



# Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

## PLANNING BOARD GENERAL APPLICATION FORM TOWN OF SOUTHERN SHORES, NC 27949

**Date:** 2 / 8 / 2024      **Filing Fee:** \$200      **Receipt No.:** N/A      **Application No.:** ZTA-24-01

**NOTE:** The Planning Board will follow the specific provisions of the Zoning Ordinance Chapter 36. Article X Administration and Enforcement, Section 36-299.

Please check the applicable Chapter/Article:

- Chapter 30. Subdivisions-Town Code
- Chapter 36. Article VII. Schedule of District Regulations. Section 36-207 C-General Commercial District
- Chapter 36. Article IX. Planned Unit Development (PUD)
- Chapter 36. Article X. Administration and Enforcement, Section 36-299 (b) Application for Building Permits and Site Plan Review other than one and two family dwelling units \*
- Chapter 36. Article X. Section 36-300-Application for Permit for Conditional Use
- Chapter 36. Article X. Section 36-303 Fees
- Chapter 36. Article X. Section 36-304-Vested Rights
- Chapter 36. Article XIV. Changes and Amendments

**Certification and Standing:** As applicant of standing for project to be reviewed I certify that the information on this application is complete and accurate.

### Applicant

Name Town of Southern Shores

Address: 5375 N. Virginia Dare Trl.  
Southern Shores, NC 27949

Phone (252) 261-2394      Email whaskett@southernshores-nc.gov

### Applicant's Representative (if any)

Name \_\_\_\_\_

Agent, Contractor, Other (Circle one)

Address \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

**Property Involved:** \_\_\_ Southern Shores \_\_\_ Martin's Point (Commercial only)

Address: \_\_\_\_\_ Zoning district \_\_\_\_\_

Section \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_ Lot size (sq.ft.) \_\_\_\_\_

**Request:** \_\_\_ Site Plan Review \_\_\_ Final Site Plan Review \_\_\_ Conditional Use \_\_\_ Permitted Use  
\_\_\_ PUD (Planned Unit Development) \_\_\_ Subdivision Ordinance \_\_\_ Vested Right \_\_\_ Variance

**Change To:** \_\_\_ Zoning Map **X** \_\_\_ Zoning Ordinance

Ww Ault  
Signature

2-8-24  
Date

\* Attach supporting documentation.



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ZTA-24-01

2-15-24

Ordinance 2024-XX-XX

AN ORDINANCE AMENDING THE CODE OF ORDINANCES  
OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

**ARTICLE I. Purpose(s) and Authority.**

**WHEREAS**, pursuant to N.C.G.S. § 160D-701, the Town of Southern Shores (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures, and land. Pursuant to this authority and the additional authority granted by N.C.G.S. § 160D-702, the Town has adopted a comprehensive zoning ordinance (the “Town’s Zoning Ordinance”) and has codified the same as Chapter 36 of the Town’s Code of Ordinances (the “Town Code”); and

**WHEREAS**, in accordance with the finding above, the amendment of the Town’s Zoning Ordinance and Town Code Ordinances as stated below will serve a public purpose and advances the public health, safety and general welfare.

**WHEREAS**, the North Carolina General Assembly adopted 2019 N.C. Sess. Law 111 to clarify and change the land-use regulatory laws of the State, including the recodification of many existing land-use regulatory laws in a newly created N.C.G.S. Chap. 160D pursuant to 2019 N.C. Sess. Law 111, Part II; and

**WHEREAS**, the Town desires to amend its Town Code to conform to N.C.G.S. Chap. 160D as provided in these ordinance amendments; and

**WHEREAS**, the amendment of the Town’s Zoning Ordinance and Town Code Ordinances as stated below is based on reasonable consideration, among other things, as to the character of the district, suitability for uses in the area, conserving value of buildings and encouraging the most appropriate use of land throughout the Town.

