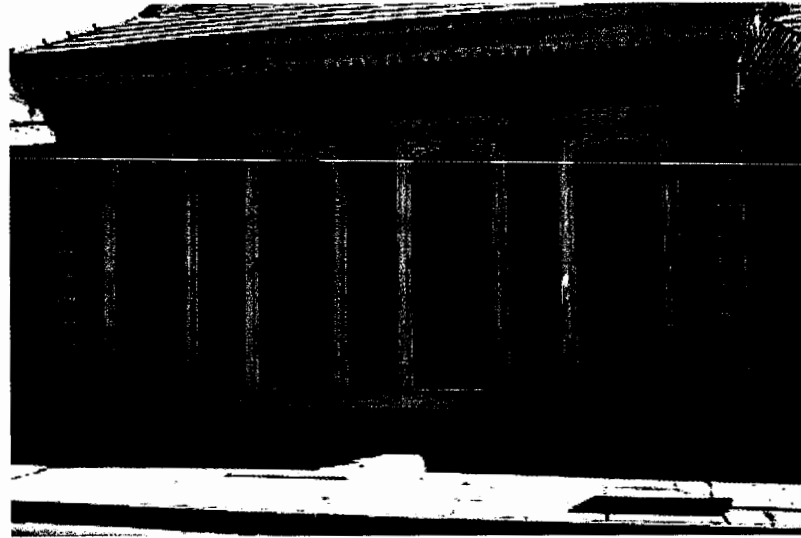


Recommended: [55-57]
Wood vents in the gable ends of a historic house and a barn and cast-iron oval vents in a masonry foundation traditionally helped air circulate.

56



57



HEATING, VENTILATING AND AIR CONDITIONING (HVAC) AND AIR CIRCULATION

RECOMMENDED	NOT RECOMMENDED
Supplementing the efficiency of HVAC systems with less energy-intensive measures, such as programmable thermostats, attic and ceiling fans, louvers and vents, where appropriate.	
Retaining or installing high efficiency, ductless air conditioners when appropriate, which may be a more sensitive approach than installing a new, ducted, central air-conditioning system that may damage historic building material.	Installing through-the-wall air conditioners, which damages historic material and negatively impacts the building's historic character.
	Installing a central HVAC system in a manner that damages historic building material.



60

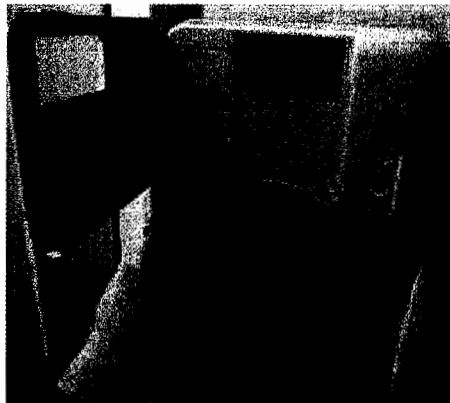
Recommended: [60] Original radiators that are still functional and efficient were retained in the rehabilitation of this historic house.

58



Recommended: [58] Ceiling fans enhance the efficiency of HVAC systems in historic buildings.

59



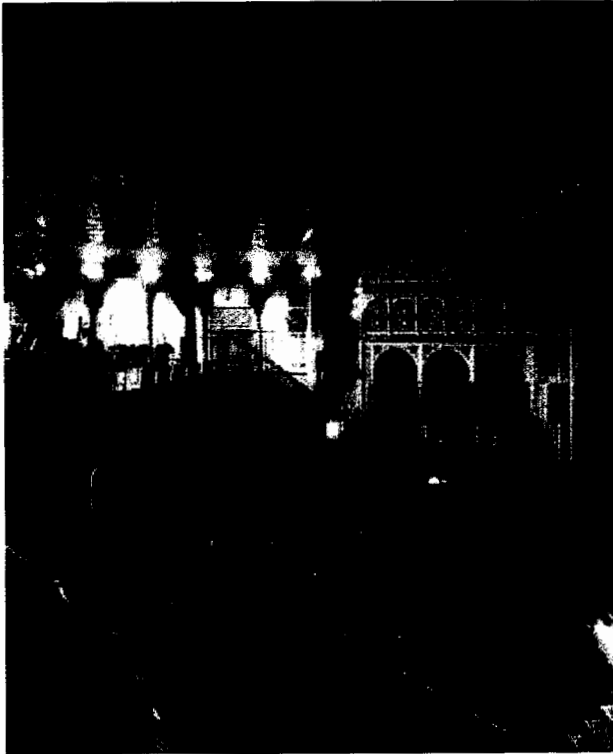
Recommended: [59] Installing a programmable thermostat can help existing systems to operate more efficiently.

61



Not Recommended: [61] The cuts made in the brick and the decorative stone trim to install through-the-wall air conditioners have not only destroyed building material, but have also negatively impacted the character of this historic apartment building.

62



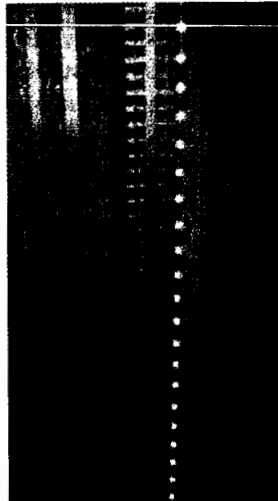
HEATING, VENTILATING AND AIR CONDITIONING (HVAC) AND AIR CIRCULATION

RECOMMENDED

NOT RECOMMENDED

<p>Installing new mechanical ductwork sensitively or using a mini-duct system, so that ducts are not visible from the exterior and do not adversely impact the historic character of the interior space.</p>	<p>Installing new mechanical ductwork that is visible from the exterior or adversely impacts the historic character of the interior space.</p>
<p>Leaving interior ductwork exposed where appropriate, such as in industrial spaces, or when concealing the ductwork would destroy historic fabric.</p>	<p>Leaving interior ductwork exposed in highly-finished spaces where it would negatively impact the historic character of the space.</p>
<p>Leaving interior ductwork exposed and painting it, when concealing it would negatively impact historic fabric, such as a historic pressed metal ceiling.</p>	<p>Leaving exposed ductwork unpainted in finished interior spaces, such as those with a pressed metal ceiling.</p>
<p>Placing HVAC equipment where it will operate effectively and efficiently and be minimally visible and will not negatively impact the historic character of the building or its site.</p>	<p>Placing HVAC equipment in highly-visible locations on the roof or on the site where it will negatively impact the historic character of the building or its site.</p>

63



64



65



66



Recommended: [62-63] Carefully installed new mechanical ductwork is barely visible in the elaborately decorated ceiling of this historic theater.

[64] The ductwork has been left unpainted which is compatible with this historic industrial interior.

[65] To avoid damaging the metal ceiling, the ductwork was left exposed and it was painted to minimize its impact, thus preserving the historic character of this former bank.

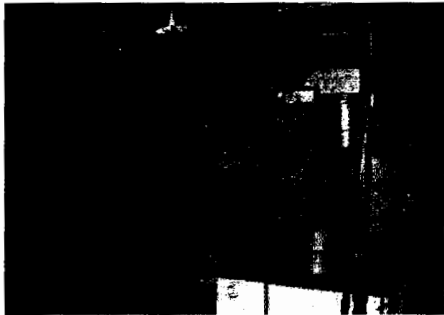
Not Recommended: [66] Interior ductwork has been inappropriately left exposed and unpainted here in this traditionally-finished school entrance hall.

HEATING, VENTILATING AND AIR CONDITIONING (HVAC) AND AIR CIRCULATION

RECOMMENDED

NOT RECOMMENDED

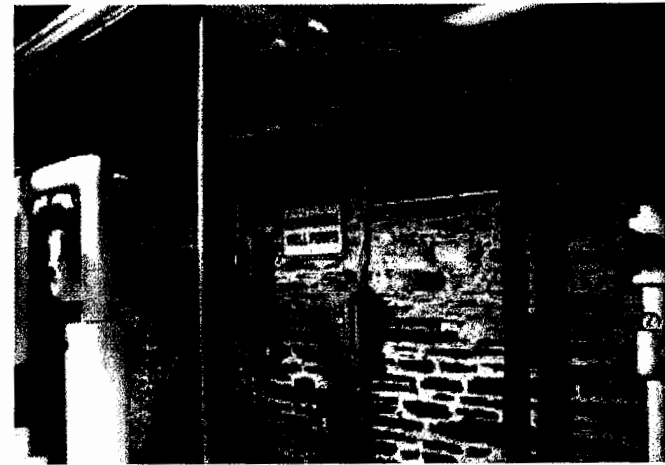
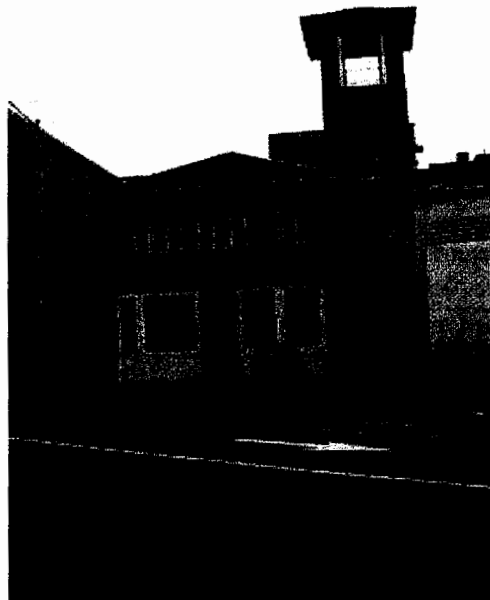
Commissioning or examining the performance of the HVAC system and continuing to examine it regularly to ensure that it is operating efficiently.	Installing a new HVAC system without commissioning or testing its efficiency after installation.
Investigating whether a geothermal heat pump will enhance the heating and cooling efficiency of the building before installing one.	Installing a geothermal heat pump without evidence that it will improve the heating and cooling efficiency of the building.
	Installing a geothermal system where there is a significant landscape or where there are archeological resources that could be damaged.



67

Recommended:[67] A professional energy auditor analyzes the performance of an existing furnace to ensure it is operating efficiently.

[68-69] A geothermal system, evidenced by a panel in the sidewalk, was installed on the site of this historic firehouse during rehabilitation.



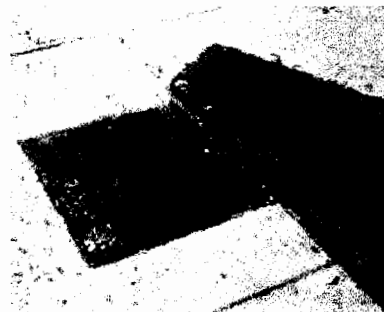
70

Recommended: [70-71] A geothermal system was installed on the property of this historic mansion, but only after an archeological investigation was conducted of the grounds.

68



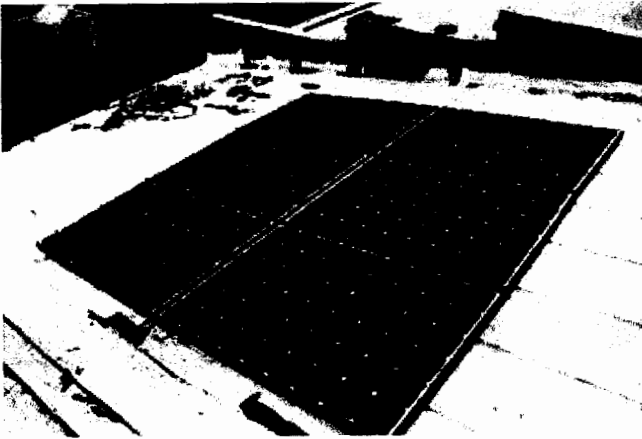
71



69

SOLAR TECHNOLOGY

72



73



Recommended: [72-73] Solar panels were installed appropriately on the rear portion of the roof on this historic row house that are not visible from the primary elevation.

RECOMMENDED

NOT RECOMMENDED

Considering on-site, solar technology only after implementing all appropriate treatments to improve energy efficiency of the building, which often have greater life-cycle cost benefit than on-site renewable energy.

Installing on-site, solar technology without first implementing all appropriate treatments to the building to improve its energy efficiency.

Analyzing whether solar technology can be used successfully and will benefit a historic building without compromising its character or the character of the site or the surrounding historic district.

Installing a solar device without first analyzing its potential benefit or whether it will negatively impact the character of the historic building or site or the surrounding historic district.

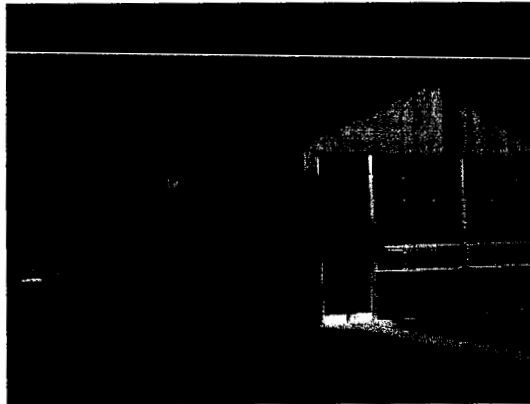
Installing a solar device in a compatible location on the site or on a non-historic building or addition where it will have minimal impact on the historic building and its site.

Placing a solar device in a highly-visible location where it will negatively impact the historic building and its site.

Installing a solar device on the historic building only after other locations have been investigated and determined infeasible.

Installing a solar device on the historic building without first considering other locations.

74



Recommended: [74] Free-standing solar panels have been installed here that are visible but appropriately located at the rear of the property and compatible with the character of this industrial site.

75



Not Recommended: [75] Solar roof panels have been installed at the rear, but because the house is situated on a corner, they are highly visible and negatively impact the character of the historic property.

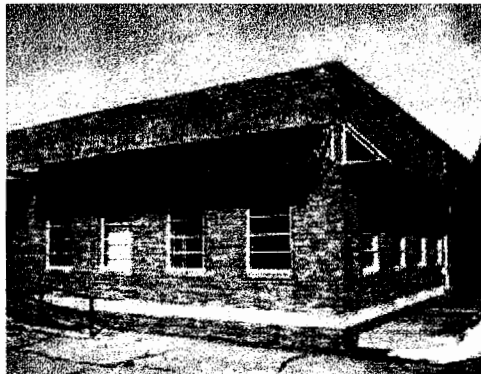
SOLAR TECHNOLOGY

RECOMMENDED

NOT RECOMMENDED

Installing a low-profile solar device on the historic building so that it is not visible or only minimally visible from the public right of way: for example, on a flat roof and set back to take advantage of a parapet or other roof feature to screen solar panels from view; or on a secondary slope of a roof, out of view from the public right of way.	Installing a solar device in a prominent location on the building where it will negatively impact its historic character.
Installing a solar device on the historic building in a manner that does not damage historic roofing material or negatively impact the building's historic character and is reversible.	Installing a solar device on the historic building in a manner that damages historic roofing material or replaces it with an incompatible material and is not reversible.
	Removing historic roof features to install solar panels.
	Altering a historic, character-defining roof slope to install solar panels.
	Installing solar devices that are not reversible.
Installing solar roof panels horizontally -- flat or parallel to the roof—to reduce visibility.	Placing solar roof panels vertically where they are highly visible and will negatively impact the historic character of the building.

76



77



79



Not Recommended: [79] Although installing solar panels behind a rear parking lot might be a suitable location in many cases, here the panels negatively impact the historic property on which they are located.

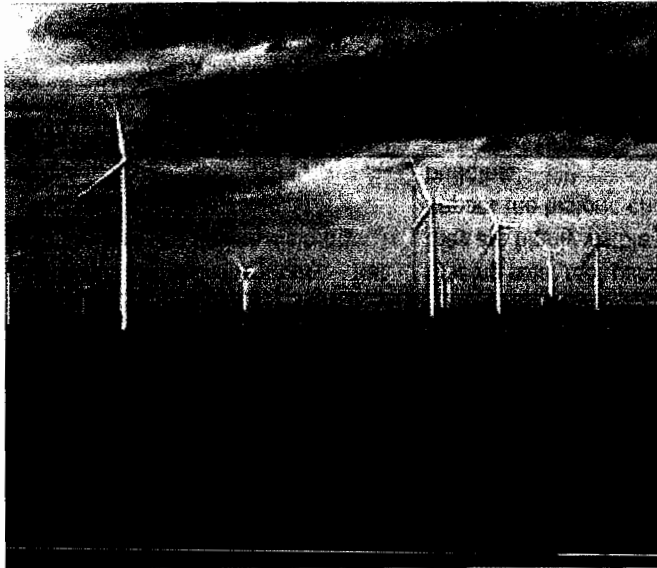
Recommended: [76-77] Solar panels, which also serve as awnings, were installed in secondary locations on the side and rear of this historic post office and cannot be seen from the front of the building. [78] Solar panels placed horizontally on the roof of this historic building are not visible from below.

78



WIND POWER—WIND TURBINES AND WINDMILLS

80



Recommended: [80] It is often best to install wind-powered equipment in off-site, rural locations to avoid negatively impacting a historic building and its site.

[81] This wind turbine is located in a large parking lot next to a historic manufacturing complex and it is compatible with the character of the industrial site.

[82] This 2011 Kansas postage stamp features a traditional windmill and modern wind turbines to illustrate the importance of wind power in the growth of the state.

RECOMMENDED

Considering on-site, wind-power technology only after implementing all appropriate treatments to the building to improve energy efficiency, which often have greater life-cycle cost benefit than on-site renewable energy.

Analyzing whether wind-power technology can be used successfully and will benefit a historic building without compromising its character or the character of the site or the surrounding historic district.

Installing wind-powered equipment in an appropriate location on the site or on a non-historic building or addition where it will not negatively impact the historic character of the building, the site or the surrounding historic district.

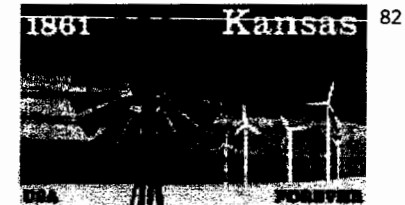
NOT RECOMMENDED

Installing on-site, wind-power technology, without first implementing all appropriate treatments to the building to improve energy efficiency.

Installing wind-powered equipment without first analyzing its potential benefit or whether it will negatively impact the character of the historic building or the site or the surrounding historic district.

Placing wind-powered equipment on the site where it is highly visible when it is not compatible with the historic character of the site.

81



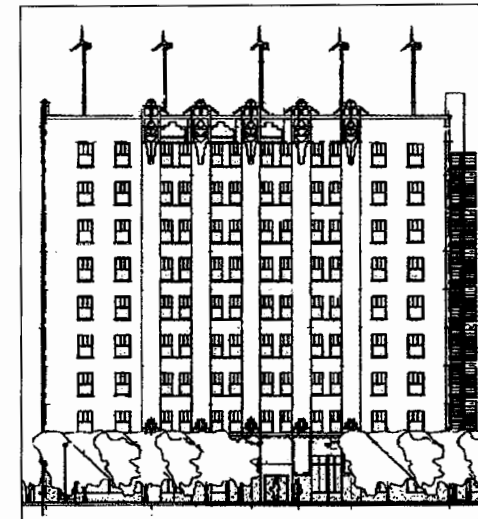
82

WIND POWER—WIND TURBINES AND WINDMILLS

RECOMMENDED	NOT RECOMMENDED
Installing wind-powered equipment on the historic building without damaging the roof or walls or otherwise negatively impacting the building's historic character.	Installing wind-powered equipment on the historic building in a manner that damages the roof, compromises its structure or negatively impacts the building's historic character.
	Removing historic roof features to install wind-powered equipment, such as wind turbines.
	Installing wind-powered equipment on the historic building that is not reversible.
	Installing wind-powered equipment on the primary façade of a historic building or where it is highly visible.
Investigating off-site, renewable energy options when installing on-site wind-power equipment would negatively impact the historic character of the building or site.	



84

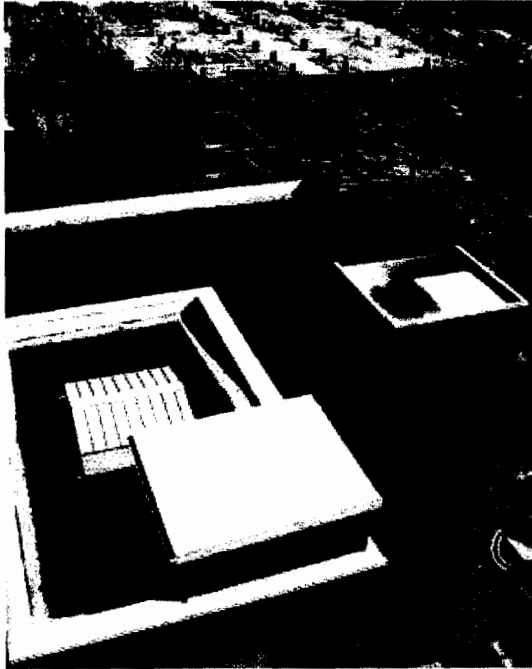


83

Not Recommended:
 [83-84] This historic hotel is a prominent and highly visible local landmark, and the wind turbines proposed to be added on the roof would negatively impact its historic character.

ROOFS—COOL ROOFS AND GREEN ROOFS

85



86



Recommended: [85-86] A cool or green roof is best installed on a flat roof where it cannot be seen from the public right of way and will not negatively impact the character of the historic building.

RECOMMENDED

Retaining and repairing durable, character-defining historic roofing materials in good condition.

Analyzing whether a cool roof or a green roof is appropriate for the historic building.

Installing a cool roof or a green roof on a flat-roofed historic building where it will not be visible from the public right of way and will not negatively impact the building's historic character.

Selecting appropriate roofing materials and colors when putting a new cool roof on the historic building.

Ensuring that the historic building can structurally accommodate the added weight of a green roof and sensitively improving the structural capacity, if necessary.

NOT RECOMMENDED

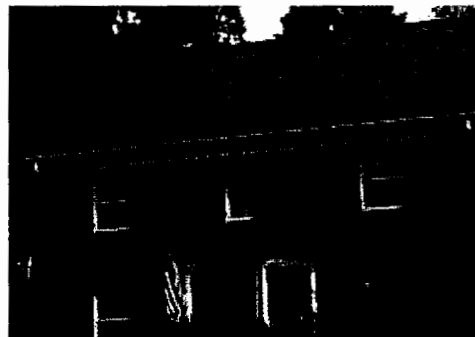
Replacing durable, character-defining historic roofing materials in good condition with a roofing material perceived as more sustainable.

Installing a cool roof or a green roof without considering whether it will be highly visible from the public right of way and will negatively impact the building's historic character.

Installing a cool roof that is incompatible in material or color with the historic building.

Adding a green roof that would be too heavy and would damage the historic building or supplementing the structural capacity of the historic building in an insensitive manner.

87



Not Recommended: [87] Historic roofing materials in good condition should be retained rather than replaced with another material perceived as more sustainable, such as, in this case, solar roofing shingles.

88



Not Recommended: [88] This new, cool white metal roof is not an appropriate material or color for this historic mid-20th century house.

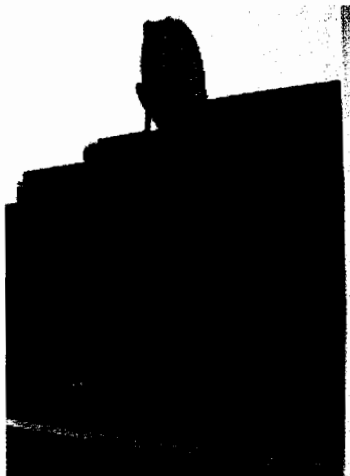
ROOFS—COOL ROOFS AND GREEN ROOFS

RECOMMENDED	NOT RECOMMENDED
Ensuring that the roof is water tight and that roof drains, gutters and downspouts function properly before installing a green roof.	Installing a green roof without ensuring that the roof covering is water tight and that drainage systems function properly.
Including a moisture-monitoring system when installing a green roof to protect the historic building from added moisture and accidental leakage.	
Selecting sustainable native plants that are drought resistant and will not require excessive watering of a green roof.	
Selecting appropriately-scaled vegetation for a green roof that will not grow so tall that it will be visible above the roof or parapet.	Selecting vegetation for a green roof that will be visible above the roof or parapet.

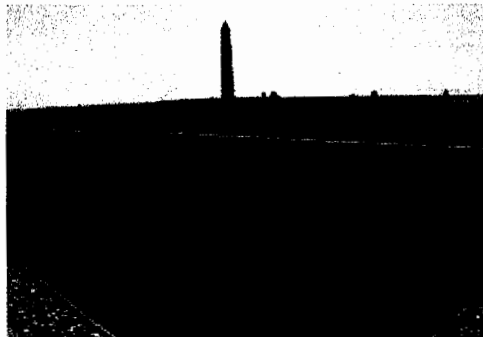


Not Recommended: [93] The vegetation on these green roofs has grown too tall and negatively impacts the character of these historic commercial buildings.

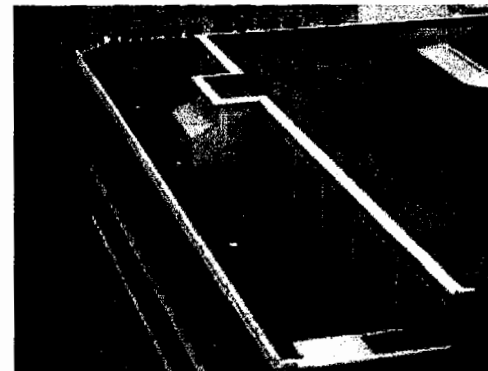
89



Recommended: [89-92] Low-scale and sustainable native plants are appropriate for these roof gardens on historic buildings.

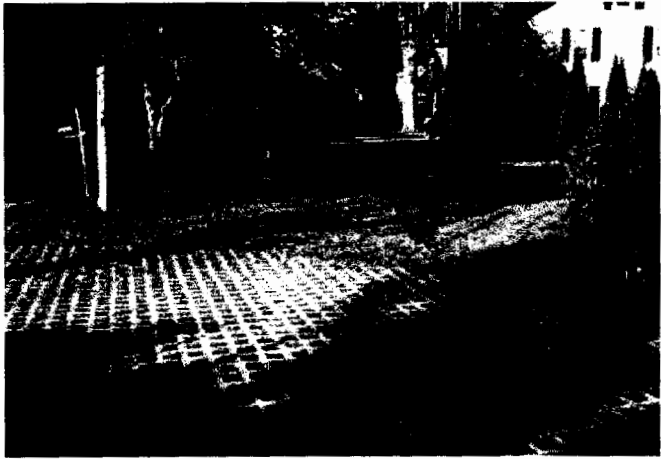


90-91



92

94



95



Recommended: [94-95] Permeable pavers were used at this historic residential property for a driveway and parking (above) and a hard-packed, construction aggregate provides environmentally-friendly paths for visitors at this historic site (below).

[96] Mature trees and a water feature contribute to the sustainability of this mid-twentieth century property.

96



97



Not Recommended: [97] This tree, which was planted too close to the building, has caused the masonry wall to retain moisture that damaged the mortar and required that the brick be repointed in this area.

SITE FEATURES AND WATER EFFICIENCY

RECOMMENDED

NOT RECOMMENDED

Respecting an important cultural landscape and significant character-defining site features when considering adding new sustainable features to the site.

Installing new sustainable site features without considering their potentially negative impact on an important cultural landscape and character-defining site features.

Using to advantage existing storm-water-management features, such as gutters, downspouts and cisterns, as well as site topography and vegetation that contribute to the sustainability of the historic property.

Ignoring existing features that contribute to the sustainability of the historic property.

Adding natural, sustainable features to the site, such as shade trees, if appropriate, to reduce cooling loads for the historic building.

Removing existing natural features, such as shade trees, that contribute to the building's sustainability.

Using permeable paving where appropriate on a historic building site to manage storm water.

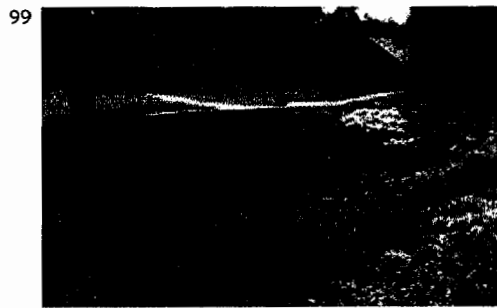
Planting trees where they may grow to encroach upon or damage the historic building.

SITE FEATURES AND WATER EFFICIENCY

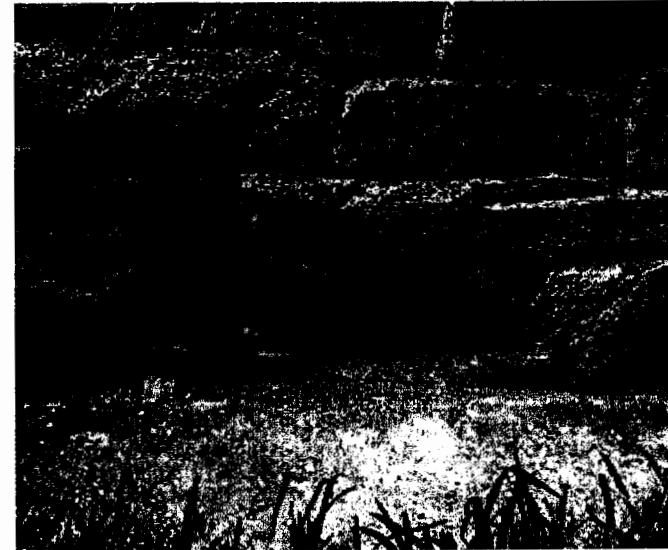
RECOMMENDED	NOT RECOMMENDED
Avoiding paving up to the building foundation to reduce heat island effect, building temperature, damage to the foundation and storm-water runoff.	Paving up to the building foundation with impermeable materials.
Landscaping with native plants, if appropriate, to enhance the sustainability of the historic site.	Introducing non-native plant species to the historic site that are not sustainable.
Adding features, such as bioswales, rain gardens, rain barrels, large collection tanks and cisterns, if compatible, to the historic building site to enhance storm-water management and on-site water reuse.	



Recommended: [98-100] Rain gardens and rain-water collection tanks are features that may be added to a historic property to improve storm-water management and increase on-site water use.



100



101

Not Recommended: [101] Splash back from the impermeable concrete paving next to the foundation is damaging these stones.



102

Recommended: [102-103]
Small, covered atriums that are compatible with the character of these historic warehouses have been inserted to light the interior.



103

Not Recommended: [104-106]
Skylights added on a primary roof elevation negatively impact the character of these historic houses.



104



105



106

DAYLIGHTING

RECOMMENDED

NOT RECOMMENDED

Retaining features that provide natural light to corridors, such as partial glass partitions, glazed doors and transoms, commonly found in historic office buildings.	Removing or covering features that provide natural light to corridors, such as partial glass partitions, glazed doors and transoms, commonly found in historic office buildings.
Reopening historic windows that have been blocked in to add natural light and ventilation.	Blocking in historic window openings to accommodate new building uses.
Adding skylights or dormers on secondary roof elevations where they are not visible or are only minimally visible so that they do not negatively impact the building's historic character.	Adding skylights or dormers on primary or highly-visible roof elevations where they will negatively impact the building's historic character.
Adding a small light well or light tubes, where necessary and appropriate, to allow more daylight into the historic building.	
Inserting a small atrium, only when necessary, to allow more daylight into the building in a manner that is compatible with the historic character of the building.	Cutting a very large atrium into the historic building that is not compatible with the building's historic character.
	Creating an open, uncovered atrium or courtyard in the historic building that appears to be an outdoor space, rather than an interior space.

DAYLIGHTING

RECOMMENDED

NOT RECOMMENDED

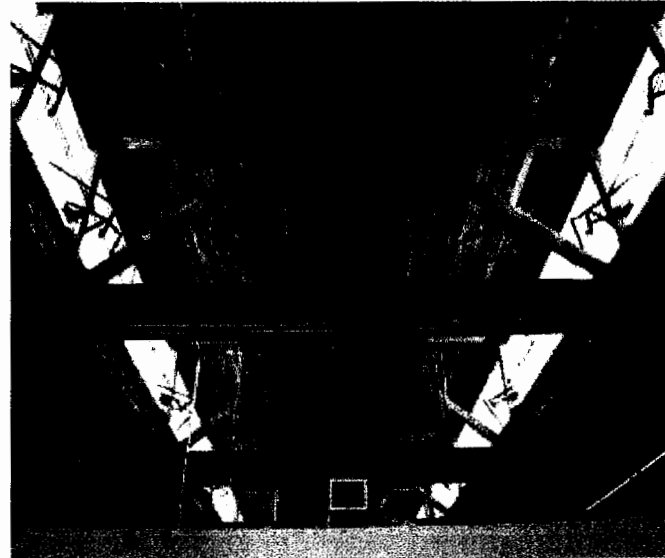
Installing light-control devices on the historic building where appropriate to the building type, such as light shelves in industrial or mid-century modern buildings, awnings on some commercial and residential buildings and shutters on residential buildings that had them historically.

Installing light-control devices that are incompatible with the type or style of the historic building.

Installing automated daylighting controls on interior lighting systems that ensure adequate indoor lighting and allow for energy-saving use of daylighting.

Adding new window openings on primary elevations that will negatively impact the character of the historic building.

Adding new window openings on secondary and less visible facades, where appropriate, to allow more natural light into the historic building.



110

Recommended: [110]

A clerestory window lights the interior corridor of this historic mill building.

107



Recommended: [107] Traditional canopies compatible with the industrial character of this former factory building were installed when it was converted for residential use.

[108-109] The original, partially-glazed doors and office partitions, as well as skylights, that let natural light into the corridors were retained as part of the rehabilitation of this early-20th century building.



108



111

[111] A limited number of new window openings may be added to non-character-defining, secondary facades to allow natural light into formerly windowless spaces.



109

0

1

2

**DESIGN GUIDELINES FOR
THE TOWN OF URBANNA
HISTORIC PRESERVATION DISTRICT**

Design Guidelines

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DESIGN GUIDELINES FOR THE TOWN OF URBANNA HISTORIC PRESERVATION DISTRICT

I. Background

The Town of Urbanna, founded by the Virginia House of Burgesses in 1680 and chartered by the General Assembly in 1906, has an exciting 300-year history as a port town serving the Rappahannock River and the Chesapeake Bay.

This history has created a multitude of structural styles for residential and commercial uses. This history has also caused a significant mixed-use land pattern throughout the historic area.

An Urbanna Historic Preservation (HP) district was created in conjunction with adoption of the Town's first zoning ordinance in 1979. The HP district is an overlay district with special zoning rules for structures, land use, construction, and reconstruction in that district. The purpose of the HP district is to preserve and enhance the historic flavor of the district.

One problem the Commission has encountered has been the lack of design guidelines which would allow them to consider applications as part of a whole scenario for the HP district, rather than as an individual application. Further, the Commission has expressed a need to inform the community of the district's desires for preserving the historic character while allowing contemporary uses.

All applications for zoning permits within the HP district are subject to review by the Urbanna Historic and Architectural Review Board (also known as the Historic Commission), and since the Commission's inception, it has met as a full body after State-proscribed advertising and reviewed all zoning permit applications relating to land in the HP district -- regardless of the size or magnitude of the application. This all-encompassing role - which includes signs, walkways, and other similar changes - has become an undue burden on both applicants and the Board.

Further, the Board recognizes that since the HP district covers a large commercial district with buildings whose uses naturally change with business cycles, there is a need to allow some change without diminishing the historic character of the HP district.

II. Design Guidelines: Background Concept

The purposes for adoption of the design guidelines include:

- A. Give the Historic Commission a methodology and focus for reviewing those application that come before them for review.
- B. Give land owners and the community a better understanding of the HP district regulations and their purpose for existence; and
- C. Provide a mechanism for lesser alterations in structure or land use to be approved at the administrative level without the time and expense of a full public hearing;

These design guidelines should be reviewed by the Historic Commission on a periodic basis so that they may be kept current with the thoughts, desires, and needs of the community.

III. Design Guidelines

The Historic Commission adopted the United States Secretary of the Interior's Standards for Rehabilitation as its official guidelines on December 4, XXXX. Copies of the complete Standards are available from the Town Office, but below are excerpts from those Standards which apply to most construction and rehabilitation undertaken in the Urbanna Historic Preservation district.

THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

The Secretary of the Interior is responsible for establishing standards for all programs under Departmental authority and for advising Federal agencies on the preservation of historic properties listed or eligible for listing on the National Register of Historic Places. In partial fulfillment of this responsibility, the Secretary of the Interior's Standards for Historic Preservation Projects have been developed to direct work undertaken on historic buildings

Initially used by the Secretary of the Interior in determining the applicability of proposed project work on registered properties with the Historic Preservation Fund grant-in-aid program, the Standards for Historic Preservation Projects have received extensive testing over the years -- more than 6,000 acquisition and development projects have been approved nationwide for a variety of work treatments. In addition, the Standards have been used by Federal agencies in carrying out their historic preservation responsibilities for properties in Federal ownership or control; and by State and local governments in the review of both Federal and nonfederal rehabilitation proposals. They have also been adopted by a number of historic districts and planning commissions across the country.

"*Rehabilitation*" is defined as the process of returning a property to a state of utility through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.

The Standards for Rehabilitation are as follows:

1. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired a significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any project.

9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size scale, color, material and character of the property, neighborhood and environment.

10. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

A. MASONRY

Brick, Block, Stone, Terra Cotta, Adobe, Stucco and Mortar

Masonry features (such as brick cornices and door pediments, stone window architraves, terra cotta brackets and railings) as well as masonry surfaces (modelling, tooling, bonding patterns, joint size, and color) may be important in defining the historic character of the building. It should be noted that while masonry is among the most durable of historic building materials, it is also the most susceptible to damage by improper maintenance or repair techniques and by harsh or abrasive cleaning methods.

Recommended

Identifying, retaining, and preserving masonry features that are important in defining the overall historic character of the building such as walls, brackets, railings, cornices, window architraves, door pediments, steps, and columns; and joint and unit size, tooling and bonding patterns, coatings, and colors.

Not Recommended

Removing or radically changing masonry features which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Replacing or rebuilding a major portion of exterior masonry walls that could be repaired so that, as a result, the building is no longer historic and is essentially new construction.

Applying paint or other coatings such as stucco to masonry that has been historically unpainted or uncoated to create a new appearance.

Removing paint from historically painted masonry.

Radically changing the type of paint or coating or its color.

B. WOOD

Clapboard, Weatherboard, Shingles and Other Wooden Siding and Decorative Elements

Because it can be easily shaped by sawing, planing, carving, and gouging, wood is the most commonly used material for architectural features such as clapboards, cornices, brackets, entablatures, shutters, columns, and balustrades. These wooden features -- both functional and decorative -- may be important in defining the historic character of the building and thus their retention, protection, and repair are of particular importance in rehabilitation projects.

Recommended

Identifying, retaining, and preserving wood features that are important in defining the overall historic character of the building such as siding, cornices, brackets, window architraves, and doorway pediments; and their paints, finishes, and colors.

Not Recommended

Removing or radically changing wood features which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Removing a major portion of the historic wood from a facade instead of repairing or replacing only the deteriorated wood, then reconstructing the facade with new material in order to achieve a uniform or "improved" appearance.

Radically changing the type or finish or its color or accent scheme so that the historic character of the exterior is diminished.

Stripping historically painted surfaces to bare wood, then applying clear finishes or stains in order to create a "natural look."

Stripping paint or varnish to bare wood rather than repairing or reapplying a special finish, i.e., a grained finish to an exterior wood feature such as a front door.

