12404 MacCorkle Avenue
Chesapeake, WV 25315
Phone: 304-949-1496
Email: townhall@chesapeakewv.gov
Website: https://chesapeake.wv.gov

Transparency
Respect
Winning

Agenda
Date: Monday, April 22, 2024
Time: 6:00 PM EST
Location: Dr. Lisa E Curry Memorial Building Annex

1. **Call to Order**
   - The meeting will be called to order at 6:00 PM.
2. **Roll Call**
   - Establish quorum.
3. **Approval of Agenda**
   - Motion to approve the agenda for the meeting.
4. **Approval of Minutes**
   - Review and approval of minutes from the previous meetings in March.
5. **Public Comments**
   - Members of the public are invited to address the council on any matter not listed on the agenda. Each speaker will have 2 minutes.
6. **Old Business**
   - a. Review of progress on infrastructure projects. b. Update on the implementation of new ordinances. c. Discussion on the status of community development initiatives.
7. **New Business**
   - a. Discussion on proposed budget for fiscal year 2024. b. Consideration of bids for basement rehab. c. Discussion on dilapidated properties.
8. **Reports**

   a. Council Members' Reports

   b. Mayor's Report – Review of Mayor as CEO role and current State of Personnel
9. **Announcements**
   - Any upcoming events or important dates to be announced.
10. **Adjournment**
    - Motion to adjourn the meeting.

Approved _____

Town Of Chesapeake
Profit & Loss
March 2024

		Mar 24
Ordinary Income/Expense		
Income		
REVENUES		
301 Property Taxes KC Sheriff		19,396.11
304 Excise Tax on Utilities		5,295.17
305 Business & Occupation Tax		219.51
320 Fines, Citation & Court fee		10.00
326 Building Permit Fees		130.00
330 IRP Fees (Public Utilities		12,257.06
341 Municipal Service Fees		7,628.75
351 Police Protection Fees		2,044.10
352 Fire Protection Fees		1,796.66
377 Greenbrier Table LOTTGRNBRI		23.64
396 Table Game Lott LOTTBLGAME		865.80
397 Video Lottery (LVL)		469.00
399 Misc Revenues		537.50
Interest Income		50.08
Total REVENUES		50,723.38
Total Income		50,723.38
Gross Profit		50,723.38
Expense		
GENERAL GOVERNMENT EXPENDITURES		
409 Mayor's Office		
Mayor Stipend	750.00	
Payroll Taxes Mayor	57.38	
Total 409 Mayor's Office		807.38
410 City Council		
City Council Payroll Taxes	59.67	
City Council Stipend	725.00	
Total 410 City Council		784.67
411 Recorder's Office		
Payroll Taxes	46.61	
Recorder Stipend	564.94	
Total 411 Recorder's Office		611.55
415 City Manager's Office		668.86
440 City Hall		
Auto	79.53	
Bank charges	111.85	
Bldg Maint	473.83	

Town Of Chesapeake
Profit & Loss
March 2024

		Mar 24
Contract Services		
Contract Service Messaging	16.00	
Contract Service Printing	334.60	
IT support	592.00	
Outsourcing Labor	1,200.57	
Payroll Processing Fees	261.89	
Telephone	47.90	
Total Contract Services		2,452.96
Fuel		180.88
Office Expenses		8.97
Office supplies		420.28
Pest Control		116.60
Software & Apps		1.30
Utilities		
Comm Core	212.84	
Electricity		
Annex Bldg	439.16	
Town Hall	615.43	
Total Electricity		1,054.59
Gas		
Gas Town Hall	677.75	
Total Gas		677.75
Water		
Fire Hydrants	153.30	
Town Hall	89.19	
Total Water		242.49
Total Utilities		2,187.67
Total 440 City Hall		6,033.87
Interest Paid		220.24
Late Fees		34.20
Legal & Professional Services		
CPA Services	1,000.00	
Legal Fees	7,012.00	
Total Legal & Professional Services		8,012.00
Safety Supplies		753.00
Total GENERAL GOVERNMENT EXPENDITURES		17,925.77