**WHEREAS**, the Town’s currently adopted Land Use Plan contains Policies and Action Items that are applicable to the amendments, including but not limited to the following:

**Policy 2:** The community values and the Town will continue to comply with the founder’s original vision for Southern Shores: a low-density residential community comprised of single-family dwellings on large lots (served by a small

1 commercial district for convenience shopping and services located at the southern  
2 end of the Town). This blueprint for land use naturally protects environmental  
3 resources and fragile areas by limiting development and growth.  
4

5 **Action Item 2-b:** The Town shall encourage the use of low impact development  
6 techniques and sound environmental preservation practices for all new  
7 development, remodeling and redevelopment within Southern Shores.  
8

9 **Policy 7:** Support stormwater management programs that reduce flooding and  
10 improve coastal water quality.  
11

12 **Action Item 7-b** Encourage the use of Low Impact Development (LID),  
13 vegetative buffers to filter stormwater, impervious surface limits, and innovative  
14 stormwater management alternatives to reduce runoff and to improve water  
15 quality.  
16

17 **Policy 26:** Promote open space, tree protection, and natural vegetation diversity.  
18

19 **Action Item 26-b** Encourage lot preparation methods that preserve natural  
20 vegetation and minimize clear cutting.  
21

## 22 **ARTICLE II. Construction.**

23  
24 For purposes of this ordinance amendment, underlined words (underline) shall be  
25 considered as additions to existing Town Code language and strikethrough words  
26 (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the  
27 adopted Town Code which are not repeated herein but are instead replaced by an ellipses  
28 (“...”) shall remain as they currently exist within the Town Code.  
29

## 30 **ARTICLE III. Amendment of Zoning Ordinance.**

31  
32 **NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of  
33 Southern Shores, North Carolina, that the Town Code shall be amended as follows:  
34

35 **PART I.** That **Sec. 24-27. Powers and duties.** Be amended as follows:  
36

37 (a) It shall be the duty of the planning board to prepare plans and to coordinate the plans  
38 of the town and those of others so as to bring about a coordinated and harmonious  
39 development of the area. The planning board is hereby designated as the planning  
40 agency for the preparation or revision of the zoning ordinances of the town, under  
41 authority of G.S. ~~ch. 160A, art. 19 (G.S. 160A-360—160A-459)~~ 160D-301. In  
42 addition, the planning board is directed and authorized:

- 43 (1) ~~To acquire and maintain in current form such basic information and materials~~  
44 ~~as are necessary to an understanding of past trends, present conditions, and~~  
45 ~~forces at work to cause changes in these conditions. To prepare, review,~~  
46 maintain, monitor, and periodically update and recommend to the town council

1 a comprehensive plan, and such other plans as deemed appropriate, and conduct  
2 ongoing related research, data collection, mapping, and analysis.

3 (2) ~~To prepare and, from time to time, amend and revise a comprehensive and~~  
4 ~~coordinated plan for the physical development of the area. The comprehensive~~  
5 ~~plan shall be the planning board's recommendations to the council for the~~  
6 ~~orderly development of the town including, among other things, the general~~  
7 ~~location, character, and extent of streets, bridges, waterways, parks,~~  
8 ~~playgrounds, open spaces, and public utilities. To facilitate and coordinate~~  
9 ~~citizen engagement and participation in the planning process.~~

10 (3) ~~To establish principles and policies for guiding action in the development of the~~  
11 ~~area including the expenditure of public funds on public structures or facilities.~~  
12 ~~To develop and recommend policies, ordinances, development regulations,~~  
13 ~~administrative procedures, and other means for carrying out plans in a~~  
14 ~~coordinated and efficient manner.~~

15 (4) ~~To prepare and recommend ordinances or amendments to existing ordinances~~  
16 ~~promoting orderly development of the area, along the lines indicated in the~~  
17 ~~comprehensive plan, including a zoning ordinance and subdivision regulations.~~  
18 ~~The planning board may initiate, from time to time, proposals for the~~  
19 ~~amendment of the zoning ordinance and subdivision regulations based upon its~~  
20 ~~studies and the comprehensive plan. To advise the town council concerning the~~  
21 ~~implementation of plans, including, but not limited to, review and comment on~~  
22 ~~all zoning text and map amendments as required by G.S. 160D-604.~~

23 (5) ~~To determine whether specific proposed developments referred to it by~~  
24 ~~governmental or private agencies in the area conform to the principles and~~  
25 ~~requirements of the comprehensive plan for the area and to make~~  
26 ~~recommendations concerning them. To exercise any functions in the~~  
27 ~~administration and enforcement of various means for carrying out plans that the~~  
28 ~~town council may direct.~~

29 (6) ~~To make any other recommendations which it sees fit for improving the~~  
30 ~~development of the area. To provide a preliminary forum for review of quasi-~~  
31 ~~judicial decisions, provided that no part of the forum or recommendation may~~  
32 ~~be used as a basis for the deciding board.~~