C. ARCHITECTURAL MATERIALS

Cast Iron, Steel, Pressed Tin, Copper, Aluminum, and Zinc

Architectural metal features -- such as cast-iron facades, porches, and steps; sheet metal cornices, roofs, roof cresting and storefronts; and cast or rolled metal doors, windows sash, entablatures, and hardware -- are often highly decorative and may be important in defining the overall historic character of the building. Their retention, protection, and repair should be a prime consideration in rehabilitation projects.

Recommended

Identifying, retaining, and preserving architectural metal features such as columns, capitals, window hoods, or stairways that are important in defining the overall historic character of the building; and their finishes and colors.

Not Recommended

Removing or radically changing architectural metal features which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Removing a major portion of the historic architectural metal from a facade instead of repairing or replacing only the deteriorated metal, then reconstructing the facade with new metal in order to create a uniform or "improved" appearance.

D. ROOFS

The roof -- with its shape; features such as cresting, dormers, cupolas, and chimneys; and size, color, and patterning of the roofing material -- can be extremely important in defining the building's overall historic character. In addition to the design role it plays, a weathertight roof is essential to the preservation of the entire structure; thus protecting and repairing the roof as a "cover" is a critical aspect of every rehabilitation project.

Recommended

Identifying, retaining, and preserving roofs -- and their functional and decorative features -- that are important in defining the overall historic character of the building. This includes the roof's shape, such as hipped, gambrel, and mansard; decorative features such as cupolas, cresting, chimneys, and weathervanes; and roofing material such as slate, wood, clay tile, and metal, as well as its size, color, and patterning.

Installing mechanical and service equipment on the roof such as air conditioning, transformers, or solar collectors when required for the new use so that they are inconspicuous from the public right-of-way and do not damage or obscure character-defining features.

Designing additions to roofs such as residential, office, or storage spaces; elevator housing; decks and terraces; or dormers or skylights when required by the new use so that they are inconspicuous from the public right-of-way and do not damage or obscure character-defining features.

Not Recommended

Radically changing, damaging, or destroying roofs which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Removing a major portion of the roof or roofing material that is repairable then reconstructing it with new material in order to create a uniform, or "improved" appearance.

Changing the configuration of a roof by adding new features such as dormer windows, vents, or skylights so that the historic character is diminished.

E. WINDOWS

A highly decorative window with an unusual shape, or glazing pattern, or color is most likely identified immediately as a character-defining feature of the building. It is far more difficult, however, to assess the importance of repeated windows on a facade, particularly if they are individually simple in design and material, such as the large multi-paned sash of many industrial buildings. Because rehabilitation projects frequently include proposals to replace window sash or even entire windows to improve thermal efficiency or to create a new appearance, it is essential that their contribution to the overall historic character of the building be assessed together with their physical condition before specific repair or replacement work is undertaken.

Recommended

Identifying, retaining, and preserving windows -- and their functional and decorative features -- that are important in defining the overall historic character of the building. Such features can include frames, sash, muntins, glazing, sills, heads, hoodmolds, panelled or decorative jambs and moldings, and interior and exterior shutters and blinds.

Designing and installing additional windows on rear or other non-character-defining elevations if required by the new use. New window openings may also be cut into exposed party walls. Such design would be compatible with the overall design of the building, but not duplicate the fenestration pattern and detailing of a character-defining elevation.

Not Recommended

Removing or radically changing windows which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Changing the number, location, size or glazing pattern of windows, through cutting new openings, blocking-in windows, and installing replacement sash which does not fit the historic window opening.

Changing the historic appearance of windows through the use of inappropriate designs, materials, finishes, and colors which radically change the sash, depth of reveal, and muntin configuration; the reflectivity and color of the glazing; or the appearance of the frame.

Obscuring historic window trim with metal or other material.

Stripping windows of historic material such as wood, iron, cast iron, and bronze.

Installing new windows, including frames, sash, and muntin configuration that are incompatible with the building's historic appearance or obscure, damage, or destroy character-defining features.

F. ENTRANCES AND PORCHES

Entrances and porches are quite often the focus of historic buildings, particularly when they occur on primary elevations. Together with their functional and decorative features such as doors, steps, balustrades, pilasters, and entablatures, they can be extremely important in defining the overall historic character of a building. The retention, protection, and repair should always be carefully considered when planning rehabilitation work.

Recommended

Identifying, retaining, and preserving entrances -- and their functional and decorative features -- that are important in defining the overall historic character of the building such as doors, fanlights, sidelights, pilasters, entablatures, columns, balustrades, and stairs

Designing enclosures for historic porches when required by the new use in a manner that preserves the historic character of the building. This can include using large sheets of glass and recessing the enclosure wall behind existing scrollwork, ports, and balustrades.

Designing and installing additional entrances or porches when required for the new use in a manner that preserves the historic character of the building, i.e., limiting such alteration to non-character-defining elevations.

Not Recommended

Removing or radically changing entrances and porches which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Stripping entrances and porches of historic material such as wood, iron, cast iron, terra cotta, tile, and brick.

Removing an entrance or porch because the building has been re-oriented to accommodate a new use.

Cutting new entrances on a primary elevation.

Altering utilitarian or service entrances so they appear to be formal entrances by adding panelled doors, fanlights, and sidelights.

Enclosing porches in a manner that results in a diminution or loss of historic character such as using solid materials such as wood, stucco, or masonry.

Installing secondary service entrances and porches that are incompatible in size and scale with the historic building, or obscure, damage, or destroy character-defining features.

G. DESIGN FOR MISSING HISTORIC FEATURES

Recommended

Designing and installing a new feature when the historic feature is completely missing. It may be an accurate restoration using historical, pictorial, and physical documentation; or be a new design that is compatible with the size, scale, material, and color of the historic building.

Not Recommended

Creating a false historical appearance because the replaced feature is based on insufficient historical, pictorial, and physical documentation.

Introducing a new feature that is incompatible in size, scale, material, and color.

H. STOREFRONTS

Storefronts are quite often the focus of historic commercial buildings and can thus be extremely important in defining the overall historic character. Because storefronts also play a crucial role in a store's advertising and merchandising strategy to draw customers and increase business, they are often altered to meet the needs of a new business. Particular care is required in planning and accomplishing work on storefronts so that the building's historic character is preserved in the process of rehabilitation.

Recommended

Identifying, retaining, and preserving storefronts -- and their functional and decorative features -- that are important in defining the overall historic character of the building such as display windows, signs, doors, transoms, kick plates, corner posts, and entablatures.

Repairing storefronts by reinforcing the historic materials. Repairs will also generally include the limited replacement in kind -- or with compatible substitute material -- of those extensively deteriorated or missing parts of storefronts where there are surviving prototypes such as transoms, kick plates, pilasters, or signs.

Replacing in kind an entire storefront that is too deteriorated to repair -- if the overall form and detailing are still evident -- using the physical evidence to guide the new work. If using the same material is not technically or economically feasible, then compatible substitute materials may be considered.

Not Recommended

Removing or radically changing storefronts -- and their features -- which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Changing a storefront so that it appears residential rather than commercial in character.

Removing historic material from the storefront to create a recessed arcade.

Introducing coach lanterns, mansard overhanging, wood shakes, nonoperable shutters, and small-paned windows if they cannot be documented historically.

Changing the location of the storefront's main entrance.

Replacing the entire storefront when repair of materials and limited replacement of its parts are appropriate.

Using substitute material for the replacement parts that does not convey the same visual appearance as the surviving parts of the storefront or that is physically or chemically incompatible.

Removing a storefront that is not repairable and not replacing it; or replacing it with a new storefront that does not convey the same visual appearance.

I. STOREFRONTS -- DESIGNS FOR MISSING HISTORIC FEATURES

Recommended

Designing and constructing a new storefront when the historic storefront is completely missing. It may be an accurate restoration using historical, pictorial, and physical documentation; or be a new design that is compatible with the size, scale, material, and color of the historic building. Such new design should generally be flush with the facade; and the treatment of secondary design elements, such as awnings or signs, kept as simple as possible. For example, new signs should fit flush with the existing features of the facade, such as the fascia board or cornice.

Not Recommended

Creating a false historical appearance because the replaced storefront is based on insufficient historical, pictorial, and physical documentation.

Introducing a new design that is incompatible in size, scale, material and color.

Using new illuminated signs; inappropriately scaled signs and logos; signs that project over the sidewalk unless they were a characteristic feature of the historic building; or other types of signs that obscure, damage, or destroy remaining character-defining features of the historic district.

J. BUILDING SITE

The relationship between a historic building or buildings and landscape features within a property's boundaries -- or the building site -- helps to define the historic character and should be considered an integral part of the overall planning for rehabilitation project work.

Recommended

Designing new on-site parking, loading docks, or ramps when required by the new use so that they are unobtrusive as possible and assure the preservation of character-defining features of the site.

Designing new exterior additions to historic buildings or adjacent new construction which is compatible with the historic character of the site and which preserve the historic relationship between a building or buildings, landscape features, and open space.

Removing nonsignificant buildings, additions, or site features which detract from the historic character of the site.

Not Recommended

Placing parking facilities directly adjacent to historic buildings where automobiles may cause damage to the buildings or landscape features or be intrusive to the building site.

Introducing new construction onto the building site which is visually incompatible in terms of size, scale, design, materials, color and texture or which destroys historic relationships on the site.

Removing a historic building in a complex, a building feature, or a site feature which is important in defining the historic character of the site.

K. DISTRICT/NEIGHBORHOOD

The relationship between historic buildings, and streetscape and landscape features within a historic district or neighborhood helps to define the historic character and therefore should always be a part of the rehabilitation plans.

Recommended

Identifying, retaining, and preserving buildings, and streetscapes, and landscape features which are important in defining the overall historic character of the district or neighborhood. Such features can include streets, alleys, paving, walkways, street lights, signs, benches, parks and gardens, and trees.

Retaining the historic relationship between buildings, and streetscape and landscape features such as town square comprise of row houses and stores surrounding a communal park or open space.

Repairing features of the building, streetscape, or landscape by reinforcing the historic materials. Repair will also generally include the replacement in-kind -- or with a compatible substitute material -- of those extensively deteriorated or missing parts or features when there are surviving prototypes such as porch balustrades, paving materials, or streetlight standards.

Replacing in-kind an entire feature of the building, streetscape, or landscape that is too deteriorated to repair -- when the overall form and detailing are still evident -- using the physical evidence to guide the new work. This could include a storefront, a walkway, or a garden. If technically or economically feasible, then a compatible substitute material may be considered.

Designing requiring new parking so that it is unobtrusive as possible, i.e., on side streets or at the rear of buildings. "Shared" parking should also be planned so that several businesses can utilize one parking area as opposed to introducing random, multiple lots.

Designing and constructing new additions to historic buildings when required by the new use. New work should be compatible with the historic character of the district or neighborhoods in terms of size, scale, design, material, color and texture.

Removing nonsignificant buildings, additions, or streetscape and landscape features which detract from the historic character of the district or the neighborhood.

Not Recommended

Removing or radically changing those features of the district or neighborhood which are important in defining the overall historic character so that, as a result, the character is diminished.

Destroying streetscape and landscape features by widening existing streets, changing paving material, or introducing inappropriately located new streets or parking lots.

Removing or relocating historic buildings, or features of the streetscape and landscape, thus destroying the historic relationship between buildings, features and open space.

Replacing an entire feature of the building, streetscape, or landscape such as a porch, walkway, or street light, when repair of materials and limited replacement of deteriorated or missing parts are appropriate.

Using a substitute material for the replacement part that does not convey the visual appearance of the surviving parts of the building, streetscape, or landscape feature or that is physically or chemically incompatible.

Removing a feature of the building, streetscape, or landscape that is not repairable and not replacing it; or replacing it with a new feature that does not convey the same visual appearance.

Placing parking facilities directly adjacent to historic buildings which cause the removal of historic plantings, relocation of paths and walkways, or blocking of alleys.

Introducing new construction in historic districts that is visually incompatible or that destroys historic relationships within the district or neighborhood.

Removing a historic building, building features, or landscape or streetscape feature that is important in defining the overall historic character of the district or neighborhood.

L. NEW ADDITIONS TO HISTORIC BUILDINGS

An attached exterior addition to a historic building expands its "outer limits" to create a new profile. Because such expansion has the capability to radically change the historic appearance, an exterior addition should be considered only after it has been determined that the new use cannot be successfully met by altering non-character-defining interior spaces. If the new use cannot be met in this way, then an attached exterior addition is usually an acceptable alternative. New additions should be designed and constructed so that the character-defining features of the historic building are not radically changed, obscured, damaged, or destroyed in the process of rehabilitation. New design should always be clearly differentiated so that the addition does not appear to be part of the historic resource.

Recommended

Constructing a new addition so that there is the least possible loss of historic materials and so that character-defining features are not obscured, damaged, or destroyed.

Locating the attached exterior addition at the rear or an inconspicuous side of a historic building; and limiting its size and scale in relationship to the historic building.

Designing new additions in a manner that makes clear what is historic and what is new.

Considering the attached exterior addition both in terms of the new use and the appearance of other buildings in the historic district or neighborhood. Design for the new work may be contemporary or may reference design motifs from the historic building. In either case, it should always be clearly differentiated from the historic building and be compatible in terms of mass, materials, relationship of solids to voids, and color.

Placing new additions such as balconies and greenhouses on non-character-defining elevations and limiting the size and scale in relationship to the historic building.

Designing additional stories, when required for the new use, that are set back from the wall plane and are as inconspicuous as possible when viewed from the street.

Not Recommended

Attaching a new addition so that the character-defining features of the historic building are obscured, damaged, or destroyed.

Designing a new addition so that its size and scale in relation to the historic building are out of proportion, thus diminishing the historic character.

Duplicating the exact form, material, style, and detailing of the historic building in the new addition so that the new work appears to be part of the historic building.

Imitating a historic style or period of architecture in new additions, especially for contemporary uses such as drive-in banks and garages.

Designing and constructing new additions that result in the diminution or loss of the historic character of the resource, including its design, materials, workmanship, location, or setting.

Using the same wall plane, roof line, cornice height, materials, siding lap or window type to make additions appear to be a part of the historic building.

Designing new additions such as multi-story greenhouse additions that obscure, damage, or destroy the character-defining features of the historic building.

Constructing additional stories so that the historical appearance of the building is radically changed.

III. SIGNS

Signs in our community can help people to realize the heritage and uniqueness of the Town of Urbanna, and through good sign design, the diversity of business and interests can enhance and contribute to the environment and the community.

The purpose of this sign section is to create a framework for a comprehensive, balanced system of signing in the commercial sections of Urbanna's Historic Preservation (HP) district. It will encourage the use of signs which are:

- A. Compatible with the surrounding HP district;
- B. Appropriate to the activity to which they pertain;
- C. Expressive of the identity of the individual properties; and
- D. Legible in the circumstances in which they are seen.

Improved visual communication in the community can be achieved through an increased level of sign design awareness and appreciation. The objective is to encourage a high level of design awareness, and to promote signs which are informative and well designed for creative diversity and originality in good design.

Ideally, signs will reflect the social, aesthetic, and economic goals and values of a community. The relationship of signs to the successful economic functioning of a town cannot be over-stressed. The aim is to promote the development of the Town of Urbanna.

This section focuses on-premises signs, signs which advertise a business on the premises.¹ On-premise signs are an accessory land use functionally related to the success of the primary land use. They are extremely important as trade area communication devices as they most directly affect people when they are closest to a business, and therefore at a decision point. They are generally the only communication device within a trade area, so their impact cannot be overlooked.

For these reasons, the role of signs in establishing the character of the HP district cannot be understated. Signs appropriate for the principal building and land

¹ Off-premise signs are prohibited in the Town of Urbanna.

use, and which also enhance the aesthetic value of the community, create value both to the property owner and the community.

Property owners are encouraged to seek the advice of a professional graphic designer and/or an architect prior to developing any sign.

A. General Guidelines

Sign Design Must Be Compatible With:

- Architecture of Building
- Architecture of the Surrounding Area and Adjacent Structures
- Identity of the Business

Relationship of Sign to Building Facade:

- Scale
- Proportion
- Rhythm
- Detail
- Balance
- Placement (Integration with Architecture)

Scale

Should be in proportion to:

- Building Size
- Solids and Voids in the Building
- Human Scale
- Building Construction Elements (i.e., brick, clapboard)

Proportion:

Elements for Indication Sign Proportion:

Width of:

- Window
- Awning
- Door Opening

Fascia
Cornice
Store Front

Placement:

Within Pedestrian Sight Line:

No Higher than:

15 feet above the sidewalk
The bottom of the second floor windows

Relate to Architecture:

Pediment
Cornice
Designed area for sign

Projection -- Center:

Over Openings
Between Openings

Color:

Relationship of Sign Colors to Facade Colors:

Construction Elements:

Roof
Wall
Door
Trim

Number of Colors:

Three -- including black and white

Suggested Colors:

Buff-brown; light gray; ochre; brick-red; gray-green;
medium blue; muted or "natural" colors; gull-gray; gray

blue; slightly green yellow ochre; earthtones; original
Williamsburg colors

Accent:

Use for Special Effects (On doors)

Number of Signs:

No More than:

Two Signs Per Establishment

On Structure - One

On Premises (Not on Structure) - One

One freestanding sign per building (included in total of two)

Materials:

Plastic sign use discouraged - not recommended

Illumination:

Lighting should be:

Steady; Stationary;; Shield from an Exterior Light Source

Types:

Incandescent Lights -- attach to top of sign

Floodlights or Spotlights -- Position so no light interferes with adjacent properties

Indirect illumination or backlighting - Use discouraged. If used, only letters should be backlit

Internally lit Plastic Trademark Sign -- Use discouraged

Bare Bulb Illumination -- Restricted to establishments categorized as eating, drinking places, hotels and lodging places, and amusement and recreation.

20 Watts Maximum Wattage

Wiring:

Conceal from view

Color:

White suggested for Displays in Area within 500 feet of a property zoned residential.

Method of Support:

Balance:

Between support and sign

Placement of Attachment to Building:

Below roof line on cornice

Lettering:

Legibility:

Determined by Following:

Letter height
Proportion
Thickness of the Characters
Spacing
Viewing Distance
Color Combinations
Contrast with their background
Illumination
Sign Placement angle

Sign Types:

Awnings and Canopies:

Letter Attachment (included in total allowed sign area) :

Sewn, Painted, Screened

Consistent Style and Color With:

Building Signs
Building Materials
Trim Color

Placement:

Relate to facade openings -- Individual awnings for each window preferred
Cannot extend beyond street lot line
Use is discouraged (including basement entrances)

Colors:

Buff-brown; light gray; brick-red; gray-green; medium blue

Marquees:

See Guidelines in this Section Regarding Color; Number of Signs; Materials; Illumination; Method of Support; and Lettering

Compatible Marquees will be approved only for new buildings or certain renovations where their utility to the public's use of the building can be demonstrated.

It is recommended that this design be done by a professional architect

Projecting Sign:

Projecting signs should not obscure architecture of individual buildings or groups of buildings.

Design Considerations:

Method of Support
Design of Illumination
Bottom of sign must be at least eight feet above ground level

Freestanding Signs:

Freestanding Signs Should:

Never impede pedestrian traffic
Be used to indicate an establishment which is slightly set back from the public way

Shape:

Horizontal format is preferred over vertical format

Placement:

Located at a right angle to the street or lot line along the edge of the entrance walkway
On or above a fence or planting is encouraged
Within customer's site line and route of approach

Design Considerations:

Method of Support
Design of Illumination

Wall Signs:

There is a chance of obscuring architectural details of the sign or letters of a wall sign are not placed with care.

Lettering:

Individual cut out letters recommended
mounted to project in a parallel plane away from the building's facade; can be fastened to a balcony or column.

Placement:

No symbol or boxed graphics should cut across
columns

Temporary Signs on wheels:
Not Recommended

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SECTION 17-4.10 CHESAPEAKE BAY PRESERVATION AREA OVERLAY DISTRICT

EFFECTIVE JANUARY 1, 2004

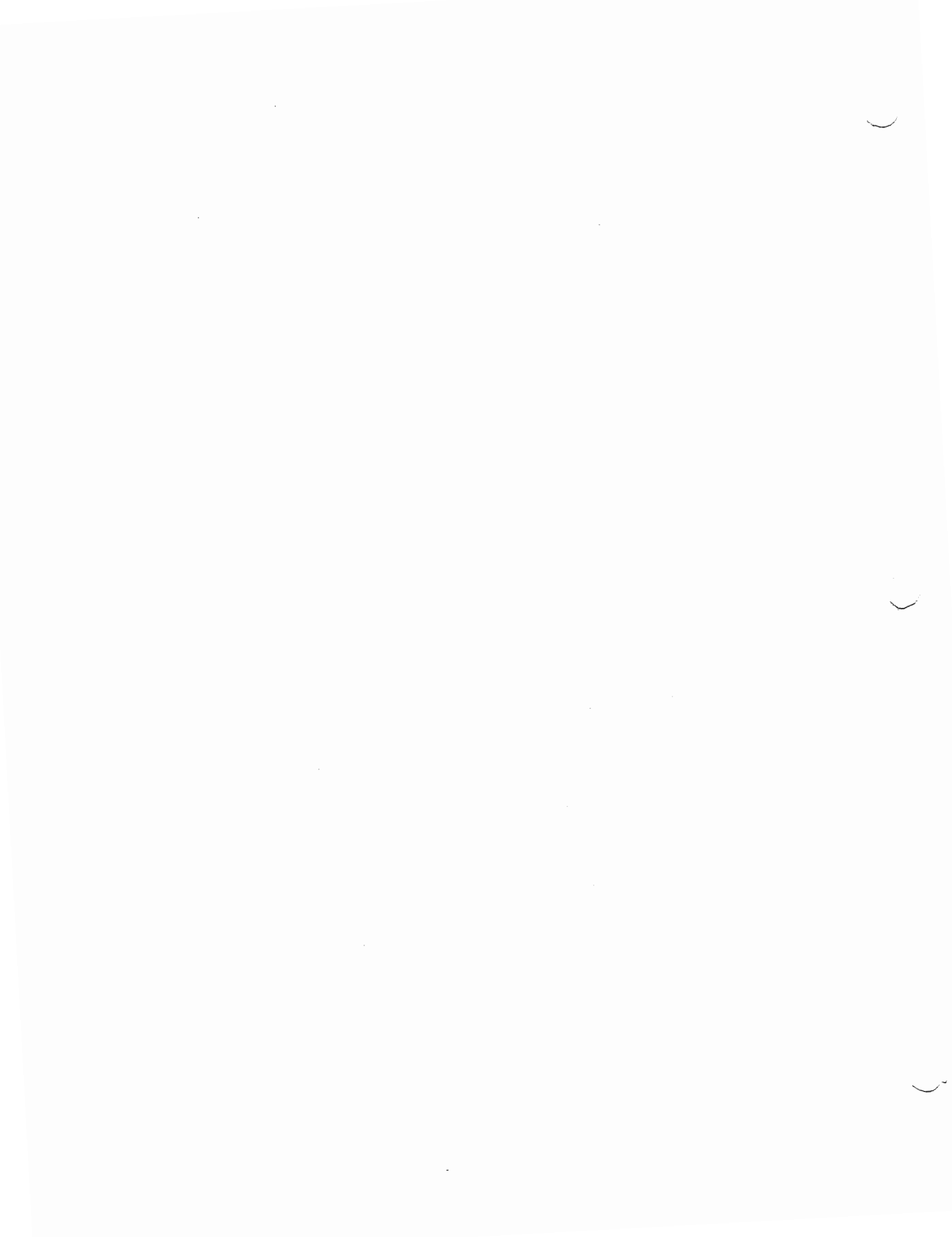
Section 17-4.10.1 Purpose.

The Chesapeake Bay and its tributaries are one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of the Town of Urbanna and the Commonwealth of Virginia. The health of the Bay is vital to maintaining the Town of Urbanna's economy and the welfare of its citizens.

The Chesapeake Bay waters have been degraded significantly by many sources of pollution from land uses and development. Existing high quality waters are worthy of protection from degradation to guard against further pollution. Certain lands that are proximate to shorelines have intrinsic water quality value due to the ecological and biological processes they perform. Other lands have severe development constraints from flooding, erosion, and soil limitations. With proper management, they offer significant ecological benefits by providing water quality maintenance and pollution control, as well as flood and shoreline erosion control. These lands together, designated by the Urbanna Town Council as Chesapeake Bay Preservation Areas ("CBPAs"), need to be protected from destruction and damage in order to protect the quality of water in the Bay and consequently the quality of life in the Town of Urbanna and the Commonwealth of Virginia.

It is the purpose of the Zoning Ordinance, adopted under the authority of Section 10.1-2100 et seq., of The Code of Virginia, the Chesapeake Bay Preservation Act, to support the goals and objectives of the Chesapeake Bay Preservation Act and the Town of Urbanna Comprehensive Plan by protecting and improving the water quality of the Chesapeake Bay, its tributaries, buffer areas and other sensitive environmental lands by minimizing the potential adverse effects of human activity upon these areas. The intent of the Article is to:

1. Protect existing high quality state waters;
2. Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;
3. Safeguard the clean waters of the Commonwealth;
4. Reduce existing pollution;
5. Promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the Town of Urbanna.



- 4. Reduce existing pollution;
- 5. Promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the Town of Urbanna.

The requirements contained herein establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration within the Chesapeake Bay Preservation Areas. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential.

Additionally, these regulations are intended to prevent a net increase in nonpoint source pollution from new development, achieve a ten percent (10%) reduction in nonpoint source pollution from redevelopment, and achieve a forty percent (40%) reduction in nonpoint source pollution from agricultural uses.

Section 17-4.10.2 Areas of Applicability.

- A. The Chesapeake Bay Preservation Area Overlay District shall apply to all lands identified as Resource Protection Areas (RPAs) and qualifying as Resource Management Areas (RMAs) based upon the environmental data depicted on maps adopted by the Urbanna Town Council that are on file in the office of the Zoning Administrator.
 - 1. The Resource Protection Area (RPA) includes:
 - a. Tidal wetlands;
 - b. Non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
 - c. Tidal shores; and
 - d. A vegetated buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subsections a. through c. above, and along both sides of any water body with perennial flow.

2. The Resource Management Area (RMA) includes:
 - a. The 100 year floodplain;
 - b. Non-tidal wetlands not connected by surface flow and contiguous to tidal wetlands, water bodies with perennial flow or other tidal waters;
 - c. Highly erodible and highly permeable soils;
 - d. Slopes in excess of fifteen (15) percent; and
- B. The maps adopted by the Urbanna Town Council show only the general location of CBPAs and should be consulted by persons contemplating activities within the Town of Urbanna prior to engaging in a regulated activity. The specific location of RPAs on a lot or parcel shall be delineated on each site or parcel as required under Section 17-4.10.11 of the Zoning Ordinance through the review and approval of the plan of development process or as required under Section 17-4.10.12 through the review and approval of a water quality impact assessment.

17-4.10.3 Use Regulations.

Permitted uses and special exception uses shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.

17-4.10.4 Development in Resource Protection Areas.

- A. Land development in Resource Protection Areas shall only be permitted if it:
 1. Is water-dependent subject to the provisions Section 17-4.10.4.B of the Zoning Ordinance;
 2. Constitutes redevelopment subject to the provisions Section 17-4.10.4.C of the Zoning Ordinance;
 3. Is a road or driveway crossing subject to the provisions of Section 17-4.10.4.D of the Zoning Ordinance; and
 4. Constitutes a permitted encroachment subject to the provisions of Section 17-

4.10.9 of the Zoning Ordinance.

- B. A new or expanded water dependent facility shall be permitted provided that the following criteria are met:
 - 1. It does not conflict with the Town of Urbanna Comprehensive Plan;
 - 2. It complies with the performance criteria set forth in Section 17-4.10.10 of the Zoning Ordinance;
 - 3. Any non-water-dependent component is located outside of the RPA; and
 - 4. Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.

- C. Redevelopment shall be permitted provided that the following criteria are met:
 - 1. It does not conflict with the Town of Urbanna Comprehensive Plan;
 - 2. There is not an increase in the amount of impervious cover;
 - 3. No further encroachment within the RPA is created; and
 - 4. It complies with the performance criteria set forth in Section 17-4.10.10 of the Zoning Ordinance.

- D. Roads and driveways not exempt under Section 17-4.10.14 and which, therefore, must comply with the provisions of the Zoning Ordinance, may be constructed in or across RPAs if each of the following conditions are met:
 - 1. The Zoning Administrator makes a finding that there are no reasonable alternatives to aligning the road or drive in or across the RPA;
 - 2. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and minimize adverse effects on water quality;

3. The design and construction of the road or driveway satisfy all applicable criteria of the Zoning Ordinance; and
 4. The Zoning Administrator reviews the plan for the road or driveway proposed in or across the RPA in coordination with the plan of development requirements as required under Section 17-4.10.11 of the Zoning Ordinance.
- E. A water quality impact assessment as outlined in Section 17-4.10.12 of this Zoning Ordinance shall be required for any proposed land disturbance, development or redevelopment within Resource Protection Areas and for any other development within Resource Management Areas when required by the Zoning Administrator because of the unique characteristics of the site or intensity of development.

17-4.10.5 Lot Size.

Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any newly created lot shall have sufficient area outside the Resource Protection Area to accommodate an intended development, in accordance with the performance standards in Section 17-4.10.10, when such development is not otherwise allowed in the Resource Protection Area.

17-4.10.6 Interpretation of Resource Protection Area Boundaries.

- A. Delineation by the Applicant.

The site-specific boundaries of the Resource Protection Area shall be determined by the applicant through the performance of an environmental site assessment or water quality impact assessment in accordance with Section 17-4.10.12 of the Zoning Ordinance, subject to approval by the Zoning Administrator and in accordance with Section 17-4.10.11 of the Zoning Ordinance. The map approved by the Urbanna Town Council may be used as a guide to the general location of Resource Protection Areas.

- B. Delineation by Zoning Administrator.

The Zoning Administrator, when requested by the applicant wishing to construct a single-family residence, may waive the requirement for an environmental site assessment and perform the delineation. The Zoning Administrator may use, hydrology, soils, plant species, and other data, and consult with other appropriate resources as needed to perform the delineation.

C. Where Conflict Arises Over Delineation.

Where the applicant has provided a determination of the Resource Protection Area, the Zoning Administrator shall verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the Zoning Administrator may render adjustments to the applicant's boundary delineation, in accordance with Section 17-4.10.11 of the Zoning Ordinance. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of Section 17-4.10.11.H.

17-4.10.7 Resource Protection Area Buffer Requirements.

- A. To minimize the adverse effects of human activities on the other components of Resource Protection Areas (RPA), state waters, and aquatic life, a 100-foot wide buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist.
- B. The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any water body with perennial flow. The 100-foot full buffer area shall be designated as the landward component of the Resource Protection Area, in accordance with Sections 17-4.10.2 of the Zoning Ordinance. Notwithstanding permitted uses, encroachments, and vegetation clearing, as set forth in Sections 17-4.10.4, 17-4.10.8 and 17-4.10.9 and this Zoning Ordinance, the 100-foot buffer area shall not be reduced in width.
- C. The 100-foot buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.

17-4.10.8 Permitted Modifications to the Resource Protection Area Buffer.

- A. In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only, subject to approval by the Zoning Administrator, to provide for reasonable sight lines, access paths, general woodlot management, and best management practices including those that prevent upland erosion and concentrated flows of stormwater, as follows:

1. Existing trees over four (4) inches in diameter at breast height (DBH) shall be preserved outside any approved construction footprint.
 2. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.
 3. Any path shall be constructed and surfaced so as to effectively control erosion.
 4. Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu and multiflora rose) may be removed and thinning of trees allowed as permitted by the Zoning Administrator pursuant to sound horticultural practices.
 5. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.
 6. All trees planted as replacement vegetation shall be mature, well-branched and a minimum of four (4) feet in height (excluding root mass) at planting.
 7. All trees removed without approval of the Zoning Administrator shall be replaced on a basis of two (2) replacement trees for every one (1) removed.
- B. On agricultural lands, the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area as follows:
1. Agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when at least one agricultural best management practice, which addresses the more predominant water quality issue on the adjacent land – erosion control or nutrient management – is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-

foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil test, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations" (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation and Recreation.

2. Agricultural activities may encroach within the landward 75 feet of the 100-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T", as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U. S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil test, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations" (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot wide buffer area.
 3. The buffer area is not required to be designated adjacent to agricultural drainage ditches if the adjacent agricultural land has in place at least one best management practices as considered by the local Soil and Water Conservation District to address the more predominant water quality issue on the adjacent land – either erosion control or nutrient management.
- C. When agricultural or silvicultural uses within the buffer area cease, and the lands are proposed to be converted to other uses, the full 100-foot wide buffer area shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions are maintained or established.

17-4.10.9 Permitted Encroachments into the Resource Protection Area Buffer.

- A. When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Zoning Administrator may permit encroachments into the buffer area in accordance with Section 17-4.10.11 and the

following criteria:

1. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
 2. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel; and
 3. The encroachment may not extend into the seaward 50 feet of the buffer area.
- B. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and January 1, 2004, the Zoning Administrator may permit encroachments into the buffer area in accordance with Section 17-4.10.11 and the following criteria:
1. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
 2. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel;
 3. The encroachment may not extend into the seaward 50 feet of the buffer area;
 4. Conditions or mitigation measures imposed through a previously approved CBPA Exception or variance shall be met; and
 5. If the use of a best management practice (BMP) was previously required, the BMP shall be evaluated to determine if it continues to function effectively and, if necessary, the BMP shall be reestablished or repaired and maintained as required.

17-4.10.10 Performance Standards.

All development or redevelopment of land in the Resource Protection Area (RPA) and Resource

Management Area (RMA) shall meet the following performance standards:

- A. All development and redevelopment that exceeds 2,500 square feet of land disturbance shall be subject to a plan of development in accordance with Section 17-4.10.11 of the Zoning Ordinance.
- B. Notwithstanding any other provisions of the Zoning Ordinance or exceptions or exemptions thereto, any land disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, shall comply with the requirements of the Town of Urbanna Erosion and Sedimentation Control Ordinance.
- C. Prior to initiating grading or other on-site activities on any portion of a lot or parcel, any Wetlands Permit required by the provisions of Middlesex County Wetlands Ordinance shall be obtained and evidence of such submitted to the Zoning Administrator prior to the approval of a plan of development as required by Section 17-4.10.11 of the Zoning Ordinance.
- D. Land disturbance shall be limited to the area necessary to provide for the proposed use or development.
 - 1. The limits of clearing and grading shall be reviewed and approved by the Zoning Administrator through the plan of development process. These limits shall be clearly shown on submitted plans and physically marked in the development site.
 - 2. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the Zoning Administrator.
- E. Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the proposed use and development permitted and in accordance with the Virginia Erosion and Sediment Control Handbook.
 - 1. Existing trees over four (4) inches diameter at breast height (DBH) shall be preserved outside the approved construction footprint.
 - 2. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed, when approved by the Zoning Administrator. Other woody vegetation on site shall also be preserved outside the approved construction footprint.

- F. Land development shall minimize impervious cover consistent with the proposed use or development.
- G. On-site sewage treatment systems not permitted. All development within the Town of Urbanna will require HRSD approval and hookup to the sewer system.
- H. For any use or development, stormwater runoff shall be controlled by the use of best management practices consistent with the water quality protection provisions of the Virginia Stormwater Management Regulations (4 VAC 3-20-10 et seq.).
 - 1. For development, the post-development nonpoint source pollution runoff load shall not exceed the pre-development load;
 - 2. For redevelopment, the nonpoint source pollution load shall be reduced by at least 10 percent. The Zoning Administrator may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided the following provisions are satisfied:
 - a. In no case may the post-development nonpoint source pollution runoff load exceed the pre-development load;
 - b. Runoff pollution loads must have been calculated and the BMPs selected for the expressed purpose of controlling nonpoint source pollution; and
 - c. If best management practices are structural, evidence shall be provided that facilities are currently in good working order and performing at the design levels of service
- I. Land upon which agricultural activities are being conducted shall undergo a soil and water quality conservation assessment. Such assessments shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management and management of pesticides, and where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with this Article.

17-4.10.11 Plan of Development Process**A. Purpose and Intent**

The purpose of the plan of development process is to provide for a review process that ensures that development and redevelopment complies with the provisions of this Article and that protects the quality of state waters.

B. Applicability

A plan of development shall be required for any development or redevelopment exceeding 2,500 square feet of land disturbance in the Resource Protection Area (RPA) or Resource Management Area (RMA). A plan of development shall be approved prior to any development preparation activities onsite, such as clearing and grading of the site and the issuance of a Zoning and Building Permit, to assure compliance of all applicable requirements of the Zoning Ordinance.

C. Submission and Review Requirements.

1. For all individual single-family dwellings in the RPA and all development in the RMA, the plan of development shall consist of the following plans and studies:
 - a. A water quality impact assessment in accordance with the provisions of Section 17-4.10.12 of this Zoning Ordinance.
 - b. An erosion and sedimentation control plan in accordance with the provisions of Middlesex County Erosion and Sedimentation Control Ordinance.
 - c. A valid Wetlands Permit for any activities specified as requiring a permit in the provisions of Middlesex County Wetlands Ordinance.
2. For all development or redevelopment other than individual single-family dwellings in the RPA, the plan of development shall consist of the plans and studies:
 - a. A water quality impact assessment in accordance with the provisions of Section 17-4.10.12 of this Zoning Ordinance;

- b. An environmental site assessment in accordance with the provisions of Section 17-4.10.D of this Zoning Ordinance;
 - c. A landscaping plan in accordance with the provisions of Section 17-4.10.11.E of this Zoning Ordinance;
 - d. A stormwater management plan in accordance with the provisions of Section 17-4.10.11.F of this Zoning Ordinance;
 - e. An erosion and sediment control plan in accordance with the provisions of Middlesex County Erosion and Sedimentation Control Ordinance.
 - f. A valid Wetlands Permit for any activities specified as requiring a permit in the provisions of Middlesex County Wetlands Ordinance.
3. Three (3) copies of all plans of development shall be submitted to the Zoning Administrator for review. All information required by Section 17-4.10.11.C of this Zoning Ordinance must be submitted for an application to be considered complete.

D. Environmental Site Assessment.

- 1. The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:
 - a. Tidal wetlands;
 - b. Tidal shores;
 - c. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
 - d. A 100 foot buffer located adjacent to and landward of the components listed in subsections a. through c. above, and along both sides of any water body with perennial flow; and
 - e. Other sensitive environmental features as determined by Zoning

Administrator.

2. Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1986.
3. The environmental site assessment shall delineate the geographic extent of the Resource Protection Area on the specific site or parcel as required under Section 17-4.10.2 of the Zoning Ordinance.
4. The environmental site assessment shall be certified as complete and accurate by a professional engineer or a certified land surveyor. The Zoning Administrator may waive this requirement when the proposed use or development would result in less than 5,000 square feet of disturbed area.

E. Landscaping Plan.

1. The landscaping plan shall be drawn to scale and clearly delineate the location, size and description of existing and proposed plant material. The plan shall include the following information:
 - a. All existing trees on the site four (4) inches or greater diameter at breast height (DBH) shall be shown on the landscaping plan, or where there are groups of trees, said stands may be outlined instead. The specific number of trees four (4) inches or greater DBH to be preserved outside of the building envelope shall be indicated on the plan. Trees and other woody vegetation proposed to be removed to create the desired construction footprint shall be clearly delineated on the landscaping plan.
 - b. Any required RPA buffer area shall be clearly delineated and any plant material to be added to establish or supplement the buffer area, as required by this Article, shall be shown on the landscaping plan.
 - c. Within the buffer area, trees and other woody vegetation to be removed for sight lines, vistas, access paths, and best management practices, as provided for in Section 17-4.10.10 of this Zoning Ordinance, shall be shown on the plan. Vegetation required by this ordinance to replace any

existing trees within the buffer area shall also be depicted on the landscaping plan.