Town Of Chesapeake
Profit & Loss
March 2024

	Mar 24
HEALTH & SANITATION	
800 Garbage Dept	
Contract Services (Billing PSD)	1,543.92
Payroll Expenses City Services	16,166.69
Payroll Taxes City Services	1,486.97
Refuse Fees	
Residential	1,870.75
Total Refuse Fees	1,870.75
Total 800 Garbage Dept	21,068.33
800 Landfill/Incinerator Dept	807.83
Total HEALTH & SANITATION	21,876.16
PUBLIC SAFETY EXPENSE	
700 POLICE DEPT	
Police Auto	557.13
Police Payroll Tax	668.73
Police salaries	7,400.00
Police Uniforms	162.00
Telephone	397.48
Total 700 POLICE DEPT	9,185.34
Total PUBLIC SAFETY EXPENSE	9,185.34
STREET & TRANSPORTATION	
752 School Flashers	16.38
Total STREET & TRANSPORTATION	16.38
Total Expense	49,003.65
Net Ordinary Income	1,719.73
Net Income	**1,719.73**

Town Of Chesapeake
Income by Customer Summary
March 2024

	Mar 24
All Your Needs	62.00
American Water (Customer)	858.58
Appalachian Power (Customer)	2,174.90
Comm-Core LLC	0.50
Compliance Solution	0.70
CSC Wireless LLC	0.41
Frontier	37.62
Grooms Mildred	12.00
Jodi Whitlock	10.00
Kanawha Public Service	12,148.68
M Moore	145.51
Mountaineer Gas	1,532.08
Sheriff Kanawha County	19,396.11
Smith Kenneth	25.00
Steven Anderson	35.00
T-Mobile Northeast LLC	11.21
WV Treasury	13,615.50
TOTAL	**50,065.80**

Introduced By:
1st Reading: _____
2nd Reading: _____
Final Reading: _____

ORDINANCE OF THE TOWN OF CHESAPEAKE

PART ONE: ADMINISTRATIVE CODE
CHAPTER ONE: GENERAL PROVISIONS
ARTICLE 1725
Vacating, Closing, Removal or Demolition of Structures

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CHESAPEAKE, WEST BVIRGINIA, That Part One, Chapter One, Article 1725 entitled "Demolition" of the Codified Ordinances of Chesapeake is hereby amended as a whole and replaced with the following:

1725.01 **Purpose and scope.**
1725.02 **Definitions.**
1725.03 **Closing and removal of unsafe structures.**
1725.04 **Inspection.**
1725.05 **Correction of unsafe conditions.**
1725.06 **Relief from order of corrective action.**
1725.07 **Owner responsibility for costs.**
1725.08 **Civil action for corrective action and recovery of costs.**
1725.09 **Notices.**
1725.10 **Absolute defense.**

CROSS REFERENCES

As amended and reenacted- see W.Va. Code §8-12-13 and §8-12-16. Ordinances regulating the repair, alteration, improvement, closing, demolition, etc., of structures, dwellings or buildings that are unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare; procedures
State building code; enforcement agency- see W.Va. Code §29-Sb-3
Rules of civil procedure- see W.Va. Code 4(d)(l)(D)
Definitions- see 87CSR-7-2
Class II legal advertisement- see W.Va. Code §59-2-3
State Fire Marshal- See W.Va. Code §29-12-3

1725.01 PURPOSE AND SCOPE.

(a) This Article provides for a process for the identification, inspection, correction, and removal of unsafe structures within the city in a manner that provides adequate notice and due process to the owners of such structures while protecting the public from danger due to unsafe or unsanitary conditions.

(b) This article is intended to authorize the Town to exercise, to the fullest extent provided by law, the power and authority provided by W.Va. Code Section 8-12-16, as it may be amended, subject to the requirements therein.

(c) The powers and duties granted in this Article are in addition to those otherwise granted by law and shall not be construed to limit any other lawful powers of the Town of Chesapeake, including the power of code enforcement officers to interpret and enforce the Building and Housing Code of the Town of Chesapeake, West Virginia.

(d) This Article shall be construed to liberally to promote the purpose of efficiently abating dangerous conditions that are harmful to the community.

(Ord. 2024-_____. Passed _____.)

1725.02 DEFINITIONS.

(a) "Code enforcement agency" means the certified code enforcement agency official of the Town of Chesapeake, singularly or as the head of a code enforcement department as defined by Title 87 West Virginia Code of State Rules Section 7-2, as it may be amended.

(b) "Code enforcement agency official" means any person employed by the Town of Chesapeake who has been delegated the authority from the code enforcement agency to conduct property maintenance inspections.