33 (7) ~~To perform any other duties which may lawfully be assigned to it. To perform~~  
34 ~~any other related duties that the governing board may direct.~~

35 (8) ~~To keep the council and the general public informed and advised as to matters~~  
36 ~~subject to its review and consideration.~~

37 (b) ~~In carrying out such powers and duties, the board is authorized to receive~~  
38 ~~contributions from private agencies and organizations or from individuals, in~~  
39 ~~addition to any sums which may be appropriated for its use by the council. It may~~  
40 ~~accept and disburse such contributions for special purposes or projects, subject to~~  
41 ~~any specified conditions which it deems acceptable, whether or not such projects are~~  
42 ~~included in the approved budget.~~

1 **PART II.** That **Sec. 36-171. Lot disturbance and stormwater management.** Be  
2 amended as follows:  
3

4 **Sec. 36-171. Lot disturbance and stormwater management.**

5 Subject to the requirements of G.S. 160A-417(b) 160D-1110(e), if applicable, in all  
6 town zoning districts, including all areas within the extraterritorial jurisdiction, no  
7 grading, filling, or other alteration of the topography or elevation of any unimproved lot,  
8 or removal of trees greater than 6 inches in diameter, measured at 4.5 feet above the  
9 ground on any unimproved lot, or demolition and clearing of improved property, nor any  
10 manmade change to any improved real estate resulting in the discharge of stormwater  
11 onto adjacent property and requiring a building permit, shall be undertaken prior to the  
12 issuance of a lot disturbance-stormwater management permit by the zoning administrator.

- 13 (1) All applications for lot disturbance and stormwater management shall be  
14 accompanied by a survey and site plan of the proposed improvements prepared  
15 by a state licensed professional surveyor, engineer, architect or other person  
16 duly authorized by the state to prepare such plans showing the actual  
17 dimensions and shape of the lot, ~~and showing the surveyed pre-disturbance~~  
18 ~~ground elevation at the corners of the proposed structure referenced to mean~~  
19 ~~sea level, and all trees greater than 6 inches in diameter, measured at 4.5 feet~~  
20 ~~above the ground that are to be removed from the lot.~~ The application shall also  
21 describe the disturbance or development activity which is proposed for the lot.  
22 The application and accompanying survey shall be sufficiently detailed for the  
23 zoning administrator to confirm that following construction of the proposed  
24 improvements the property will retain all stormwater generated by a one and  
25 one-half inch rain event and will not adversely affect any stormwater  
26 management system previously constructed by the town or on adjacent  
27 properties. No fill material may be re-distributed or placed on a lot in the rear  
28 or side setback areas unless the final horizontal-to-vertical slope is equal to or  
29 less than 3:1. This shall be calculated from the finished final grade to the rear  
30 and side property lines. The burden shall be on the applicant to make such a  
31 showing, and the zoning administrator, in his discretion, may request  
32 reasonable additional information to make a decision on the application.

33  
34 ...  
35  
36 **PART III.** That **Sec. 36-207. C general commercial district.** Be amended as follows:  
37

38 **Sec. 36-207. C general commercial district.**  
39

- 40 ...  
41  
42 (b) *Permitted uses.* The following uses shall be permitted by right:

1 (4) Detached single-family dwellings, two-family (duplexes) dwellings,  
2 ~~multifamily dwellings~~, and accessory buildings, according to the density and  
3 dimensional requirements of the RS-8 multifamily residential district. ~~For~~  
4 ~~multifamily dwellings, the lot coverage shall not exceed 40 percent.~~

5  
6 (c) Special Uses.

7  
8 ...

9  
10 (1) Restaurants without a drive-through or with a drive through facility, provided:

11  
12 ...

13  
14 b. The location of the drive-through facility is a minimum of 100 feet from ~~any~~  
15 ~~residentially zoned property districts~~ and a minimum of 50 feet from any planned  
16 unit development.

17 (1.5) Drive-through facility or establishment (small) provided:

18  
19 ...

20  
21 b. The location of the drive-through facility is a minimum of 100 feet from ~~any~~  
22 ~~residentially zoned property districts~~ and a minimum of 50 feet from any planned  
23 unit development.

24  
25 ...

26  
27 (11) Mixed use group development of commercial and residential buildings,  
28 provided:

29  
30 ...