- d. Trees and other woody vegetation to be removed for shoreline stabilization projects and any replacement vegetation required by this Article shall be shown on the landscaping plan.
- e. The plan shall depict grade changes or other work adjacent to trees which would affect them adversely. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.
- f. The landscaping plan will include specifications for the protection of existing trees and other vegetation during clearing, grading, and all phases of construction.
- g. If the proposed development is a change in use from agricultural or silvicultural to some other use, the plan must demonstrate the re-establishment of vegetation in the buffer area.

2. Plant Specifications.

- a. All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.
- b. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.
- c. Where areas to be preserved, as designated on an approved landscaping plan, are encroached, replacement of existing trees and other vegetation will be achieved at a two (2) planted trees to one (1) removed. All trees planted as replacement vegetation shall be mature, well-branched and a minimum of four (4) feet in height (excluding root mass) at planting.

3. Maintenance.

- a. The applicant shall be responsible for the maintenance, repair and replacement of all vegetation as may be required by the provisions of the Zoning Ordinance.
 - b. In buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season, as required by the provisions of the Zoning Ordinance.
- F. Stormwater Management Plan.
- 1. The stormwater management plan shall be drawn to scale and clearly delineate following information:
 - a. Location and design of all planned stormwater control devices and BMPs;
 - b. Procedures for implementing non-structural stormwater control practices and techniques;
 - c. Pre- and post-development nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations;
 - d. For facilities, verification of structural soundness, including a Professional Engineer or Class III B Surveyor Certification;
 - 2. All engineering calculations must be performed in accordance with the procedures outlined in the current edition of the Virginia Stormwater Management Handbook.
 - 3. The plan shall establish a schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for performing maintenance. If the designated maintenance responsibility is with a party other than the Town of Urbanna then a maintenance agreement shall be executed between the responsible party and the Town of Urbanna.

G. Installation and Bonding Requirements.

1. Where buffer areas, landscaping, stormwater management facilities or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant material or facilities is completed in accordance with the approved site plan.
2. When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to the Town of Urbanna a form of surety satisfactory to the Zoning Administrator in an amount equal to the remaining plant materials, related materials, or installation costs of the required landscaping or facilities and/or maintenance costs for any required stormwater management facilities.
3. All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety may be forfeited to the Town of Urbanna.
4. All required stormwater management facilities or other specifications shall be installed and approved within eighteen (18) months of project commencement. Should the applicant fail, after proper notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to the Town of Urbanna. The Town of Urbanna may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.
5. After all required action of the approved site plan have been completed, the applicant must submit a written request for final inspection. If the requirements of the approved plan have been completed to the satisfaction of the Zoning Administrator, such unexpended portion of the surety held shall be refunded to the applicant or terminated within sixty (60) days following receipt of the applicant's request for final inspection.

H. Plan of Development Approval.

The Zoning Administrator shall approve, approve subject to conditions or disapprove all plans of development. The Zoning Administrator shall return notification of plan review

results to the applicant, including recommended conditions or modifications. In the event that the results and/or recommended conditions or modifications are acceptable to the applicant, the plan shall be so modified, if required, and approved.

I. Denial of Plan, Appeal of Conditions or Modifications.

In the event the final plan or any component of the plan of development process is disapproved or recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the Board of Zoning Appeals. In granting or denying an appeal, the Board of Zoning Appeals must find such plan to be in accordance with all applicable ordinances and include necessary elements to mitigate any detrimental impact on water quality and upon adjacent property and the surrounding area, or such plan meets the purpose and intent of the performance standards in this Article. If the Board of Zoning Appeals finds that the applicant's plan does not meet the above stated criteria, they shall deny approval of the plan.

17-4.10.12 Water Quality Impact Assessment

A. Purpose and Intent

The purpose of the water quality impact assessment is to:

1. Identify the impacts of proposed land disturbance, development or redevelopment on water quality and lands in RPAs and other environmentally sensitive lands;
2. Ensure that, where land disturbance, development or redevelopment does take place within RPAs and other sensitive lands, it will occur on those portions of a site and in a manner that will be least disruptive to the natural functions of RPAs and other sensitive lands;
4. Protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high ground water, erosion, or vulnerability to flood and storm damage;
5. Provide for administrative relief from terms of the Zoning Ordinance when warranted and in accordance with the requirements contained herein; and

6. Specify mitigation that will address water quality protection.

B. Applicability

A water quality impact assessment shall be required for:

1. Any proposed land disturbance, development or redevelopment activity within a Resource Protection Area as permitted consistent with Section 17-4.10.4 of the Zoning Ordinance;
2. Any buffer modification or encroachment as provided for in Section 17-4.10.7 or 17-4.10.8 of the Zoning Ordinance; or
3. Any other development in Resource Management Areas as deemed necessary by the Zoning Administrator due to the unique site characteristics or intensity of the proposed use or development.

C. Minor Water Quality Impact Assessment

A minor water quality impact assessment shall be required for any development or redevelopment activity within an RPA that causes no more than 10,000 square feet of land disturbance and/or which proposes to modify or encroach into the landward 50 feet of the 100 foot buffer area as permitted under Section 17-4.10.7.B of the Zoning Ordinance. A minor water quality impact assessment shall be required for all individual single-family dwellings, regardless of size of land disturbance. A minor water quality impact assessment shall demonstrate through acceptable calculations that the undisturbed buffer area and necessary best management practices will result in removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater run-off and will retard run-off, prevent erosion and filter non-point source pollution to the equivalent of the full undisturbed 100-foot buffer area.

A minor water quality impact assessment shall include a site drawing to scale that shows the following:

1. Location of the components of the RPA, including the 100 foot buffer area;
2. Location and nature of the proposed encroachment into the buffer area, including, type of paving material; areas of clearing or grading; location of any

structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;

3. Type and location of proposed best management practices to mitigate the proposed encroachment;
4. Location of existing vegetation onsite, including the number and type of trees and other vegetation to be removed in the buffer to accommodate the encroachment or modification; and
5. Re-vegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control.

D. Major Water Quality Impact Assessment

A major water quality impact assessment shall be required for any development or redevelopment activity within an RPA that causes more than 10,000 square feet of land disturbance and/or which proposes to modify or encroach into the landward 50 feet of the 100 foot buffer area as permitted under Section 17-4.10.7.B of the Zoning Ordinance. A major water quality impact assessment shall be required for any other development in Resource Management Areas as deemed necessary by the Zoning Administrator due to the unique site characteristics or intensity of the proposed use or development. A major water quality impact assessment shall demonstrate through acceptable calculations that the remaining buffer area and necessary best management practices will result in removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater run-off and will retard run-off, prevent erosion and filter non-point source pollution to the equivalent of the full undisturbed 100-foot buffer area.

A major water quality impact assessment shall include a site drawing to scale showing the following:

1. All of the information required in a minor water quality impact assessment, as specified in Section 17-4.10.12.C;
2. A hydrogeological study that describes the existing topography, soils, hydrology and geology on the site and adjacent lands, and indicates the impacts of the proposed development on these features as well as the following:

- a. Any detrimental impact on wetlands, including (but not limited to) any disturbance or removal, and justification of such action;
 - b. Disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers or other waterbodies;
 - c. Disruptions to existing hydrology including wetlands and stream circulation patterns;
 - d. Source location of and description of proposed fill material;
 - e. Location of dredging and location of dumping area for such dredged material;
 - f. Estimation of pre- and post development pollutant loads in runoff;
 - g. Estimation of percent increase in impervious surface on site, type(s) of surfacing material used;
 - h. Percent of site to be cleared for project;
 - i. Anticipated duration and phasing schedule of construction project; and
 - j. Listing of all requisite permits from all applicable agencies necessary to develop project.
3. Describes the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigative measures include:
- a. Additional proposed erosion and sediment control concepts beyond those normally required under Section 17-4.10.11.F of the Zoning Ordinance; these additional concepts may include the following: minimizing the extent of cleared area; perimeter controls; reduction of runoff velocities; measures to stabilize disturbed areas; schedule and personnel for site inspection; and
 - b. Proposed stormwater management system for nonpoint source quality

and quantity control.

E. Submission Requirements

Three (3) copies of all water quality impact assessments shall be submitted to the Zoning Administrator for review. All information required by Section 17-4.10.12.C or 17-4.10.12.D of this Zoning Ordinance must be submitted for an application to be considered complete.

F. Evaluation Procedure

1. Upon the completed review of a minor water quality impact assessment, the Zoning Administrator will determine that any proposed modification or encroachment into the buffer area is consistent with the provisions of the Zoning Ordinance and make a finding based upon the following criteria:
 - a. The necessity of the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;
 - b. Impervious surface is minimized;
 - c. Proposed mitigation measures, including the revegetation plan and site design, result in minimal disturbance to all components of the RPA, including the 100-foot buffer area;
 - d. Proposed mitigation measures will work to retain all buffer area functions: pollutant removal, erosion and runoff control;
 - e. Proposed best management practices, where required, achieve the requisite reductions in pollutant loadings;
 - f. The development, as proposed, is consistent with the spirit and intent of the Zoning Ordinance;
 - g. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.

2. Upon the completed review of a major water quality impact assessment, the Zoning Administrator will determine whether or not the proposed development is consistent with the spirit and intent of the Zoning Ordinance and make a finding based upon the following criteria:
 - a. Within any RPA, the proposed development is water-dependent or redevelopment;
 - b. The percentage of existing wetlands disturbed by the development. The number of square feet or acres to be disturbed.
 - c. The development will not result in significant disruption of the hydrology of the site;
 - d. The development will not result in unnecessary destruction of plant materials on site;
 - e. Proposed erosion and sediment control concepts are adequate achieve the reductions in runoff and prevent off-site sedimentation;
 - f. Proposed stormwater management concepts are adequate to control the stormwater runoff to achieve “no net increase” in pollutant loadings;
 - g. Proposed revegetation of disturbed areas will provide optimum erosion and sediment control benefits, as well as runoff control and pollutant removal equivalent of the full 100-foot undisturbed buffer area;
 - h. The design and location of any proposed drainfield will be in accordance with the requirements of Section 17-4.10.10.F;
 - i. The development is consistent with the spirit and intent of the Overlay District.
3. The Zoning Administrator shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the Zoning Administrator based on the criteria listed in Section 17-4.10.12.E of the Zoning Ordinance.

4. The Zoning Administrator shall find the proposal to be inconsistent with the purpose and intent of the Zoning Ordinance when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the Zoning Administrator based on the criteria listed in Section 17-4.10.12.E of the Zoning Ordinance.

17-4.10.13 Nonconforming Uses and Structures.

The lawful use of a building or structure which existed on January 1, 2004 and which is not in conformity with the provisions of this District may be continued in accordance with Chapter 17 of the Town of Urbanna Zoning Ordinance.

No change or expansion of use shall be allowed with the exception that:

- A. The Zoning Administrator may grant a nonconforming use waiver for structures on legal nonconforming lots or parcels to provide for remodeling, alterations or additions to such nonconforming structures provided that:
 1. There will be no increase in nonpoint source pollutant load; and
 2. Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of Middlesex County Erosion and Sedimentation Control Ordinance.
- B. The Zoning Administrator may grant a nonconforming use waiver for reconstruction of pre-existing structures occurring as a result of casualty loss.
- C. An application for a nonconforming use waiver shall be made to and upon forms furnished by the Zoning Administrator and shall include for the purpose of proper enforcement of the Zoning Ordinance, the following information:
 1. Name and address of applicant and property owner;
 2. Legal description of the property and type of proposed use and development;
 3. A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the Resource

Protection Area;

4. Location and description of any existing private water supply or sewage system.
- D. An application for the expansion of a legal principal nonconforming structure shall be approved by the Zoning Administrator through an administrative review process provided that the following findings are made:
1. The request for the waiver is the minimum necessary to afford relief;
 2. Granting the waiver will not confer upon the applicant any specific privileges that are denied by this Article to other property owners in similar situations;
 3. The waiver is in harmony with the purpose and intent of the Zoning Ordinance and does not result in water quality degradation;
 4. The waiver is not based on conditions or circumstances that are self-created or self-imposed;
 5. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing a degradation of water quality;
 6. Other findings, as appropriate and required by the Zoning Administrator are met; and
 7. In no case shall this provision apply to accessory structures.
- E. A nonconforming use waiver shall become null and void twelve (12) months from the date issued if a Zoning and Building Permit has not been obtained for the project.
- F. A nonconforming use waiver shall be issued only on the basis of plans and applications approved by the Zoning Administrator and authorizes only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed violation of this ordinance and punishable under Section 17-12.11 and 17-12.12 of the Zoning Ordinance.

17-4.10.14 Exemptions.

A. Exemptions for Public Utilities, Railroads, Public Roads, and Facilities

Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and the Stormwater Management Act (§ 10.1-603.1 et seq. of the Code of Virginia), (ii) an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation, or (iii) local water quality protection criteria at least as stringent as the above state requirements are deemed to comply with this Article. The exemption of public roads is further conditioned on the following:

1. The road alignment and design has been optimized, consistent with all applicable requirements, to prevent or otherwise minimize the encroachment in the Resource Protection Area and to minimize the adverse effects on water quality.

B. Exemptions for Local Utilities and Other Service Lines.

Construction, installation, and maintenance of water, sewer, natural gas, underground telecommunications and cable television lines owned, permitted or both, by a local government or regional service authority shall be exempt from the Overlay District provided that:

1. To the degree possible, the location of such utilities and facilities should be outside Resource Protection Areas;
2. No more land shall be disturbed than is necessary to provide for the proposed utility installation;
3. All such construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and
4. Any land disturbance exceeding an area of 2,500 square feet complies with

Middlesex County Erosion and Sedimentation Control Ordinance.

C. Exemptions for Silvicultural Activities.

Silvicultural activities are exempt from the requirements of the Zoning Ordinance provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the January 1997 edition of "Best Management Practices for Forestry Operations. [Technical Guide]"

D. Exemptions in Resource Protection Areas.

The following land disturbances in Resource Protection Areas may be exempt from the Overlay District provided that they comply with the requirements listed below in subdivisions 1 through 4 below: (i) water wells; (ii) passive recreation facilities such as boardwalks, trails, and pathways; and (iii) historic preservation and archaeological activities.

1. Any required permits, except those to which this exemption specifically applies, shall have been issued; and
2. Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality; and
3. The intended use does not conflict with nearby planned or approved uses.
4. Any land disturbance exceeding an area of 2,500 square feet shall comply with Middlesex County Erosion and Sedimentation Control Ordinance.

17-4.10.15 Exceptions.

- A. A request for an exception to the requirements of Sections 17-4.10.4, 17-4.10.7, 17-4.10.8 and 17-4.10.9 of the Zoning Ordinance shall be made in writing to the Board of Zoning Appeals. It shall identify the impacts of the proposed exception on water quality and on lands within the Resource Protection Area through the performance of a water quality impact assessment that complies with the provisions of Section 17-4.10.12 of the Zoning Ordinance.
- B. The Board of Zoning Appeals shall notify the affected public of any such exception

requests and shall consider these requests in a public hearing in accordance with §15.2-2204 of the Code of Virginia.

- C. The Board of Zoning Appeals shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the Zoning Ordinance if the Board of Zoning Appeals finds:
 - 1. Granting the exception will not confer upon the applicant any special privileges denied by this Article to other property owners in the Overlay District;
 - 2. The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels;
 - 3. The exception request is the minimum necessary to afford relief;
 - 4. The exception request will be in harmony with the purpose and intent of the Overlay District, not injurious to the neighborhood or otherwise detrimental to the public welfare, and is not of substantial detriment to water quality; and
 - 5. Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

- D. If the Board of Zoning Appeals cannot make the required findings or refuses to grant the exception, the Board of Zoning Appeals shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.

- E. A request for an exception to the requirements of provisions of this Article other than Sections 17-4.10.4, 17-4.10.7, 17-4.10.8 and 17-4.10.9 shall be made in writing to the Zoning Administrator. The Zoning Administrator may grant these exceptions provided that:
 - 1. Exceptions to the requirements are the minimum necessary to afford relief;
 - 2. Reasonable and appropriate conditions are placed upon any exception that is

granted, as necessary, so that the purposed and intent of the Zoning Ordinance is preserved; and

3. Exceptions under Section 17-4.10.10 may only be provided that findings noted in Section 17-4.10.15.C made.
- F. An exception shall become null and void twelve (12) months from the date issued if a Zoning and Building Permit has not been obtained for the project.
- G. An exception shall be issued only on the basis of plans and applications approved by the Zoning Administrator and authorizes only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed violation of this ordinance and punishable under Section 17-12.11,17-12.12 of the Zoning Ordinance.
- H. Subject to §15.2-2309.2 of the Code of Virginia, the exception process shall not preclude the right of any property owner to obtain a variance to the provisions of the Zoning Ordinance, when, owing to special conditions, a literal enforcement of t' provisions of this ordinance will result in unnecessary hardship. The procedures set forth in Sections 17-11.6 shall be followed for obtaining a variance.

SECTION 17-4.10.16**DEFINITIONS**

The following words and terms used in the CB-1 Chesapeake Bay district have the following meanings, unless the context clearly indicates otherwise. Words and terms not defined here but defined elsewhere in this chapter shall be given the meanings set forth therein.

“Agricultural lands” means those lands used for the planting and harvesting of crops or plant growth of any kind in the open; pasture; horticulture; dairying; floriculture; floriculture; or raising of poultry and/or livestock.

Best Management Practices: or “BMPs” means a practice, or a combination of practices, that is determined by a state or designated area-wide planning agency to be the most effective, practicable means of preventing or reducing the amount of pollution generated by non-point sources to a level compatible with water quality goals.

“Buffer area” means an area of natural or established vegetation managed to protect other components of a Resource Protection Area and state waters from significant degradation due to land disturbances.

“Chesapeake Bay Preservation AREA” or “CBPA” means any land designated by the Urbanna Town Council pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9 VAC 10-20-70 et seq., and §10.1-2107 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area. All land lying inside the corporate boundaries of the Town shall lie within the Chesapeake Bay Preservation Area.

“Construction footprint” means the area of all man-made impervious surface including, but not limited to, buildings, roads and drives, parking areas, and sidewalks and the area necessary for construction of such improvements.

“Development” means the construction, or substantial alteration, of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.

“Diameter at breast height” or DBH” means the diameter of a tree measured outside the bark at a point four and one-half (4.5) feet above ground.

“Dripline” means a vertical projection to the ground surface from the furthest lateral extent of a tree’s

leaf canopy.

“Highly erodible soils” means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for soil is defined as the product of the formula $RKLS/T$, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

“Highly permeable soils” means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups “rapid” and “very rapid”) as found in the “National Soil Survey Handbook” of November 1996 in the “Field Office Technical Guide” of the U.S. Department of Agriculture National Resources Conservation Service.

“Impervious cover” means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

“Intensely Developed Areas” or “IDAs” means a portion of a Resource Protection Area or a Resource Management Area designated by the Urbanna Town Council where development is concentrated and little of the natural environment remains and which was served by a public water and/or sewer utility on October 16, 1991.

“Non-point source pollution” means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

“Non-tidal wetlands” means those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the federal Clean Water Act, in 33 C.F.R. 328.3b.

“Noxious weeds” means weeds that are difficult to control effectively, such as Johnson Grass, Kudzu, and multiflora rose.

“Plan of Development” means the process for site plan or subdivision plat review to ensure

compliance with §10.1-2109 of the Code of Virginia and this chapter, prior to any clearing or grading of a site or the issuance of a building permit.

“Redevelopment” means the process of developing land that is or has been previously developed within the past 50 (fifty) years. SEE 9VAC 10-20-40

“Resource Management Area” or “RMA” means that component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area.

“Resource Protection Area” or “RPA” means that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters; and one hundred (100) feet landward of any tidal wetlands, nontidal wetlands, or tidal shores.

“Tidal shore” or “shore” means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

“Tidal wetlands” means vegetated and non-vegetated wetlands as defined in §28.2-1300 of Code of Virginia.

“Water-dependent facility” means a development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to (I) ports; (II) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (III) marinas and other boat docking structures; (IV) beaches and other public water-oriented recreations areas; and (V) fisheries or other marine resources facilities.

“Wetlands” means tidal and non-tidal wetlands

RESOURCE MANAGEMENT AREA (RMA): The component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area. RMAs include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area.

RESOURCE PROTECTION AREA (RPA): The component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality

value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

SILVICULTURAL ACTIVITIES: Forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to § 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under § 58.1-3230 of the Code of Virginia.

TIDAL WETLANDS: Vegetated and nonvegetated wetlands as defined in Section 28.2-1300 of the Code of Virginia.

“Highly erodible soils” means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for soil is defined as the product of the formula $RKLS/T$, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

“Highly permeable soils” means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups “rapid” and “very rapid”) as found in the “National Soil Survey Handbook” of November 1996 in the “Field Office Technical Guide” of the U.S. Department of Agriculture National Resources Conservation Service.

“Public Road” means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, (VDOT), including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (§ 10.1-603.1 et seq. of the Code of Virginia). This definition includes those roads where the VDOT exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed and maintained, or both, by the Town of Urbanna in accordance with the standards of the Town. Public Roads do not include roads designed and/or constructed by a private developer using VDOT standards.

“Substantial alteration” means expansion or modification of a building or development that would result in a disturbance of land exceeding an area of 2,500 square feet in the Resource Management Area only.

SECTION I. AMENDMENT OF CHAPTER 17-4.11.

Chapter 17-4.11 of the Municipal Code of the Town of Urbanna is hereby amended to read:

§17-4.11 Flood Plain Areas (F-1)

§17-4.11.1 – Statutory Authorization and Purpose

This ordinance is adopted pursuant to the authority granted to localities by Va. Code § 15.2 - 2280. The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by

- A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- B. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding, and areas adjacent to flood hazard areas within the freeboard zone.
- C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,
- D. Protecting individuals from buying land and structures that are unsuited for intended purposes because of flood hazards.

§17-4.11.2 - Applicability

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of **TOWN OF URBANNA** and identified as areas of flood hazard according to the flood insurance rate map (FIRM) that is provided to **TOWN OF URBANNA** by FEMA.

§17-4.11.3 - Compliance and Liability

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.

- C. Records of actions associated with administering this ordinance shall be kept on file and maintained by the *ZONING ADMINISTRATOR*
- D. This ordinance shall not create liability on the part of TOWN OF URBANNA or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

§17-4.11.4 - Abrogation and Greater Restrictions

This ordinance supersedes any ordinance currently in effect in flood-prone districts. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

§17-4.11.5 - Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

§17-4.11.6 - Penalty for violations

Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of planning or any authorized employee of TOWN OF URBANNA shall be guilty of a misdemeanor and subject to the penalties as specified in Section 15.2-2286.A.5 of the Code of Virginia:

Code of Virginia 15.2-2286.A.5 For the imposition of penalties upon conviction of any violation of the zoning ordinance. Any such violation shall be a misdemeanor punishable by a fine of not less than \$10 nor more than \$1,000. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10 nor more than \$1,000, and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not less than \$100 nor more than \$1,500.

The VA USBC addresses building code violations and the associated penalties in Section 104 and Section 115. Violations and associated penalties of the Zoning Ordinance of the TOWN OF URBANNA are addressed in Section 17-12 of the Zoning Ordinance.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this article may be declared by TOWN OF URBANNA to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

§17-4.11.7 - Cooperative Administration of the Town of Urbanna's Floodplain Ordinance

The Town of Urbanna will administer the Urbanna Floodplain Ordinance with the assistance and cooperation of the County of Middlesex. Specific duties and responsibilities for both parties are as follows:

§17-4.11.7.1 - Designation of the Floodplain Administrator

The MIDDLESEX COUNTY BUILDING OFFICIAL is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- (A) Do the work themselves. In the absence of a designated Floodplain Administrator, the duties may be performed by the Building Official's designate with the concurrence of the Town of Urbanna Zoning Administrator.
- (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.

§17-4.11.7.2 - Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (A) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- (B) Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - a. Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- (C) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- (D) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- (E) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-

year frequency floodplain of free-flowing non-tidal waters of the State.

(F) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.

(G) Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).

(H) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.

(I) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.

(J) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.

(K) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for Town of Urbanna, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.

(L) It is the duty of the Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Town, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

(M) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.

(a) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.

(N) Administer the requirements related to proposed work on existing buildings.

§17-4.11.7.3 – Duties and Responsibilities of the Town of Urbanna Zoning Administrator

Duties and responsibilities of the Town of Urbanna Zoning Administrator shall include but not be limited to:

- (A) Maintain and permanently keep records that are necessary for the administration of these regulations, including Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change.
- (B) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- (C) Advise the Urbanna Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- (D) Undertake, as determined appropriate by with the advice and concurrence of the Floodplain Administrator, due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
- (E) Notify the Federal Emergency Management Agency when the corporate boundaries of the (community) have been modified and:
 - a. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - b. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
- (F) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

§17-4.11.7.4 - Use and Interpretation of FIRMs

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The

following shall apply to the use and interpretation of FIRMs and data:

- (A) Where field surveyed topography indicates that adjacent ground elevations:
 - (1) Are below the design base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;
 - (2) Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.
- (B) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
- (C) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
- (D) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
- (E) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:
 - (1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
 - (2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 17-4.11.8.1 and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
 - (3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

§17-4.11.7 .5 - Jurisdictional Boundary Changes

The Town floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance

Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the Town have been modified by annexation or the Town has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the Town's boundaries, a copy of a map of the Town suitable for reproduction, clearly delineating the new corporate limits or new area for which the Town has assumed or relinquished floodplain management regulatory authority must be included with the notification.

§17-4.11.7.6 - District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by Town of Urbanna where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

§17-4.11.7.7 - Interpretation of District Boundaries

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Floodplain Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

§17-4.11.7.8 – Submitting Technical Data

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

§17-4.11.7.9 - Letters of Map Revision

When development in the floodplain causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision or a Letter of Map Revision.

Examples:

1. Any development that causes a rise in the base flood elevations within the floodway.
2. Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
3. Alteration or relocation of a stream (including but not limited to installing culverts and bridges)

§17-4.11.8 - Description of Districts

§17-4.11.8.1 Basis of Districts

The various floodplain districts shall include special flood hazard areas and freeboard zones. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for TOWN OF URBANNA prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated, with the effective date of May 18, 2015, and any subsequent revisions or amendments thereto.

The Town of Urbanna may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a “Local Flood Hazard Map” using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the TOWN OF URBANNA offices.

- A. The **AE, or AH Zones** on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has **not** been delineated. The following provisions shall apply within an AE or AH zone:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within TOWN OF URBANNA. This requirement applies along rivers, streams and other watercourses where FEMA has provided flood elevations. The requirement does not apply along lakes, bays, estuaries and the ocean coast.

Development activities in Zones A1-30 and AE or AH, on TOWN OF URBANNA FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with TOWN OF URBANNA endorsement – for a Conditional Letter of Map Revision, and receives the approval of the

Federal Emergency Management Agency.

- B. The **A Zone** on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply:

The Approximated Floodplain District shall be those areas identified as an A or A99 Zone on the maps accompanying the Flood Insurance Study. In these zones, no detailed flood profiles or elevations are provided, but the one hundred (100)-year floodplain boundary has been approximated. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Flood Plain Information Reports, U.S. Geological Survey Flood-prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the governing body.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the design flood level.

During the permitting process, the Floodplain Administrator shall obtain:

- 1) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
- 2) if the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

- C. The **AO Zone** on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply:

1. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated a minimum of two feet (2') above the flood depth specified on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated not less than three (3) feet above the highest adjacent grade. All structural components shall

have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

2. All new construction and substantial improvements of non-residential structures shall
 - a. have the lowest floor, including basement, elevated a minimum of two (2') feet above the flood depth specified on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade; or
 - b. together with attendant utility and sanitary facilities be completely flood-proofed to a minimum of two feet (2') above the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
3. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

D. The **Coastal A District** shall be flood hazard area inland of and contiguous to flood hazard areas subject to high velocity wave action and identified on the FIRM as areas of **Limits of Moderate Wave Action (LiMWA)**. **All construction in a Coastal A zone shall comply with VE-Zone standards.**

E. The **VE or V Zones** on FIRMs accompanying the FIS shall be those areas that are known as Coastal High Hazard areas, extending from offshore to the inland limit of a primary frontal dune along an open coast. For these areas, the following provisions shall:

1. All new construction and substantial improvements in Zones V and VE (V if no base flood elevation is available) shall be elevated on pilings or columns so that:
 - a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the *design flood elevation*; and,
 - b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (one-percent annual chance).
2. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of 17-4.11.8.1(A)5.
3. The Floodplain Administrator shall be provided the elevation (in relation to NAVD 1988) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V and VE. The Floodplain Management Administrator

shall maintain a record of all such information..

4. All new construction shall be located landward of the reach of mean high tide.
5. All new construction and substantial improvements shall have the space below the lowest floor either free of obstructions (refer FEMA Technical Bulletin 5 for guidance and specifications) or constructed with non-supporting breakaway walls (refer to FEMA Technical Bulletin 9 for guidance and specifications), open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - a. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
 - b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any give year. (Refer to FEMA Technical Bulletin 9 / Aug. 2008 or as amended for additional guidance for design)
 - c. Breakaway walls shall not support equipment, utilities or any construction that will hinder the wall from breaking away. Utilities shall not pass through breakaway walls.
6. The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access, or storage. The enclosed space located below the Design Flood Elevation (DEF) shall be limited to a maximum of 300 square feet. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation. Utilities, piping, wiring and/or equipment shall not be attached to or pass through break-away walls. Equipment shall not be placed adjacent break-away walls in such a manner as to impair the walls ability to break-away without causing damage to the supporting structure.
7. The use of fill for structural support of buildings is prohibited. When non-structural fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit.
8. The man-made alteration of sand dunes, which would increase potential flood damage, is prohibited.

F. The freeboard zone shall be those areas located between the base flood elevation as shown on the FIRM maps and the upper limit of the design flood elevation as established by this ordinance. The freeboard zone shall extend landward of other special flood hazard zones to include areas of zone X that are located below the design flood elevation.

§17-4.11.8.2 Overlay Concept

- A. The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
- 2 If there is any conflict between the provisions or requirements of the Floodplain District and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.
- 3 In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

§17-4.11.9 – Permit and Application Requirements

A. Permit Requirement

All uses, activities, and development, including repairs and maintenance, occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the *TOWN OF URBANNA* Subdivision Regulations. Prior to the issuance of any such permit, the Zoning Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

B. Site Plans and Permit Applications

All applications for development within any floodplain district and freeboard zones and all building permits issued for the floodplain and freeboard zones shall incorporate the following information:

1. The elevation of the Base Flood at the site.
2. The elevation of the lowest floor (including basement).
3. The elevation of the lowest horizontal structural member when the structure is in the Coastal A or VE zones.
4. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.

5. Topographic information showing existing and proposed ground elevations.
6. The elevation of the Design Flood Elevation (DFE).

§17-4.11.10 - General Standards

The following provisions shall apply to all permits:

- A. All proposed developments shall include a Flood Zone Site Plan, prepared by an engineer or surveyor. The plan shall include:
 1. The location of all existing and proposed construction,
 2. The elevation of the adjacent grade at the proposed construction,
 3. The elevation of existing and proposed construction,
 4. The location and elevation of an on-site bench mark, and
 5. The location of all flood zones on the property or within 100' of the property.
- B. New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
- C. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- D. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- E. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- F. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including ductwork, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Fixtures connected to a sewer system shall not be allowed to have openings below DFE.
- G. All vertical utility risers at or below the design flood elevation shall be protected from impact damage.
- H. Adequate drainage shall be provided to reduce exposure to flood hazards.
- I. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

- J. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- K. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. If placement outside of flood zones is not possible, the system shall include the use of top-seamed tanks and/ or sealed septic and pump chamber tanks.
- L. All tanks, including but not limited to propane, fuel oil and gas, and septic, shall be anchored to prevent flotation. The amount of anchorage required shall assume the tank is empty.
- M. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance. All costs are cumulative as defined by 'substantial improvement'.
- N. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced. All costs of alteration, repair, reconstruction or improvement are cumulative as defined by 'substantial improvement'.
- O. All development plans within designated flood districts shall be maintained in the office of the Zoning Administrator.

In addition to provisions A – O above, in all special flood hazard areas, the additional provisions shall apply:

- P. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and the FEMA.
- Q. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

§17-4.11.11 - Specific Standards

In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated by a certified professional according 17-4.11.8.1(B), and freeboard zones the following provisions shall apply:

- A. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated to or above

the design flood elevation or as required in AO Zones per 17-4.11.8.1(C).

B. Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the design flood elevation. Buildings located in all A1-30, AE, AO and AH zones may be flood-proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the DFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to NAVD 1988,) to which such structures are flood proofed shall be maintained by Zoning Administrator.

C. Elevated Buildings

Fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
2. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. Include, in Zones A, AO, AE, and A1-30, measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions,

and permit the passage of a 3" diameter object.

- f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

D. Standards for Manufactured Homes and Recreational Vehicles

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, must meet all the requirements for new construction, including the elevation and anchoring requirements in 17-4.11.10 (A) through (O), and 17-4.11.11 (A) through (C).
2. All recreational vehicles placed on sites must either
 - a. be on the site for fewer than 180 consecutive days;
 - b. be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,
 - c. Meet all the requirements for manufactured homes in 17-4.11.10 and 17-4.11 (D).

§17-4.11.12 - Standards for the Special Floodplain District (AE and AH Zones)

The following provisions shall apply within the Special Floodplain District:

The **AE, or AH Zones** on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided. The provisions of this ordinance shall apply in all AE or AH zones adjacent to tidal waters.

In non-tidal AE or AH zones where the floodway has **not** been delineated the following provisions shall apply:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE on the Flood Insurance Rate Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within Town of Urbanna.

Development activities in Zones A1-30, AE, and AH, on the Town of Urbanna Flood Insurance Rate

Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies – with Town of Urbanna’s endorsement – for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

§17-4.11.13 Standards for Approximated Floodplain (A Zone)

The following provisions shall apply with the Approximate Floodplain District:

The **A Zone** on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply:

1. The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100) -year floodplain boundaries has been approximated. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study. For these areas, the one hundred (100)-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100)-year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted technical concepts, such as point on boundary, high water marks, or hydrologic and hydraulic analyses. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow for a thorough review by the Zoning Administrator.
2. The Zoning Administrator reserves the right to require a hydrologic and hydraulic analysis for any development.
3. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the design flood level. During the permitting process, the Zoning Administrator shall obtain:
 - a. The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and,
 - b. The elevation (in relation to mean sea level) to which the structure has been flood-proofed, if the structure has been flood-proofed in accordance with the requirements of this article,

§17-4.11.14 - Standards for Coastal A District (LiMWA Zone)

All new construction and substantial improvements in Coastal A zones shall meet the same standards as those specified for the Coastal High Hazard (VE Zone) District.

§17-4.11.15 - Standards for the Coastal High Hazard District (VE and V Zones)

The following provisions shall apply within the Coastal High Hazard District and Coastal A Zone.

- A. All proposed development plans shall include a Flood Zone Site Plan, prepared by an engineer or surveyor. The plan shall include:
 - 1. The location of all existing and proposed construction,
 - 2. The elevation of the adjacent grade,
 - 3. The elevation of existing and proposed construction,
 - 4. The location and elevation of an on-site bench mark, and
 - 5. The location of all flood zones on the property or within 100' of the property boundaries.
- B. All new construction and substantial improvements in Zones VE and Coastal A shall be elevated on pilings or columns so that:
 - 1. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the design flood elevation and,
 - 2. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (one-percent annual chance).
- C. A registered professional engineer or architect shall develop or review the structural design,

specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of 17-4.11.15 (B).

- D. The Zoning Administrator shall obtain the elevation (in relation to NAVD 1988) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones VE and Coastal A. The Floodplain Management Administrator shall maintain a record of all such information.
- E. All new construction shall be located landward of the reach of mean high tide.
- F. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction (refer to FEMA Technical Bulletin 5 for guidance and specifications) or constructed with non-supporting breakaway walls (refer to FEMA Technical Bulletin 9 for guidance and specifications), open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - 1. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
 - 2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year.
- G. The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access, or storage. The enclosed space located below the Design Flood Elevation (DEF) shall be limited in size to 300 square feet. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation. See 17-4.11.8.1E(5).
- H. The use of fill for structural support of buildings is prohibited. When fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit.
- I. The man-made alteration of sand dunes, which would increase potential flood damage, is prohibited.

- J. All manufactured homes to be placed or substantially improved within Zones V and VE, as shown on the Town of Urbanna Flood Insurance Rate Map, must meet the standards of 17-4.11.15(A) through (Q) and 17-4.11.11 (D).

§17-4.11.16 - Standards for Subdivision Proposals

- A. All subdivision proposals shall be consistent with the need to minimize flood damage. Within such subdivision proposals, no new construction or development shall be permitted within the Coastal Floodplain District, Coastal High Hazard District or Coastal A District unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and approved development, will not increase the elevation of the one hundred (100) year flood more than one foot at any point.
- B. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems located and constructed to minimize flood damage. Any encroachment for public utilities and facilities within the Coastal Floodplain District, Coastal High Hazard District or Coastal A District shall be the minimum necessary for the provision of such public utilities and facilities.
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards as follows:
1. In all subdivisions, adequate storm drainage piping and appurtenance shall be provided in a manner to preclude flooding, erosion or standing pools of water. Open channels, other than naturally occurring streams, shall not be used for the conveyance of runoff within 50 feet of any residential structure.
 2. All subdivisions shall have adequate storm water management facilities, so that after development, a storm of a two-year average frequency shall be no greater than it would have been prior to development. Storm water management facilities shall be designed and constructed in accordance with Virginia Storm water Management Handbook, 1999 Edition, as amended.
 3. Easements, both on-site and off-site, shall be required for all storm drainage facilities, including natural streams, not located in the public rights-of-way. Such easements shall be a minimum of fifteen (15) feet in width or greater for access and maintenance purposes.
- D. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

§17-4.11.17- VARIANCES: FACTORS TO BE CONSIDERED

Variations shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

While the granting of variations generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variations may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

Variations may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variations, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

- A. The showing of good and sufficient cause. A variance shall not be granted for a self-imposed hardship.
- B. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one hundred (100)-year flood elevation.
- C. The danger that materials may be swept on to other lands or downstream to the injury of others.
- D. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- E. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- F. The importance of the services provided by the proposed facility to the Town.
- G. The requirements of the facility for a waterfront location.

- H. The availability of alternative locations not subject to flooding for the proposed use.
- I. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- J. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- K. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- L. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
- M. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- N. Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing and signed by the Zoning Administrator that the issuance of a variance to construct a structure below the one hundred (100)-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

§17-4.11.18 - EXISTING STRUCTURES IN FLOODPLAIN AREAS

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- A. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with

standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.

- B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any flood plain areas to an extent or amount of less than fifty (50) percent of its market value shall conform to this ordinance and as limited by substantial improvement as defined herein.
- C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with this ordinance.

SECTION II. SEVERABILITY CLAUSE

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The Town council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

SECTION III. EFFECTIVE DATE

This Ordinance becomes effective thirty days after its final passage and adoption.

Adopted Date: April 20, 2015

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ARTICLE 5

SUPPLEMENTARY DISTRICT REGULATIONS

Section 17-5.1. General.

The purpose of these supplementary district regulations is to set specific conditions with various uses, classifications of uses, or areas where problems are frequently encountered with respect to the zoning districts.

Section 17-5.2. Home Occupations.