(c) "Owner" or "landowner" means a person who individually or jointly with others:

(1) Has legal title to the property or structure, dwelling or building with or without actual possession of the property or structure, dwelling or building;

(2) Has charge, care or control of the property or structure, dwelling or building as owner or designated agent of the owner;

(3) Is an executor, administrator, trustee or guardian of the estate of the owner;

(4) Is the designated agent of the owner for the purpose of managing, controlling or collecting rents; or

(5) May lawfully control or direct the management or disposition of the property or structure, dwelling or building.

(d) "Unsafe, unsanitary, dangerous or detrimental to the public safety or welfare" means:

(1) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the Town of Chesapeake as related to the requirements for existing buildings; or

(2) The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress; or

(3) Any portion of a structure, dwelling or building or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to the extent that it is likely to partially or completely collapse, or to become detached or dislodged; or

(4) Any portion of a structure or building, or any member, appurtenance or ornamentation on the exterior that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value; or

(5) The structure, dwelling, or building, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way; or

(6) The structure, dwelling, or building, or any portion, is clearly unsafe for its use; or

(7) The structure, dwelling, or building is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children, becomes a harbor for vagrants, criminals, criminal activity or enables persons to resort to the structure, dwelling, or building for committing a nuisance or an unlawful act; or

(8) Any structure, dwelling, or building constructed, existing or maintained in violation of any specific requirement or prohibition applicable to any structure, dwelling, or building provided by the approved building or fire code of the Town of Chesapeake or of any law or ordinance that presents either a substantial risk of fire, building collapse or any other threat to life and safety; or

(9) A structure, dwelling, or building, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, contamination by any hazardous substance or material including, but not limited to, substance resulting from the illegal manufacture of drugs, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code enforcement agency to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease; or

(10) Any structure, dwelling, or building, because of a lack of sufficient or proper fire resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health; or

(11) Any portion of a building that remains on a site after the demolition or destruction of the building or structure, or whenever any building or structure is abandoned.

(Ord. 2024-_____. Passed _____.)

1725.03 CLOSING AND REMOVAL OF UNSAFE STRUCTURES.

(a) The code enforcement agency may order the repair, alteration, improvement, closing, demolition, or removal of any structure, dwelling, or building that is determined by a code official to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare in accordance with the procedures set forth in this Article.

(b) In order to make a determination regarding the classification of a structure as unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare pursuant to this Article, and to determine and enforce the appropriate remedy for any such structure, code officials shall be entitled to make inspections, perform investigations, issue notices, require corrective measures, obtain search warrants from and/or present complaints to the municipal judge, and exercise all other powers and duties authorized by West Virginia Code Section 8-12-16, as it may be amended. (Ord. 2024-_____. Passed _____.)

1725.04 INSPECTION.

For purposes of inspections performed pursuant to this Article, the following rules shall apply:

(a) When a code officer lawfully enters the premises of the property or the structure, dwelling or building for investigating or inspecting any structure, dwelling, or building, the investigation shall be conducted in a way that minimizes the inconvenience to the owner or person(s) in possession.

(b) Except in exigent circumstances and as may be permitted by law, the code enforcement agency shall provide reasonable notice of the inspection to the owner and request permission from the owner to enter the structure, dwelling, or building.

(c) If the owner cannot be located after reasonable inquiry by the code enforcement agency, or if the owner refuses entry, the code enforcement agency may obtain an administrative search

warrant from either the municipal court or the Kanawha County Magistrate Court. Before issuance of an administrative search warrant, a code enforcement agency officer shall be required to make a sworn statement and prima facia case showing that the code enforcement agency was unable to gain access to the structure, dwelling, or building after reasonable and good faith efforts, and that there is a legitimate and substantial safety concern involving the structure, dwelling, or building that supports the requested entry.

(d) If the administrative search warrant is granted by the court, and if the owner can be located by a code officer, the code enforcement agency shall provide the owner a copy of the administrative search warrant five days before entering the structure, dwelling, or building. If there is a tenant or other person in possession of the structure who is not the owner, and if such person(s) can be located, the code enforcement agency shall also provide such person(s) a copy of the administrative search warrant five days before entering the structure, dwelling, or building.