31  
32 j. No building or other facility (such as parking spaces, incinerators, trash  
33 collection areas, etc.) shall be located nearer than 50 feet to boundaries of  
34 residential districts or planned unit developments.

1 k. Where a mixed use group development abuts a residential ~~zone~~ district or  
2 planned unit development, a buffer of dense vegetative planting or natural  
3 vegetation is required (see requirements in section 36-207(d)(8)).

4  
5 ...  
6  
7 (12) Multifamily dwellings according to the density and dimensional  
8 requirements of the RS-8 multifamily residential district

9  
10 ...  
11  
12 (d) *Dimensional requirements.*

13  
14 ...  
15  
16 (7) No building or other facility (such as parking areas, incinerators, trash  
17 collection areas, etc.) shall be located nearer than 50 feet to boundaries of  
18 residential districts or planned unit developments.

19 (8) Where a commercial use or zone abuts a residential ~~zone~~ district or planned  
20 unit development, a buffer of dense vegetative planting or natural vegetation is  
21 required. The buffer area shall have a minimum width of 20 feet with two rows of  
22 planting material placed ten feet on center that are a minimum of five feet in  
23 height when installed that expect to achieve a height of eight feet within three  
24 years. Suitable plant types shall be those recommended for the coastal area by the  
25 U.S. Department of Agriculture which can be expected to reach a mature growth  
26 of eight to ten feet. Vegetation plan to be approved by the town council.

27  
28 ...  
29  
30 **PART IV. That Sec. 36-209. Prohibited uses in all districts.** Be amended as follows:

31  
32 **36-209. Prohibited uses in all districts.**

33  
34 (a) The following uses shall be prohibited in all districts:

35  
36 ...  
37  
38 (25) Manufacturing, processing, assembly and other industrial facilities;

- 1 (26) Miniature golf courses;
- 2 (267)Motor vehicle body and paint establishments;
- 3 (278)Motor vehicle dealerships;
- 4 (289)Motor vehicle washing establishments;
- 5 (2930)Night clubs;
- 6 (301)Nitrogenous tankage, fish meal or manufacture, of any fertilizer materials
- 7 carrying an objectionable odor;
- 8 (312)Nursing homes;
- 9 (323)Outdoor advertising or billboards except where prohibition is preempted by
- 10 state or federal law;
- 11 (334)Outdoor shooting ranges;
- 12 (345)Package treatment plant wastewater disposal systems that discharge to surface
- 13 waters;
- 14 (356)Pawn shops;
- 15 (367)Satellite dish farms;
- 16 (378)Sexually oriented businesses;
- 17 (389)Shooting ranges;
- 18 (3940)Slaughterhouses;
- 19 (401)Smoke and vapor shops;
- 20 (412)Solar energy farms;
- 21 (423)Storage or processing of radioactive or infectious waste;
- 22 (434)Storage units;
- 23 (445)Tattoo, body piercing, and body art establishments;
- 24 (446)Taxi and pedicab storage and dispatch; or
- 25 (457)Use of a boat, houseboat, or other floating structure as a temporary or
- 26 permanent residence (this shall not prevent the overnight occupancy of a vessel
- 27 temporarily;
- 28 (48) Warehouses;
- 29 (49) Wind farms.

30

31 **PART V. That Sec. 36-297. Building and zoning permits required; time**

32 **limitations for site plans and building permits. Be amended as follows:**

33

34 **Sec. 36-297. Building and zoning permits required; time limitations for site plans, and**

35 **building permits and zoning permits.**

36



1 (a) The following provisions pertaining to time limitations to obtain building and  
2 zoning permits, and to commence, and continue and complete construction, shall  
3 apply in all cases in which site plan approval is required, unless otherwise provided  
4 for in section 36-304. ~~Subsection (a)(4) of this section, pertaining to site plan~~  
5 ~~extensions, shall not apply in instances where a landowner has been granted a vested~~  
6 ~~right pursuant to section 36-304.~~

7 (1) *Building and zoning permits required.* No building or other structure shall be  
8 erected, moved, added to, or structurally altered, without a permit issued by the  
9 building inspector and zoning administrator. No building or zoning permit shall  
10 be issued except in conformity with the provisions of this article. A zoning  
11 permit, if required, shall be issued by the zoning administrator prior to the  
12 issuance of a building permit. A fee for building permits and zoning permits is  
13 required which shall be in accordance with a regularly adopted fee schedule of  
14 the town.