(A) Any occupation, profession, enterprise or activity conducted solely by one or more members of a family on the premises which is incidental and secondary to the use of the premises for dwelling may be permitted under an approved Special Use Permit, with the appropriate Certificate of Occupancy, provided that:

(1) Not more than the equivalent area of one quarter of one floor of any principal or accessory structure shall be used for such purpose;

(2) External alterations required by such occupation shall be subject to special use provisions contained in Article 9.

(3) No more than two (2) persons, other than a member of the family, shall be employed on the premises;

(4) No commodity is stored or sold, except such as made on the premises or related to the home occupation.

(5) There shall be no group instruction, assembly or activity, or no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling.

(6) The home occupation or use is in compliance with all other sections of this code and all other rules, regulations and ordinances of the Town.

Section 17-5.3. Conversion of Dwellings to More Units.

No residence may be converted to accommodate an increased number of dwelling units unless:

(1) The number of dwelling units currently existing is less than the number permitted by the zoning regulations for new structures in that district;

(2) The yard dimensions still meet the yard dimensions required by the zoning regulations for new structures in that district.

(3) The lot area per family equals the lot area requirements for new structures in that district; and

(4) The conversion is in compliance with all other relevant codes and chapters.

Section 17-5.4. Temporary Buildings, Construction Trailers, and Mobile Home(s).

Temporary buildings, construction trailers, and mobile home(s) used in conjunction with construction work only may be permitted in any district during the period when construction work is in progress, but such temporary facilities shall be removed immediately upon completion of the construction work.

Section 17-5.5. Erection of More Than One Principal Structure on a Lot.

In all districts, more than one structure of the permitted principal use may be erected or placed on a single lot, provided that a special use permit is obtained and all other requirements of this chapter shall be met for each structure as though it were on an individual lot.

Section 17-5.6. The Virginia Condominium Act.

Nothing in this chapter shall be interpreted to prohibit condominiums as such by reason of the form of ownership inherent therein. Neither shall any condominium be treated differently under any provision in this chapter which would permit a physically identical project or development under a different form of ownership.

(1) All condominium projects or developments hereafter constructed shall comply with the provisions of this chapter, including the requirements for approval of site plans. Whenever an existing project or development is to be converted to condominium ownership involving certain land areas to be held as common elements, limited or otherwise, a site plan shall be filed showing

the extent and ownership of such holdings. Nothing in this requirement shall be interpreted to abridge any rights said project or development may hold as a nonconforming use.

(2) Any declaration of restrictions to be filed in connection with any project covered by the provisions of this chapter shall comply in all respects with the provisions of the Virginia Condominium Act not in direct conflict with the requirements of this chapter.

Section 17-5.7. Exceptions to Height Regulations.

(A) The height regulations contained in the District Regulations do not apply to spires, belfries, cupolas, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(B) Church spires, monuments, water towers, chimneys, flues, and flag poles of any height, and television antennas and radio aerials up to 200 feet in height, are exempt from height regulations.

Section 17-5.8. Architectural Projections.

Open structure such as porches, canopies, balconies, platforms, carports, covered patios, and similar architectural projections shall be considered parts of the building to which attached and shall not project into the required minimum front, side, or rear yard.

Section 17-5.9. Side and Rear Yard Requirements for Nonresidential Uses Abutting Residential Districts.

Nonresidential uses or buildings shall not be conducted or located closer than ten (10) feet to any lot line of a Residential District, except that the minimum yard requirements may be reduced by up to fifty (50) percent if four (4) foot high fencing and/or landscaping approved by the Zoning Administrator is provided.

Section 17-5.10. Side and Rear Yard Buffer Requirements for Uses Abutting
the
Historic District.

No uses or buildings shall be conducted or located closer than five (5) feet to any lot line of a Residential District, and existing vegetation and significant trees shall be retained as a buffer zone. Additional landscaping and planting may be required by the Zoning Administrator or the Historic Commission in order to adequately screen the Historic district.

Section 17-5.11. Required Screening for Trash Areas.

All commercial, light industrial, special waterfront, and R-2 residential uses that require trash and/or garbage collection areas shall completely screen from view such areas on at least three (3) sides by a solid wall, fence or hedge of at least four (4) feet in height if such area is not within an enclosed building or structure. A gate with a sketching mechanism must secure the enclosure. Provisions for adequate vehicular access to such areas for collection of trash and/or garbage shall be provided.

Section 17-5.12. Visibility at Intersections.

On all corner lots in every district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision above a height of two and one-half (2 1/2) feet above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines twenty-five (25) feet from the point of intersection. In the Historic District, this requirement may be reduced to a distance of ten (10) feet following approval of the Zoning Administrator or the Historic Commission.

Section 17-5.13. Special Provisions for Corner Lots.

(A) Of the two sides of a corner lot the front yard shall be deemed to be the side fronting the street having the shortest legally recorded right-of-way and the setback of the structures shall be the front yard requirement. Where the intersecting streets are equivalent, the front will be the shorter of the frontage lines.

Section 17-5.14. Special Provisions for Commercial and Industrial Uses.

No land or building in any district shall be used or occupied in any manner creating dangerous, injurious, noxious, or otherwise objectionable conditions which could adversely affect the surrounding areas or adjoining premises, except that any use permitted by this chapter may be taken and maintained if acceptable measures and safeguards are taken to reduce dangerous and objectionable conditions to acceptable limits.



Section 17-5.15. Planned Unit Development Subdivisions (PUD).

Section 17-5.15.1. Purpose of Planned Unit Developments.

Planned unit developments are permitted as a Conditional Zoning use in all residential districts, commercial districts and the special waterfront development district, in order to provide public or private common open space, develop amenities of public benefit, reduce housing or infrastructure costs, or amend the proposed project as recommended by the Zoning Administrator or the Planning Commission. This development strategy option is intended to encourage permanent reservation of open space, an efficient and improved use of the land, to provide good building sites by taking advantage of topography and minimizing grading or destruction of natural vegetation. Plans shall not be approved where the clear purpose of the design is to subvert the purposes of these regulations by inclusion of excessively unbalanced distribution of land among lots or inclusion of open spaces which are inappropriately located or which will not contribute to the future amenity of the development.

Section 17-5.15.2. Project Area and Minimum Requirements.

The minimum area of the subdivision shall be sufficient to accommodate at least five lots of minimum average area within that specific district's standards. Public water and sewer services must be utilized in the project, and completely comply with all review and permit requirements in this chapter.

Section 17-5.15.3. Re-subdivision.

No re-subdivision by any means shall be permitted in a Planned Unit Development subdivision approved under this chapter; re-subdivision would create a violation of this chapter.

Section 17-5.15.4. Flood Plain and Water Areas.

No more than thirty (30) percent of the required minimum area of any lot shall be located in a flood plain area and no more than 30 percent of any lot shall be covered by any body of water such as a lake, pond, or canal planned and approved as a part of and wholly within the planned unit development.

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Section 17-5.15.5. Reduction of Lot Area, Lot Width and Yard Areas Permitted.

Where these proposed reductions shall be solely for the purpose of promoting an integrated site plan no less beneficial to the residents or occupants of such development, as well as neighboring property, than would be obtained under the regulations of this chapter for building on separate zoning lots,; that the minimum lot requirements may be decreased without limitation, provided that permanent open space or land, in an amount equivalent to that by which each residential lot or building site has been diminished under this provision, shall be provided in common public use areas within the development. In all districts, this may be comprised of recreation or park areas; in the commercial districts, this may also include public eating, entertainment, loading and parking facilities.

Section 17-5.15.6. Compatibility with Developed Properties.

A Planned Unit Development subdivision shall be designed to promote harmonious relationships with surrounding adjacent and nearby developed properties and to this end shall employ such design techniques as may be appropriate to a particular case, including coordination of yard dimensions, location of lots of various sizes, location of buildings with respect to project boundary lines, maintenance of vegetation and buffers, location of open spaces and efficient integration into the transformation and circulation systems.

Section 17-5.15.7. Preservation of Landscape Amenities.

The preservation of natural vegetation, and particularly mature trees, on steep slopes and in stream valleys, should be recognized as a primary design consideration in review and approval of an application under this section. Failure to exercise due care in maintenance of landscape amenities in accordance with approved plans shall be considered a violation of this chapter.

Section 17-5.15.8. Public Facilities and Open Spaces.

Land or easements for public facilities or open space shall be dedicated, conveyed or granted in accordance with the requirements of this Article and laws and chapters governing the subdivision of land.

Section 17-5.15.9. Maintenance of Common Ownership Properties.

Provision shall be made for the designation, ownership, and maintenance of common ownership properties in accordance with the requirements of Article 3.

Section 17-5.16. [Reserved.]

Section 17-5.17 Hazardous Materials.

The Zoning Administrator, prior to the approval of an application for a building permit, shall require the submission of statements and plans indicating the manner in which any dangerous, hazardous, offensive and objectionable elements involved in manufacturing, processing and storage will be used, transported and disposed of in appropriate fashions.

ARTICLE 6.

PARKING AND LOADING FACILITIES

Section 17-6.1. Intent.

It is the intent of this Article to insure that adequate parking and loading spaces are provided within the Town of Urbanna when a building or structure is erected, substantially altered or undergoes a change in use or zoning. The provisions of this Article do not apply to existing buildings or structures unless there is a substantial change in its use.

Section 17-6.2. General Interpretation.

In the interpretation of this Article, the following rules shall govern:

- (1) Parking spaces required for permitted special uses or variances shall be determined by the Zoning Administrator or the Planning Commission.
- (2) Fractional numbers shall be increased to the next whole number.
- (3) Where for any reason parking requirements are unusually low, the parking space provisions cited in this Article may be reduced proportionally by the Zoning Administrator or the Planning Commission.

Section 17-6.3. General Requirements.

Whenever a building or structure constructed after the effective date of this chapter is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity, or otherwise to create a need for an increase in the number of existing parking spaces, additional parking spaces shall be provided on the basis of the enlargement or change. Whenever a building or structure existing prior to the effective date of this chapter is enlarged to the extent of fifty (50) percent or more in floor area, number of employees, number of housing units, seating capacity, or otherwise, said building or structure shall then and thereafter comply with the full parking requirements set forth herein.

Section 17-6.4. Dimension of Parking Spaces and Aisles.

On-street parking bays in the parallel parking configuration should be twenty (20) feet long, and nine (9) feet wide. Off-street parking areas shall be divided into parking spaces, each bay having a minimum width of nine (9) feet and a minimum length of twenty (20) feet; or in the case of parking spaces for trucks, buses or special equipment, parking spaces of a minimum size to be determined by the Administrator based on the nature of the parked vehicles.

All aisles within parking shall have a minimum width of twenty-four (24) feet when the parking spaces are at a ninety (90) degree angle with the aisle; eighteen (18) feet when the parking spaces are at a sixty (60) degree angle with the aisle; and twelve (12) feet for parallel parking.

Turning areas, back up ramps, and cul-de-sacs shall conform to VDOT design standards and have adequate radii to assure ease of mobility, ample clearance and convenience of ingress and egress.

Section 17-6.5. Loading Space Requirements and Dimensions.

An off-street loading space shall have a minimum width of twelve (12) feet; a minimum length of forty-five (45) feet, exclusive of driveways, aisles, and other circulation areas; and a minimum clear height of fourteen (14) feet.

One off-street loading space shall be provided and maintained on the same lot for every separate occupancy requiring delivery of goods and having modified gross floor areas of up to five thousand (5,000) square feet. One loading space shall be provided for each additional ten thousand (10,000) square feet or fraction thereof.

Section 17-6.6. Design Requirements for Off-Street Parking and Loading Areas.

The improvement of off-street parking and loading areas shall include:

- (1) Adequate lighting in public parking areas to assure the general safety and convenience of the public.
- (2) Any lights used to illuminate parking areas shall be so arranged as to reflect light away from adjoining premises.
- (3) Whenever a parking area is located in or adjacent to a residential district, it shall be effectively screened on all sides which adjoin or face any property used for residential purposes by an

acceptable 4 foot fence or planted screen. Such planted screen shall consist of densely planted evergreen hedge not less than four (4) feet nor more than six (6) feet in height, and shall be maintained in good condition.

(4) Parking areas located within the CB-1 Chesapeake Bay District shall have an easily permeable surface of stone, oyster shells, or other material approved by the Zoning Administrator. Walkways of wood, stone, oyster shells, or other natural materials may be erected or installed for the convenience of residents, employees, guests, or customers.

Section 17-6.7. Maintenance of Off-Street Parking and Loading Areas.

The owner of property used for parking and/or loading shall maintain such area in good condition without holes and free of all trash and other debris.

Section 17-6.8. Location of Parking Spaces.

The following regulations shall govern the location of off-street parking spaces and areas:

- (1) Parking spaces for all detached residential units shall be located on the same lot as the use which they are intended to serve. The parking area shall not be located within any required front yard.
- (2) Parking spaces for commercial, industrial, or institutional uses shall be located not more than four hundred (400) feet from the principal use.
- (3) Parking spaces for apartments, dormitories, or similar residential uses shall be located not more than two hundred (200) feet from the principal use.

Section 17-6.9. Minimum Distance and Setbacks.

No part of any parking area for more than ten (10) vehicles shall be closer than twenty (20) feet to any dwelling unit, school, hospital, or other institution for human care located on an adjoining lot, and shall be separated by landscaping. In no case shall any part of a parking area be closer than four (4) feet to any lot line or established street right-of-way.

Section 17-6.10. Joint Use.

Two (2) or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap, provided that all of the requirements of this Article are met and a written agreement shall be filed with the Administrator with the application for a zoning permit.

Section 17-6.11. Parking and Storage of Certain Vehicles.

Automobiles, recreational vehicles and trailers greater than 10 feet in length, of any kind or type without current State license plates shall not be parked or stored on any residential zoned property more than 30 days other than in completely enclosed buildings unless approval has been granted by the Town Administrator for a period of time not to exceed 90 days. The Administrator may consider extensions of this time period through application by the property owner. Extensions shall not exceed 90 days.

Section 17-6.12. Disabled Vehicles.

The parking of a disabled vehicle for a period of more than two (2) weeks within any district other than B-2 and M-1 shall be prohibited, unless such vehicle is stored in an enclosed building.

Section 17-6.13. Access.

Any parking area shall be designed in such a manner that any vehicle leaving or entering the parking area from or into a public or private street shall be traveling in a forward motion. Access driveways for parking areas or loading spaces shall be located in such a way that any vehicle leaving or entering such area shall be clearly visible for a reasonable distance to any pedestrian or motorist approaching the access driveway from a public or private street.

Section 17-6.14. Width of Access Driveway.

The entrances and exits to the parking area shall be clearly marked. Interior vehicular circulation by way of access roads shall maintain the following minimum standards: For one-way traffic, the minimum width of fourteen (14) feet except for forty-five (45) degree parking in which case the minimum width of the access road shall be seventeen (17) feet. Access roads for two-way traffic shall have a minimum width of twenty-four (24) feet. Parking areas having more than one aisle or driveway shall have directional signs or marking in each aisle or driveway.

Section 17-6.15

Parking Space Requirements

For the purposes of this chapter, the following minimum parking space requirements shall apply:

Schedule 17-6-1	
TYPE OF USE	PARKING SPACE REQUIRED
RESIDENTIAL	
1. Single Family and Duplex Dwellings	2 spaces per unit
2. Multi-Family Dwellings	2 spaces per unit
3. Townhouses	2 spaces per unit
4. Boarding House	1 space per room
5. Manufactured Homes	2 spaces per unit
6. Manufactured or Mobile Home Park	2 spaces per unit
COMMERCIAL	
1. Automobile Service	1 space per gas pump and 2 spaces per service bay
2. Banks and similar uses	1 space per every 200 sq.ft.
3. Commercial Office Buildings	1 space per every 400 sq.ft.
4. Hotels or Motels	1 space per rental room and 1 space per every 2 employees plus 1 space per every 50 sq.ft. of meeting room space
5. Marinas	1 space per every 2 slips
6. All other Business or Commercial Uses	1 space per every 300 sq.ft.
INSTITUTIONAL	
1. Churches and other Places of Assembly	1 space per every 4 seats
2. Clinics	1 space per every 200 sq.ft. of exam rooms, offices, and waiting area
3. Convalescent or Rest Homes	1 space per every 2 beds
4. Hospitals	1 space per bed
5. Library, Museum, etc.	1 space per every 400 sq.ft.
RECREATION AND ENTERTAINMENT	
1. Restaurants, Night Clubs, etc.	1 space per every 3 seats
2. Bowling Alleys	4 spaces per lane
3. Swimming Pools, Public or Private Clubs	1 space per each 5 persons of capacity
4. Theaters and Auditoriums	1 per every 4 seats
5. Marinas	1 per every 2 slips
SCHOOLS	
1. Elementary and Middle School	2 spaces per classroom plus 1 space per every 8 seats in auditorium
2. High School	1 space per every 10 students and 1 per teacher and employee
3. College	1 space per each 3 students
4. Kindergarten and Child Care Centers	1 space per classroom, 6 spaces minimum
INDUSTRIAL	
1. All uses permitted in the district	1 per each employee on a single shift, plus 1 for each business motor vehicle

Amended by Town Council: June 18, 2012

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Section 17-6.15.

Parking Space Requirements.

For the purposes of this chapter, the following minimum parking space requirement shall apply:

Schedule 17-6-1

TYPE OF USE	PARKING SPACE REQUIRED
RESIDENTIAL	
1. Single Family and Duplex Dwellings	2 per unit
2. Multi-family dwellings	2 per unit
3. Townhouses	2 per unit
4. Boarding House	1 per room
5. Manufactured Homes	2 per unit
6. Manufactured or Mobile Home Park	2 per unit
COMMERCIAL	
1. Automobile Service	1 per gas pump and 2 per service bay
2. Banks, and similar uses	1 per 200 sq. ft
3. Commercial Office Buildings	1 per 400 sq. ft
4. Hotels or motels	1 per rental room and 1 per every 2 employees plus 1 per 50 sq. ft of meeting room space
5. All other business or commercial uses	1 per 300 sq. ft
INSTITUTIONAL	
1. Churches, other places of assembly	1 per every 4 seats
2. Clinics	1 per every 200 sq. ft of exam room, office, waiting area
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RECREATION OR ENTERTAINMENT	
1. Restaurants, Night Clubs, etc.	1 per 3 seats
2. Bowling Alleys	4 per lane
3. Swimming Pools, Public or Private Clubs	1 per 5 person capacity
4. Theaters, Auditoriums	1 per 4 seats

Schedule 17-6-1 Continued

TYPE OF USE	PARKING SPACE REQUIRED
SCHOOLS	
1. Elementary, Middle School	2 per classroom plus 1 per 8 seats in auditorium
2. High school	1 per 10 students and 1 per teacher and employee
3. College	1 per each 3 students
4. Kindergartens, child care centers	1 per classroom, 6 spaces minimum
INDUSTRIAL	
1. All uses permitted in the district	1 per each employee on a single shift plus 1 for each business motor vehicle

ARTICLE 7.

SIGNS

Section 17-7.1. Intent.

The purpose of this Article is to promote and protect the public health, safety, and welfare by regulating existing and proposed outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance the physical appearance of the Town, and preserve the scenic and natural beauty of certain areas. It is further intended to reduce sign or advertising distraction and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public right-of-ways, provide more open space, and curb the deterioration of the natural environment and enhance community development.

Section 17-7.2. Governmental Signs Excluded.

For the purpose of this chapter, "sign" does not include signs erected and maintained pursuant to and in discharge of any governmental function, or required by any law, chapter, or governmental regulation.

Section 17-7.3. General Requirements.

- (a) No sign may be erected, installed or otherwise displayed in the town not in compliance with this chapter.
- (b) The regulations contained in this Section shall apply to all signs and all use districts except within the H-1 Historic Preservation District: Signs within the H-1 Historic Preservation District shall comply with design guidelines adopted pursuant to §17-4.9.23 and the regulations of this section. Where the design guidelines are in conflict with the regulations of this section, the design guidelines shall be controlling in all cases.
 - (1) Any illuminated sign or lighting device shall employ only light of constant intensity, and no sign shall be illuminated by or contain flashing, rotating, intermittent, or moving light or lights. In no event shall an illuminated sign or lighting device be placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance;

(2) No sign of any classification shall be installed, erected, or attached in any form, shape, or manner to a fire escape or any door or window giving access to any fire escape, nor shall any sign be placed so as to interfere with any opening required for legal ventilation;

(3) No sign shall be of such a form, character, or shape as to confuse or dangerously distract the attention of the operator of a motor vehicle or interfere with the purpose of any traffic control signal or directional device;

(4) Signs which in any way simulate official, directional, or warning signs erected or maintained by the State or County or public utility or similar agency concerned with the protection of the public health or safety shall not be permitted in the Town;

(5) Signs with any lighting or control mechanism which may cause radio or television interference shall not be permitted in the Town;

(6) No sign shall have its highest section higher than the height requirements of the zone as established in the Official District Regulation;

(7) Letters, symbols, numerals, and designs on any structure, cut in stone, which are an integral part of that structure and not intended to draw attention to any goods, merchandise, business, entertainment, amusement, or industrial activity or establishment shall be considered as a part of that structure and shall not require regulation by this chapter.

(8) Flags and insignia of any government shall not be considered as signs, except when displayed in connection with commercial promotion;

(9) No sign shall be placed in any public right-of-way except publicly owned signs such as traffic control signs and directional signs;

(a) If approval is given by variance or otherwise for a sign to be placed in any public right-of-way, the owner of the property shall be liable for any and all damage or injury which might occur.

(10) No building, except school bus shelters, shall be used for display of advertising except that pertaining to the use carried on within such building;

(11) Should any sign be or become unsafe or be in danger of falling, the owner thereof or the person maintaining the sign, shall upon written notice from the Administrator proceed at once to put such sign in a safe and secure condition or remove the sign;

(12) Temporary or permanent signs resting on or attached to vehicles shall not be used as a means to circumvent the provisions of this Article;

(13) Temporary signs advertising the sale, lease, or rental of the premises upon which the sign is located shall be removed seven (7) days after consummation of the lease or sale.

(14) Temporary signs may not cover more than ten percent (10%) of any window visible from a public or private right-of-way or waterway.

Section 17-7.4. Measurement of Sign Area.

The surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the displayed area of the sign and including all of the elements of the matter displayed. Frames and structural members not being advertising matter shall not be included in computation of surface area.

Section 17-7.5. Signs Exempt.

All signs less than two (2) square feet in area are exempt from the restrictions or provisions of this chapter. Signs of less than two (2) square feet shall not be counted when determining the number of signs permitted in any district.

Section 17-7.6. Off Premises Signs.

Off premises signs shall not be allowed within the Town of Urbanna.

Section 17-7.7. Signs Permitted.

Signs shall be permitted in accordance with the requirements set forth in the following:

Schedule 17-7-1								
Type of Sign								
District	On Structure Maximum		On Premises Maximum		Home Occupation Maximum		Temporary Maximum	
	No.	Size	No.	Size	No.	Size	No.	Size
R-1	1	4	1	40	1	4	1	40
R-2	1	4	1	40	1	4	1	40
B-1	1	200	1	300	1	4	3	40
B-2	1	200	1	300	-	-	3	40
M-1	2	200	2	300	-	-	-	-

Section 17-7.8. Removal of Signs.

When any sign is removed for a period exceeding thirty (30) days, all sign structure or other support structure and hardware shall be removed.

Section 17-7.9. Sign Content.

Any sign, display or device allowed under this chapter may contain in lieu of any other copy, any lawful non-commercial message that does not direct attention to a business operation for profit, or to a commodity or service for sale, and that complies with all other requirements of this code.

ARTICLE 8.

NONCONFORMING USES

Section 17-8.1. Nonconforming Use May Be Continued.

Except as otherwise provided herein, the lawful use of land or buildings existing at the effective date of this chapter may be continued although such use does not conform to the provisions hereof. Except as provided in this Article, such nonconforming use may not be enlarged, extended, reconstructed or structurally altered except in compliance with the provisions of this chapter.

Section 17-8.2. Change of Nonconforming Use.

If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use of land or buildings has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

Section 17-8.3. Extension of Use Within Existing Building.

The nonconforming use of a building may be hereafter extended throughout those parts of a building which are lawfully and manifestly arranged or designed for such use at the time of the enactment of this chapter.

Section 17-8.4. Buildings Nonconforming Use.

A building nonconforming only as to height, area, or bulk requirements may be altered or extended, provided such alteration or extension does not increase the degree of nonconformity in any respect.

Section 17-8.5. Discontinuance of Nonconforming Use.

No building or portion thereof used in whole or in part for a nonconforming use which remains idle or unused for a continuous period of one year, provided that all necessary permits or licenses are maintained, whether or not the equipment or fixtures are removed, shall again be used except in conformity with the regulations of the district in which such building or land is located. The

Administrator shall notify the owner and/ or operator of a nonconforming use prior to the expiration of the one year limit.

Section 17-8.6. Destruction of a Nonconforming Use.

No building nonconforming because of use which has been damaged by any cause whatsoever to the extent of more than fifty (50) percent of fair market value of the building immediately prior to damage, shall be restored, repaired or replaced except in conformity with the regulations of this chapter. Such restoration, repair or replacement is approved as a special use by the Town Council under Article 9. A building nonconforming because of lot size, setback, or height, etc. may be repaired, replaced or reconstructed and used as before the time of damage, provided such repairs or reconstruction be substantially completed within twelve months of the date of such damage.

Section 17-8.7. Intermittent Use.

The casual, intermittent, temporary or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

Section 17-8.8. Existence of a Nonconforming Use.

When evidence available to the Administrator is deemed by him to be inconclusive, whether a nonconforming use exists shall be a question of fact and shall be decided by the Board of Zoning Appeals after public notice and hearing and in accordance with the rules of the Board.

Section 17-8.9. Nonconforming Lots.

If the owner of a lot in any district does not own a parcel or tract of land immediately adjacent to such lot, and if the deed or instrument under which such owner acquired title to such lot was lawfully of record prior to the application of zoning regulations and restrictions to the premises, and if such lot does not conform to the requirements of such regulations and restrictions as to area, frontage, and dimensions of lots, the provisions of such lot area, frontage, and dimension regulations and restrictions shall not prevent the owner of such lot from erecting a single-family dwelling or making other improvements on the lot; provided such improvements conform in all other respects to applicable zoning and health regulations or restrictions.

Section 17-8.10. Nonconforming Signs.

In a residence district where any sign does not comply with the provisions of this chapter, such sign and any supporting structures may be maintained but shall not be replaced, reconstructed, moved, structurally altered, or relighted except in compliance with the provisions of this chapter and may continue in use unless subject to removal under other provisions of this chapter. Removal, replacement, reconstruction, moving or structural alteration for any cause whatsoever shall be considered as loss of nonconforming status. Supporting structures for nonconforming signs may continue in use for a conforming sign if said support structures comply in all respects to the applicable requirements of these regulations and other codes and chapters. No permits for additional signs shall be issued for any premises on which there are any nonconforming.

Section 17-8.11. Expansion or Enlargement of All Nonconforming Structures.

Any expansion or enlargement of any nonconforming structure shall be considered a special use and shall be subject to the provisions of Article 9.

ARTICLE 9.**SPECIAL USE PERMITS AND CONDITIONAL USES****Section 17-9.1. Purpose of Special Use Permit.**

The purpose of the special use permit is to provide for certain uses which have unusual characteristics, or have characteristics which are different from those of their immediate surroundings, or are generally of a public or semi-public character and are essential and desirable for the general convenience and welfare, but because of the nature of the use, the importance of relationship to the Comprehensive Plan, and possible impact, not only on neighboring properties, but on a large section of the Town, require the exercise of planning judgment on location and site plan.

Section 17-9.2. General Guides and Standards.

A special use permit should be approved only if it is listed as permitted by special use permit in the district regulations and only if it is found by the Zoning Administrator or the Planning Commission that the location is appropriate and not in conflict with the Comprehensive Plan, and the chapters and regulations of the Town. In approving a special use permit the Administrator or the Planning Commission may recommend that the Town Council impose such special requirements or reasonable conditions as it believes necessary to accomplish the objectives of this chapter. All special use permits shall be issued subject to the approval of a site plan by the Zoning Administrator or the Planning Commission of the Town of Urbanna. Unless otherwise specified as a condition of approval, the height limits, lot areas, yards and setbacks, sign and parking requirements shall be the same as for other uses in the district in which the proposed special use permit is located.

Section 17-9.3. Procedures, Site Plan Required.

The approval of a special use permit shall be made by the Town Council upon recommendation from the Planning Commission after filing an application for a special use permit with the Administrator, along with a site plan as required in Article 12 of this chapter, and after a public hearing held in conformity with Section 15.1-431 of the Code of Virginia. **Title 15.1 reco dified. See §15.2-2204.**

Section 17-9.4. Review Process.

- (a) In consideration of applications for special use permits the Planning Commission and the Town Council shall give due regard to the nature and condition of all adjacent uses and structures and the probable effect upon them of the proposed use. If it should find, after notice and hearing as required herein, that the proposed establishment or use will not adversely affect the health, safety or welfare of persons residing or working on the premises or in the neighborhood, will not unreasonably impair an adequate supply of light and air to adjacent property, nor increase congestion in the streets, nor impair the character of the district or adjacent districts, nor be likely to reduce or impair the character of the district or adjacent districts, nor be incompatible with the Comprehensive Plan nor be likely to reduce or impair the value of buildings or property in surrounding areas, but that such establishment or use will in substantial accordance with this chapter, the Planning Commission shall make a recommendation to the Town Council who may grant the Special Use Permit.
- (b) In those instances where the Planning Commission finds that the proposed use may be likely to have an adverse effect as above, the Planning Commission may recommend to the Town Council whether such effect can be avoided by the imposition of any special requirements or conditions as described in the preceding Section. If such determination be in the affirmative, the Planning Commission shall recommend such requirements or conditions, and if these are accepted by the applicant, the Town Council shall authorize the issuance of the Special Use Permit; otherwise the Special Use Permit shall be denied. The Administrator or the Town Council may require satisfactory evidence and guarantee or bond that the conditions stipulated will be, and will continue to be, complied with.
- (c) Any Special Use Permit may be authorized and issued for either a limited or an indefinite period of time and shall be revocable by the Town Council at any time for failure to adhere to the applicable conditions. After revoking any such permit, the Board of Zoning Appeals shall afford the permit holder an opportunity to be heard, in accordance with notice and hearing procedures outlined herein, and give the permit holder at least five (5) days written notice of the time and place of such hearing. If no period of time is specified by the Town Council, the Special Use Permit shall be authorized and issued for a period of five (5) years.

Section 17-9.5. Existing Conditional Uses.

Any conditional uses which have been permitted and legally exist at the effective date of adoption of the Articles of this chapter may be continued as a nonconforming use as described in Article 8. These conditional uses shall not be enlarged, extended, reconstructed or structurally altered except in compliance with the provisions of this chapter.

ARTICLE 10.

AMENDMENTS AND CONDITIONAL ZONING

Section 17-10.1. Purpose.

Whenever the public necessity, convenience, general welfare, or good zoning practices require, the Governing Body may, by amendment modify, amend, supplement, change or repeal any of the provisions of this chapter, district boundaries, or classifications of property, as shown on the zoning map, subject to the provisions in this Article. No such amendment or reenactment shall be considered unless the Town Council has referred the proposed amendment or reenactment to the Planning Commission for its recommendation. Failure of the Commission to report its recommendations in ninety (90) days shall be deemed approval by the Commission. After receipt of recommendation thereon from the Commission, and subject to the procedures provided by law, the Town Council may by resolution supplement, change or repeal the regulations, restrictions, and boundaries or classification of property.

Section 17-10.2. Amendments to the Chapter.

Amendments to this chapter may be initiated in one of the following ways:

- (1) By resolution of the Town Council.
- (2) On motion by the Planning Commission.
- (3) By petition of any property owner addressed to the governing body.

Section 17-10.3. Contents of the Petition.

(a) Any petition submitted pursuant to section 17-10.2. shall contain the following information at a minimum:

- (1) Name, address and phone number of petitioner;
- (2) Proposed amending resolution, approved as to form by the Town Attorney;
- (3) Present use;

- (4) Present zoning district;
 - (5) Proposed use;
 - (6) Proposed zoning district;
 - (7) Site Plan, with small vicinity map, at an appropriate scale showing property Lines, thoroughfares, existing and proposed zoning, and any such other items as the Administrator may require;
 - (8) A list of all property owners and their mailing addresses as shown on the County land books who are within, contiguous to, or directly across the street from the parcel(s) proposed;
 - (9) A statement on how the proposed amendment is related to the comprehensive plan;
 - (10) A fee as established by the Town Council.
- (b) Applications for amendments proposing to amend, supplement, change or repeal portions of this chapter other than the Official Zoning Map shall include items (1), (2), (9), and (10) listed above.

Section 17-10.4. Transmittal to Planning Commission.

Immediately after the adoption of a resolution by the Town Council or the filing of an application by a property owner, said resolution or application shall be transmitted to the Commission.

Section 17-10.5. Public Hearing by Planning Commission.

Within thirty (30) days after receipt of a resolution or application, or after adoption of its own motion, and after public notice as required by paragraph 15.1-431 of the Code of Virginia, the Commission shall hold a public hearing on the proposed zoning amendment or change. If after thirty days the Commission has not given public notice of a public hearing, the Town Council shall call a joint public hearing. **Title 15.1 recodified. See §15.2-2204.**

Section 17-10.6. Recommendation by Planning Commission.

Within sixty (60) days after the public hearing required by Section 17-10.5, the Commission shall recommend to the Governing Body that the proposed zoning amendment or change be approved as presented, approved with modifications, or disapproved. The Commission shall then transmit all papers constituting the record and the recommendations to the Governing Body. If after sixty (60) days the Commission fails to make a recommendation to the Town Council, the application will be deemed recommended for approval by the Planning Commission.

Section 17-10.7. Public Hearing by Governing Body.

Within thirty (30) days after receipt of the Commission's recommendation, and after public notice as required by paragraph 15.1-431 of the Code of Virginia, the Governing Body shall hold a public hearing on the proposed zoning amendment or change. **Title 15.1 recodified. See §15.2-2204.**

Section 17-10.8. Final Action by Governing Body.

Within sixty (60) days after the public hearing required by section 17-10.7., the Town Council shall either approve as presented, approve with modifications, or disapprove the proposed zoning amendment or change. Upon approval of an amendment to the text of this chapter, such amendment shall be attached to the chapter, signed by the Mayor, and attested by the Town Clerk. Amendments to the Official Zoning Map shall be made on the map, signed by the Mayor, and attested by the Town Clerk.

Section 17-10.9. Limitation on Zoning Amendments.

Substantially the same application for zoning amendment or change shall not be reconsidered within one year of the scheduling of a public hearing of the Planning Commission. Substantially the same zoning amendment or change shall not be reconsidered within one year of any final action taken thereon by the governing body.

Section 17-10.10. Conditional Zoning--Purpose of Conditional Zoning.

(A) The purpose of conditional zoning is to provide a method for permitting the reasonable and orderly development and use of land in those situations in which peculiar circumstances indicate the existing zoning ordinance district regulations are not adequate. Frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible zoning methods and procedures are needed to permit differing land uses, and at the same time to

recognize effects of change. In these instances, reasonable conditions voluntarily proffered by the zoning applicant may be allowed for the protection of the community that are not generally applicable to land similarly zoned.

(B) The owner of the property which is the subject of a rezoning request shall, if he elects to obtain conditional zoning, voluntarily proffer in writing such conditions as he deems appropriate at the time of filing an application to rezone the property, or by such later date as the Planning Commission shall establish in its rules and regulations; but, in any event, before the Planning Commission makes its recommendations to the Town Council.

(C) Conditional zoning involves Town Council review and approval and actually amending the official zoning map, which indicates by appropriate symbol, that special conditions have been proffered and approved with respect to the parcel or property.

Section 17-10.10.1. General Requirements for Review.

Conditional zoning approval shall be granted only if it is found by the Town Council after receiving a recommendation from the Planning Commission that the location is appropriate and not in conflict with the Comprehensive Plan, that the public health, safety, morals, and general welfare will not be adversely affected, that adequate utilities and off-street parking facilities will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values, and further provided that the additional standards of this Article are complied with.

Section 17-10.10.2. Narrative Report.

The applications shall be accompanied by a narrative description of the proposed project, which shall address the following issues:

- (1) Relationship of the proposed project to the Town's Comprehensive Plan.
- (2) Potential points of incompatibility with surrounding development and measures which will be implemented to reduce or eliminate incompatibility.
- (3) General character of the proposed project including type of tenure of occupants (owner/rental), landscaping, types of building materials to be used, height and number of stories of all buildings, number of dwelling units in each building and in total project, project density in term of dwelling units per acre (gross or net as required by district regulations), architectural styles.

(4) General timetable for development.

(5) List of all local, state, and federal agencies which will be required to approve all or parts of the project plans.

Section 17-10.10.3. Site Plan Review.

Unless stated to the contrary, all proposed conditional zoning projects shall be subject to administrative site plan review by the Zoning Administrator under the provisions of Article 12. Where subdivision is also involved, the review of subdivision plans and site plans will be coordinated under the provisions of Article 12 and the requirements of the subdivision regulations.

Section 17-10.10.4. Review Procedures.

For approval of a conditional zoning application, the Town Council, after review and recommendation by the Planning Commission regarding the application, shall give due regard to the nature and condition of all adjacent uses and structures and the probable effect upon them of the proposed use. It shall also take into account the special characteristics, location, site plan, design, construction, method of operation, effect on traffic conditions, proffers and other special consideration or any other aspects of the particular project that may be proposed by the applicant. After notice and hearing as required herein, if it should find that the proposed establishment or use is consistent with the Comprehensive Plan and all regulations and chapters of the Town, and will not adversely affect the health, safety or welfare of the citizens of Urbanna, the Planning Commission shall make recommendations regarding the project to the Town Council for its review and consideration.

Section 17-10.10.5. Conditions as Part of Rezoning or Amendment to Zoning Map.

(A) The Town Council may approve reasonable conditions to rezoning provided that the following criteria are met:

- (1) The rezoning itself must give rise to the need for the conditions.
- (2) All conditions shall have a reasonable relation to the rezoning.
- (3) No condition shall include a cash contribution to the Town.

(4) No condition shall require mandatory dedication of real or personal property for open space, parks, schools, fire stations, or other public facilities except those otherwise authorized by law.

(5) No condition shall include payment for construction of off-site improvements except those sewage, water or drainage facilities otherwise authorized by law.

(6) No condition shall be proffered that is not related to the physical development or physical operation of the property.

(7) All conditions shall be in conformity with the Town's Comprehensive Plan.

(8) The provisions of this section shall not be used for the purpose of discrimination in housing.

(B) In the event that additions thereto or modifications thereof are desired by the owner of the property which is the subject of the rezoning request, the same shall be made in writing not less than fourteen (14) days prior to the time at which the Planning Commission makes recommendation to the Town Council unless the Planning Commission:

(1) Specifically waives such time period, or

(2) Specifically establishes such greater or lesser time period as it deems reasonable.

(C) The Town Council may consider additional proffers, deletions and/or amendments to all such conditions provided same have been voluntarily proffered in writing by the owner of the property which is the subject of the rezoning request prior to the public hearing at which the Town Council renders its decision.

Section 17-10.10.6.

Enforcement and Guarantees.

(A) In order to ensure the intent and purpose of conditional zoning approved in accordance with this section, the Zoning Administrator or his agents shall be vested with all necessary authority on behalf of the Town Council to administer and enforce conditions attached to a rezoning or amendment of a zoning map including:

(1) Ordering in writing, compliance with such conditions.

