

**ORDINANCE NO. 674 AMENDS THE COLONIAL BEACH TOWN CODE, CHAPTER 5, "BEACHES, WATERWAYS, BOARDWALK, PARKS, RECREATIONAL AREAS AND FACILITIES," BY DELETING ARTICLE II, "CONSTRUCTION AND MAINTENANCE OF PIERS OR WHARVES AND SHORELINE MAINTENANCE AGREEMENTS ON TOWN PROPERTY" IN ITS ENTIRETY.**

**BE IT ORDAINED** by the Colonial Beach Town Council that the Colonial Beach Town Code, Chapter 5, "Beaches, Waterways, Boardwalk, Parks, Recreational Areas and Facilities," shall be amended by deleting Article II, "Construction and Maintenance of Piers or Wharves and Shoreline Maintenance Agreements on Town Property" in its entirety as follows:

**~~ARTICLE II. -- CONSTRUCTION AND MAINTENANCE OF PIERS OR WHARVES AND SHORELINE MAINTENANCE AGREEMENTS ON TOWN PROPERTY~~**

**~~DIVISION 1. -- GENERALLY~~**

**~~Sec. 5-21. -- Violation of article.~~**

~~Any person who violates any provision of this article, shall be guilty of a class 3 misdemeanor.~~

**~~Sec. 5-22. -- Required.~~**

~~In addition to any other permits required by law:~~

- ~~(1) It shall be unlawful for any person to construct or maintain any pier or wharf, which abuts on town property, unless they have a current permit to do so issued by the town.~~
- ~~(2) It shall be unlawful for any person to construct or maintain any rip rap or sea wall, on town property, unless they have a shoreline maintenance agreement.~~

**~~DIVISION 2. -- PERMITS AND LEASES FOR PIERS ON TOWN OWNED PROPERTY~~**

**~~Sec. 5-23. -- Application.~~**

~~(a) Application for a permit required by this article shall be made to the town. Such application, if for the initial construction of a pier or wharf, shall be accompanied by construction plans, drawn or approved by a registered engineer, or any professional customarily employed in design of such plans. The applicant shall agree to construct such pier or wharf in accordance with such plans.~~

~~(b) Persons having a valid town permit issued prior to December 11, 1997, may elect to allow the existing agreement to expire as provided therein or may apply for a new permit under the terms and conditions of this article, at their option. When existing agreements expire, renewal shall be in accordance with the provisions contained in this article.~~

~~(c) The town manager may grant new five-year permits only to owners of property located directly adjacent to the proposed site of the pier. Such property may be separated from the~~

~~site of the proposed pier by only public property or right-of-way. Other applications may be submitted for consideration by town council.~~

~~(d) Piers or wharves that are recorded on town records as existing prior to December 11, 1997, shall be exempt from subsection (c) above, and a permit shall be issued or renewed, if they meet all other provisions of this article, except as noted herein. Such preexisting piers or wharves shall also be exempt from section 5-27 unless their existing configuration is modified.~~

#### **~~Sec. 5-24. -- Applicant's insurance.~~**

~~Prior to issuance of a permit under this article, the applicant shall furnish evidence that they have in full force and effect, a general liability insurance policy, to save the town harmless from any accidents occurring on the pier or wharf. For private piers or wharves, the policy shall be in the minimum amount of three hundred thousand dollars (\$300,000.00). For piers or wharves used for commercial purposes or open to the public, the policy shall be in the minimum amount of five hundred thousand dollars (\$500,000.00). Such policy shall be maintained in full force and effect for the term of any permit issued under this article. The Town of Colonial Beach shall be named as additional insured on the pier or wharf on such policy.~~

#### **~~Sec. 5-25. -- Applicant's responsibilities.~~**

~~Prior to the issuance of a permit under this article, the applicant shall enter into an agreement with the town as prescribed by the town attorney, embodying the terms and conditions set forth in this article, including:~~