15 (2) *Time limitation to obtain building permit and zoning permit.* Upon final  
16 approval of a site plan, if required by the town council, the building inspector  
17 and zoning administrator may issue a building permit and zoning permit within  
18 ~~180 days~~ one year from the date of such approval, provided that all other  
19 requirements are met. If a building permit and zoning permit are not issued  
20 within ~~180 days~~ one year from the date of final approval of the site plan, the  
21 site plan expires and the applicant must submit a new site plan, conforming to  
22 the then current provisions of the zoning chapter and all other applicable  
23 ordinances, for review by the planning board and town council and pay the  
24 applicable fees.

25 (3) *Time limitation to commence and continue construction.* If the start of  
26 construction has not commenced within 180 days from the date of issuance of a  
27 building permit, the building permit, zoning permit and the approval of that site  
28 plan shall expire. If, after commencement, the work is discontinued for a period  
29 of ~~12 months~~ one year, the building permit, zoning permit, and site plan shall  
30 immediately expire. No work authorized by any permit or site plan that has  
31 expired shall be performed until a new site plan has been approved and a new  
32 building permit and zoning permit have been issued and all applicable fees  
33 paid.

34 (4) ~~*Time limitation to complete construction.* If the work authorized by any~~  
35 ~~building permit, issued in accordance with an approved site plan, is started but~~  
36 ~~not prosecuted to completion within 18 months of the date of issuance of the~~  
37 ~~building permit and zoning permit, the approval of that site plan shall expire~~  
38 ~~and the building permit and zoning permit shall be revoked. At the time of~~  
39 ~~expiration, all work shall cease, and shall be allowed to continue only after a~~  
40 ~~new site plan has been reviewed and approved by the planning board and town~~  
41 ~~council, and a new building permit and zoning permit issued and all applicable~~  
42 ~~fees paid. The new site plan shall depict work in accordance with the then~~  
43 ~~current provisions of the town zoning chapter and any further construction or~~  
44 ~~use shall be in conformity with those regulations.~~

1 ~~(b) As an alternative to subsections (a)(2), (3) and (4) of this section, a developer may,~~  
2 ~~no sooner than 60 days and no later than 30 days prior to the date of expiration of a~~  
3 ~~site plan, petition the town council and upon a subsequent finding by the town~~  
4 ~~council that the delay in construction has been due to circumstances beyond the~~  
5 ~~control of the developer, and that an extension of the approval of the site plan will~~  
6 ~~not be detrimental to the health, safety and general public welfare, and will be in~~  
7 ~~harmony with the spirit and intent of the town zoning ordinance, the town council~~  
8 ~~may extend the approval of the site plan for up to 90 days. In the event the town~~  
9 ~~council grants an extension to a site plan and the time limitation for the building~~  
10 ~~permit and zoning permit have expired pursuant to G.S. 160A-418 and G.S. 160A-~~  
11 ~~382, the applicant will be required to purchase a new building permit and zoning~~  
12 ~~permit. If a site plan expires or the town council does not grant an extension, the~~  
13 ~~applicant must submit a new site plan conforming to the then current provisions of~~  
14 ~~the zoning ordinance and pay the applicable fees.~~

15  
16 (4) *Permit choice.* If an application made in accordance with approved regulation  
17 is submitted for a development approval required pursuant to this chapter and a  
18 development regulation changes between the time the application was  
19 submitted and a decision is made, the applicant may choose which version of  
20 the development regulation will apply to the application. If the development  
21 permit applicant chooses the version of the rule or ordinance applicable at the  
22 time of the permit application, the development permit applicant shall not be  
23 required to await the outcome of the amendment to the rule, map, or ordinance  
24 prior to acting on the development permit. This section applies to all  
25 development approvals issued by the town.

26  
27 **PART VI. That Sec. 36-299. Application for building permits, zoning permits and**  
28 **site plan requirements.** Be amended as follows:

29  
30 **Sec. 36-299. Application for building permits, zoning permits and site plan**  
31 **requirements.**

32  
33 ...

34  
35 (b) *All uses other than one- and two-family dwelling units.*

36 (1) Site plans must be reviewed by the planning board and approved by the town  
37 council before a building permit and zoning permit for construction may be  
38 issued.