(2) Bringing of appropriate legal action or proceeding to ensure compliance.

(3) Requiring a guarantee or contract or both for construction of physical improvements required by condition(s).

(4) Denial of zoning certification with regard to the issuance of any required use, occupancy or building permit.

(B) Any person who is aggrieved by the administrator's decision or actions under subsection (A), above, may petition the Town Council for review of such decision(s). Such petition shall be filed with the administrator no less than fifteen (15) days prior to the Town Council meeting designated for public hearings and zoning matters. The administrator shall forward the petition and justification for his decision(s) to the Town Council and to the aggrieved person.

Section 17-10.10.7.

Zoning Map to Show Conditional Zoning Index.

The zoning map shall show by an appropriate symbol, the existence of conditions attached to the zoning on the map. The Zoning Administrator shall maintain a conditional zoning index which index shall be available for public inspection during regular office hours. The index shall provide ready access to the ordinance creating such conditions, in addition to the regulations provided for in a particular zoning district, and shall clearly list all conditions applicable to each.

Section 17-10.11.

Amendments and Variations of Conditions.

(A) There shall be no amendment or variation of conditions created pursuant to the provisions of this Article until after such amendment or variation is approved by the Town Council in accordance with this Article.

(B) Time limit on repeat petitions. After the Town Council has taken official action either granting, denying or permitting withdrawal of a petition for any change in zoning or any change in zoning conditions, no other petition for substantially the same change(s) shall again be considered in less than twelve (12) months from the date of such official action.

ARTICLE 11.

BOARD OF ZONING APPEALS

Section 17-11.1. Board of Zoning Appeals, Legislative Authority and Court on Matters of Appeal.

It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board only on appeal from the decision of the Administrator, and that recourse from the decisions of the Board shall be to the courts as provided by law.

Section 17-11.2. Board of Zoning Appeals.

(A) The Board of Zoning Appeals shall consist of five (5) residents of Urbanna who shall be appointed by the Circuit Court of Middlesex County. Their terms of office shall be for five (5) years each, except that original appointments shall be made as follows: one member who shall serve for one (1) year, one member who shall serve for two (2) years, one member who shall serve for three (3) years, one member who shall serve for four (4) years, and one member who shall serve for five (5) years. The secretary of the Board of Zoning Appeals shall notify the Circuit Court at least thirty (30) days in advance of the expiration of any term of office, and shall also notify the Circuit Court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the Board of Zoning Appeals shall hold no other public office in Urbanna. A member whose term expires shall continue to serve until his successor is appointed and qualifies. Members shall serve without compensation other than for reasonable and necessary expenses.

(B) The Board of Zoning Appeals shall elect from its own membership a Chairman, Vice Chairman and Secretary, who shall serve annual terms and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board of Zoning Appeals. The Board of Zoning Appeals may make, alter and rescind rules and forms for its procedures, consistent with chapters of Urbanna and general laws of the Commonwealth. The Board of Zoning Appeals shall keep a full public record of its proceedings and shall submit a report of its activities to the Town Council at least once a year.

(C) Within the limits of the funds appropriated for its use by the Town Council, the Board of Zoning Appeals may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services.

Section 17-11.3. Proceedings of the Board of Zoning Appeals.

The Board of Zoning Appeals shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this chapter. Meetings shall be held at the call of the chairman and at such other times as the Board of Zoning Appeals may determine. The chairman, or in his absence, the vice chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be a public record and be immediately filed in the office of the Board of Zoning Appeals. For the conduct of any hearing or the taking of any action, a quorum shall not be less than a majority of all the members.

Section 17-11.4. Duties of the Board of Zoning Appeals.

In exercising its duties, the Board of Zoning Appeals, may, as long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made. For the purpose of this chapter, the Board of Zoning Appeals has the following specific responsibilities:

(1) To hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator, the Planning Commission or any administrative officer in the administration or enforcement of this chapter.

(2) To authorize upon appeal or original application in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done; following the provisions of Section 17-11.6. of this Code.

(3) To hear and decide applications for interpretation of the district map where there is an uncertainty as to the location of a district boundary. After notice to the owners of the property affected and all property owners within 500 feet of the affected property, by such question. The Board may interpret the map in such way as to carry out the intent and purpose of the chapter for the particular

section or district in question. The Board shall not have the power to change substantially the locations of district boundaries as established by chapter.

(4) No provision of Section 15.1-495 of the Code of Virginia shall be construed as granting any Board the power to rezone property. **Title 15.1 recodified. See Title 15.2.**

(5) The above responsibilities shall be carried out in accordance with Section 15.1-495 and after proper notice and hearing as provided by Section 15.1-431 of the Code of Virginia. **Title 15.1 recodified. See §15.2-2204.**

Section 17-11.5.

Appeals.

- (a) Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town affected by any decision of the Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Administrator, and with the Board of Zoning Appeals, a notice of appeal, specifying the grounds thereof.
- (b) The Administrator shall immediately transmit to the Board of Zoning Appeals all papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Administrator certifies to the Board of Zoning Appeals, that by reason of facts stated in the certificate, a stay in his opinion would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board of Zoning Appeals or by the Circuit Court, on application and on notice to the Administrator and for good cause shown.
- (c) The Board of Zoning Appeals shall fix a reasonable time for the hearing of an appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within sixty (60) days. In exercising its powers, the Board may reserve or affirm, wholly or partly, or may modify, an order, requirement, decision, or determination appealed from. The concurring vote of three (3) members is necessary to reverse any order, requirement, decision or determination of the Administrator or to decide in favor of the applicant.
- (d) Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, or board may present to the Circuit Court a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the Board of Zoning Appeals.

(e) Upon presentation of such petition, the Court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board of Zoning Appeals and on due cause shown, grant a restraining order.

(f) The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such facts such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(g) If, upon hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the Court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm wholly or partly, or may modify the decision brought up for review.

(h) Costs shall not be allowed against the Board of Zoning Appeals, unless it shall appear to the Court that the Board acted in bad faith or malice in making the decision appealed from.

(i) The time limitations for raising certain issues and filing certain proceedings with the Board of Zoning Appeals shall be the following:

(1) No issue or alleged defect in the process of enactment of any chapter or map or any amendment thereto shall be raised in any proceeding filed with the Board of Zoning Appeals later than thirty (30) days from the time such chapter, map or amendment takes effect, unless the person raising such issue alleges and proves that he failed to receive adequate notice of the enactment of the chapters, adequate notice to his predecessor in interest shall be deemed adequate notice to him.

(2) No person shall be allowed to file any proceeding with the Board of Zoning Appeals later than thirty (30) days after any application for development, preliminary or final, has been approved by an appropriate county officer, agency or body, if such proceedings are designed to secure reversal or to limit the approval. If such person has succeeded to his interest after such approval, adequate notice to his predecessor in interest shall be deemed adequate notice to him.

Section 17-11.6. Variances.

Applications for variance may be made by any property owner or owner's agent. Such applications shall be made to the Administrator in accordance with rules adopted by the Board of Zoning Appeals. The Administrator shall promptly transmit the application and accompanying maps, plans or other information to the secretary of the Board of Zoning Appeals who shall place the matter on the docket.

Section 17-11.7. Contents of Application for Variance.

At a minimum, the application for variance shall contain the following information:

- (1) Name, address, and phone number of applicant;
- (2) Legal description of property;
- (3) Description of nature of variance requested;
- (4) A narrative statement demonstrating that the requested variance conforms to the following standards;

(a) The property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the chapter, or where by reason of exceptional topographic conditions or other extraordinary situation or conditions of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the chapter would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrative hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.

(b) That special conditions and circumstances do not result from the actions of the applicant.

Section 17-11.8. Actions by the Board of Zoning Appeals.

(a) Within sixty (60) days after receipt of an application variance, and after public notice as required by paragraph 15.1-431 of the Code of Virginia, the Board of Zoning Appeals shall hold a public hearing on the requested variance. **Title 15.1 recodified. See §15.2-2204**

(b) Within thirty (30) days after the required public hearing, the Board of Zoning Appeals shall either approve or disapprove the variance. No variance shall be authorized by the Board of Zoning Appeals unless it finds:

- (1) that the strict application of the chapter would produce undue hardship;
- (2) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- (3) that the authorization of such variances will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance; and
- (4) that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the chapter.
- (5) For matters relating to structures or uses wholly or partially within the CB-1 Chesapeake Bay Protection District, those items referenced in section 17-4.10.14 shall also adequately addressed.
- (6) For matters relating to structures or uses wholly or partially within the F-1 Flood Plain District, those items referenced in section 17-4.11.15. shall also adequately addressed.

(c) In authorizing a variance, the Board of Zoning Appeals may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

Section 17-11.9. Appeals.

Appeals from any decision of the Board of Zoning Appeals on a variance shall be made in accordance with the provisions of Section 17-11.5.

ARTICLE 12.

ADMINISTRATION AND ENFORCEMENT

Section 17-12.1. Office of Zoning Administrator.

This chapter shall be administered and enforced by a Zoning Administrator who shall be appointed by the Town Council and shall serve at the pleasure of that body. He may be provided with the assistance of such other persons as the Town Council may direct. Compensation for the Administrator shall be fixed by resolution of governing body for the period of his appointment.

Section 17-12.2. Duties of Zoning Administrator.

- (A) Administer and enforce the Town of Urbanna Zoning chapter and Official Zoning Map, and accept applications for rezoning, special use permits, conditional zoning approval, and applications for zoning variances. These applications shall be accompanied by site plans subdivision plats, proffers and special conditions as required by this chapter
- (B) Review applications described above and related materials; also review applications for Building Permits, Certificates of Occupancy, Historic District applications, and Sign applications. Issue preliminary approval or direct to Planning Commission or Board of Zoning Appeals, as appropriate, for review, special conditions and recommendation. Initiate notice and public hearing procedure.
- (C) Present application cases at public hearing to Planning Commission and Board of Zoning Appeals, as appropriate. Direct action required and recommendations on applications to next scheduled meeting of Town Council.
- (D) Present applications, materials, proffers and other considerations to Town Council, and attend to execution of Town Council's action. Notify applicant of status of application.
- (E) The Zoning Administrator shall also be charged with maintaining conformance with the chapter, and enforcement therein.
 - (1) Upon finding that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such violation(s) indicating the nature of the violation(s) and ordering the action necessary to correcting such violation(s).

- (2) Order discontinuance of illegal uses of land, buildings, or structures;
- (3) Order removal of illegal buildings or structures or illegal additions, alterations, or structural changes;
- (4) Order discontinuance of any illegal work being done; and
- (5) Take any other action authorized by this chapter to ensure compliance with or to prevent violations of this chapter. This may include the issuance of an action on zoning permits and certificate of occupancy permits and such similar administrative duties as are permissible under the law.

Section 17-12.3. Zoning Permits Required.

No building or other structure shall be erected, moved, added to, structurally altered, nor shall any building, structure, or land be established or changed in use without a permit therefor issued by the Administrator. Normal maintenance, repair, or replacement of existing structures or uses shall not require a zoning permit under this chapter.

Section 17-12.4. Contents of Application for Zoning Permit.

The application for zoning permit shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun within one (1) year or substantially completed within two and one-half (2 1/2) years. At a minimum, the application shall contain the following information:

- (1) Name, address, and phone number of applicant;
- (2) Legal description of property;
- (3) Existing use;
- (4) Proposed use;
- (5) Zoning district;
- (6) Site Plans as required by this Article, and all other engineering and environmental reports and information as necessary.

- (7) Number of parking spaces or loading berths;
- (8) Number of dwelling units, density calculations;
- (9) Proffers, restrictive covenants, and other special considerations;
- (10) Such other matters as the Zoning Administrator may determine to be necessary to determine conformance with, and provide for the enforcement of this chapter.

Section 17-12.5. Approval of Zoning Permit.

Within sixty (60) days after the receipt of an application, the Administrator shall either approve or disapprove the application in conformance with the provisions of this chapter. All zoning permits shall, however, be conditional upon the commencement of work within one (1) year. One copy of the plans shall be returned to the applicant by the Administrator, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One (1) copy of plans, similarly marked, shall be retained by the Administrator. The third copy, similarly marked, shall be forwarded to the Building Official within five (5) calendar days after approval.

Section 17-12.6. Expiration of Zoning Permits.

If the work described in any zoning permit has not begun within one (1) year from the date of issuance thereof, said permit shall expire; it shall be revoked by the Administrator; and written notice thereof shall be given to the persons affected. If the work described in any zoning permit has not been substantially completed within two and one-half (2 1/2) years of the date of issuance thereof, said permit shall expire and be revoked by the Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new zoning permit has been obtained or extension granted.

Section 17-12.7.1. Site Plan Review Required--Purpose.

For the purposes of assuring compliance with the objectives of the Comprehensive Plan and compliance with the requirements of the Town's chapters and regulations, site plans shall be submitted to accompany subdivision plans, building permit applications when new and substantial rehabilitation is

proposed, site disturbing and grading work is involved, or development is proposed in Chesapeake Bay Preservation Areas, along with the materials described in this Section, and reviewed in accordance with the requirements and procedures of this Article.

Section 17-12.7.2.

Contents of Site Plan.

- (a) At a minimum, unless otherwise stated in writing by the Zoning Administrator, the contents of a site plan shall include:
- (1) Proposed title of the project, owner(s) of the land, name of the engineer, architect, landscape architect or surveyor who prepared the plan.
 - (2) The north point, scale, and date.
 - (3) Location map of the property by an inset map, north arrow, scale, and such information as the names and numbers of adjoining roads, bodies of water, boundaries, and other landmarks sufficient to clearly identify the location of the project.
 - (4) Existing zoning and zoning district boundaries and proposed changes in zoning, if any.
 - (5) The boundaries of the property involved, general location of existing easements and property lines, existing streets and buildings, waterways, flood plains, topography and prominent physical features in or adjoining the project area.
 - (6) Uses of adjoining properties, nearby buildings and names of owners.
 - (7) Location and dimensions of all proposed lots, streets, sidewalks, parking areas, easements, buildings, front, side and rear yards, landscaping, lighting, and drainage.
 - (8) Complete description of all land clearing and site alterations, tree and vegetation (grading, buffer removal, drainage etc.) activities.
 - (9) Location and character of proposed public and private recreational and open space areas.
- (b) The Administrator may establish additional requirements for preliminary site plans, such as density calculations, special considerations and conditions, proffered arrangements, and in special cases may waive a particular requirement if, in his opinion, the inclusion of the requirement is not essential to a proper decision on that project.

Section 17-12.7.3. Procedure for Approval of Site Plans.

- (a) Three copies of a site plan or plans shall be filed with the Zoning Administrator. The site plan shall comply with Section 17-12.7.2. above and be accompanied by such other written or graphic material as may be necessary or desirable in aiding the decisions of the Administrator.

- (b) The Zoning Administrator shall review the site plan for compliance with the requirements of this chapter. If further review of a site plan is required, before final approval of a site plan, the Administrator or the Planning Commission (if applicable) may make recommendations to the Town Council regarding reasonable additional requirements, especially requirements as to utilities, drainage, landscaping and maintenance thereof, lighting, signs and advertising devices, screening, accessways, curb cuts, traffic control, height of buildings and setback of buildings, to protect adjoining property, persons and neighborhood values. The site plan shall be amended in accord with the requirements of the Town Council before being approved. The Town Council shall approve or disapprove the site plan within sixty (60) days after its submission to the Administrator unless the applicant requests additional time in order to prepare revised plans.

Section 17-12.7.4. Amendments and Additions to Site Plans Approved by the Town Council.

The procedure for amendment of the boundaries of or the extent of land use for an approved special use shall be the same as for a new application, except that minor amendments of an approved site plan and conditions attached to an approved special use, or other site plan approved by the Town Council, may be approved by the Town Council at a regular meeting after a written report by the Administrator and without a public hearing, provided such change or amendment:

- (1) Does not alter a recorded plat;
- (2) Does not conflict with the specific requirements of this chapter;
- (3) Does not change the general character or content of an approved site plan or use;
- (4) Has no appreciable effect on adjoining or surrounding property;
- (5) Does not result in any substantial change of major external access points.
- (6) Does not increase the approved number of dwelling units or height of buildings; and

(7) Does not decrease the minimum specified yards and open spaces or minimum or maximum specified parking and loading spaces.

Section 17-12.7.5. Revocation of Permits.

No permit shall be issued for any structure in any area covered by a site plan that is required under the provision of this chapter except in conformity to such plan which has been duly approved. Permits issued under an approved site plan may be revoked by the Administrator for failure to comply with the approved plan, the conditions attached thereto, or other applicable regulations.

Section 17-12.7.6. Agreement and Fees.

Prior to approval of a building permit there shall be executed by the owner or developer, an agreement to construct such required physical improvements as are located within public rights of way or easements, or as are connected to any public facility in form and substance as approved by the Town Council; and, the Town Council may require a bond with surety or conditions acceptable to the Town Attorney in the amount of the estimated cost of the required physical improvements as determined by the departments, divisions, or agencies responsible for such improvements. The aforesaid agreement, bond, or conditions shall be provided for completion of all work covered thereby or for subsequent defects therein, within the time to be determined by the Town Council, which time may be extended by the Town Council upon written application by the owner or developer, signed by all parties (including sureties) to the original agreement.

Section 17-12.7.7. Approval and Extension.

Approval of a site plan submitted under the provisions of this chapter shall expire one year after the date of such approval unless building permits have been obtained for construction in accordance therewith. A single one-year extension may be given upon written request by the applicant to the Administrator made within ninety (90) days before the expiration of the approved site plan. The Administrator shall acknowledge the request and shall make a decision regarding the requested extension within thirty days after receipt of the request.

Section 17-12.7.8. Right of Developer to Continue Project.

Subject to the time limits and conditions specified in this chapter, the rights of an owner or developer to continue a project for which a site plan has been approved shall not be abridged so long as

he proceeds toward completion with reasonable care and diligence and in accordance with the terms of the approval.

Section 17-12.8. Building Permits.

- (A) No building permit shall be issued after the effective date of this chapter unless the applicant's site plan has been approved and a zoning permit has been issued by the Administrator first.

- (B) Nothing contained herein shall require any change in the plans or construction of any building or structure for which a building permit was granted prior to the effective date of this chapter.

Section 17-12.9. Construction and Use to be as Provided in Application, Plan, Permits And Certificates.

Zoning permits or Certificates of Occupancy issued on the basis of plans and applications approved by the Administrator authorize only the use arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter and punishable accordingly.

Section 17-12.10. Enforcement Procedures.

If the Administrator shall find that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such violations indicating the nature of the violation and ordering the action necessary to correct it. Such notification shall be mailed by certified mail to the current address shown on the property tax records of the Town. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions. If such violation continues, the Administrator shall immediately institute an appropriate action or proceeding in law or equity to prevent such violation, or to restrain, correct or abate such violation.

Section 17-12.11. Enforcement Remedies.

In case any building, structure, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this chapter, the Administrator, in addition to other remedies, may institute in the name of the Town any appropriate action or proceeding

to prevent, restrain, correct or abate such building, structure or land, or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation.

Section 17-12.12. Violation and Penalty.

- (a) All departments, officials and public employees of this jurisdiction which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter. Any such permit, if issued in conflict with the provisions of this chapter, shall be null and void.
- (b) Any person, firm, or corporation, whether as principal, agent, employed or otherwise violating, causing or permitting the violation of any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ten dollars (\$10) and no more than one thousand dollars (\$1,000). Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this chapter is committed, continued or permitted by such person, firm, or corporation, and shall be punishable as herein provided.

Section 17-12.13. Schedule of Fees, Charges, Expenses and Required Material.

- (a) The Governing Body may establish by resolution a schedule of fees, charges, expenses, and required materials, and a collection procedure for building permits, certificates of occupancy, appeals, and other matters pertaining to this chapter. The schedule of fees which is adopted by reference and declared to be a part of the chapter shall be posted in the offices of the Administrator, and may be altered or amended only by the Town Council. Sufficient fees shall be collected to cover the cost of making inspections, issuing permits, advertising of notices and other expenses incident to the administration of this chapter.
- (B) Until all applicable fees, charges, and expenses have been paid in full, and all required material has been submitted, no action shall be taken on any application or appeal.

ARTICLE 13.

DEFINITIONS

Section 17-13.1. Interpretation of Terms or Words.

(A) For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows:

(1) The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.

(2) Words used in the present tense include the past and future tenses, and the future the present.

(3) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

(4) The word "shall" is a mandatory requirement; the word "may" is a permissive requirement, and the word "should" is a preferred requirement.

(5) The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied".

(6) The word "lot" includes the words "plot" or "parcel".

(7) The terms "main" and "principal" as used herein are interchangeable.

(8) The word "building" or "structure" includes any part thereof, and the word "building" includes the word "structure".

(9) Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.

(B) For state law definitions relating to zoning, see Code of Virginia Section 15.1-430.

Section 17-13.2.

Definitions.

ACCESS PARKING COURT: An access court is a group of parking spaces served directly by a private accessway or drive which has only an access connection to a public or private street, and serves no more than fifty (50) units.

ACCESSORY BUILDING OR STRUCTURE: An accessory building or structure is a subordinate building or a portion of the main building, the use of which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this chapter) is located on the same lot as the main building or principal use of the land.

ACCESSORY DWELLING UNIT: A subordinate dwelling unit in a main building or accessory building as approved by Special Use Permit.

ACCESSORY USE: An accessory use is one which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this chapter) is located on the same lot as the principal use of the premises. When the term "accessory" is used in this chapter, it shall have the same meaning as "Accessory Use."

ACREAGE: A parcel of land, or an area of land, which is not a numbered lot on any recorded subdivision plat.

ADMINISTRATOR, THE: The Zoning Administrator of Urbanna, Virginia. The official, appointed by the Town Council, charged with the enforcement of this chapter.

AGRICULTURE: The raising of crops and food; the tilling of the soil including fiber production, horticulture, and gardening; forestry; but does not include agricultural industry or business such as fruit packing plants, dairies, or similar uses and does not include the keeping of animals, livestock or fowl.

ALLEY: A public or private way less than thirty (30) feet in width and affording secondary means of access to abutting property.

ALTERATION: Any change in the total floor area, use, adaptability, or external appearance of an existing structure.

APARTMENT: A part of a building containing cooking and housekeeping facilities, consisting of a room or suite of rooms intended, designed, and used as a residence by an individual or a single family.

AUTOMOBILE, MOBILE HOME, AND RECREATIONAL VEHICLE SALES AND SERVICE. The sale or rental of new and used motor vehicles, mobile homes, recreational vehicles or farm implements displayed or sold on the premises.

AUTOMOBILE, SALVAGE OR WRECKING YARD: A business or land use which is used for the storage or dismantling of damaged, inoperative, or obsolete vehicles or for the sale of such vehicles or the salvaged parts therefrom.

BASEMENT: A story having fifty percent (50%) or more of its height below grade level. A basement shall not be counted as a story for the purpose of height regulations if it is used for business purposes or for dwelling purposes by other than a janitor employed on the premises.

BED AND BREAKFAST: A single family, owner-occupied building, where for compensation and by prearrangement and for no more than one week, lodging, or lodging and a breakfast are provided for persons who are generally tourists or visitors to the area. A bed and breakfast establishment shall be limited to a maximum of five (5) units.

BLOCK: That property fronting on one side of a street or road and lying between two intersecting streets or roads or otherwise limited by a right-of-way, a waterway, an un-subdivided tract or any other physical barrier of such nature as to interrupt the continuity of development.

BOARD, THE: The Board of Zoning Appeals of Urbanna, Virginia.

BOARDING OR ROOMING HOUSE: A building where lodging and meals are provided, for compensation for at least three (3) and not more than nine (9) persons who are not transients.

BUFFER-ZONE: Land area used to separate one use from another, or to absorb runoff or shield properties from dust, noise, lights or other such effects and to provide space for screening, all in accordance with the requirements of this chapter.

BUILDING: Any structure having a roof supported by columns, or walls, built for the support, enclosure, shelter, or protection of persons, animals, chattels or property of any kind, except a tent, mobile home or manufactured home. The word "building" included the word "structure".

BUILDING HEIGHT: The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for shed, gable, hip and gambrel roofs.

BUILDING LINE OR BUILDING SETBACK LINE: A line within a lot, so designated on a plat of subdivision, between which line and the exterior property lot lines no building or structure may be erected.

BUILDING, PRINCIPAL: A building in which is conducted the main or principal use of the lot on which said building is situated.

BUSINESS, CONVENIENCE: Commercial establishments which cater to and can be located in close proximity to or within residential districts without creating undue vehicular congestion, excessive noise, or other objectionable influences. To prevent congestion convenience uses include, dry cleaning and laundry facilities, and grocery stores, if less than 10,000 square feet in floor area. Uses in this classification tend to serve a day to day need in the neighborhood.

BUSINESS, GENERAL: Commercial uses which generally require locations on or near major thoroughfare and/or their intersections, and which serve day to day needs of the community, as well as supplying the more durable and permanent needs of the whole community. General business uses include, but need not be limited to, such activities as supermarkets; stores that sell hardware, apparel, footwear, appliances, and furniture; department stores; and discount stores.

BUSINESS, HIGHWAY: Commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend to serve the motoring public. Highway business uses include, but need not be limited to, such activities as garage service stations; truck and auto sales and service, restaurants and motels.

BUSINESS, OFFICE TYPE: Quasi commercial uses which may often be transitional between retail business and/or manufacturing, and residential uses. Office business generally accommodates such occupations as administrative, executive, professional, accounting, writing, clerical, stenographic, and drafting. Institutional offices of a charitable, philanthropic, or religious or educational nature are also included in this classification.

BUSINESS, SERVICES: Any profit making activity which renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes and businesses.

BUSINESS, WHOLESALE: Business establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product, or for use by a business service.

CENTRAL WATER AND/OR SEWER SYSTEM: A water or sewer system owned and operated by the Town, or owned and operated by a private individual or a corporation properly licensed by the State or Corporation Commission and meeting all standards of the State Department of Health and/or State Water Control Board.

CLINIC: An establishment where patients are admitted for examination or treatment by physicians or dentists on an outpatient basis, i.e. no overnight facilities.

CLUB OR LODGE: A building or portion thereof or premises owned or operated for a social, literary, political, education, or recreational purpose primarily for the exclusive use of members and their guests.

COMMERCIAL ENTERTAINMENT FACILITIES: Any profit making activity which is generally related to the entertainment field, such as motion picture theaters, carnivals, and similar entertainment activities.

COMMISSION, THE: The Planning Commission of the Town of Urbanna, Virginia.

CONDITIONAL USE: A use listed and legally permitted under the former Town of Urbanna Zoning chapter, which allowed for special uses to be permitted, with special conditions, following a formal review and approval process of the Town Council. Legally permitted conditional uses at the time of enactment of these revisions become non-nonconforming uses but are still permitted in each instance.

CONDITIONAL ZONING: The classification of land into districts by legislative action, including the allowing of reasonable conditions governing the use of such property; such conditions being in addition to the regulations provided for a particular zoning district by this chapter.

CONDOMINIUM: Real property and any incidentals thereto or interest therein which have been or are to be lawfully established as such under the Virginia Condominium Act.

CONVALESCENT, NURSING OR REST HOME: Any institution licensed by the State of Virginia, whether conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for two or more non-related persons admitted thereto for the purpose of nursing or convalescent care. Nursing and convalescent care includes care given because of prolonged illness or defect or during the recovery from injury or disease, and includes any and all of the procedures commonly employed in waiting on the sick, such as administration of medicine, preparation of special diets, giving of bedside care, application of dressing and bandages, and the carrying out of treatments prescribed by a duly licensed practitioner of medicine.

DAY NURSERY OR CHILD DAY CARE CENTER: Facilities or programs licensed by the State of Virginia for the care of more than four children away from their own home for any part of a 24 hour day, for compensation or otherwise.

DENSITY, RESIDENTIAL: Unless otherwise specified, the number of dwelling units per gross acre of residential land area, with gross acres including all the land area, including streets, easements, and open space portions of a developed site.

DEVELOPMENT: Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, the placement of mobile homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.

DISABLED VEHICLE: A motorized vehicle which is inoperative, or has been parked or abandoned in an inappropriate location for a period longer than seventy-two hours.

DISTRICT: Districts, as established by this chapter, and referenced in Section 15.1-486 of the Code of Virginia as amended.

DWELLING, MULTI-FAMILY: A building consisting of three or more dwelling units, including condominiums and apartments, with varying arrangements of entrances and party walls.

DWELLING, SINGLE-FAMILY: A building consisting of a single dwelling unit occupied by members of one household.

DWELLING, TWO-FAMILY: A building consisting of two (2) dwelling units which may be either attached side by side or one above the other, and each unit having a separate or combined entrance or entrances.

DWELLING UNIT: Space, within a building, comprising living, dining, and sleeping rooms, storage closets, and space and equipment for cooking, bathing, and toilet facilities, occupied as separate living quarters by a single family or other group of persons living together as a household or by a person living alone and having its own permanently installed cooking and sanitary facilities.

EASEMENT: A grant of rights by a property owner to another individual, group, or governmental unit to make limited use of a portion of real property for a specified purpose.

EXISTING STRUCTURE: Structure for which the start of construction commenced before the effective date of this chapter. This may also be referred to as "existing construction".

FAMILY: An individual living alone or two or more persons who are related by blood or marriage living together and occupying a single housekeeping unit with single culinary facilities, or a group of no more than five (5) persons living together by joint agreement and occupying a single housekeeping unit with single culinary facilities on a nonprofit, cost-sharing basis. Domestic servants, employed and residing on the premises shall be considered as part of the family.

FLOOD PLAIN: (a) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; (b) An area subject to the unusual and rapid accumulation of surface waters from any source.

FLOOR AREA:

(a) Commercial, business, and industrial buildings, or buildings containing mixed uses; the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings but no including: (1) attic space providing headroom of less than seven feet; (2) basement space not used for retailing; (3) uncovered steps or fire escapes; (4) accessory water towers or cooling towers; (5) accessory off-street parking spaces; and (6) accessory off-street loading spaces.

(b) Residential buildings: the sum of the gross horizontal areas of the several floors of a dwelling, exclusive of garages, basements, and open porches, measured from the exterior faces of the exterior walls.

FRONTAGE:

(a) Street (or road) Frontage: all of the property on one side of a street or road between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

(b) Lot Frontage: the distance for which the front boundary line of the lot and the street or road line are coincident.

GARAGE, PRIVATE: An accessory building used for storage purposes only and having a capacity of not more than four automobiles and a floor area of not more than 900 square feet or not more than two automobiles per family housed in the building to which the garage is accessory, whichever is the greater.

GARAGE, PUBLIC: A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor-driven vehicles.

GOVERNING BODY: The Town Council of Urbanna, Virginia.

GUEST HOUSE: Living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, and not rented or otherwise used as a separate dwelling unless permitted by the terms of this chapter.

HISTORIC MONUMENT: Any place, site, building, structure, or monument appearing upon the National, State, or Town register of historic places or sites.

HOME GARDEN: A garden for the production of vegetables, fruits, and flowers for use and/or consumption by the occupants of the premises.

HOME OCCUPATION: Any occupation, profession, enterprise or activity conducted solely by one or more members of a family residing on the premises which is incidental and secondary to the use of the premises for dwelling, including the home office of a member of a recognized or licensed profession, such as an physician, dentist, minister, lawyer, engineer, architect, accountant, musician, artist, real estate salesperson, or other similar occupation; provided that:

- (a) not more than the equivalent area of one quarter of one floor shall be used for such purpose;
- (b) that such occupation should not require external or internal alterations of the building;
- (c) that no commodity is stored or sold, except such as are made on the premises;
- (d) there shall be no group instruction, assembly or activity, or no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling;
- (e) that there is no sign , other than a nameplate which is attached to the building, which is not illuminated, and not more than four (4) square foot in area; and that not more than one motor vehicle used in conjunction with the home occupation is parked on the premises.

When within the above requirement, a home occupation includes, but is not limited to the following:

- (a) art or photography studio;
- (b) dressmaking, sewing;
- (c) home day care for four or fewer children;

- (d) typing, word processing or computer operation;
- (e) teaching, with musical instruction limited to one or two pupils at a time;
- (f) keeping of a single guest room.

A home occupation shall not be interpreted to include the conduct of beauty parlors, barber shops, day care for more than four children, kennels, nursing homes, convalescent homes, rest homes, antique or craft shops, restaurants, tea rooms, tourist homes, fortune tellers, massage parlors or similar establishments offering services to the general public.

HOSPITAL: An institution providing primary health services and medical or surgical care to persons, primarily in-patients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including as an integral part of the institution, related facilities such as laboratories, out-patient facilities or training facilities.

HOTEL OR MOTEL : A building in which lodging or boarding and lodging are provided and offered to the public for compensation; as such it is open to the public in contradistinction to a boarding house which is herein defined.

JUNK OR SALVAGE YARD: A use of more than 200 cubic feet of open space for the depositing, sorting, baling, refining, dismantling, or storage of junk, including but not limited to dilapidated and inoperative automobiles, trucks, tractors, and other such vehicles and parts thereof, dilapidated wagons and other kinds of vehicles and parts thereof, discarded appliances, scrap building material, scrap contractor's equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, wood scrapes, old iron, machinery, rags, paper, excelsior, hair, mattresses, beds, or bedding or any other kind of scrap or waste material which is stored, kept, handled, or displayed.

KENNEL, COMMERCIAL: A place prepared to house, board, breed, handle or otherwise keep or care for animals for sale or in return for compensation, or any place where more than five animals are kept.

LOADING SPACE: A space within a building or on the premises providing for the standing, loading or unloading of vehicles.

LOT: A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width and lot areas as are required by this chapter, and having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

LOT, CORNER: A lot abutting on two (2) or more streets at their intersection. Of the two (2) sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets.

LOT, DEPTH OF: The average horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE: An interior lot having frontage on two (2) streets.

LOT, INTERIOR: Any lot other than a corner lot.

LOT LINE, FRONT: The line separating the lot from a street on which it fronts. On a corner lot, the front shall be deemed to be along the shorter dimension of the lot; and where the dimensions are equal, the front shall be on that street on which a predominance of the other lots in the block front.

LOT LINE, REAR: The lot line opposite and most distant from the lot line.

LOT LINE, SIDE: Any lot line other than a front or rear lot line.

LOT, WIDTH OF: The average horizontal distance between side lot lines.

LOT OF RECORD: The instrument creating a lot which has been recorded in the Clerk's office of the Circuit Court.

MANUFACTURED HOME: A structure subject to federal regulation, which is transportable in one or more sections; is eight (8) feet or more in width and forty (40) feet or more in length or 320 square feet or more when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Also known as a prefabricated home.

MANUFACTURED HOME SUBDIVISION: An area designed to accommodate one or more manufactured homes on individual lots which may be offered for sale under the terms of this chapter and the Subdivision chapter.

MANUFACTURED OR MOBILE HOME PARK: An area designed to accommodate manufactured homes or mobile homes or mobile recreational vehicles on individual lots which provide full utility service and may not be offered for sale under the terms of this chapter and the Subdivision chapter.

MANUFACTURE AND/OR MANUFACTURING: The processing and/or converting of raw unfinished materials or products, or either of them, into articles of different character, or use.

MANUFACTURING, EXTRACTIVE: Any mining, quarrying, excavating, processing, storing, separating, cleaning, or marketing of any mineral natural resource including coal, oil, gasoline, bottled gas and wood.

MANUFACTURING, LIGHT: Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor, or dust; operating and storing within enclosed structures; and generating little industrial traffic and no nuisances.

MARINA/BOAT YARD: A boating establishment located on a navigable waterway, which may provide covered or uncovered boat slips or dock space, dry boat storage, boat repairs and/or construction, marine fuel and lubricants, marine supplies, restaurants, or refreshment facilities, boat and boat motor sales or rental.

MOBILE HOME: An industrialized building unit which is eight (8) feet or more in width and thirty-two (32) feet or more in length, which is constructed on a chassis for towing to the point of use and designed to be used with or without a foundation for occupancy as a dwelling unit when connected to required utilities; or two or more units separately towable, but designed to be joined together at the point of use to form a single dwelling, and which is designated for removal to, and installation or erection on other sites. The term "mobile home" shall also include the term "self-propelled motor home", the term "camper", and the terms "trailer" or "house trailer" which is hereby defined as any vehicle designed or used or maintained for use as a conveyance upon highways, so designed and so constructed as to permit occupancy thereof as a temporary dwelling or sleeping place for one or more persons, and which is used for temporary or year-round occupancy as a dwelling or sleeping place. The term "mobile home" shall not apply to modular or manufactured homes, regardless of size of facility.

MOTEL, MOTOR LODGE, OR TOURIST COURT: A building or buildings designed for transient occupancy containing locking rooms or suites accessible through a common hall or separate outside entrances. A central kitchen, meeting rooms, or dining room are not generally provided within the same structure as rooms or suites.

NONCONFORMING LOT: A lot of record that does not conform to the minimum area or width requirements of this chapter for the district in which it is located either at the effective date of this chapter or as a result of subsequent amendments to the chapter.

NONCONFORMING STRUCTURE: An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this chapter, or is designed or intended for a use that does not conform to the use regulations of this chapter, for the district in which it is located either at the effective date of the Ordinance establishing this chapter or as a result of subsequent amendments to the chapter.

NONCONFORMING USE: The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of the Ordinance establishing this chapter or as a result of subsequent amendments to the chapter.

OFF-STREET PARKING AREA: Space provided for vehicular parking not on a street or roadway.

OPEN SPACE, COMMON: That area within the boundaries of a development which is intended to provide air and light, designed to provide recreation or preserve natural environmental features to the residents of the development. Common open space shall not include streets, roads, alleys, parking areas, sidewalks, patios, public utility easements and right-of-ways.

OPEN SPACE, USEABLE:

(A) That area within the boundaries of a lot that is intended to provide light and air and is designed for either scenic or recreational purposes. Open space shall, in general, be available for entry and use by the residents or occupants of the development, but may include a limited proportion of space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness.

(B) Open space may include, but need not be limited to lawns, decorative planting, walkways, active and passive recreation areas, children's playgrounds, fountains, swimming pools, wooded areas, and water courses. Open space shall not include driveways, parking lots, or other vehicular surfaces, any area occupied by a building, nor areas so located or so small or so circumscribed by buildings, driveways, parking lots, or drainage areas, as to have no substantial value for the purposes stated in this definition.

PARKING LOT, PUBLIC: An area containing one or more parking spaces for self-propelled passenger vehicles, designed for and available to the public as an accommodation for patrons, customers or employees, either with or without charge.

PARKING SPACE OFF-STREET: An all-weather surfaced area not in a street or alley and having an area of not less than 180 square feet (9' X 20'), exclusive of driveways, permanently reserved for the temporary

storage of one vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

PERSONAL SERVICES: Any enterprise conducted for gain which primarily offers an individual's services to the general public such as shoe repair, watch repair, barber shops, beauty parlors, and similar activities.

PREMISES: A lot, together with all buildings and structures thereon.

PUBLIC BUILDING: A building, or part thereof, owned or leased and occupied and used by an agency or political subdivision of the United State of America, the Commonwealth, a county or a town or a city.

PUBLIC WATER AND SEWER SYSTEMS: A water and sewer system owned and operated by the Town, or owned and operated by a corporation approved by the governing body and properly chartered and certified by the State Corporation Commission, and subject to special regulations as herein set forth.

RECREATION EQUIPMENT: Equipment including boats, boat trailers, rafts, house trailers, travel trailers, pick-up campers or coaches, motorized dwellings, tent trailers and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

REGULATIONS: The whole body of regulations, text, charts, tables, diagrams, maps, notations, references, and symbols, contained or referred to in this chapter.

REQUIRED OPEN SPACE: Any space in any front, side, or rear yard, excluding required off-street parking areas.