- ~~(1) That the value of the pier or wharf shall be determined by the town treasurer or his agent and its assessed value be included in the assessment of the applicant's property adjacent to the pier or wharf;~~
- ~~(2) That the pier or wharf shall be recorded on the property tax assessment documents of the town or Westmoreland County, should they be acting as the town's authorized agent;~~
- ~~(3) That the applicant shall agree to pay taxes on the value of the pier or wharf as included in the property assessment;~~
- ~~(4) That the applicant agrees to maintain the pier or wharf in a safe condition and remove the pilings from the pier or wharf when the same is abandoned, becomes unsafe or the permit is not renewed as provided in this article.~~

#### **~~Sec. 5-26. -- Fees.~~**

~~(a) Application fee. An administrative processing and filing fee of fifty dollars (\$50.00) must be paid at the time the five-year, or forty-year application is submitted. If the application is denied, the fee shall be refunded. There shall be no administrative fee for renewal applications.~~

~~(b) Yearly fee. In the case of a five-year pier lease there shall be an annual fee of one hundred dollars (\$100.00) each year the lease remains in effect. This fee shall be adjusted every five (5) years to reflect the cumulative effect of inflation during this period. The adjustment shall be no greater than the increase in the department of labor, consumer price index for this region, or United States Government approved replacement, should it be discontinued.~~

~~(c) Yearly fee. In the case of a five-year pier permit when issued in conjunction with a shoreline maintenance agreement there shall be no annual permit fee each year the lease and the shoreline maintenance agreement remain in effect.~~

**~~Sec. 5-27. -- Issuance.~~**

~~The permit required by this article shall only be issued by the town when the applicant complies with the provisions of this article including the requirements listed herein:~~

- ~~(1) That new piers or wharves must be perpendicular to the land to which they are attached and piers or wharves cannot cross the applicant's property line as extended perpendicularly from the applicant's property boundary lines.~~
- ~~(2) That piers or wharves shall not be over one hundred (100) feet long unless authorized by resolution of town council as an exception to policy because of special circumstances which require different footage.~~
- ~~(3) That outer spring line pilings shall not be more than twenty (20) feet from the pier or wharf decking.~~
- ~~(4) That piers shall not be more than ten (10) feet wide and wharves more than twelve (12) feet wide, unless otherwise authorized by resolution of town council.~~
- ~~(5) That the center of the proposed pier or wharf shall be at least one hundred (100) feet from the center of adjacent piers or wharves unless otherwise authorized by resolution of town council.~~
- ~~(6) That pier or wharf owners must agree to maintain the landscape of the town property surrounding the pier or wharf, and across from the property boundaries as identified in subsection (1) above. This includes maintenance of the grass, removal of weeds and maintaining this area in an orderly manner.~~
- ~~(7) That construction of the pier or wharf must be completed within twelve (12) months of the date the permit was issued or the permit becomes invalid.~~
- ~~(8) That pier or wharf permits are issued to an individual in accordance with [section 5-28](#) and are considered a part of the property across from the pier or wharf's location per [section 5-25](#) and cannot be transferred except with the sale of the property, with the exception of piers and wharves that have been previously recorded on town records as not located directly across from the permit holder or applicant's property.~~

**~~Sec. 5-28. -- Permits.~~**

~~Five-year permit: A permit issued under this article shall expire in five (5) years from the date of issue. No such permit shall be issued or renewed unless:~~

- ~~(1) The applicant pays the prescribed fee(s) and complies with all the terms and conditions of this article, including but not limited to [section 5-24](#), [section 5-25](#) and [section 5-27](#).~~
- ~~(2) Upon inspection, the town building inspector determines that the pier or wharf is safe for use.~~

~~The town treasurer or his agent, shall send a permit renewal notice to permit holders not less than thirty (30) days before permit expiration and shall receive the permit renewal applications.~~