39 (2) Site plan requirements. Twelve copies of the site plan shall be submitted no  
40 later than 30 days prior to the planning board meeting at which the plan is to be  
41 reviewed. All plans shall be prepared, stamped and endorsed by a state  
42 registered engineer, surveyor or architect, or other person duly authorized by  
43 the state to prepare such plans. All plans shall contain at least the following  
44 information:

- 1 a. *Property and ownership information.*
- 2 1. Present recorded owner and the map book reference of the site
- 3 property.
- 4 2. Owners, lot numbers or map book and page reference of all adjacent
- 5 properties.
- 6 3. Boundary of the entire lot by course and distance.
- 7 4. Width of the existing rights-of-way.
- 8 5. Nature or purpose, location and size of existing easements.
- 9 6. Iron pins three-eighths of one inch in diameter and 36 inches in
- 10 length, or concrete monuments shall be shown and installed at all lot
- 11 corners, points of tangents, and any angle point along a given course
- 12 of the lot.
- 13 7. Plan drawn to at least one inch: 100-foot scale showing north arrow.
- 14 8. Zoning district of the site and all adjacent properties.
- 15 9. Lot area by upland; by swamp, marsh and wetland; and the total area.
- 16 b. *Existing features information.*
- 17 1. Streets showing the type and width of pavement, curbs and
- 18 sidewalks.
- 19 2. Topographic features of the lot and existing grades for the lot, streets,
- 20 storm drainage, etc.
- 21 3. All underground utilities and facilities.
- 22 4. All existing buildings and structures.
- 23 5. Wetlands as certified by the U.S. Army Corps of Engineers or their
- 24 authorized agent.
- 25 6. Flood zone, base flood elevation, and map reference, as determined
- 26 by the latest FEMA flood insurance rate map, with the notation
- 27 "flood zones subject to change by FEMA."
- 28 c. Site improvements, show all proposed site improvements including, but
- 29 not limited to:
- 30 1. Anticipated final appearance of the front, sides, rear and rooflines of
- 31 proposed structures shown on the site plan, ~~plus a rendering showing~~
- 32 ~~the anticipated front appearance of the structure relative to~~
- 33 ~~landscaping. Final appearance of all structures shall be determined at~~
- 34 ~~time of building permit application.~~
- 35 2. Proposed building type and material (i.e., steel, brick, concrete or
- 36 wood frame), number of floors and dimensions.
- 37 3. Proposed lowest floor elevation.

- 1                   4. Location and type of all sidewalks and curbs with the site.
- 2                   5. Proposed method for treating wastewater, location of all wastewater
- 3                   collection and treatment facilities (including any applicable property
- 4                   to be reserved for possible future wastewater use), name of any
- 5                   regulatory agency that must approve wastewater system, name of and
- 6                   written approval for connection from any organization that will
- 7                   collect or dispose of wastewater.
- 8                   6. Layout and number of parking stalls, driveway connections, and
- 9                   internal traffic plans.
- 10                  7. Finished grades.
- 11                  8. A tabulation of the total number of dwelling units of various types in
- 12                  the project and the overall project density in dwelling units per acre.
- 13                  9. Rights-of-way improvements in accordance with the policy of the
- 14                  town council.
- 15                  10. Storm drainage in accordance with the policy of the town council.
- 16                  11. A tabulation of lot coverage by type of cover and overall project
- 17                  coverage and percent coverage.
- 18                  12. Limits of land disturbing activity and the calculated area of land
- 19                  disturbance.
- 20                  13. Proposed use under this chapter, pertaining to zoning.
- 21                  14. Parking requirements and spaces provided.
- 22                  15. Proposed signage and calculations.
- 23                  16. Proposed water supply.
- 24                  17. Proposed outdoor lighting.
- 25                  18. Required and provided buffers, and proposed landscaping.
- 26                  19. Location of solid waste container, plus location of separate recycling
- 27                  container.
- 28                  20. A rendering showing the anticipated front, sides, and rear
- 29                  appearances of the structure relative to the proposed landscaping.
- 30                  21. Proposed number of bedrooms and/or occupants.
- 31                  d. All items on the site plan and all pertinent provisions of this chapter,
- 32                  pertaining to zoning, shall be addressed by the applicant before the site
- 33                  plan is presented for review by the planning board.
- 34                  e. Dimensional requirements and development standards shall be in
- 35                  accordance with the district in which the development is to be located.

36                  (3) *Water and wastewater treatment and disposal.*

1 a. No proposed site plan shall be accepted by the town, as part of an  
2 application for approval or conditional approval by the planning board,  
3 without written tentative approval of the proposed sewage treatment and  
4 disposal facilities by the department of environmental health or the state  
5 department having jurisdiction.