RESTAURANT: Any building in which, for compensation, food or beverages are dispensed for consumption on the premises, including among other establishments, cafes, tea rooms, confectionery shops, or refreshment stands.

RETAIL STORES AND SHOPS: Any building wherein the primary occupation is the sale of merchandise in small quantities, in broken lots or parcels, not in bulk, for use or consumption by the immediate purchaser (but specifically exclusive of coal, wood, and lumber yards), such as the following which will serve only as illustrations: drug store, news-stand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and fig shop, hardware store, household appliance store, furniture store, florist optician, music and radio store, tailor shop, barber shop, and beauty shop.

RIGHT-OF-WAY: A strip of land donated or dedicated for use as a public way. It may incorporate the roadway, curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, and bridges.

SCREENING: A method of visually shielding or obscuring one abutting or nearby structure or use from another by use of planted vegetation, fences, walls or berms in accordance with the terms of this chapter.

SEATS: For the purpose of determining the number of off-street parking spaces required for certain uses, the number of seats is the number of seating units installed or indicated or each twenty-four (24) lineal inches of benches, pews, or space for loose chairs.

SETBACK: The minimum distance by which any building or structure must be separated from the right-of-way line.

SIGN: Any display of letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof, by any means whereby the same are made visible from a public right-of-way or a waterway for the purpose of making anything known, whether such display be made on, attached to, or a part of a structure, surface, or any other thing, including, but not limited to, the ground, any rock, tree or other natural object, which display is visible beyond the boundaries of the parcel of land on which the same is made. A display of less than two (2) square feet in area is excluded from this definition.

SIGN: ILLUMINATED: Any sign illuminated by electricity, gas, or other artificial light, including reflecting or phosphorescent light.

SIGN, OFF PREMISES: Any sign not supported by a building which directs attention to a business, profession, commodity, activity or service not offered on the premises where the sign is located.

SIGN, ON PREMISES: Any sign not supported by a building which directs attention to a business, profession, commodity activity, or service offered on the premises where the sign is located.

SIGN, ON STRUCTURE: Any sign attached and/or supported by a building(s).

SIGN, TEMPORARY: Any sign not permanently attached to a structure nor permanently mounted in the ground which can be transported to other locations. Such signs may include, but are not limited to, paper or poster signs, portable signs, sandwich signs, or other moveable signs announcing or advertising weekly specials, real estate, special services offered by a business establishment or the like, or signs applying to a seasonal or brief activity such as, but not limited to, summer camps, horse shows, auctions

or sale of land, or signs at construction sites. Temporary signs shall be permitted provided that such signs shall not be displayed more than thirty (30) days. Notwithstanding the foregoing, the Zoning Administrator may at his/her sole discretion, extend the number of days that a temporary sign can be displayed for three (3) additional thirty (30) days periods with the maximum period to display a sign not to exceed on hundred and twenty (120) days. All temporary signs shall be removed prior to the conclusion of the display period designated herein

SIGN STRUCTURE: Includes the support, uprights, bracing, and frameworks of any structure, be it single-faced, double-faced, v-type or otherwise exhibiting a sign.

SITE PLAN: A drawing illustrating a proposed development and prepared in accordance with the specifications of Article 12 of this chapter.

SPECIAL EXCEPTION: A use or feature not specifically listed in this chapter which may be permitted in a specified district or in all districts in accord with terms of this chapter and granted as a variance by the Board of Zoning Appeals.

SPECIAL USE PERMIT: The permit for a use listed as requiring such permit in this chapter and which may be in a specified district under certain conditions, such conditions to be determined in each case by the terms of this chapter and by the Town Council of the Town of Urbanna after public hearing and report by the Planning Commission in accordance with the procedures specified by this chapter and applicable state law.

STORY: That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. For the purpose of estimation, one story is approximately twelve (12) feet in height.

STORY, HALF: A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use.

STREET OR ROAD: A public or private thoroughfare which affords principal means of access to abutting property.

STREET, CENTERLINE: The center line of a street shall mean the center line thereof as shown in any of the official records of the Town or as established by the Virginia Department of Transportation. If no such center line has been established, the center line of a street shall be a line lying midway between the side lines of the right-of-way thereof.

STREET LINE: The dividing line between a street or road right-of-way and the contiguous property.

STRUCTURE: Anything constructed or erected, the use of which requires permanent location of the ground or attachment to something having a permanent location on the ground: this includes among other things, dwellings, buildings, signs, etc.

TOWN HOUSE: Any one of a group of not less than three (3) and not more than eight (8) attached dwelling units which have been constructed together in a lateral row surrounded by yard space, each dwelling separated from another by a party wall.

TRAVEL TRAILER: A vehicular, portable structure built on a chassis and designed to be used for temporary occupancy for travel, recreational or vacation use; with the manufacturers' permanent identification "Travel Trailer" thereon; and when factory equipped for the road, being of any length provided its gross weight does not exceed forty-five hundred (4,500) pounds, being of any weight provided its overall length does not exceed twenty-eight (28) feet. For the purpose of this chapter, a travel trailer shall not be deemed a Mobile Home.

USABLE COMMON OPEN SPACE: The usable common open space may be utilized only for lawns, trees, planting area, ornamental pools, sidewalks or paved play areas, and landscaping uses, and is generally accessible to the public. Provision of additional usable common open space in a development may allow for increases in residential densities or reductions in private yard requirements

VARIANCE: A variance is a relaxation of the terms of the Zoning chapter where such relaxation will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship.

VETERINARY HOSPITAL OR CLINIC: Hospital or clinic for small pets, livestock, and other animals, provided that such hospital or clinic and any treatment rooms, cages, pens, or kennels.

YACHT CLUB: See "Marina".

YARD: An open space on a lot other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

FRONT: An open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line, and extending across the full width of the lot.

REAR: An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot.

SIDE: An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot, and extending from the front yard line to the rear line yard.

YARD SALE: A sale, not more than two days in duration, of personal property owned by the seller and usual to a household. Such sale is conducted by the owner or lessee of the property on which it occurs. Such sale does not occur on the same property more than four (4) times in one calendar year, and not more than twice within a thirty (30) day period. The word "yard sale" includes garage sale, lawn sale, attic sale, rummage sale, or any similar casual sale of tangible properties which is advertised by any means whereby the public at large is or can be made aware of said sale.

ZONING ADMINISTRATOR: The Zoning Administrator of Urbanna, Virginia, also referred to as "the Administrator". The official, appointed by the governing body, charged with the enforcement of the Zoning chapter.

ZONING PERMIT: A document issued by the Administrator authorizing the use of lots, structures, lots and structures, and the characteristics of uses.

SEVERABILITY:

If any language, part, or section of this Ordinance is legally declared invalid by a court of competent jurisdiction, then only that language, part, or section of this Ordinance shall be invalid and all other language, parts, and sections shall remain in full force and effect.



Amendments to Chapter 17, Article 13

§17-13.2 is amended by adding the definitions as follows:

- A. Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.
- B. Base flood elevation - The Federal Emergency Management Agency designated one hundred (100)-year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the Town's Flood Insurance Rate Map. For the purposes of this ordinance, the one hundred (100) year flood or 1% annual chance flood.
- C. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- D. Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- E. Breakaway wall - A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
- F. Coastal A Zone - Flood hazard areas inland of and contiguous to flood hazard areas subject to high velocity wave action. Areas subject to this classification are those where the still water depth is greater than or equal to 2-feet, and the breaking wave heights are greater than or equal to 1.5 feet. Shown on the FIRM maps as LiMWA zones.
- G. Coastal high hazard area - A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.
- H. Design flood elevation - The Base Flood Elevation (BFE) plus a minimum of two (2) feet of freeboard.
- I. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- J. Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).
- K. Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- L. Flood or flooding -
 - 1. A general or temporary condition of partial or complete inundation of normally dry land areas from:

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- a. The overflow of inland or tidal waters; or,
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
 - c. Mudflows which are proximately caused by flooding as defined in paragraph (1) (b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.
- M. Flood Insurance Rate Map (FIRM) - an official map of a community, on which the FEMA has delineated both the special hazard areas and the risk premium zones applicable to the Town. A FIRM that has made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- N. Flood Insurance Study (FIS) – a report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.
- O. Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.
- P. Flood proofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- Q. Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- R. Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be cheaper.
- S. Freeboard zone – the areas between the FIRM zones and the upper limit of the design flood elevation (DFE).
- T. Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure

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U. Historic structure – Any structure that is

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
 - a. By an approved state program as determined by the Secretary of the Interior; or,
 - b. Directly by the Secretary of the Interior in states without approved programs.

V. Hydrologic and Hydraulic Engineering Analysis – Analyses performed by a *licensed* professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the *base flood*, other frequency floods, *flood* elevations, *floodway* information and boundaries, and *flood* profiles.

W. Letters of Map Change (LOMC) - A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective *Flood Insurance Rate Map* or *Flood Insurance Study*. Letters of Map Change include:

X. Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated *special flood hazard area*. A LOMA amends the current effective *Flood Insurance Rate Map* and establishes that a Land as defined by meets and bounds or *structure* is not located in a *special flood hazard area*.

Y. Letter of Map Revision (LOMR): A revision based on technical data that may show changes to *flood zones*, *flood* elevations, *floodplain* and *floodway* delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a *structure* or parcel of land has been elevated by fill above the *base flood elevation* and is, therefore, no longer exposed to *flooding* associated with the *base flood*. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the Town's floodplain management regulations.

Z. Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed *flood* protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of *special flood hazard areas*. A CLOMR does not revise the effective *Flood Insurance Rate Map* or *Flood Insurance Study*.

AA. Increased Cost of Compliance (ICC) coverage – Coverage under the Standard Flood Insurance Policy that provides for payment of a claim to help pay for the cost to comply with

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State or community floodplain management laws or ordinance from a flood event in which a building has been declared substantially damaged or repetitively damaged.

- BB. Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.
- CC. Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.
- DD. Manufactured Home Park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- EE. Market value - For the purposes of this ordinance, market value shall be determined by the most current appraisal available. When an appraisal is not available, the value of the structure as carried on the current tax assessment shall be used.
- FF. New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after January 18, 1989, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- GG. Post-FIRM structures - A structure for which construction or substantial improvement occurred on or after 1-18-1989.
- HH. Pre-FIRM structures - A structure for which construction or substantial improvement occurred before 1-18-1989.
- II. Recreational vehicle - A vehicle that is:
1. Built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projection;
 3. Designed to be self-propelled or permanently towable by a light duty truck; and,
 5. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.
- JJ. Repetitive Loss Structure - A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a 10-year period ending on the date of the event for



which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each such flood event.

KK. Shallow flooding area – A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

LL. Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section 3.1 of this ordinance.

MM. Start of construction - For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

NN. Structure - for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, which is principally above ground; this term includes a manufactured home.

OO. Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

PP. Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the *start of construction* of the improvement. This term shall be cumulative and shall apply to all improvements or repairs in any ten (10) consecutive years. This term includes structures which have incurred *substantial damage* regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a *historic structure* provided that the alteration will not preclude the



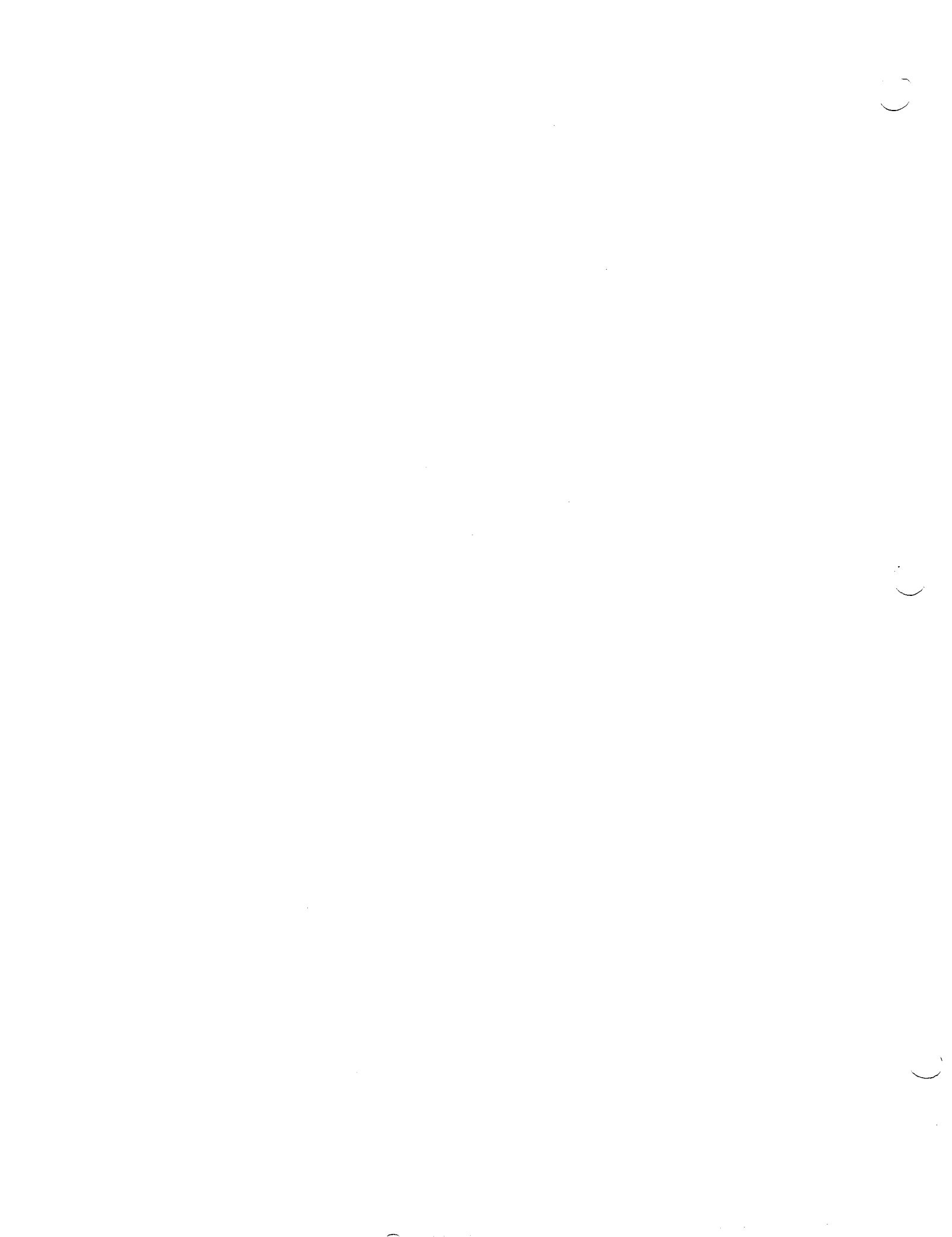
structure's continued designation as a *historic structure*.

3. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

QQ. Violation - the failure of a structure or other development to be fully compliant with the Town's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 59, Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

RR. Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

SS. Lowest Adjacent Grade: The lowest natural elevation of the ground surface next to the proposed walls of the structure prior to construction.



Subdivision

CHAPTER 18.

SUBDIVISION.

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Article 1. Title, Purpose, Application and Interpretation.

Section 18-1.1.

Title.

This chapter may be known, referred to, and cited as the Subdivision Ordinance of the Town of Urbanna, Virginia.

Section 18-1.2.

Purpose.

This ordinance has been established for the purpose of guiding and accomplishing the coordinated, adjusted and harmonious development of the incorporated territory of the Town of Urbanna, Virginia, in order to promote, in accordance with present and probable future needs and resources, the health, safety, morals, order, convenience, prosperity, and general welfare of the citizens of the Town. In the accomplishment of this purpose, the regulations as herein established provide for, among other things, efficiency and economy in the process of development; the proper arrangement of streets in relation to each other and to the existing and planned streets and other features of the Comprehensive Plan of the Town of Urbanna; the protection of water quality, wetlands, wildlife habitats, steeper slopes, shorelines, and other natural features; protection against flooding, erosion and sedimentation; adequate open spaces for recreation, light, and air; convenient distribution of population and traffic; adequate provision for streets, public utilities and other public facilities; and other requirements for land subdivision which will tend to create conditions favorable to the health, convenience, prosperity and general welfare of the citizens of Urbanna, Virginia. Toward this end, this chapter is adopted in order:

- (1) To establish procedures, design standards, improvement standards, standards for plats, fees, and penalties for violation as appropriate for the subdivision of land in the Town of Urbanna;
- (2) To provide for a review process which is coordinated with the review and permitting processes of other governmental agencies and jurisdictions;

- (3) To ensure that purchasers of future lots, tracts and parcels purchase a commodity that is accessible and generally suitable for the intended use;
- (4) To insure proper maintenance of community facilities and spaces;
- (5) To coordinate the subdivision process with review for compliance with grading, erosion and sediment control regulations, and in general;
- (6) To insure orderly and safe spacing, size, shape, design, and distribution of lots for residential, commercial, industrial and other uses.

Section 18-1.3.

Application and interpretation.

(A) This ordinance shall apply to the incorporated area of the Town of Urbanna in the manner prescribed by law. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this chapter to interfere with, or abrogate or annul any easements, covenants, or other agreement between parties, provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or imposes additional standards, or requires additional improvements or larger open spaces than are imposed or required by other resolutions, ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this chapter shall govern, but further provided that where there is or appears to be conflict between the provisions of this chapter and chapter 17, Zoning, of this Code, the provisions of chapter 17, Zoning, of this Code shall govern.

(B) As applied to this chapter, wherever references are made to the other ordinances of the Town of Urbanna, Virginia, of Middlesex County, Virginia, or to the law contained in the 1950 Code of Virginia, as amended, such references shall hereby be deemed to include the then applicable ordinance or code sections, as it may be amended or succeeded and then in force, without requirement to amend each reference contained herein. It is the further intent of this chapter that the provisions hereof change, automatically, and without more, to reflect changes in the law as the same may be applicable to the provisions of this chapter.

Article 2. Definitions.

Section 18-2.1. General rules of construction.

The following general rules of construction shall apply to the regulations of this chapter:

- (1) The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.
- (2) Words used in the present tense include the past and future tenses, and the future the present.
- (3) The word "shall" is always mandatory. The word "may" is permissive.
- (4) The word "building" or "structure" includes any part thereof, and the word "building" includes the word "structure".
- (5) Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.

Section 18-2.2. Definitions.

For the purpose of this chapter, certain terms and words are hereby defined as follows unless the context of their use would indicate otherwise:

Accessory use or building. A subordinate use or building customarily incidental to and located on the same lot occupied by the main use or building, provided that such accessory building shall not be used for dwelling purposes.

Agent. The officer or agency or both of them designated by the town council to review and approve the subdivision of land and the plats of such subdivision when located wholly or partly within the town.

Alley. A permanent public or private way affording secondary means of access to abutting property.

Berm. A mound of soil, either natural or man-made, planted with grass or other vegetation, and used as a view obstruction or for water control.

Buffer. An area within a property or site, generally adjacent to and parallel with the property line or designated natural feature, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, and/or berms, designed to continuously limit view of and/or sound from the site to adjacent sites or properties or to maintain vegetation, absorb runoff or protect steep slopes and shorelines.

Building. Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals, or property of any kind.

Building line or building setback line. A line within a lot, so designated on a plat of subdivision, between which line and any lot line, the street line of any abutting street, or any slope, waterway, shoreline or wetland or other feature as herein designated, no building or structure may be erected except as herein provided.

Building setback. The minimum distance that a building must be set back from a street, lot line or other feature as required by a building setback line so designated on a plat of subdivision. The building setback may be more but shall not be less than required in chapter 17, Zoning, of this Code.

Capped system. A completed water supply and/or sewerage system put in place for future use (contingent upon expansion or availability at connections), rather than to meet immediate development needs.

Cemetery. Any land or structure used or intended to be used for the interment of human remains, with or without sale of lots. The sprinkling of ashes or their burial in a biodegradable container on church grounds shall not constitute creation of a cemetery.

Channel. The bed and banks of a natural stream which convey the constant or intermittent flow of the stream.

Channelization. The straightening and deepening of channels and/or the surfacing thereof to permit water to move rapidly and/or directly.

Chesapeake Bay Preservation Act. The Chesapeake Bay Preservation Act found in chapter 21, section 10.1-2100 et seq., of chapter 21 of title 10.1 of the Code of Virginia.

Chesapeake Bay Preservation Area designation and management Regulations.

Regulations issued by the Chesapeake Bay Local Assistance Board under the authority of sections 10.1-2103 and 10.1-2107 of chapter 21 of title 10.1 of the Code of Virginia, the Chesapeake Bay Preservation Act. The regulations establish the criteria for use by local governments in granting, denying, or modifying requests to rezone, subdivide, or to use and develop land in Chesapeake Bay Preservation Areas.

Chesapeake Bay Preservation Area. Any land designated by a local government pursuant to Part III, Chesapeake Bay Preservation Area designation and management regulations, and section 10.1-2107 of chapter 21 of title 10.1 of the Code of Virginia. The Chesapeake Bay Preservation Area and Overlay District of Urbanna, Virginia are shown on the Chesapeake Bay Preservation Area Map dated 15 November 1992 which is incorporated by reference in chapter 17, Zoning, of the Urbanna Town Code (1973), as amended, and is publicly displayed in the office of the Zoning Administrator.

Cluster development. See Residential Cluster.

Collector street. See Street, Collector.

Commission. The Planning Commission of the Town of Urbanna, Virginia.

Common open space. An open space area as herein defined within or related to a site designated as a development or subdivision, and designed and intended for the use or enjoyment of residents and owners of the development or subdivision. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

Comprehensive Plan. The Comprehensive Plan of the Town of Urbanna, Virginia, as amended.

Concept plan. A preliminary presentation or sketch plan and attendant documentation of a proposed subdivision or a site plan of sufficient accuracy to be used for the purpose of discussion and classification.

Condominium. Real property and any incidentals thereto or interests therein which have been or are to be lawfully established as such under the Virginia Condominium Act.

Construction plans. Engineering plans for construction of streets, utilities and other improvements.

Conventional development. Development other than planned development.

Crosswalkway. A public way intended for pedestrian use and excluding motor vehicles, which cuts across a block in order to furnish improved access to adjacent streets or properties.

Cul-de-Sac. A minor street having but one end open for vehicular traffic and with the other end permanently terminated by an appropriate turnaround or backaround for vehicles.

Days. Calendar days.

D.b.h. Diameter at breast height. The diameter of a tree measured outside the bark of a point 4.5 feet above the ground.

Dedication: The intentional appropriation of land for some public use by the subdivider and accepted for that use by and in behalf of the public.

Detention basin. A man-made or natural water collector facility designed to collect surface and subsurface water in order to impede its flow and to release the same gradually at a rate not greater than that prior to the development of the property, into natural or man-made outlets.

Developer. The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development or subdivision, including the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land.

Drainage. The removal of surface water or groundwater from land by drains, grading, or other means. This includes control of runoff during and after construction or development to minimize erosion and sedimentation to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint source pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention or alleviation of flooding.

Drainage facility. Any component of the drainage system.

Drainage system. The system through which water flows from the land, including all watercourses, water bodies and wetlands.

Driveway. A paved or unpaved area used for ingress or egress of vehicles, and allowing access from a street to a building or other structure or facility.

Dwelling. A room or group of rooms within a building and constituting a separate and independent housekeeping unit occupied or intended to be occupied by one family, and containing kitchen, living, sleeping and sanitary facilities. Definition shall include buildings containing both one and two dwelling units.

Dwelling, Multi-Family. A building containing three or more dwelling units.

Easement. An authorization by a property owner for use by another of any designated part of his property for one or more specified purposes, which purposes are consistent with the general property rights of the owner.

Engineer. An engineer licensed by the Commonwealth of Virginia.

Environmental constraints. Features, natural resources, or land characteristics that are sensitive to modification and may require conservation measures or the application of creative development techniques to prevent degradation of the environment, or may require limited development, or in certain instances may preclude development.

Erosion. The detachment and movement of soil or rock fragments by water, wind, ice, and gravity.

Escrow. A deed, bond, money, or a piece of property delivered to a third person to be delivered by him to the grantee only upon fulfillment of a condition.

Exempt subdivision. See Subdivision.

Floodplain. (a) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; (b) An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

Frontage. See Lot Frontage.

General Development Plan. A plan outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering details. As such, it allows general intentions to be proposed and discussed without the extensive costs involved in submitting a detailed proposal.

Governing Body. The Town Council of Urbanna, Virginia.

Grade. The slope of a street, or other public way, or land area specified in percentage (%) terms.

Ground cover. Low-growing plants or sod that in time form a dense mat covering the area in which they are planted preventing soil from being blown or washed away and the growth of unwanted plants.

Health Officer. The Health Officer or Sanitarian of Middlesex County, Department of Health.

Individual sewage disposal system. A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device serving a single unit.

Intersection. The area embraced within the prolongation of the lateral boundary lines of two or more streets which join one another at an angle whether or not one such street crosses the other.

Jurisdiction. The area or territory subject to the legislative control of the governing body.

Large lot subdivision. A subdivision of land provided that such subdivision does not involve (1) a planned development or residential cluster development, (2) the extension of any off-site improvement, the cost of which is to be prorated pursuant to this Ordinance or other laws and ordinances, or (3) any lots of a size less than five (5) acres. (Procedures and conditions for approval of large lot subdivisions are contained in Articles 3 and 4.)

Lot. A portion of a subdivision or other parcel of land intended for the transfer of ownership or for building development, whether immediate or future.

Lot area. The total horizontal area within the lot lines of the lot and expressed in terms of acres or square feet.

Lot, corner. A lot abutting upon two or more streets at their intersection, the shortest side of which shall be considered the front of the lots.

Lot depth. The average horizontal distance between the front and rear lot lines.

Lot, double frontage. A lot, other than a corner lot, which has frontage on two streets.

Lot frontage. That portion of a lot extending along a street line or upon a water body, beach or wetland as the case may require.

Lot, interior. A lot other than a corner lot.

Lot line. The boundary line of the lot.

Lot of record. A lot which has been recorded in the office of the Clerk of Court of the appropriate court.

Lot, waterfront. A lot that includes, touches upon, or is within 100 feet of the mean low water mark of a natural or man-made body of water or a beach or wetland.

Lot width. The horizontal distance between the side lot lines measured at the front building setback line.

Maintenance bond. Any security that is acceptable to the governing body to assure the maintenance of approved installations by developers.

Maintenance guarantee. Any security, other than cash, that may be accepted by the County for the maintenance of any required improvements.

Major subdivision. Any subdivision not classified as a minor subdivision or a large lot subdivision.

Major Thoroughfares Plan. As written in the Urbanna Comprehensive Plan and legally adopted by the Town Council.

Marginal access street. A service street that runs parallel to a higher-order street which, for purposes of safety, provides access to abutting properties and separation from through traffic. It may be designed as a residential access street or subcollector as anticipated daily traffic dictates.

Minor street. A street other than a major thoroughfare or collector street and intended primarily for providing low volume traffic access to abutting properties of limited number.

Minor subdivision. A subdivision of land of not more than seven lots provided that such subdivision does not involve (1) a planned development or residential cluster subdivision, or (2) the extension of any off-site improvement, the cost of which is to be prorated pursuant to this Chapter or other laws and ordinances. (Procedures and conditions for approval of minor subdivisions are contained in Articles 3 and 4.)

Open space. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets, and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.

Perc test (Percolation Test). A test designated to determine the ability of ground to absorb water, and used in determining the suitability of a soil for drainage or for the use of a septic system.

Performance guarantee. Any security, including cash, which may be accepted by the Town to ensure installation of required subdivision and/or site plan improvements; provided that the Town shall not require more than 10 percent of the total performance guarantee in cash.

Pervious surface. Any material that permits full or partial absorption of storm water into previously unimproved land.

Planned Development. Multifamily dwelling, townhouse or condominium development, planned unit development, planned unit residential development, residential cluster development, planned shoreline commercial development or planned shoreline industrial development.

Planning Commission. The Town of Urbanna Planning Commission.

Plat. A map or maps of a subdivision. Also includes the terms: plan, plans, plot, plots, replats or replots: a map or plan of a parcel of property which is to be, or which has been subdivided. When used as a verb, "plat" is synonymous with "subdivide".

Pre-application conference. An initial meeting between developers and Town representatives which affords developers the opportunity to present their proposals informally.

Preliminary approval. The conferral of certain rights prior to final approval after specific elements of a development plan have been agreed upon by the Agent and the applicant.

Preliminary subdivision plat. A map indicating the proposed layout of a development or subdivision and related information that is submitted for preliminary approval.

Primary highway. A highway designated as a Virginia Primary Highway or US Highway by the Virginia Department of Transportation.

Property. Any tract, lot, parcel, or several of the same connected together for the purpose of subdividing.

Public open space. An open space area conveyed or otherwise dedicated to a municipality, municipal agency, school board, state or county agency, or other public body for recreational or conservational uses.

Public water and sewer service or system. A water or sewer system owned and operated by a municipality or county, or owned and operated by a corporation approved by the governing body and properly chartered and certified by the State Corporation Commission, and subject to special regulations as herein set forth.

Regulations. The whole body of regulations, text, charts, diagrams, notations, and references contained or referred to in this Chapter.

Reservation. The provision of land by the subdivider for dedication to public use.

Residential cluster. An area to be developed as a single entity according to a plan containing residential housing units which have a common or public open space area as an appurtenance.

Residential density. The number of dwelling units per gross acre of residential land area, with gross acres including all the land area, including streets, easements, and open space portions of a development.

Resubdivision. See Subdivision.

Retaining wall. A structure erected between lands of different elevation to protect structures and/or to prevent the washing down or erosion of earth from the upper slope level.

Retention basin. A pond, pool or basin used for the permanent storage of water runoff.

Right-of-way. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, gas pipeline, water main, sanitary or storm sewer main, drainage ditch, shade trees, or for another special use.

Roadway. The portion of a street or highway available for and intended for use by motor vehicle traffic; generally the paved portion of the street or highway.

Screen. A structure or planting consisting of fencing, berms, and/or evergreen trees or shrubs providing a continuous view obstruction within a site or property.

SCS. Soil Conservation Service.

Secondary highway. A highway designated as a Virginia Secondary Highway by the Virginia Department of Transportation.

Sedimentation. The deposit of soil that has been transported from its site of origin by water, ice, wind, gravity, or other natural means as a product of erosion.

Septic system. An underground system with a septic tank used for the decomposition of domestic wastes.

Septic tank. A water-tight receptacle that receives the discharge of sewage.

Service drive. A minor street which is parallel to and adjacent to a major thoroughfare, and which provides access to abutting properties and restricts access to the major thoroughfare.

Setback. The horizontal distance between the street right-of-way line and the front line of a building or any projection thereof, excluding uncovered steps, or the horizontal distance between the side or rear line of a building or any projection thereof, excluding uncovered steps, and the side or rear lot line. Setback may also be specified from a designated physical feature such as a water body, beach, or wetland.

Sewer. Any pipe conduit used to collect and carry away sewage or storm water runoff from the generating source to treatment plants or receiving streams.

Shade tree. A tree in a public place, street, special easement, or right-of-way adjoining a street.

Site plan. The development plan for a project or a subdivision on which is shown the existing and proposed conditions including topography, vegetation, drainage, floodplains, wetlands, waterways, location and bulk of buildings, density of development, open space, public facilities, landscaping, structures and signs and such other information as reasonably may be required in order that an informed decision can be made by the approving authority. For certain projects such as condominium or townhouse projects or water-dependent facilities, the term is used synonymously with subdivision plat, preliminary and final.

Storm water detention. A provision for storage of storm water runoff and the controlled release of such runoff during and after a flood or storm.

Storm water retention. A provision for storage of storm water runoff.

Street. A public or private thoroughfare which affords the principal means of access to abutting properties, and whether designated as a freeway, expressway, thoroughfare, highway, road, parkway, avenue, boulevard, lane, place, circle, or however otherwise designated.

Street, collector. Any state secondary highway designated as a major thoroughfare on the adopted Major Thoroughfare Plan of the Town, or any highway designated as a major or minor rural collector by the Virginia Department of Transportation, or a street in a proposed subdivision which is intended to collect traffic from the minor streets within a neighborhood or a portion thereof and to distribute such traffic to major thoroughfares in addition to providing access to properties abutting thereon.

Street line. (Right-of-way Line) A dividing line between a lot, tract, or parcel of land and a contiguous street, and also referred to as a right-of-way line.

Street, major, or major thoroughfare. A street or road designated as a Major Thoroughfare (a U.S. Highway, State Primary Highway or State Secondary Highway) on the adopted Comprehensive Plan of the Town of Urbanna or so designated by the Virginia Department of Transportation.

Street, private. A private thoroughfare or easement of access established in accord with the terms of this Ordinance and which is not publicly owned or publicly maintained.

Street width. The horizontal distance between street lines measured perpendicular to the street center line.

Subdivide. The process of dealing with land so as to establish a subdivision as defined herein.

Subdivider. Any individual, firm, partnership, association, corporation, estate, trust, or any other group or combination, acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as defined herein, and including any agent of the subdivider.

Subdivision. The division of any tract or parcel of land into two or more tracts, parcels, lots, or building sites, for the purpose, whether immediate or future, of transfer of ownership or for development; provided, however, that the following, if no new streets are created or existing streets changed, shall not be considered subdivisions within the meaning of this Chapter and therefore are exempted from application of the design standards and review procedures of this Chapter:

- (a) Sale or gift of a single division of a lot or parcel to a member of the immediate family of the property owner. Only one such division shall be allowed per family member, and shall not be for the purpose of circumventing this Chapter, and shall be subject to the minimum lot area, dimensional and environmental requirements of this or other Chapters, and shall be subject to survey and recording in the land records of Middlesex County. For the purpose of this section, a member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, or parent of the owner.
- (b) The sale or exchange of parcels between adjoining property owners where such sale or exchange does not create additional building sites or create a lot or parcel which does not meet the minimum area and dimensional requirements of this or other Town Chapters.
- (c) The combination or recombination of portions of previously subdivided lots where the total number of lots is not increased and the resultant lots comply with the minimum area and dimensional requirements of this and other Town Chapters.

- (d) The division of a tract of land in order that one or more of the resulting parcels may be used as part of a well lot, public utility right-of-way, or other public or private right-of-way other than a street, provided no additional building lots are created.
- (e) The partition of lands by court order or by testamentary or intestate provisions.
- (f) Where a viable dwelling unit exists on a large (more than 5 acres) tract of property, a lot may be created to include the dwelling unit. Such a lot must meet the maximum area and dimensional requirements of this or other Town ordinances. An existing legal right-of-way will be sufficient to provide access to the lot as long as the lot created is precluded from future subdivision by deed restrictions.
- (g) Divisions of large (more than 5 acres) tracts of property where the resultant parcels shall be used for agricultural, forestal or other undisturbed open space provided such parcels are served by a right-of-way with a minimum width of twenty-five (25) feet. The plats and deeds for such parcels shall show the parcels are not for residential or other use except as stated. If new streets are created or existing streets changed, the project shall be considered a subdivision notwithstanding the above.

Minor subdivisions and large-lot subdivisions as herein defined are also subject to certain street construction exemptions as provided in Article 5.

The term subdivision shall include resubdivision, and, where appropriate to the context, shall relate to the process of subdividing or to the land subdivided, and shall include establishment of any land area as a common element, limited or otherwise, in connection with a condominium or similar project, construction or conversion regardless of the number of parcels involved, and shall include the establishment of any new apartment, townhouse, or condominium project or any waterfront or water-dependent facility such as a marina, yacht club, community dock, pier or boat ramp, or any waterfront business or waterfront industrial establishment of whatever type.

Water-dependent facility. A development that must be located on the shoreline by reason of the intrinsic nature of its operation, including, but not limited to ports, wharves, wastewater outfalls, marinas and other boat docking structures, public beaches and other public water-oriented recreation areas and fisheries facilities.

Waterfront lot. See Lot, Waterfront.

Wetland. Vegetated and nonvegetated tidal wetlands as defined by the Middlesex County Wetlands Ordinance and the statutes of Virginia as well as nontidal extensions of tidal wetlands and any clearly recognizable swamp or marsh which surrounds a perennial watercourse.

Yard. An open space on a lot, other than a court, unoccupied or unobstructed from the ground upward.

Yard, Front. An open space on the same lot as a structure, between the extreme front wall line of the primary structure (excluding steps) and the front lot or street line, and extending the full width of the lot.

Yard, Side. An open space on the same lot as a structure, between the extreme side wall line of the primary structure (excluding steps) and the side line of the lot, extending from the front yard line to the rear lot line.

Article 3. General Provisions.

Section 18-3.1. Subdivider must prepare preliminary and final plat.

From and after the effective date of the Ordinance creating this chapter, any owner, developer, agent, or proprietor of any tract of land located within the territory to which these regulations shall apply, who subdivides such land into lots, blocks, streets, alleys, public ways, or public grounds shall prepare five (5) copies of a preliminary plat or plats of such subdivision for preliminary, tentative or conditional approval in accordance with the regulations set forth herein and shall prepare a final plat to be recorded in the office of the Clerk of the Circuit Court of Middlesex County.

Section 18-3.2. Site plan required for certain developments.

Under the terms of this Chapter certain developments such as apartments, townhouses, condominiums and waterfront developments are defined as subdivisions and are subject to the review procedures, design and improvement standards of this Chapter. Where appropriate to the type of development, a general development plan or site plan as herein defined shall be prepared and submitted in accordance with the requirements of this Ordinance or the special additional requirements of the Agent rather than a conventional plat of subdivision.

Section 18-3.3. Approval of plat required.

No final plat of subdivision or approved site plan shall be recorded by the Clerk of the Circuit Court unless and until it shall have been submitted to and approved by the Agent as provided herein and until the verification of compliance with these and other applicable regulations has been made by the Agent.

Section 18-3.4. Transfer of land; building permits.

No parcel of land in a subdivision as herein defined created after the effective date of the Ordinance creating this Chapter shall be transferred, sold, or offered for sale, nor shall a building permit be issued for any structure thereon, nor shall a certificate of

occupancy for the use of any land or structure thereon be issued, until a plat of subdivision shall have been recorded with the Clerk of the Circuit Court in accordance with these regulations and the laws of the Commonwealth of Virginia. Any person who violates this provision shall be subject to the penalties contained herein.

Section 18-3.5. Requirements for plat preparation.

In the preparation of a plat of subdivision or site plan, the subdivider shall comply with the general principles of design and minimum requirements for the layout of subdivisions as set forth in Article 4 and with the rules and regulations concerning required improvements as set forth in Article 5 and any standards and specifications for improvements adopted by the Town Council, and in every case the preparation of such plat or site plan shall be in accordance with the procedures of Article 7.

Section 18-3.6. Applications for approval of subdivision.

Applications for approval of subdivision plats or site plans shall be filed with the Agent in accord with the procedures of Article 7. The Agent appointed by the Town Council is delegated authority for administration of this Chapter in accordance with the terms thereof and applicable to State law. In so doing, the Agent shall be considered the agent of the Town Council, and approval or disapproval by the Agent shall constitute approval or disapproval as though it were given by the Town Council. The Agent shall submit all major subdivisions and all site plans as herein defined to the Town Council for approval or denial. The Agent shall be delegated authority to approve or disapprove minor subdivisions and large lot subdivisions as herein defined without referral to the Town Council.

Section 18-3.7. Appeals from a decision of the agent.

An appeal from a decision of the Agent may be filed within 30 days thereof with the Town Council by submitting said appeal in writing to the Agent for transmittal to the Council. The Town Council shall hear said appeal at its next regular meeting following submittal and shall decide same within 60 days of the hearing.

Section 18-3.8. Amendments.