(e) Any entry pursuant to this section shall be made for the sole purpose of inspection of the structure, dwelling, or building for unsafe or unsanitary conditions and not for the purpose of gathering evidence for use in any criminal charge or proceeding unrelated to the unsafe or unsanitary condition of the structure, dwelling, or building.

(Ord. 2024-_____. Passed _____.)

1725.05 CORRECTION OF UNSAFE CONDITIONS.

Upon a determination by the code enforcement agency that a structure, dwelling, or building is unsafe, unsanitary, dangerous or detrimental to the public safety or welfare, the Town may take corrective action by causing it to be vacated, closed, removed, or demolished, either directly or through a third-party agent, in the absence of owner agreement or a court order, provided the following conditions are met:

(a) The code enforcement agency undertakes reasonable efforts to locate and seek agreement from the owner prior to taking the corrective action.

(b) The corrective action may only be taken as to a structure, dwelling, or building that is either:

(1) Defined in Section 1725.02 (d)(3), (5), or (8); or

(2) Defined in Section 1725.02 (d)(6), (7), (9), or (11): provided, that the structure, dwelling, or building is vacant, abandoned, or has been lawfully declared unfit for human habitation; and the reasonable estimated cost of repair, rehabilitation, or corrective action exceeds the reasonable estimate of the fair market value of the structure, dwelling, or building.

(c) Prior to undertaking the corrective action, the Town will complete the following procedural requirements:

(1) The code enforcement agency shall produce a written notice containing:

(A) a description of the property and the structure, dwelling, or building sufficient for identification,

(B) the date of the last inspection,

(C) the name of the inspector,

(D) a reasonable description of the unsafe, unsanitary, dangerous, or detrimental condition(s),

(E) a reasonable description of the corrective measures required,

(F) the allotted time to correct the substandard condition(s), and

(G) a statement of the right owner has the right to apply to the circuit court for a temporary injunction or other similar relief restraining action by the enforcement agency.

(2) The notice shall be served on the owner or landowner by conspicuously posting and attaching a copy of the notice to the subject property or structure, dwelling, or building, and by

serving the notice on the owner or landowner in the same manner as service of a complaint as set forth in Section 1725.09(b).

(3) If the code enforcement agency cannot effect personal service on the owner, a code enforcement agency officer shall subscribe a written affidavit, to be maintained by the code enforcement agency for a minimum of two years, that demonstrates the structure, dwelling or building falls within one of the categories set forth in Section 1725.05 (b)(l) or (2), sets forth the basis in reasonable detail including documentation of same, and memorializes the code enforcement agency officer's efforts to contact or get permission for entry and corrective action from the owner; and the code enforcement agency shall publish notice of its intent to enter the property or structure, dwelling, or building for the purpose of demolition or correction, along with the address of the property, the name of the owner(s) and the date of the proposed action, as a Class II legal advertisement, the first of which shall run at least thirty days before the date of the proposed action by the enforcement agency, and the last being no later than twenty days before the date of the proposed action by the enforcement agency.

(4) If there is no response to the notice by the owner or landowner in the time specified in the notice, then the municipality shall have the authority to proceed with correction or demolition of the subject structure, dwelling, or building.

(Ord. 2024-_____. Passed _____.)

1725.06 RELIEF FROM ORDER OF CORRECTIVE ACTION.

(a) Pursuant to W. Va. Code Section §8-12-16, the owner of property subject to corrective action shall be given notice of the right to apply to the Circuit Court of Kanawha County for a temporary injunction or other similar relief restraining correction or demolition by the Town. Such notice shall be provided in the written notice produced pursuant to Section 1725.05 (c)(1).

(b) Pursuant to W. Va. Code Section §8-12-16, if such an application is made by the owner to the Circuit Court, a hearing shall be held within twenty days of the application, or as soon as reasonably possible.

(c) Pursuant to W. Va. Code Section §8-12-16, continuances of the hearing provided for in this section may be made for cause only. If a continuance is granted upon request by the owner, the owner is required to pay into court, in the form of a bond, any reasonable and necessary costs related to the structure, dwelling, or building likely to be incurred by the municipality during the continuance. This requirement is in addition to any other bond required or authorized by the West Virginia Rules of Civil Procedure or other applicable law.

(d) Pursuant to W. Va. Code Section §8-12-16, at the conclusion of a hearing held under this subdivision, if the court finds that the structure, dwelling, or building is unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare, the court shall make and enter an order granting the relief as requested by the Town.