**~~Sec. 5-29. -- Effect of failure to renew or comply with this article.~~**

~~(a) In the event the applicant fails to comply with the terms and conditions of this article, the town manager or his agent, shall send the applicant written notice explaining the nature of the violation or noncompliance. The applicant shall be given thirty (30) days to submit a written plan to comply with the article and not more than six (6) months to comply with the article. Extensions of these limits may be approved by town council resolution in event of special circumstances. In the event a safety condition exists, the applicant shall be required to take immediate action to eliminate the safety hazard or the town shall take action at the applicant's risk and expense. The town attorney shall advise the town manager on how to proceed based on the circumstances and situation.~~

~~(b) In event the applicant fails to comply with [section 5-29\(a\)](#), the town shall notify the applicant of the termination of the permit. The applicant shall be required to remove the pier or wharf and all pilings within sixty (60) days of the effective date of the termination. The town building inspector shall make a final inspection to determine if the pier or wharf and all pilings have been removed. Anything remaining shall be removed in accordance with [section 5-25](#) at the owner's risk and expense.~~

~~(c) If the applicant does not intend to renew a permit, the pier or wharf and its pilings are subject to [section 5-29\(b\)](#), starting at the date the existing permit expires.~~

**~~Sec. 5-30. -- Reserved.~~**

### **~~DIVISION 3. -- SHORELINE MAINTENANCE AGREEMENTS FOR TOWN OWNED PROPERTY~~**

**~~Sec. 5-31. -- Purpose.~~**

~~This article is intended to develop a method of protecting the town's shoreline property from erosion at no expense to the town without withdrawing the rights of town citizens who currently enjoy and use the water front for recreational purposes.~~

**~~Sec. 5-32. -- Application.~~**

~~Town owned property along the shoreline in sections corresponding to existing property lines of private property that are immediately across from and adjacent to such property shall be eligible for a shoreline maintenance agreement. The town or any interest party may from time to time identify property which may be subject to a shoreline maintenance agreement. Such identification shall be made in the form of a formal application. After verification of the eligibility of the subject property, the town manager shall cause these easement agreements to be placed out to public bid for a forty-year term with the following terms and conditions:~~

- ~~(1) The successful bidder must agree to rip rap or construct another type of approved sea wall to the town's reasonable specifications, along the entire length of the property, including up to ten (10) feet over each end, if necessary, to tie it into the bank. For any eligible property bordering on the body of water known as Monroe Bay the successful bidder must construct the rip rap or sea wall in such a manner that it extends to the top of the bank. For any other eligible property the successful bidder is encouraged to construct the rip rap or sea wall in such a manner that it extends to the top of the bank.~~