This Chapter may be amended from time to time by the Town Council after public hearing and recommendation of the Planning Commission in the manner prescribed by law as set forth under Article 9, Changes and Amendments.

Article 4. Procedure.

Section 18-4.1. Procedure for subdivision – application.

Whenever any subdivision of land is proposed within any territory to which the subdivision Chapter applies and before any permit for the erection of a structure shall be granted the subdivider or his agent shall apply in writing to the Planning Commission at least two weeks prior to the regularly scheduled meeting of the Planning Commission at which action on the preliminary plat is desired for approval of his subdivision plat and submit three copies of the preliminary lot, street, and utilities layout.

Section 18-4.2. Procedures for subdivision – preliminary plat.

The subdivider shall submit his preliminary plat in conformity with Article 7.

Section 18-4.3. Procedures for subdivision – preliminary plat review, approval.

(A) The preliminary plat shall be checked by the Planning Commission for conformity with the comprehensive plan, zoning and other regulations and the design principles and standards and requirements for submission as set forth in this Ordinance. Copies of the preliminary plat shall be referred to the highway engineer, health officer and other appropriate public officials concerned with public improvements or health requirements, for review and approval.

(B) The Planning Commission shall discuss the preliminary plat with the subdivider at a meeting of the Planning Commission. The subdivider shall publish a notice in a newspaper published in or having general circulation in the Town a notice of the time and place of such discussion, giving the general location of the property in order that any interested party may appear. Such notice shall be published one time at least fifteen days prior to the date for discussion.

(C) After such discussion the Planning Commission shall communicate within forty-five days in writing to the developer: (1) Specific changes that are required in the preliminary plat; (2) the character and extent of public improvements that will have to be made in keeping with the public health, safety, morals and general welfare; and (3) the amount of construction or improvement of the amount of performance or payment bond which it will require as a prerequisite to approval of the final subdivision plat.

Section 18-4.4. Procedures for subdivision – final plat.

The subdivider shall within six months, after official notifications by the Planning Commission in respect to the preliminary layout, file with the Planning Commission the final subdivision plat in accordance with Article 7 at least two weeks prior to a regularly scheduled meeting of the Planning Commission at which action on the final plat is desired.

Section 18-4.5. Procedures for subdivision – final plat approval.

The Planning Commission shall, within sixty days from the date of the submission of the final plat, approve, modify or disapprove such plat and failure to act within sixty days shall be deemed approval.

Section 18-4.6. Procedures for subdivision – final plat effective.

Approval of the plat shall not be finally effective until the subdivider has complied with the general requirements and minimum standards of design in accordance with Article 6 and made or provided for the improvements as required by the Planning Commission pursuant to Articles 5 and 6, to the satisfaction of the Planning Commission and so certified on said plat by the Agent.

Section 18-4.7. Procedures for subdivision – final plat recording.

Unless the owner of the subdivision shall have said plat recorded in the office of the Clerk of the Circuit Court, within 120 days after its final approval by the Planning Commission and before any lots are sold in said subdivision, the approval of the plan of said subdivision shall be deemed to have been withdrawn and the said plat shall be marked "void" and returned to the Planning Commission.

Section 18-4.8. Procedures for subdivision – additional final plats.

The final plat may be for all the property included in the preliminary plat, or it may be limited to any portion thereof which is intended to be developed as a unit. Additional final plats, covering additional units of the property, may be submitted later, provided that the preliminary plat is still valid. Every final plat shall be substantially in accordance with the tentatively approved preliminary plat, including any changes or additions required by the Planning Commission as a condition for its tentative approval, and it shall conform in every respect with the requirements for the preparation of such plat as set forth in Article 5.

Article 5. General Regulations and design standards.

Section 18-5.1. General requirements.

(A) The subdivision layout shall conform in all essential respects with the adopted Comprehensive Plan for the Town of Urbanna.

(B) The subdivision layout shall be in full compliance with the provisions of Chapter 17, Zoning, of the Urbanna Town Code (1973), as amended, to include the provisions of Section 17-4.10, Chesapeake Bay Preservation Overlay District (CB-1). The CB-1 Chesapeake Bay District was enacted under authority of Section 10.1-2100 et seq. (The Chesapeake Bay Preservation Act) of the Code of Virginia, and incorporates the Land Use and Development Performance Criteria of Part IV, VR 173-02-01, Chesapeake Bay Preservation Area Designation and Management Regulations, dated 15 November 1990. Refer to Article 2, Definitions for further information on the Chesapeake Bay Preservation Act. The subdivision layout shall also be in full compliance with Chapter 17, Zoning, this Code, to include any limitations on area, dimensions, number or locations of lots.

(C) The subdivision layout shall be designed in accordance with the principles and standards contained in this Chapter with the objective of achieving compatibility of the subdivision and adjoining areas. Experimentation with new layout and design techniques is encouraged and such designs as are approved under Chapter 17 of this Code are permitted under these regulations controlling the subdivision of land.

(D) A cemetery shall be considered a subdivision for the purposes of this Ordinance and shall be subject to the same general standards and review procedures as any other subdivision but need not comply with the specific design standards for streets, blocks and lots as required for other subdivisions. Any cemetery hereafter established, whether intended for public or private use, shall make provision for public access by a right-of-way at least 50 feet in width.

Section 18-5.2. Suitability of land generally.

(A) The Agent shall not approve a subdivision of land if, from adequate investigations conducted by all necessary public agencies concerned, it has been determined by any such agency that the land is not suitable for subdivision and development purposes of the kind proposed. Furthermore, a subdivision for residential development purposes shall not be

approved if it contains lots which are not suitable for residential occupancy for one of the following reasons or such other reasons that, in the opinion of the Agent, may endanger the health, safety, property, and welfare of persons building and living on that lot or other properties:

- (1) Land which is topographically unsuitable which by reason of steep slopes will require extensive grading or unusual construction practices in order for development to take place or which would provide less than 10,000 useable square feet of contiguous building area with slopes of less than 15 percent;
- (2) Land with soils which by health department regulations or the provisions of this Chapter are unsuitable for septic system drainfields and where no other means of sewage treatment is provided;
- (3) Land with potentially injurious conditions resulting from special soil and water conditions such as shrinking and swelling clays and/or marine clays, unless such conditions can be rendered harmless by standard development and construction practices. All such areas must be clearly indicated on the plat; and
- (4) Land with other adverse physical conditions identified by the public agencies involved, such as habitat of rare and endangered species, special and significant wildlife habitat, historic structures and sites, and identified sites of archaeological importance.

(B) Where on-lot sewage disposal systems, such as septic tanks and drainage fields, are proposed, a professional soils report stating the suitability of the land for such systems shall accompany an application for preliminary approval as set forth in Article 6. Subdivisions shall not be approved where lots are of insufficient size or inappropriately shaped for construction of a residence and a suitable area, as needed, for a well, septic tank, septic drainfield and reserve drainfield. The subdivider shall certify to the purchaser in writing, duly acknowledged as may be required by law for recording a deed, that each lot offered for sale has passed satisfactory percolation tests by the Middlesex County Department of Health and/or an independent engineering analysis approved by the Middlesex County Department of Health, unless public sewage has been provided. The subdivider shall also certify that adequate drinking water is available for the lot as specified by this Chapter.

(C) Land shall not be subdivided which does not have access provided to each lot over suitable terrain as to provide reasonable means of ingress and egress.

(D) Wetlands as defined in Chapter 17, Chesapeake Bay Preservation Area Overlay District (CB-1), this Code, or any land subject to periodic flooding shall not be subdivided in such a way as to provide sites for residential occupancy nor for any other use which might involve danger to health, life, or property, or aggravate the flood hazard, and any such land within the proposed subdivision whether it be within a lot or reserved for common use of subdivision occupants shall be restricted against buildings or otherwise reserved for uses which will not be endangered by periodic or occasional inundation. To insure sufficient buildable land which is flood free, the Agent may require the subdivider to provide elevation and flood profiles sufficient to demonstrate the land to be free of the danger of flood waters.

(E) Any land herein described as unsuitable for building sites shall be clearly indicated on the preliminary and final plats or site plan and, except as may be permitted in an approved residential cluster development, shall not be used to satisfy the minimum lot size requirements as prescribed by Chapter 17 of this Code or by the Middlesex County Health Official for necessary septic and well installations, or the minimum lot area requirements of this Chapter.

(F) A plat for the subdivision of land with poor drainage, excessive slope or other adverse physical conditions will be considered for approval only if the subdivider shall agree in writing to make whatever improvements are necessary, and which, in the judgment of the Agent, will comply with the provisions of this Chapter and render the land safe and otherwise acceptable for development.

Section 18-5.3.

Erosion, sediment control and grading.

(A) Subdivision plans shall provide for control of temporary flooding, erosion and sediment control in accord with applicable laws and ordinances. In general, the design of the subdivision shall be such as to minimize grading and disturbance of natural vegetation. Natural contours and storm water channels shall be respected and retained where possible.

(B) The preliminary plat for a major subdivision shall be accompanied by a conceptual grading plan with notes on a topographic map as required to show soil types and limits for clearing and grading and other disturbance, existing and proposed grades, and location of natural watercourses, wetlands and floodplains.

(C) The preliminary plat for any subdivision shall show the location of unusual soil conditions, hydric soils, shrink-swell clays, steep slopes (generally those with a grade of 15% or more) and highly erodible areas as delineated on the Town's soils and slopes maps and shall be accompanied by a soils report which describes unusual conditions and measures proposed to mitigate hazardous conditions.

(D) No grading shall occur within 100 feet of any perennial watercourse or wetland except as provided by this Chapter and Chapter 17, Zoning, for specific waterfront or water-dependent facilities or for necessary utilities and street construction.

Section 18-5.4. Tree and vegetation protection.

(A) To the extent that is economical and practical, natural vegetation, trees with a diameter of twelve inches or greater, shall be protected and preserved within the subdivision. Features and buffer areas to be protected and preserved shall be delineated on the preliminary plat and keyed to an appropriate statement of intent which is shown on the plat.

(B) Natural vegetation existing: i) on slopes of 15 percent or greater; ii) within 100 feet of a designated wetlands area; iii) within 100 feet of a perennial watercourse or wetland; and iv) within 100 feet of an intermittent stream, shall be left undisturbed as a buffer area during subdivision and development, provided:

- (1) Access paths and view corridors or sight lines may be cleared along waterways, lakes or wetlands. In general, trees larger than six inches d.b.h. shall not be removed.
- (2) Where natural vegetation is removed it shall be replaced with other vegetation equally effective in retarding erosion and preserving natural appearance.

Section 18-5.5. Storm water, floodplain management and flood protection.

(A) The preliminary plat for a major subdivision shall be accompanied by a storm water management plan showing information for determination of improvements necessary for controlling storm water runoff, including drainage plans and flood control devices.

- (B) The preliminary plat for any subdivision shall show natural drainage patterns and a complete drainage layout, including pipe sizes and types, stormwater detention and retention facilities, drainage easements and means of transporting drainage to a well-defined open stream.
- (C) The storm water management plan shall preserve natural drainageways and wetlands, maximize infiltration of storm water and minimize off-site discharge of storm water. In general, impervious surfaces near waterfronts and wetlands shall be avoided; grass swales shall be utilized and curb and gutter and paved ditches shall be avoided except where necessary to prevent erosion in accord with the standards of the Virginia Department of Transportation.
- (D) Where a subdivision is traversed by a natural drainageway through which water flows continuously or intermittently there shall be provided an easement with a minimum width of 15 feet conforming substantially with the boundaries of such drainageway and such additional width as may be necessary for drainage and utilities at a particular location.
- (E) A continuing maintenance plan, including an owner's association if necessary, shall be submitted for all elements of the drainage and flood control system which will not be the responsibility of the Town or the Virginia Department of Transportation. The subdivider shall provide assurance that all facilities are in good repair and properly functioning when the last lot is sold.
- (F) Areas subject to periodic flooding (100-year flood) shall be delineated on preliminary and final plats.
- (G) Residential building sites in areas subject to periodic flooding shall be avoided. (Lot areas may include areas subject to flooding which are in excess of minimum lot area requirements.)
- (H) Construction in areas subject to flooding shall be in accord with National Flood Insurance Program regulations.

Section 18-5.6. Shoreline protection and waterfront facilities.

- (A) For shoreline subdivisions which include docks, piers, marinas, boat ramps and other water-related development a joint Virginia Marine Resources Commission (VMRC) permit application for filling, dredging, or construction in wetlands or waterways shall be

submitted by the subdivider with the preliminary plat. The joint application will be forwarded to VMRC which will coordinate permit review with the Middlesex County Wetlands Board, the U.S. Army Corps of Engineers and other local state and federal agencies as required.

(B) The preliminary plat or site plan shall show the location of all proposed docks, piers, marinas, boat ramps, community water access and other water-related structures and facilities, together with water depths by contours or otherwise, current flow directions, tidal action, and the location and extent of beaches, wetlands, swamps, subaquatic vegetation and shellfish beds.

(C) Design of waterfront facilities or construction in wetlands and other subaqueous areas shall comply with Subaqueous Guidelines and Criteria for Siting of Marinas or Community Facilities for Boat Mooring of the Virginia Marine Resources Commission, Virginia Institute of Marine Science Wetlands Guidelines and other applicable state and federal guidelines, criteria and regulations.

(D) Designs shall encourage floating docks rather than fixed piers and joint use facilities rather than single use facilities.

(E) Designs shall not include filling on subaqueous land or in wetlands for the purpose of creating highland property.

(F) When shoreline stabilization is necessary, the design should rely on nonstructural rather than structural methods in order to preserve natural shoreline vegetation. Bulkheading, riprap, retaining walls, and similar shoreline hardening methods should be avoided. Required shoreline stabilization shall be placed behind vegetated wetlands.

(G) Where structural shoreline stabilization methods are used, the preliminary plat shall be accompanied by a maintenance plan which describes responsibility, procedures and anticipated frequency of maintenance. In general structural stabilization methods should be designed and constructed to be maintenance free for at least 10 years with an expected life of 30 years.

Section 18-5.7. Street layout standards.

(A) The location, alignment, grade, width and drainage of all streets and roads shall comply with the design standards and specifications for roads, streets, drainage, water and

sewer construction and improvements on file in the office of the Agent and applicable specifications of the Virginia Department of Transportation, and shall substantially correspond to existing and planned streets insofar as topographical conditions, public convenience and safety, and the proposed uses of land to be served will permit.

(B) The street layout shall be designed to create desirable building sites while respecting existing topography and shorelines, avoiding impact on wetlands, minimizing street grades, avoiding excessive cuts and fills, and preserving trees, all to the maximum extent feasible for a reasonable economic use of the land.

(C) Streets shall be spaced to allow for blocks meeting the dimensional requirements contained herein and to minimize the number of intersections with existing or proposed arterial thoroughfares.

(D) Where the subdivision adjoins or contains any part of a U.S. Highway, State Primary Highway, or State Secondary Highway designated as a collector street, the layout of such subdivision shall provide for the platting and dedication of such part of the major or collector thoroughfare in the location and at the width indicated on such plan, except that the subdivider shall not be required to dedicate that part of such thoroughfare which is in excess of 80 feet in width.

(E) Where deemed appropriate to the design of the subdivision and its relation to adjoining areas, the Agent may require the platting and dedication of one or more collector streets, or parts thereof, to serve the subdivision.

(F) Minor residential streets, intended primarily for access to individual properties, shall be so arranged as to discourage their use by through traffic.

(G) Streets shall be laid out to intersect one another at as near right angles as topography and the limiting factors of design will permit, and no street shall intersect another street at an angle of less than 70 degrees for a minor street or 80 degrees for an arterial thoroughfare.

(H) Proposed streets in the subdivision shall provide for the continuation of existing, planned, or platted streets on adjacent tracts, unless such continuation shall be prevented by topography or other physical condition, or unless the Agent finds such extension to be unnecessary for the coordination of development between the subdivision and such adjacent tract.

(I) Where the Agent deems it appropriate or necessary to provide access to adjacent tracts not presently subdivided, proposed streets in the subdivision shall be extended to the boundary lines with such adjacent tracts and temporary turnarounds shall be provided at the ends of such streets by means of temporary easements or other appropriate means.

(J) Where the subdivision adjoins or contains a U.S. Highway or State Primary Highway, the Agent may require that measures to be taken to reduce the impact of heavy traffic on the residential lots abutting or fronting upon such thoroughfare and to afford separation of through and local traffic, through one of the following means.

- (1) By providing vehicular access to such lots by means of a marginal access street or service drive separated from the highway by a planting strip at least 30 feet in width and connecting therewith at infrequent intervals.
- (2) By designing reverse frontage lots having access only from a parallel minor street or from a cul-de-sac or loop street, and with vehicular access to such lots from the major thoroughfare prohibited by deed restrictions or other means.

The choice of the most appropriate method of accomplishing the desired purpose in a specific instance shall be made by the Agent giving consideration to topography and other physical conditions, the character of existing and contemplated development in the subdivision and its surroundings, and other pertinent factors.

(K) Cul-de-sac streets, generally not exceeding 400 feet in length, shall be permitted where they are necessitated by topographic conditions or where in the judgment of the Agent, such streets are appropriate to the type of development proposed. Each cul-de-sac must be terminated by a turn-around of not less than ninety (90) feet in diameter.

(L) Alleys shall be provided in business, commercial and industrial areas, unless adequate access to parking and loading area is provided by other means. Alleys shall not be permitted in residential areas except to provide rear access to attached dwellings or multiple dwellings or where required by topographic or other unusual conditions. In the absence of alleys, easements shall be provided for utility lines and/or drainage facilities.

(M) Except as listed below in this subsection, there shall be no private streets platted in any subdivision and every subdivided property shall be served from a publicly dedicated street constructed to standards of the Virginia Department of Transportation.

- (1) In the case of a minor subdivision in which there are no more than seven lots and in which no lot is less than one acre in area, private streets may be permitted, provided:
 - (a) There is a direct connection to a state maintained public street and no more than one such connection;
 - (b) That the right-of-way is not less than 50 feet in width or more than 1,200 feet in length and is graded and constructed to Virginia Department of Transportation standards for an all weather road base. The subdivision plat and all approved deeds of subdivision, or similar instruments, must contain a statement advising that the street does not meet state standards and will not be maintained by the Department of Transportation or the Town, that lot owners are responsible for a proportionate share of maintenance and repair of the street, and that no public agency will be responsible for any costs involved in having the street brought up to state standards for acceptance into the State Secondary System of highways. Subsequent grantors of any subdivision lots to which such statement applies must also include the statement on each deed of conveyance thereof;
 - (c) The subdivision complies with the design and improvement requirements of this Chapter except for street paving;
 - (d) The subdivision plat is approved by the Virginia Department of Transportation and other state and federal agencies as may be required;
 - (e) That the subdivision and all lots are designed and appropriately restricted so as to preclude any resubdivision or addition which would increase the number of lots served by the street to more than seven or reduce lot area to less than one acre.
- (2) In the case of a cluster subdivision or planned development as approved by the Town Council, private streets may be permitted provided the minimum right-of-way is established at not less than 40 feet in width and is graded and constructed to Virginia Department of Transportation standards for an all

weather road base and provided the design of streets and lots is such as to inhibit future expansion of the subdivision beyond that area which is approved. The subdivision plat or site plan and deeds shall be restricted as in Subsection (1)(b) above and the plat shall comply with Subsections (1)(c) and (1)(d) above.

- (3) In the case of a large lot subdivision (no lot is less than five (5) acres in area) private streets may be permitted, provided:
 - (a) There is a direct connection to a state-maintained public street and no more than one such connection;
 - (b) That the right-of-way is not less than 50 feet in width and meets all Virginia Department of Transportation requirements for layout, alignment, elevation, and drainage as would be required for a public street. The subdivision plat and all approved deeds of subdivision, or similar instruments, must contain a statement advising that the street does not meet state standards and will not be maintained by the Department of Transportation of the Town, that lot owners are responsible for a proportionate share of maintenance and repair of the street, and that no public agency shall be responsible for any costs involved in having the street brought up to state standards for acceptance into the State Secondary System of highways. Subsequent grantors of any subdivision lots to which such statement applies must also include the statement on each deed of conveyance thereof;
 - (c) The subdivision complies with the design and improvement requirements of this Ordinance except for street construction;
 - (d) The subdivision plat shall be reviewed by the Virginia Department of Transportation and other state and federal agencies as may be required, and a letter shall be required from the Department of Transportation stating that the plat was reviewed and that the street design appears to meet all Department standards;
 - (e) That the subdivision and all lots are designed and appropriately restricted so as to preclude any resubdivision which would reduce lot area to less than five (5) acres.

(N) Easements for ingress and egress for public emergency and maintenance vehicles shall be granted to the Town for all private streets. Such easements shall be recorded with the instruments which create the private streets. The provisions of this section shall not apply to private streets of record prior to 17 August 1992.

(O) No land shall be reserved, held or controlled for the purpose of prohibiting access to streets and roads unless owned, held or controlled exclusively by the Town or an agency of the State or Federal Government.

(P) There shall be no private streets platted in any subdivision. Every subdivided property shall be served from a publicly dedicated street. There shall be no reserve strips controlling access to streets.

(G) Proposed streets which are obviously in alignment with other existing and already named streets, shall bear the names of the already existing streets. In no case shall the names of the proposed streets duplicate existing street names irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane, court. Street names shall be indicated on the preliminary and final plats, and shall be approved by the Agent. Names of existing streets shall not be changed except pursuant to Chapter 19 of this Code.

(R) Street identification signs of a design approved by the Town Administration shall be installed at all intersections.

Section 18-5.8. Street design standards.

(A) Right-of-Way Widths. Right-of-way widths for major thoroughfares, U.S. Highways and State Primary Highways, shall be in accordance with the current standards of the Virginia Department of Transportation.

Right-of-way widths for other street types shall be not less than 80 feet for State Secondary Highways designated as collector streets; 60 feet for minor streets in multiple-family residential, commercial, and industrial areas; 50 feet for minor streets in other residential areas; and 16 feet for alleys. Current Virginia Department of Transportation standards shall supersede requirements above.

Under special design conditions approved as a part of a cluster subdivision, or in the case of a short street section with minimum traffic service requirements, the right-of-way for minor residential streets may be reduced, but in no case to less than 40 feet and

provided that the Agent may require a minimum right-of-way of 50 feet to insure continuity of the street system and appropriate future subdivision of adjacent properties.

(B) Roadway Widths. Roadway pavement widths for major thoroughfares shall be not less than the minimum specified by the Virginia Department of Transportation, but in any case not less than 20 feet. Generally the roadway widths for streets shall not be less than the following:

- (1) Collector streets, and minor streets in multiple-family residential, commercial, and industrial areas: 36 feet paved, including curbs, and gutters, where provided, except that collector streets serving single-family residential lots of one acre or more may, with the approval of the Agent, have a minimum paved roadway width of 20 feet.
- (2) Minor streets in single-family residential areas, and service drives: 24 feet paved, including curbs and gutters, where provided, except that streets serving lots of one acre or more may with the approval of the Agent, have a minimum paved roadway width of 20 feet.
- (3) Alleys: 10 feet unpaved.
- (4) Private Streets: Except as provided in Item A of this section above, right-of-way widths for private streets shall be in accord with Section 18-5.7.(M) above. Roadway width, grading, and paving shall be as follows:
 - (a) Where the design of the subdivision is approved as a minor subdivision with private streets, the street shall be graded in accordance with standards of the Virginia Department of Transportation to provide adequate drainage for a compacted gravel or crushed stone roadway at least four inches in depth and 16 feet in width. No surface treatment is required. A performance bond will be required to ensure proper and complete construction.
 - (b) Where a cluster subdivision or planned development is approved with a private street or common driveway by the Town Council, the street or driveway shall be graded to provide adequate drainage for a compacted gravel or crushed stone roadway at least four inches in depth and 14 feet in width. No surface treatment is required. A

performance bond will be required to ensure proper and complete construction.

- (c) All costs of inspection of drainage and pavement, including employment of an engineer, shall be borne by the subdivider.

(C) Cul-de-Sacs. Cul-de-sac streets shall have a turnaround of appropriate shape not less than 90 feet in least dimension, and with a circular roadway of not less than 40 foot radius, provided that the Agent may approve a "T" or "Y" backaround or other design to facilitate entrance and exit.

(D) Scenic Roads. Where an existing or proposed street or roadway is designated as a scenic road or by-way on the Comprehensive Plan, the purpose and standards established for such roads to maintain their scenic and historic qualities shall be observed in design and development of an adjacent subdivision, including but not limited to, such factors as maintenance of existing alignments and natural vegetation, appropriate pavement design, replanting of vegetation or construction of berms where necessary, and due care with respect to location and design of access points.

(E) Street Grades. Street grades shall not be less than 0.25 percent or greater than ten percent.

(F) Curvature. The radius of curvature on the center line for arterial thoroughfares, collector streets, and minor streets, service drives, and alleys shall be in accord with standards of the Virginia Department of Transportation. Between reversed curves either of which has a radius of less than 200 feet, there shall be a tangent section at least 100 feet in length.

(G) Intersections. Each property corner at street intersections shall be rounded by an arc, the radius of which shall be not less than 25 feet. Curbs at street intersections shall be rounded concentrically with the property lines. The design of the intersection should provide clear sight distance for oncoming vehicles, and there should be a suitable leveling of the street grade within and approaching the intersection in accord with standards of the Virginia Department of Transportation.

Section 18-5.9. Blocks.

(A) Generally, the minimum and maximum length of residential blocks shall not be fixed, but shall be controlled by considerations of public safety, traffic flow, and existing topographic conditions. Blocks may not exceed 1,200 feet in length, or be less than 400 feet in length, between street lines. In any residential block more than 800 feet in length, a crosswalkway of not less than 10 feet in width may be required where necessary to provide convenient access to schools, recreation areas, and other community facilities.

(B) Residential blocks shall normally be of sufficient width to provide two tiers of lots of appropriate depth, except where fronting on major streets, unless prevented by topological conditions or size of the property, in which case the Agent may approve a single tier of lots of minimum depth.

(C) Where a proposed subdivision will adjoin a major road, the Agent may require that a greater dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

(D) Blocks for business or industrial use shall be of such length and width as may be necessary to serve their prospective use, including adequate provision for off-street parking and for the loading and unloading of delivery vehicles.

(E) Irregularly-shaped blocks indented by cul-de-sacs or looped streets, and containing interior parks or playgrounds, will be acceptable when properly designed and where provision is made for adequate parking and for the maintenance of the public or common-use recreation area.

Section 18-5.10. Lots.

(A) Each lot shall abut on a street dedicated by the subdivision plat, or an existing publicly dedicated street, or on a street which has become public by right of use. If the existing streets are not in accordance with Virginia Department of Transportation standards, the subdivider will make provisions in the deeds for the lots for all buildings to be so constructed as to permit the widening by dedications of such roads or streets to a width required.

(B) The lot arrangement, design, and orientation, shall be such that all lots will provide satisfactory building sites, properly related to topography and the character of surrounding development.

(C) The dimensions and areas of all lots shall comply with the requirements of the zoning district in which they are located. In any case where public water supply and/or public sewerage are not available or are not to be provided, all residential lots shall comply with the minimum lot dimensions and areas established by the Middlesex County Health Officer after appropriate water percolation tests have been performed, which dimensions may be greater than required under the zoning regulations. At least one field replacement area shall be designated for use in case of disposal field failure.

(D) Reduction of lot area, lot width and yard area is permitted for Planned Unit Development Subdivisions (PUD) as specified under Section 17-5.15 of the Zoning Ordinance.

(E) Exceptions: Greater lot areas may be required by the Agent where individual septic tanks or individual wells are used, if the health official determines that there are factors of drainage, soil conditions, or other conditions to cause potential health problems. The Agent may require that data from soil analysis be submitted as a basis for approving subdivisions dependent on septic tanks as a means of sewage disposal.

(F) Where some lots in a subdivision have access to a water body or beach and other lots in the same subdivision do not, provision shall be made for community access to the water body or beach at one or more appropriate locations to be maintained as common open space.

(G) Remnants or parcels of land below minimum area, including parcels which fail percolation tests, which may be left over after subdivision of a tract shall be added to adjacent lots, or otherwise disposed of rather than allowed to remain as unusable parcels.

(H) Excessive lot depth in relation to lot width shall be avoided. Except for unusual topographic conditions as determined by the Agent, a ratio of depth to width of two to one shall be considered a desirable maximum.

(I) Every lot shall abut upon, and have access to, a street or road as herein defined. Where so-called "flag lots" or "panhandle lots" are utilized to provide common access points

and minimize street construction, the number of adjacent and parallel narrow lot sections or accessways shall be limited, generally to no more than four, so as not to create an unreasonable potential for confusion and dispute with respect to boundary locations. Provision of a single common use driveway shall be encouraged, particularly at access points to public or private streets or roads. The length of such accessways shall be related to proposed lot size but generally shall be limited to no more than 1,200 feet. Width of accessways shall not at any point be less than required minimum street frontage of 25 feet (20 feet for family subdivisions) and shall be located and aligned for reasonable access by motor vehicles, including emergency vehicles. Where the lot served is sufficiently large to permit further subdivision the minimum width of the accessway shall be 50 feet so that a street may be constructed when further subdivision takes place.

(J) Double frontage and reverse frontage lots shall be avoided, except where their use is essential to overcoming special topographic problems or to separating residential development from highway traffic.

(K) Corner lots shall provide sufficient width for minimum required setbacks from both streets.

(L) Residential lots fronting or abutting on primary or secondary highways or arterial thoroughfares shall desirably have extra lot depths and deeper building setbacks as required by this Ordinance or Chapter 17 of this Code.

(M) Generally, side lot lines shall be approximately at right angles or radial to the street line, except where a variation to this requirement will provide an improved street and lot layout.

(N) Where the land covered by a subdivision includes two or more parcels in separate ownership, and where the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership simultaneously with the recording of the final plat. Said deed shall be deposited with the Clerk of the Court and held with the final plat until the subdivider is ready to record same, and both shall then be recorded together.

Section 18-5.11. Open space and recreation area.

- (A) The subdivision design shall reflect the community's need for open space sites for public facilities and recreation area as indicated in the Comprehensive Plan and as may be anticipated in demand created by development of the subdivision.
- (B) Where a proposed park, public waterway and/or waterfront access site, playground, school, refuse container site, public safety facility or other public facility or public use as shown on the Town Comprehensive Plan is located in whole or in part in a subdivision, the Agent shall require that such areas within the subdivision be dedicated or reserved for purchase by the Town or other appropriate agency. Where large scale development occurs necessitating additional community facilities not shown on the Comprehensive Plan, the Agent may require the dedication or reservation of new sites.
- (C) All subdivisions containing more than twenty-five lots under five acres in area shall provide common open space and recreation area equal to at least five (5) percent of the total area of all of the lots. This space is to be used by residents of the subdivision and shall include such things as parks, playgrounds, and general recreation areas. Land providing public or community waterfront access shall be considered as contributing to this requirement. Such common or public open space land shall be an amount not less than one acre in any single site and shall be suitable for its designated use in location and topography and shall be maintained by the subdivider until maintenance is assumed by a homeowner's association or other approved agency.
- (D) Land reserved for public purchase shall be shown for future sale as lots by means of dashed lines and numbers on the preliminary and final plats and may be sold as such without filing an amended plat if public action to acquire the land has not been initiated within 18 months of recording the final plat.
- (E) Shoreline subdivisions or projects which include multifamily development shall provide community access to and along the water's edge for all residents of the development. In addition, all new residential subdivisions on shorelines and which include lots which do not have direct access to the shoreline shall include community access to publicly owned water bodies by means of a pedestrian easement to the shoreline and a community recreation and open space area along the shoreline. Pedestrian easements along the shoreline are also encouraged. This requirement may be waived if the Agent determines that shoreline is unsuitable for such purposes and/or if the adequate public access already exists in the area.

(F) Recreational areas and open space areas, whether publicly or privately owned, which are provided in conformance with approval of any form of cluster, lot averaging, multifamily, townhouse, or planned development provisions, and which equal or exceed the requirements for dedication as set forth herein, may completely and fully satisfy the above requirements provided the developer or subdivider shall satisfy the Town Council that there are adequate provisions to assure retention and future maintenance of said recreational areas.

Section 18-5.12. Easements.

(A) Where alleys are not provided in appropriate locations, easements of not less than 16 feet in width shall be provided where necessary to meet public utility requirements. Easements of greater width may be required along lot lines or across lots where necessary for the extension of trunk sewers or other primary utility lines.

(B) Where a proposed subdivision is traversed by any stream, watercourse, or drainageway, the subdivider shall make adequate provision for the proper drainage of surface water, including the provision of easements along such streams, watercourses, and drainageways, in accordance with standards established by the Town. (See Section 18.5.5 above.)

(C) Utility easements in private rights-of-way or in common-use recreation areas may be permitted by the Agent provided design considerations of the proposed subdivision warrant such easements. Necessary franchise and utility construction permits shall be obtained from the Virginia Department of Transportation for utilities within public road right-of-way.

(D) No building, structure or obstruction shall be constructed, installed or situated on any easement without the authorization of the Town Council or other appropriate agencies.

Article 6. Required Improvements.

Section 18-6.1. Required improvements by subdivider.

The subdivider shall be required to provide and install certain minimum improvements in the subdivision as a condition for approval of the Final Plat by the Agent. All such required improvements shall be constructed in accordance with the minimum requirements of these regulations and the construction standards and specifications adopted by the appropriate Town or State agency, or such other governmental agency as may have jurisdiction over a particular improvement. Nothing contained herein, however, shall be construed as prohibiting the subdivider from installing improvements meeting higher standards than the minimum requirements.

Section 18-6.2. Monuments.

Permanent reference monuments, of stone or reinforced concrete and at least 24 inches in length and 3.5 inches by 3.5 inches square with suitable center point, shall be set flush with the finished grade. Such monuments shall be located at all street corners, at all points where street lines intersect exterior boundaries and at angle points and points of curvature and tangency in each street.

Monuments of metal pipe at least 3/4 inches in outside diameter or solid metal rod one-half inch or more in diameter and at least 18 inches in length, shall be set in place flush with the finished grade at all intersections of alleys with streets, at all points on alleys, and boundary lines where there is a change in direction or curvature, and at all lot corners.

Prior to setting monuments, rough staking is permitted for purposes of installing utilities.

Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the Agent are clearly visible for inspection and use. Such monuments shall be inspected and approved by the Agent before any improvements are accepted by the Town.

Any person, developer, builder, firm or corporation shall take the necessary precautions to protect all monuments and metal markers during construction. Any monument which is moved or destroyed shall be immediately reported to the Agent and shall be replaced by the subdivider as directed by the Agent.

Section 18-6.3. Roads and streets.

All new roads and streets shall be constructed in accordance with the minimum requirements of these regulations and the minimum construction standards of the Virginia Department of Transportation for public streets and/or the Town for approved private streets. Where curbs and gutters are not provided, stabilized shoulders and stabilized drainways outside the shoulders shall be provided.

Section 18-6.4. Surface drainage facilities.

In accordance with the requirements of this Chapter and good engineering practice, the subdivision shall be provided with such storm drains, culverts, drainageways, or other works as are necessary to collect and dispose of surface and storm water originating on or flowing across the subdivision, in order to prevent inundation and damage to streets, lots, and buildings in accordance with the approved storm water management plan for the subdivision.

A continuing maintenance plan shall be submitted in accordance with the requirements of Article 5.

Section 18-6.5. Erosion and sedimentation control.

All subdivision plans shall include adequate provision for control of temporary flooding or erosion and sediment control, both during construction and after completion of construction in accord with applicable laws and ordinances and the requirements of Article 4.

Section 18-6.6. Shoreline protection and waterfront facilities.

Shoreline subdivisions shall be provided with shoreline protection and waterfront facilities in accordance with the provisions of Article 4 of this Chapter and Chapter 17 of this Code.

A continuing maintenance plan shall be submitted in accordance with the requirements of Article 4.

Section 18-6.7. Water supply facilities.

Every subdivision with lots of such size as to require a public water supply under State or Town regulations shall be provided with the Town community water supply and distribution system and appropriately spaced fire hydrants. The source of supply may be the Town water system or a private water system, in which case the distribution system for the subdivision shall meet the standards of Chapter 15 of this Code and all other applicable Town regulations and standards. In the case of a private water system, an arrangement secured by property in the subdivision for the ownership, maintenance and operation of the system shall be approved by the Town Attorney. The applicant shall reimburse to the Town all cost for the Town Attorney's review and approval.

Section 18-6.8. Fire protection.

The Agent may require special fire protection measures and facilities as may be reasonably necessary in a particular case, whether or not a public or community water supply is provided.

Section 18-6.9. Sanitary sewerage facilities.

Every subdivision with lots of such size as to require a public sewer system under the provisions of this Chapter or the zoning regulations or the regulations of the State or the Town shall be provided with a community sanitary sewer system connected to the municipal system or to an adequate community sewerage disposal plant meeting the requirements of the State and the Town. If connected to the municipal system, sewers shall be constructed to meet the standards and requirements of such system and shall become a part thereof without cost to the municipality. In the case of a private system, an arrangement secured by property in the subdivision for the ownership, maintenance and operation of the system shall be approved by the Town Attorney. The applicant shall reimburse to the Town all cost for the Town Attorney's review and approval.

Where a public sewerage system will not be available, private on-site means of sewage disposal meeting the requirements of the State Department of Health shall be provided; and, in addition, the Department of Health and/or the Agent may require the

installation and capping of sanitary sewer mains and house connections where plans for central sewer systems have been prepared and where evaluation of such plans indicates that public sewer service will be necessary in the reasonably foreseeable future to protect public health. The Agent shall not approve any subdivision where sanitary sewers are not provided unless the Agent shall receive in writing from the Middlesex County Health Department a statement to the effect that the area contained in the subdivision is generally satisfactory for the installation of septic tanks and drainfields, and that they will not, so far as can be determined, create hazards to water quality or public health, and that such approval by the Agent is only with the understanding that where septic tanks and drainfields are to be installed, these must be approved on an individual lot basis by the Middlesex County Health Department.

Section 18-6.10. Utilities to be installed on easements.

All utilities, poles or underground conduits for electric power lines or telephone lines shall be placed in alleys if such are provided or in easements appropriately located, generally along the rear or side lot lines whenever this is possible.

Easements for natural drainageways and other drainage facilities, retention basins and other permanent erosion and sediment facilities shall be provided in accordance with the requirements of Article 4.

Section 18-6.11. Underground utilities.

Where new electrical and telephone wires and cables are required for internal service to a subdivision, such wires and cables shall in general be placed underground in accord with the rules and specifications of the Agent and special ordinances of the Town of Urbanna. The Agent may waive this requirement in the case of exceptionally large lots or unusual topographic conditions.

Section 18-6.12. Off-site sewer, water and drainage costs.

(A) The subdivider shall be required to pay the total and whole cost of providing reasonable and necessary sewer, water or drainage improvements located outside of the property limits of the land owned or controlled by him whenever the following conditions exist:

- (1) The Town determines that such off-site improvements to sewer, water, or drainage are necessitated at least in part by the construction or improvement of the subdivision.
- (2) The Town or other appropriate authority has established a general sewer, water, or drainage improvement program for an area having related and common water, sewer and drainage conditions.
- (3) The subdivider's property is located within said designated area covered by such program.
- (4) The estimated cost of the total water, sewer or drainage improvement program has been determined.
- (5) The estimated water flow, sewerage flow or stormwater runoff has been established for the designated area served by such program.

(B) Such payment received by the Town shall be expended only for construction of those facilities for which the payment was required, and until so expended shall be held in an interest-bearing account for the benefit of the subdivider; provided, however, that in lieu of such payment the Town may permit the subdivider to post a bond with surety satisfactory to the Town conditioned on payment at commencement of such construction.