(Ord. 2024-_____. Passed _____.)

1725.07 OWNER RESPONSIBILITY FOR COSTS.

(a) The owner of any structure, dwelling, or building under order of the Code Enforcement Agency of the Town of Chesapeake, shall be required to pay for the costs incurred by Town for repairing, altering, improving, vacating, closing, removing, or demolishing any structure, dwelling, or building.

(b) In addition to any other rights provided by law, the Town may file a lien against the real property in question for an amount that reflects all costs incurred by the Town for repairing, altering, improving, vacating, closing, removing, or demolishing any structure, dwelling, or

building. Any such lien shall be filed and notices in accordance with applicable West Virginia law and Town Code.
(Ord. 2024-_____. Passed _____.)

1725.08 CIVIL ACTION FOR CORRECTIVE ACTION AND RECOVERY OF COSTS.

(a) In addition to any other rights provided in this Article and by law, the Town may, in its discretion, institute a civil action in circuit court against the landowner or other responsible party to obtain an order to take corrective action up to and including demolition of any structure, dwelling, or building that is unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare; and to recover all reasonable costs and expenses incurred by the Town with respect to the property or structure, dwelling, or building and for reasonable attorney fees and court costs incurred in the prosecution of the action.

(b) No fewer than ten days before instituting a civil action as provided in this section, the Town shall send notice to the landowner by certified mail, return receipt requested, advising the landowner of the governing body's intention to institute such action.

(c) The notice shall be sent to the most recent address of the landowner of record in the office of the Kanawha County Assessor and to any other address for the landowner as may exist on record with the Town. If, for any reason, such certified mail is returned without evidence of proper receipt, the Town shall resend the notice(s) by first class mail, postage prepaid, and shall also post notice on the front door or other conspicuous location on the subject property or structure, dwelling, or building.
(Ord. 2024-_____. Passed _____.)

1725.09 NOTICES.

(a) To the extent not otherwise authorized by state law, all notices of violation or correction for violations that fall within one of the categories defined in Section 1725.02 (d)(l), (2), (4) or (10) shall be served in accordance with the process set forth in the state building code.

(b) Any violation of this Article may be prosecuted by the Town consistent with state and local laws. Unless otherwise authorized by state law, prosecution of a violation shall be initiated by a complaint presented to and sworn or affirmed before municipal judge or other municipal official with lawful authority to hear and determine violations of municipal code. Unless otherwise provided by statute, the presentation and oath or affirmation shall be made by a Code Enforcement Officer or Town Attorney showing reason to have reliable information and belief. If from the facts stated in the complaint the municipal judge or other municipal official with lawful authority to hear and determine violations of municipal code finds probable cause, the complaint becomes the charging instrument initiating a criminal proceeding. A complaint lawfully authorized by this subsection along with a summons setting forth the date, time and place of appearance before a municipal judge and or other municipal official with lawful authority to hear and determine violations of municipal code shall be served in accordance with the law of the State of West Virginia concerning the service of process in civil actions, except that personal service of a summons and complaint may be made by a code enforcement agency official. If service is made by certified mail under Rule 4(d)(l)(D) of the West Virginia Rules of Civil Procedure and delivery of the summons and complaint is refused, the code enforcement agency officer, promptly upon the receipt of the notice of the refusal, shall mail to the person or entity being noticed, by first class mail, postage prepaid, a copy of the summons and complaint. If the first-class mailing is not returned as undeliverable by the U.S. Postal Service, service of the summons and complaint is

presumed to have been effectuated upon service of the summons and complaint consistent with this subsection, the violation may be prosecuted consistent with state and local law.
(Ord. 2024-_____. Passed _____.)

1725.10 ABSOLUTE DEFENSE.

It shall be an absolute defense to any civil action by an owner, landowner, or tenant for damages resulting from the closure, demolition, or other corrective action taken by the Town under this Article that the Town followed the procedures set forth herein; provided, that the Town acted in good faith, can demonstrate that the structure, dwelling or building falls within one of the categories set forth in Section 1725.05 (b)(1) or (2), followed the procedures set forth in this Article, and had adopted the State Building Code at the time the closure, demolition or other corrective action occurred.

(Ord. 2024-_____. Passed _____.)