- ~~(2) The successful bidder must agree to maintain the rip rap or sea wall during the entire forty-year term of the agreement. This includes maintenance of the property, cutting the grass, care of trees, removal of weeds and keeping the area clean of debris and litter.~~
- ~~(3) The successful bidder must acknowledge that any existing piers, wharves or structures are exempt from this agreement as pre-existing structures. They shall be governed by the town pier ordinance or other town ordinances and are private property. However the owners of the structures shall be allowed to repair them and shall not be denied water, electricity or such other reasonable improvements to make the pier, wharf or structure function to its intended purpose.~~
- ~~(4) The successful bidder shall acknowledge that the property subject to the shoreline maintenance shall continue to be open to the public for all to enjoy the shoreline, as it is now, with exception of the privately owned piers, wharves or structures, and the bidder's only right shall be to maintain the property in return for the promise made by the town in the agreement.~~
- ~~(5) The town shall agree, in return for the successful bidder's pledge to use their funds and resources:
  - a. To not sell or lease the property;
  - b. To allow ingress and egress to the rip rap or sea wall to permit construction and/or repairs in accordance with the agreement; and
  - c. To not allow any structures to be built on the easement with the exception that preexisting piers, wharves or structures are exempt from this requirement and shall be allowed to remain or to be expanded. Should the piers, wharves or structures be removed by the owner, such cannot be replaced, not even by the holder of the agreement. Nothing in this provision shall be construed to prohibit the owner of a pier or wharf which existed prior to the commencement of the shoreline maintenance agreement from maintaining, repairing or replacing such pier.~~
- ~~(6) The town shall:
  - a. Assist the successful bidder in obtaining permits, access; and
  - b. Cooperate with the successful bidder to initially rip rap or sea wall the shoreline; and
  - c. Allow the successful bidder to maintain the shoreline over the term of the forty-year agreement.~~
- ~~(7) The town shall agree to allow the holder of the agreement, or estate to subjugate or transfer the agreement to other individuals to fulfill its terms and conditions should they move or sell their property.~~
- ~~(8) The successful bidder shall acknowledge that the work performed becomes the property of the town upon the completion and acceptance of such work by the town. Work shall be inspected and accepted for the town by the town building inspector.~~
- ~~(9) The successful bidder shall submit plans for the initial construction of the new, or maintenance of the existing, rip rap or sea wall, drawn or approved by a registered engineer, or any professional customarily employed in design of such plans. The successful bidder shall agree to comply with such plans during construction and/or maintenance.~~
- ~~(10) A successful bidder with an existing, approved rip rap or sea wall, shall be granted a shoreline maintenance agreement as long as they meet the terms and conditions of this article.~~

**Sec. 5-33. – Successful bidder's insurance.**

~~Prior to the commencement of work under this article, the successful bidder shall furnish evidence that they or the contractor performing the work, have in full force and effect, a general liability insurance policy, to save the town harmless from any accidents occurring during construction or maintenance. The policy shall be in the minimum amount of three hundred thousand dollars (\$300,000.00). For easements used for commercial purposes or open to the public, the policy shall be in the minimum amount of five hundred thousand dollars (\$500,000.00). Such policy shall be maintained in full force and effect for the term of the period of construction and the Town of Colonial Beach shall be named as an additional insured on such policy.~~

~~**Sec. 5-34. -- Successful bidder's responsibilities.**~~

~~The successful bidder shall be responsible for the maintenance of the rip rap or sea wall at their expense and if the area becomes unsafe or is not maintained and erosion is evident, the agreement shall be subject to termination in accordance with the provisions of this article.~~

~~**Sec. 5-35. -- Expiration.**~~

~~An agreement issued under this article shall expire on its anniversary date, forty (40) years from its date of issue.~~

~~**Sec. 5-36. -- Effect of failure to comply with terms and conditions of this article.**~~

~~(a) In event the successful bidder fails to comply with the terms and conditions of this article, the town manager or his agent, shall send the successful bidder written notice explaining the violation or nature of the noncompliance. The successful bidder shall be given thirty (30) days to submit a written plan to comply with the article and not more than six (6) months to comply with the article. Extensions of these limits may be approved by town council resolution in the event of special circumstances. In event a safety condition exists, the successful bidder shall be required to take immediate action to eliminate the safety hazard or the town shall take action at the successful bidder's risk and expense. The town attorney shall advise the town manager on how to proceed based on the circumstances and situation.~~

~~(b) In the event the successful bidder fails to comply with subsection (a) above, the town shall notify the successful bidder of the termination of the agreement.~~

~~**Secs. 5-37 -- 5-39. -- Reserved."**~~

**THIS IS TO CERTIFY THIS IS A TRUE COPY OF AN ORIGINAL ORDINANCE,**  
adopted by the Town Council at a Regular Meeting of Council held Thursday, April 14, 2016  
at the Colonial Beach Town Center, with a quorum of Council being present.

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Kathleen Flanagan, Town Clerk

***Upon motion made by Mr. Blunt and seconded by Mr. Lyburn, Ordinance No. 674, as written, passed with a 6-0 vote, with one abstention by Mr. DiRosario.***