Section 18-6.13. Off-site road improvements.

A subdivider may voluntarily contribute, and the Town may accept, funds for off-site road improvements substantially generated and reasonably required by the construction or improvement of the subdivision.

Section 18-6.14. Open space and recreation area.

(A) Where improved open space and recreation area are provided in the subdivision such improvements shall be installed in accordance with the approved open space and recreation plan of the Town's Comprehensive Plan.

(B) Any lands dedicated for open space purposes shall contain appropriate covenants and deed restrictions approved by the Town Attorney to ensure that:

- (1) The open space area will not be further subdivided in the future.

- (2) The use of the open space will continue in perpetuity for the purpose specified.
- (3) Appropriate provisions are made for the maintenance of the open space.
- (4) Common undeveloped open space shall not be turned into a commercial enterprise admitting the general public at a fee.

(C) The type of ownership of land dedicated for open space purposes shall be selected by the owner, developer, or subdivider, subject to the approval of the Agent. Type of ownership may include, but is not necessarily limited to, the following:

- (1) The Town, subject to acceptance by the Town Council.
- (2) Other public jurisdictions or agencies, subject to their acceptance.
- (3) Quasi-public organizations, subject to their acceptance.
- (4) Homeowner, condominium, or cooperative associations or organizations.
- (5) Shared, undivided interest by all property owners in the subdivision.

(D) If the open space is owned and maintained by a homeowner or condominium association, the developer shall file a declaration of covenants and restrictions that will govern the association, to be submitted with the application for the preliminary approval. The provisions shall include, but are not necessarily limited to, the following:

- (1) The homeowners association must be established before the homes are sold.
- (2) Membership must be mandatory for each homebuyer and any successive buyer.
- (3) The open space restrictions must be permanent, not just for a period of years.
- (4) The association must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities.

- (5) Homeowners must pay their pro rata share of the cost; the assessment levied by the association may become a lien on the property if allowed in the master deed establishing the homeowners association.
- (6) The association must be able to adjust the assessment to meet changed needs.

(E) Maintenance of Open Space Areas

- (1) In the event that a non-public organization with the responsibility for the open space fails to maintain it in reasonable order and condition, the Town Council may serve written notice upon such organization or upon the owners of the development setting forth the manner in which the organization has failed to maintain the open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be remedied within 35 days thereof and shall state the date and place of a hearing thereon which shall be held within 15 days of the notice.
- (2) At such hearing, the Town Council may modify the terms of the original notice as to deficiencies and may give a reasonable extension of time not to exceed 65 days within which they shall be remedied. If the deficiencies set forth in the original notice or in the modification thereof shall not be remedied within said 35 days or any permitted extension thereof, the Town, in order to preserve the open space and maintain the same, may enter and maintain such land for a period of one year. Said entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the owners. Before the expiration date of said year, the Town Council shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing upon 15 days written notice to such organization and to the owners of the development, to be held by the Board, at which hearing such organization and the owners of the development shall show cause why such maintenance by the Town shall not, at the election of the Town, continue for a succeeding year. If the Town Council shall determine that such organization is ready and able to maintain said open space in reasonable condition, the Town shall cease to maintain said open space at the end of said year. If the Town Council shall determine such organization is not ready and able to maintain said open space in a reasonable condition, the Town may, in its discretion, continue to maintain

said open space during the next succeeding year, subject to a similar hearing and determination, in each year thereafter. The decision of the Town Council or officer in any such case shall constitute a final administrative decision subject to judicial review.

- (3) The cost of such maintenance by the Town shall be assessed pro rata against the properties within the development that have a right of enjoyment of the open space in accordance with the homeowner's agreement, or if maintenance is not assessed by the homeowner's agreement then by the assessed value at the time of imposition of the lien and shall become a lien and tax on said properties and be added to and be a part of the taxes to be levied and assessed thereon, and shall be enforced and collected with interest by the same officers and in the same manner as other taxes.

Section 18-16.15.

Trees may be planted.

Trees of a kind approved by the Agent may be planted in that portion of the subdivision dedicated for public purposes and along streets in accordance with approved landscaping standards and specifications.

Article 7. Administration and Enforcement.

Section 18-7.1. Procedure generally.

(A) The Preliminary plat - generally. Whenever a subdivision is proposed to be made, and before any sale or contract for sale or any construction work, including clearing and grading, is started, the owner or proprietor of the proposed subdivision or his duly authorized representative shall cause a preliminary plat to be prepared together with improvement plans and other supplementary materials as required herein. The preliminary plat shall comply fully with the health, zoning and other applicable ordinances in effect at the time the plat is submitted for tentative approval.

(B) Sketch plan or concept plan. It is recommended, but not required, that the subdivider submit to the Agent a preliminary sketch plan of the proposed subdivision, or general development plan for a condominium, apartment, townhouse project or water-dependent facility, prior to preparation of engineered preliminary and final plats. The purpose of such preliminary sketch plan is to permit the Agent to advise the subdivider whether his plans are in general accord with the requirements of this Chapter. The requirements of the Preliminary Plat are described in Section 18-7.5. The Agent, upon submission of any preliminary sketch, shall study same and advise the subdivider wherein it appears that changes would be necessary. The Agent may mark the preliminary sketch plan indicating necessary changes and any such marked sketch shall accompany the preliminary plat.

(C) Application for tentative approval. Five (5) copies, or more if necessary as determined by the Agent, of the preliminary plat together with improvement plans for roads, water, sewer and other utilities and other supplementary material shall be submitted to the Agent with written application for tentative approval. Such application shall be submitted so as to permit the Agent at least thirty days from date of submission for review and investigation as set forth in the following sections. For major subdivisions which require Planning Commission review, the preliminary plat shall be submitted to the Agent at least two weeks prior to a regularly scheduled meeting of the Commission. If approval by a state or federal agency is necessary, the Agent shall forthwith forward the application and preliminary plat to the appropriate agencies.

(D) Coordination with site plan review. Where a proposed subdivision accompanies and is a part of a development for which site plan approval is required under the Zoning

Ordinance, the subdivision plat and the site plan will be reviewed at the same time as nearly as possible under the requirements of these regulations.

(E) Coordination with soils tests. Following receipt of the preliminary plat, the applicant will request a general soil analysis to be performed by the Middlesex County Health Officer. A report of this analysis will be submitted to the Agent and the subdivider will be advised of the results. Depending on this analysis, the review procedure will proceed or be discontinued for further analysis. Prior to approval of the final plat for a subdivision planned for on-lot sanitary sewage disposal systems, a soils test will be performed on each lot, either by the Middlesex County Health Officer or by a qualified soils scientist employed by the subdivider, and the design of the subdivision modified as may be required by the tests and as approved by the Agent.

(F) Tentative approval or disapproval. When all submittal requirements have been met, the preliminary plat shall be reviewed by the Agent, the Planning Commission, the Town Council and other agencies as may be required. For a minor subdivision or where no state agencies are involved the Agent shall transmit his comments to the subdivider within 45 days and shall complete action thereon as submitted or as modified within 60 days of submittal. In the event that no action is taken within forty-five (45) days, such subdivision shall be deemed approved.

Where state agencies are involved or public hearing is required by the Town Council, action on preliminary plats shall be completed within a total of 90 days from submission to the Agent. If approved, the Agent shall express approval as tentative approval, or if disapproved shall express such disapproval and the reasons therefor and shall state, in written comments, what corrections or modifications would permit approval of the preliminary plat.

(G) Notation of agent's action. The action of the Agent shall be noted on two copies of the preliminary plat and referenced to any conditions determined, which conditions shall be noted on or attached to the plat. One copy shall be returned to the subdivider and the other retained by the Agent.

(H) The meaning of "tentative approval". Tentative approval of a preliminary plat shall not constitute approval of the final plat or any guarantee of such approval. It shall be deemed an expression of approval of the layout submitted on the preliminary plat as a guide to the preparation of the final plat. No property shall be transferred or offered for sale, nor shall a building permit be issued on the basis of an approved preliminary plat.

The final plat will be submitted for approval of the Agent for recording when the requirements of these regulations have been complied with. Approval of a preliminary plat shall be valid for six months. The Agent may grant one extension for an additional period not to exceed one year upon written application therefor and good cause shown.

(I) The final plat - generally. The final plat shall conform to the preliminary plat as approved. The subdivider may record as a final plat only that portion of the approved preliminary plat which he proposes to develop immediately, in all cases subject to requirements of the Zoning Ordinance.

If the subdivider records a final plat which is a section of a subdivision as shown on an approved preliminary plat and furnishes to the Town a certified check, cash escrow, bond, or letter of credit in an amount and form acceptable to the Town for the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the Town, the Commonwealth, or other public agency, the subdivider shall have the right to record the remaining sections shown on the preliminary plat for a period of five years from the recordation date of the first section, subject to the terms and conditions of state law and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.

(J) The final plat - application for, and approval or disapproval. Copies of the final plat and other exhibits required for approval showing all or any part of a subdivision planned for immediate development shall be prepared as specified herein and shall be submitted to the Agent within six months after tentative approval of the preliminary plat, otherwise such tentative approval shall become null and void unless an extension of time is applied for and granted by the Agent. The Agent shall act on the final plat within sixty days after it has been officially submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefor. Specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat. If the Agent fails to approve or disapprove the plat within said sixty days, the subdivider may file an appeal within 30 days thereof in accordance with Section 18-3.7. of this Chapter. The Town Council shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat. Appeals from a decision of the Town Council shall be in accordance with Section 18-8.4. of this Chapter.

(K) Recording final plat. After the Agent has approved the final plat, the subdivider shall file such plat for recordation in the Clerk's office of the Circuit Court of Middlesex County within six months after approval thereof; otherwise such approval shall become null and void unless an extension of time not to exceed sixty days, is applied for and granted by the Agent in writing.

(L) Residential cluster development and planned development. Preliminary and final plats and site plans for residential cluster development and planned development shall be subject to the same procedures and requirements as other plats and plans and in addition the general development plan shall be subject to approval by the Town Council after recommendation by the Town Planning Commission and after a public hearing held by the Town Council and advertised in accordance with Section 15.1-431 Code of Virginia 1950, as amended. In authorizing an approval the Town Council may impose such conditions regarding the location and character of features on the plan as it may deem necessary in the public interest and may require a guarantee or bond to ensure that conditions imposed are being and will continue to be complied with.

Section 18-7.2. Improvements to be installed before approval of final plat.

Prior to the filing with the Agent of a final plat for approval, all improvements required under these regulations shall be completed, or provisions made therefore, in accordance with the provisions of this Article and the design standards and specifications for roads, streets, drainage, water and sewer construction and improvements in the Town of Urbanna, in one of the following methods: (1) Installation and completion by and at the cost of the subdivider; (2) the furnishing by the subdivider to the Agent of a certified check or a personal, corporate or property bond with cash escrow or other method of performance guarantee approved by the Town Attorney and sufficient to cover the cost of all improvements required to be installed by the subdivider as estimated by the Agent to guarantee the installation and completion of such improvements; or (3) the furnishing by the subdivider to the Agent of evidence of the existence of agreements between the subdivider and qualified contractors for the installation and completion of the improvements and the contractors' performance bond with surety for the benefit of the Town and the subdivider, and satisfactory to the Town Attorney, in an amount to cover the cost of all the improvements required to be installed by the subdivider as estimated by the Agent. In the event that the subdivider elects to proceed by methods (2) or (3) as outlined above, the subdivider shall set a time, subject to the approval of the Agent, by which it is estimated the improvements be installed and completed. Unless an extension of that time

is approved by the Agent and a new estimated date of completion established, the Agent shall take necessary steps to proceed with the accomplishment and completion of the improvements, making use of the certified check or calling on the security of the bond.

Section 18-7.3. Certification upon completion of improvements.

Upon the completion of the installation of all improvements, the subdivider shall furnish a statement, approved by the Agent and prepared by a certified surveyor or engineer, to the effect that all construction is in substantial conformity to the regulations and requirements of this Ordinance, and the plans as approved by the Agent. The bond, escrow or other guarantee of completion shall be released within thirty days of written notice by the subdivider or developer to the Agent of satisfactory completion of construction, unless such subdivider or developer is notified in writing of a delay in such release and the reasons therefor; provided however that the Agent may retain up to 25 percent of the bond or other obligation for use in repair of improvements as may be necessary within one year of completion. Any bond, escrow or guarantee posted in lieu of payment may be released partially as a portion or portions of such construction progresses and is approved as completed by the Agent. In the event the subdivider has, in the opinion of the Agent, just cause for not completing the improvements in the entire subdivision where either a certified check or surety bond or performance bond has been posted, the Agent may release the subdivider from his obligation to complete all of the improvements in the subdivision provided the subdivider furnishes a statement by a certified surveyor or engineer to the effect that all construction which has been completed conforms to the regulations and requirements of this Ordinance and the plans as approved by the Agent; and provided further, that the subdivider has furnished satisfactory evidence that the undeveloped portion of the subdivision has been vacated by proper authority.

Section 18-7.4. Filing final plat for recordation.

When the provisions of the two preceding sections have been complied with, the subdivider shall file with the Agent the final plat for all of the subdivision or for that portion being developed at the time, in accordance with the requirements of these regulations in order to secure the final approval of the plat by the Agent.

Section 18-7.5. Requirements for preliminary plats and supporting data.

(A) When required by the Agent, the subdivider shall submit prior to or at the time of submitting a preliminary plat, five prints or copies of the following:

(1) A vicinity map. The vicinity or location map may be in the form of an inset map and shall be made at an appropriate scale (not less than two (2) inches equals one (1) mile) and shall show the relationship of the proposed subdivision to existing community facilities which serve or influence it, and shall include subdivision name and location, main roads and streets, schools, parks and playgrounds, scale, north arrow and date.

(2) A sketch plan (optional). The sketch plan or general development plan designated as such and drawn at an appropriate scale shall show the general topography of the subdivision and in simple form the proposed layout of streets, lots and other features in relation to existing topography.

(3) A preliminary plat. An application in writing for the tentative approval of subdivision shall be submitted to the Agent together with five prints or copies of the preliminary plat having a preferred horizontal scale of one hundred (100) feet to the inch, and not more than two hundred (200) feet to the inch, prepared by a registered professional engineer, professional landscape architect, registered land surveyor, planner, architect or other person having training or experience in subdivision planning or design and authorized to do business in the state, and clearly showing the following:

- (a) Name of subdivision, owner, subdivider, name of person or firm preparing the plat, date of drawing, number of sheets, north point and scale.
- (b) The location of proposed subdivision by an insert map at a scale of not less than two (2) inches equals one (1) mile showing adjoining roads, their names, and numbers, towns, subdivisions, and other landmarks.
- (c) The boundary survey or existing survey of record provided such survey shows a closure with an accuracy of not less than one in twenty-five hundred; total acreage, acreage of subdivided areas, number and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract and adjoining such boundaries. Included should be the layout, lot lines, lot numbers and block letters and approximate dimensions of proposed lots, and the proposed use of the property to be subdivided and the zoning of same and the land adjacent to the tract.

- (d) The location and names of adjoining subdivisions or names of the owners of adjoining parcels of land, establishing the boundary lines of the tract to be subdivided.
- (e) The location of existing physical features to assist in identifying and studying the plat, including existing buildings, wooded areas, watercourses, wetlands, unusual soil conditions, areas subject to flooding, or any other significant natural or man-made physical features affecting the proposed subdivision.
- (f) The location, width and names of all existing or platted streets or public ways within or adjacent to the subdivision for a distance of at least three hundred feet and the location, width and names of all proposed streets, and location and width of proposed alleys within the proposed subdivision. Except for extension of existing streets, street names shall not duplicate nor closely resemble existing street names in the Town. Cross section drawings should be provided showing the proposed streets construction, depth and type of base, type of surface, etc.
- (g) The location of all utilities, width and purpose of other rights of way and easements, all public areas and parking areas and the location of all setback lines, whether or not controlled by zoning regulations.
- (h) The complete drainage layout, including all pipe sizes and types, permanent flood control structures, retention basins, lagoons and the like. This should include detailed plans of sediment and erosion control measures, best management practices (if applicable), drainage easements and means of transporting the runoff to a water control system consistent with the performance criteria of the Chesapeake Bay Preservation Act.
- (i) For property included in or adjacent to a designated Chesapeake Bay Preservation Area Resource Protection Area, the plat shall show the surveyed tidal high-water line, the edge of the wetland, swamp or marsh as best it can be defined and the required buffer zone areas. Vegetated buffer areas and significant trees shall be indicated on the plat.
- (j) The location of proposed buildings, accessways, parking areas and other site design features for multifamily, townhouse, condominium or waterfront

developments. This shall include the delineation of the proposed construction footprint, and identification of significant trees to be preserved.

- (k) The boundaries of all property to be dedicated for public use, and of all property to be reserved by covenant in deeds for the common use of the occupants of lots in the subdivision, or otherwise reserved with a statement of the purpose for which such covenant or reservation is made or such use is restricted or limited.
- (l) General location of proposed docks, piers, water access and water-related structures, shoreline stabilization structures, water depths and shellfish beds, and all necessary permits related to approval of the proposed work and uses.

(B) Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a sketch plan for the entire tract shall be submitted with the preliminary plat. This sketch is merely for informational purposes and is not binding on the subdivider or the Agent.

(C) In accordance with the requirements of Article 4 and where it is economically or technically practical to do so, the subdivider shall protect and preserve physical features such as trees with a d.b.h. of twelve inches or greater, natural growth, watercourses, scenic points, historic places, topsoil and other similar community assets that will add attractiveness and value to the property if preserved. Such features to be protected and preserved shall be delineated on the preliminary plat and keyed to an appropriate brief statement of intent to be set forth thereon.

(D) Where the subdivision design is such that certain open spaces or other features are to be reserved for the common use of occupants or where private streets are proposed, the Agent shall require, subject to approval by the Town Attorney, that suitable measures be taken for permanent maintenance of such spaces, features, or streets, in accordance with the requirements of this Chapter. Documentation of such measures shall be filed with the preliminary plat.

(E) Where applicable, the Agent may require that the preliminary plat be accompanied by a letter from pertinent utility companies that the plat has been reviewed by them and containing comments on nature and location of existing and proposed utilities.

Section 18-7.6. Construction plans.

Following review of the preliminary plat by the Agent, the subdivider shall, if he has not previously done so, submit two blue or black line prints or copies of construction plans for improvements to be installed in accordance with the provisions of this Chapter and prepared by a registered professional engineer or registered land surveyor in accordance with state law and authorized to do business in the state, as follows:

- (1) Profiles along the center and both sides of each street, with tentative construction grades indicated, shall be shown on a standard profile sheet at a vertical scale of one inch equals ten feet and a horizontal scale of one inch equals one hundred feet unless otherwise permitted by the Agent, and all elevations shall be based upon mean sea level.
- (2) The proposed water supply, if any, and plan of water distribution system showing existing and proposed water mains, pipe sizes, storage facilities, location of valves and fire hydrants, or other system of water supply.
- (3) The proposed method of sewage disposal and plans and profiles of proposed sanitary sewers, if any, including existing sewers within the proposed subdivision and immediately adjacent thereto on a standard profile sheet and plan sheet at a vertical scale of one inch equals ten feet and a horizontal scale of one inch equals one hundred feet unless otherwise permitted by the Agent, with grades and sizes indicated, or method of sanitary sewage disposal in lieu of sanitary sewers.
- (4) Plans for storm sewers or other methods of disposal of storm waters shall be submitted in the same manner as outlined in Subsection 3. above.
- (5) Plans for shoreline stabilization structures, docks, piers, boat ramps and other water-related structures.
- (6) Plan of the proposed street lighting system, if any, showing locations, type, wattage, height, etc.
- (7) Plan of the proposed tree planting, if any, showing location, kind, d.b.h., etc.

Section 18-7.7.

Requirements for the final plat.

The subdivider shall submit to the Agent five black line prints of the final subdivision plat prepared by a registered professional engineer or registered land surveyor authorized to do business in the State, and one black-line mylar reproducible of the final plat, the original of which shall be clearly and legibly drawn on a sheet eighteen by twenty-four inches, including a margin of one-half outside ruled border lines at top, bottom, and right sides, and one and one-half inch for binding on the left eighteen inch end. The plat shall have a scale of one hundred feet to the inch and shall clearly show the following:

- (1) The title of the plat shall be included within a space four inches high and six inches wide in the lower right-hand corner of the plat. The data therein shall be confined to the following: Name of subdivision with designation of section if only a portion of the approved preliminary plat is being developed, the county and magisterial district applicable, date, scale and the registered surveyor or engineer who prepared the plat. The name of the subdivision shall be in bolder type than the rest of the title.
- (2) The name of the record owner of the land being subdivided and the name of the subdivider.
- (3) The boundaries of the subdivision showing the length of its courses and distances to one hundredths of a foot and bearings to half minutes, having been determined by an accurate survey thereof in the field, which shall close with an error of closure not exceeding one foot in ten thousand feet. The names and locations of adjoining subdivisions or the names of the owners of adjoining parcels of land that may be unsubdivided.
- (4) The exact location, alignment, arrangement and width along property lines of all streets, whether opened or not, intersecting or paralleling the boundaries of the subdivision.
- (5) The exact location and material of all permanent reference monuments.
- (6) The exact location, alignment or arrangement of streets and alley lines in the subdivision, the names of all streets, the bearing, angles of intersection and

- width thereof, including their width along the line of any obliquely intersecting street.
- (7) The radius, delta and arc length of all curves.
 - (8) The exact location, alignment or arrangement of all easements provided for use by the Town of Urbanna and public service corporations, with a statement of any restrictions or limitations placed on such use.
 - (9) The exact location, alignment or arrangement of all lot lines with their dimensions expressed in feet and hundredths of a foot and with their bearings or angles to half minutes.
 - (10) All lots shall be numbered with consecutive Arabic numerals in each block, and all blocks shall be lettered in consecutive alphabetical order. In case of a resubdivision of lots in any block, the lots shall be numbered with consecutive Arabic numerals, beginning with the numeral following the highest lot numeral in the block.
 - (11) The exact boundaries of all property to be dedicated for public use, and of all property to be reserved by covenant in deeds for the common use of all owners of lots in the subdivision or otherwise reserved, with a statement of the purpose to which such covenant or reservation is made or such use is restricted or limited.
 - (12) The location of setback lines whether or not controlled by Town zoning ordinances.
 - (13) The north point with magnetic bearing or if true meridian is shown the basis of its determination shall be stated.
 - (14) A certificate of the engineer or surveyor who prepared the plat certifying that the plat represents and is based on a survey made by him or under his direction and supervision; that all monuments shown thereon are actually in place or will be put in place before a date specified by him; that their location and character are truly shown on the plat; and that all of the provisions and requirements of this article have been observed and fully complied with.

- (15) A statement to the effect that the subdivision as it appears on the plat, including the dedication of all streets, alleys, easements and other land for public purposes and use is with the free consent and in accordance with the desire of the subdivider and of the trustee or mortgagee, or each of them if more than one, in any deed or other instrumentality, if any, creating a lien on the land in the subdivision, or any part thereof, which shall be signed by the subdivider and trustee or mortgagee, and shall be duly acknowledged before some officer, authorized to take acknowledgments to deeds. All cloth prints and transparent copies shall contain such signatures.
- (16) A certificate signed by the surveyor or engineer who prepared the plat setting forth the source of title of the owner of the land subdivided and the court in which the last conveyance or source of title is recorded. When the land in the subdivision was acquired by the subdivider from more than one source of title, the land acquired from each source shall be indicated on the plat.
- (17) In a case where private streets have been approved every such plat, or deed of dedication to which such plat is attached, shall contain in addition to the engineer's or surveyor's certificate a statement to the effect that "the above and foregoing private road subdivision as appears in this plat is with the free consent and in accordance with the desires of the undersigned owners, proprietors, and trustees, if any, and the purchasers of tracts in this subdivision are hereby notified that the roadways reserved and shown on this plat are private in nature and will not be maintained as a public road by the Virginia Department of Transportation or any other public road or highway agency." The plat shall be signed by the owners, proprietors, and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgments of deeds, and in addition the following shall apply:
- (a) Restrictive covenant. The deed to each tract in a private road subdivision shall carry a restrictive covenant to the effect that the roads in the subdivision are private in nature, do not meet State standards and shall not be maintained by the Virginia Department of Transportation or other public road agency and that the maintenance and improvement thereof shall be the mutual obligation of the landowners in the subdivision abutting said roads; that such private

roads shall not be taken into the State Secondary System unless and until the abutting landowners shall have constructed and dedicated the private roads in accordance with the latest Virginia Department of Transportation road and bridge specifications, and thereafter the Town Council of Urbanna shall have recommended that said road be taken into the State Secondary System of Highways.

- (b) Affidavit of buyer. No deed to a tract of land in a private road subdivision shall be recorded unless the same carries an affidavit duly signed and acknowledged by the grantee in said deed to the effect that he acknowledges that the roads in said subdivision are private roads and shall not be maintained or improved by the Virginia Department of Transportation or other public road agency, and that it is the mutual duty and obligation of the abutting landowners to maintain and improve the roads in said subdivision.

Section 18-7.8. Changes, preliminary or final plats.

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets after approval of the Agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the Agent.

Section 18-7.9. When final plat to be recorded.

When a final subdivision plat has been approved, executed and acknowledged in accordance with the provisions of this article, it shall be recorded in the office of the Clerk of the Circuit Court of Middlesex County within six months after final approval thereof. Three black line prints and two film positives shall be submitted to the Agent. Unless such plat shall be filed for recordation as aforesaid within six months after final approval thereof, such approval shall be withdrawn and the plat marked void and returned to the Agent.

Section 18-7.10. Vacation of plats.

Vacation of plats before or after sale of lots shall be accomplished in the manner provided by law. Any such vacation shall operate to destroy the force and effect of the

recording of the plat or part thereof so vacated, to divest public interests and revest title in the owners in the manner provided by law.

Section 18-7.11. Responsibilities of Clerk of the Circuit Court.

No final plat of a subdivision shall be recorded unless and until it shall have been submitted to and approved by the Agent; and no Clerk or Deputy Clerk of the Circuit Court of Middlesex County shall file or record a plat of subdivision until such plat has been approved by the Agent and unless such plat is submitted within six months of the date of the final approval of the Agent.

Section 18-7.12. Modification for unusual situations.

Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this Chapter would result in substantial injustice or hardship to the subdivider because of unusual topography or other situations or conditions which are not self-inflicted, or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the Town Council may vary, modify, or waive the requirements so that substantial justice may be done and the public interest secured; provided, however, that such variance, modification, or waiver will not have the effect of nullifying the intent and purpose of this Ordinance or being contrary to the goals and objectives of the Comprehensive Plan for the Town. In no case shall any variation, modification, or waiver be more than a minimum easing of the requirements, and in no instance shall it result in any conflict with the applicable zoning regulations.

Section 18-7.13. Approval of modification and waivers.

Variances, modifications, and waivers from the requirements of this Chapter shall be granted only by the affirmative vote of a majority of the members of the Town Council. In granting variances, modifications, and waivers, the Town Council may require such conditions as will, in its judgment, substantially secure the objectives of the requirements so varied, modified, or waived.

Section 18-7.14. Fees.

There shall be a charge for the examination and approval or disapproval of every plat reviewed by the Agent. At the time of filing the preliminary plat, the subdivider shall deposit with the Agent checks payable to the Town of Urbanna in the amount of such fees which shall be computed in accordance with the schedule of fees adopted by the Town Council.

Section 18-7.15. Enforcement and penalties.

No building permit shall be issued or construction shall be authorized by the Town on lands where a subdivision plat is required to be approved and recorded as provided herein and no certificate of occupancy shall be issued until the compliance with this Chapter and other applicable provisions regarding the use of any structure or land where a subdivision plat is required to be approved and recorded as provided herein has been made by the Agent.

The violation of any provision of this Ordinance shall be punishable by a fine of one hundred (100) dollars for each lot or parcel of land subdivided or transferred or sold for each violation hereof, until work has commenced to correct the violation. Each day shall count as a separate violation, and the penalty shall be assigned accordingly. The Town may, notwithstanding the imposition of any fine in accordance with this section, seek equitable relief to enjoin any violation of this Chapter, in any court of competent jurisdiction.

Article 8. Variances and Appeals.

Section 18-8.1. Variances.

(A) Where a subdivider can show that a provision of this Chapter would cause substantial injustice or hardship if strictly adhered to, and where, because of unusual situations or topographical or other conditions peculiar to the site, the subdivider may apply for a variance to such provision. The Planning Commission shall hold a public hearing pursuant to Section 15.1-431, Code of Virginia, before submitting its report to the Town Council on any variance sought pursuant to this Section. If in the opinion of the Planning Commission, a departure may be made without destroying the intent of such provision, the Planning Commission may recommend authorization of such variance to the Town Council. The Town Council shall in turn hold a public hearing in accordance with Section 15.1-431, Code of Virginia, prior to taking any affirmative action on a variance sought pursuant to this Section. The Town Council may authorize a variance only after receipt of a recommendation from the Planning Commission on the requested variance. Any variance thus authorized is required to be entered in writing in the minutes of the Town Council and the reason on which the departure was justified set forth.

(B) Where a single lot or parcel of land is to be subdivided into three or less parcels, any or all of the requirements of this Chapter may, in the discretion of the Agent, be waived.

(C) No such variance may be granted by this Ordinance which is opposed in writing by the Virginia Department of Transportation Resident Engineer or the Middlesex County Health Official.

Section 18-8.2. Appeals from a decision of the agent.

An appeal from a decision of the Agent shall be in accordance with Section 18-3.7. of this Chapter.

Section 18-8.3. Appeals from a Decision of the Planning Commission.

Where a subdivider feels that requirements or decisions made by the Planning Commission as provided for in this Ordinance would cause unnecessary hardship, the subdivider may appeal to the Town Council. Such appeal shall be perfected within thirty (30) days after the Planning Commission has announced its decision, by filing a notice of appeal specifying the grounds thereof with the Agent for transmittal to the Town Council. The Town Council shall give public notice of the time, date, and place for a hearing on the appeal, and shall also give notice to all parties in interest. The Town Council, upon the concurring vote of four (4) Council members, may, in the exercise of its powers, affirm, reverse, or modify, in whole or in part, any order, requirement, or decision of the Planning Commission specified in the notice of appeal. Unless the Town Council has acted upon the appeal within sixty (60) days after filing of the notice of appeal, the orders, requirements, or decisions of the Planning Commission shall be deemed affirmed.

Section 18-8.4. Appeals from a decision of the town council

Any subdivider aggrieved by a decision of the town council may petition the Circuit Court of Middlesex County, Virginia for a review of council's decision within thirty (30) days after the announcement thereof by the town council, specifying therein the grounds upon which the subdivider seeks review.

Article 9. Changes and Amendments.

Section 18-9.1. Initiation of change.

The Town Council may, from time to time, amend, supplement, or change, by ordinance, the regulations herein established. Any such amendment may be initiated by resolution of the Town Council, or by motion of the Planning Commission, or by petition of any property owner addressed to the Town Council. Petitions for change or amendment shall be on forms and filed in a manner prescribed by the Agent.

Section 18-9.2. Report from Planning Commission.

Before taking any action on any proposed amendment, supplement, or change, the Town Council shall submit the same to the Planning Commission for its recommendations and report. Failure of the Commission to report 60 days after the proposal has been referred to the Planning Commission shall be deemed approval.

Section 18-9.3. Notice and hearing.

The Planning Commission shall hold a public hearing thereon, pursuant to Section 15.1-431, Code of Virginia, before submitting its report to the Town Council. The published notice shall contain reference to the place or places within the Town where the plans, ordinances, or amendments may be examined. **Title 15.1 recodified. See §15.2-2204**

Before approving any proposed change or amendment, the Town Council shall hold a public hearing thereon, pursuant to Section 15.1-431, Code of Virginia, notice of said hearing to be accomplished by a publication in a newspaper as prescribed above. The Planning Commission and the Town Council may hold a joint public hearing after public notice as set forth hereinabove. If such joint hearing is held then public notice as set forth above need be given only by the Town Council. If an advertised hearing is canceled or deferred, notice shall be repeated for the new hearing. When an advertised hearing is continued to another date, it is not necessary to re-advertise the date for continuation provided the Planning Commission announces to the public at the hearing the need to recess and reconvene. **Title 15.1 recodified. See §15.2-2204**

Section 18-9.4. Filing of certified copies.

A certified copy of this chapter and all amendments thereto, shall be filed in the office of the Town Administrator, and in the office of the Clerk of the Circuit Court of the County.

Appendix A. Certificates Required.

1. OWNER'S CONSENT AND DEDICATION

Know all men by these presents, that the subdivision of land as shown on this plat, containing _____ acres, or more or less and designated as _____ Subdivision situated in the Town of Urbanna, Virginia, is with the free consent and in accordance with the desires of the undersigned owners thereof; that all streets shown on said plat are hereby dedicated to the public use, and that all lots within the subdivision are subject to certain restrictions, reservations, stipulations and covenants as contained in a writing executed by the undersigned, under date of _____, 19____, and recorded in the clerk's office of Middlesex County in Deed Book _____, Page _____. The said _____ acres of land hereby subdivided having been conveyed to _____ by _____ by deed dated _____, 19____, and recorded in the clerk's office of the Circuit Court of Middlesex County, Virginia, in Deed Book _____, Page _____.

Given under our hands this _____ day of _____, 19____.

(SEAL) _____

(SEAL) _____

(SEAL) _____

(SEAL) _____

Appendix A.

Certificates Required.

2. SURVEYOR'S CERTIFICATE*

I hereby certify that to the best of my knowledge and belief, all of the requirements of the Town Council and ordinances of Middlesex County, Virginia regarding the platting of subdivisions within the County have been complied with.

Given under my hand this _____ day of _____, 19__.

State Certified Engineer (or Land Surveyor)

* The foregoing plat is not approved until all signatures have been obtained.

Appendix A. Certificates Required.

3. CERTIFICATE OF APPROVAL

This subdivision known as _____ Subdivision is approved by the undersigned in accordance with existing subdivision regulations and may be committed to record.

(signed) _____

Date

Highway Engineer:

(signed) _____

Date

Health Officer:

(signed) _____

Date

Agent or Representative of the governing body:

(signed) _____

Date

Property Numbering

CHAPTER 19.

PROPERTY NUMBERING.

§19-1.	Definitions.	1
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Section 19-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- a) **BUILDING.** Any structure having a roof supported by walls, constructed specifically for human occupancy.
- b) **FRONT or FRONTAGE.** That side of a lot or parcel of land which abuts the street; or, in the case of a lot abutting two (2) or more streets at their intersection, the front shall be deemed to be the shortest of the sides on the streets; or for buildings constructed prior to August 1, 1979, that side of a lot containing the main doorway which faces the property boundary abutting the street.
- c) **LOT.** A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width and lot areas as are required by this Code or the Urbanna Zoning Ordinance, as amended, and having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.
- d) **OFFICIALLY NAMED STREET.** Only those streets whose names have been approved or accepted by the town council pursuant to section 19-3 of this Code.
- e) **STREET.** Any officially named, numbered or dedicated public right-of-way or thoroughfare utilized for vehicular traffic.

f) TEMPORARY OWNER or OWNER. Any person or persons, natural or corporate, who are vested with fee simple title or a life estate or who are responsible for the care, maintenance, upkeep of the realty or the payment of all taxes, levies or charges against the realty.

Section 19-2 Council may establish regulations; base lines.

A. The town council may, by resolution, establish regulations for the numbering of lots and buildings, or portions of lots and buildings, in the town.

The town council may, by resolution, recommend to the county regulations for the numbering of lots and buildings, or portions of lots and buildings, adjacent to the town.

B. For purposes of implementing subsection A of this section, an east-west base line and a north-south base line are hereby created, both of which shall be established, or amended, by resolution of the town council.

C. The town council may, by resolution, establish regulations for the size, type and location of property numbers to be affixed to buildings and lots, or portions of buildings and lots, The town council may, by resolution, recommend to the county, regulations for the size, type and location of property numbers to be affixed to buildings and lots, or portions of buildings and lots, adjacent to the town.

Section 19-3 Street names; maps; list of property owners.

A. The town council shall approve or accept names for streets inside the corporate limits of the town.

B. The town council shall, prior to approving or accepting names of streets, receive a recommendation on the approval or acceptance of street names. Prior to making a recommendation to the town council, the planning commission shall hold a public hearing pursuant to section 15.1-431, or subsequent section, of the Code of Virginia and shall notify all owners of real estate fronting along the street, by first class mail, the date, time, and location of the public hearing.

C. The town council shall have a map drawn which shows all officially named streets within the corporate limits of the town, and such map shall be recorded with the

Clerk of the Circuit Court of Middlesex County. Such map shall not necessarily supersede the survey required by section 363 of the Code of Virginia (1970), as amended, but shall be considered supplementary to such survey.

Section 19-4. Town Administrator shall maintain documents.

It shall be the responsibility of the Town Administrator to maintain in the town office in current status at all times:

- a) A copy of the official street name map named in subsection C of section 19-3 of this chapter.
- b) A map of the town, and area adjacent to the town, lots, portions of lots, buildings, or portions of buildings subject to the assignment of numbers as provided in this chapter. This map may be drawn as a part of the map required pursuant to subsection a of this section.
- c) A list of the owners of the lots, buildings, portions of lots, and portions of buildings shown on the map required pursuant to subsection b of this section.
- d) A list of the property numbers assigned to the lots, buildings, portions of lots, or portions of buildings shown in the map required pursuant to subsection b of this section.

Section 19-5. Responsibility of owners; building permits

A. It shall be the responsibility of each person owning or being in charge of real estate which is within the town to keep himself informed as to the number or numbers assigned to each building or structure on such real estate and to maintain thereon the number or numbers assigned thereto pursuant to provisions of this chapter.

B. After July 1, 1990, no building permit shall be issued to any owner or agent for the owner of real estate within the town without the owner or agent for the owner including in such application for a building permit plans for installation of the property number or property numbers assigned to the lot, building, portion of the lot, or portion of the building to which the building permit applies. Failure to install the assigned property number or property numbers in accordance shall be considered a violation of the terms of the permit and all remedies for correcting violations of building permits shall also apply here.



Parks and Recreation

CHAPTER 20.

PARKS AND RECREATION.

- §20-1. Council may establish public recreation facilities.
§20-2. Council may provide for and operate facilities.
§20-3. Council may establish and enforce rules and regulations.

Section 20-1. Council may establish public recreation facilities.

A. The town council may establish and conduct a system of public recreation and playgrounds; may set apart for such use any land or buildings owned or leased by it; may acquire land, buildings, and other recreational facilities, and equip and conduct the same; may employ persons as necessary; and may expend funds for the aforesaid purposes.

B. There is hereby created a parks and recreation department within the Town of Urbanna, which shall be supervised by the town administrator, or his designated representative. The town administrator, or his designated representative, shall have such powers, duties and responsibilities as are established by this Code, State law, and other ordinances, resolutions, regulations, and orders of the council as may be established from time to time.

Section 20-2. Council may provide for and operate facilities.

The town council may provide for and operate within or without the municipal corporation public parks, parkways, playing fields, skateboarding facilities, and playgrounds, and lay out, equip and improve them with all suitable devices, facilities, equipment, buildings and other structures.

Section 20-3. Council may establish and enforce rules and regulations.

The town council may by resolution provide for rules and regulations governing the use of parks, parkways, playing fields, playgrounds, skateboarding facilities, swimming pools, tennis courts, basketball courts, and other recreational facilities. It shall be unlawful for any person to violate any rule or regulation made pursuant to this section. Each and every violation of any rule or regulation made pursuant to this section shall be punishable as established in section 1-7 of this Code.