6 i. For improvements that require a new wastewater treatment facility, or  
7 connection to an existing wastewater treatment facility, documentation  
8 from the North Carolina Utilities Commission certifying that the owner of  
9 the wastewater treatment facility is an approved public utility and the  
10 franchise holder must be submitted with the site plan application.

11 ii. For improvements that require connection to an existing wastewater  
12 treatment facility, documentation from the North Carolina Department of  
13 Environmental Quality certifying that the wastewater treatment facility is  
14 in compliance with all applicable requirements must be submitted with the  
15 site plan application, including adherence to permit conditions issued by  
16 the North Carolina Department of Environmental Quality.

17 b. No proposed site plan shall be accepted by the town, as part of an  
18 application for approval or conditional approval by the planning board,  
19 without written tentative approval of the proposed water distribution  
20 facilities by the water department or the state department having  
21 jurisdiction.

22 (4) The planning board may recommend approval, conditional approval or  
23 rejection of any proposed site plan. Upon completion of review, the planning  
24 board will transmit their recommendations to the town council. The town  
25 council may approve, approve with specific requirements or disapprove any site  
26 plan. A rejected site plan may be resubmitted, in accordance with this section,  
27 when redrafted to meet the specifications of this article and upon payment of a  
28 plan review fee.

29 (5) *Site plan amendments.*

30 a. Following town council's final site plan approval, minor changes or  
31 amendments to the approved site plan may be approved by the zoning  
32 administrator upon written application if the site plan as amended will  
33 otherwise meet the requirements for approval. All other changes or  
34 amendments to an approved site plan must be approved by the town  
35 council after review by the planning board in the same manner required for  
36 the initial review of a site plan.

37 b. Changes or amendments to an approved site plan may be considered minor  
38 if, in the discretion of the zoning administrator, they have no substantial  
39 impact on neighboring properties or the general public and do not prevent  
40 the spirit and intent of a condition of the prior approval or the  
41 requirements of the zoning ordinance from being met. If, in the zoning  
42 administrator's sole discretion, the zoning administrator cannot clearly  
43 determine whether a change or amendment qualifies as minor or upon the

1 written request of the applicant, the changes or amendments to a site plan  
2 shall be considered by the town council after review by the planning board  
3 in the same manner required for the initial review of a site plan.

- 4 (6) Prior to issuance of a building permit and zoning permit, evidence shall be  
5 presented to the town showing satisfaction of all appropriate state and federal  
6 permits, including but not limited to:
- 7 a. U.S. Army Corps of Engineers wetlands permit.
  - 8 b. NCDOT driveway permit and/or encroachment application for work in a  
9 state right-of-way.
  - 10 c. State soil erosion and sedimentation control plan approval.
  - 11 d. State stormwater plan approval.
  - 12 e. State or town CAMA permit.
  - 13 f. Receipts for payment of water connection fee, county regional water  
14 system.
  - 15 g. Septic tank or other wastewater treatment approval by the department of  
16 environmental health or other appropriate permitting agencies.
- 17 (7) Inspections of sites involving public rights-of-way and inspections of any on-  
18 site construction shall be made by the town.

19  
20 **PART VII. That Sec. 36-300. Application for permit for special uses.** Be amended as  
21 follows:

22  
23 **Sec. 36-300. Application for permit for special uses.**

24  
25 ...

- 26  
27 (1) Written application for a special use permit shall be submitted to the planning  
28 and code enforcement department board no later than 30 days prior to the  
29 planning board meeting at which the plan is to be reviewed. Such written  
30 application shall indicate the section of this article under which a permit is  
31 being sought, and shall contain the information required by the appropriate  
32 section and such other information as may be required, to ensure compliance  
33 with this article. No application shall be deemed complete unless it is  
34 accompanied by a site plan drawn to scale which complies with the site plan  
35 requirements contained in section 36-299.
- 36  
37 (2) ~~a.~~ The written application shall include a list of the names and addresses of all  
38 abutting property owners and the owners of property immediately across the  
39 street from the property affected by the special use application. The list shall be  
40 supplied by the applicant and shall be current according to the most recent tax  
41 listing abstract as filed in the office of the county tax supervisor. ~~The town~~

1 council shall hold a public hearing and shall give written notice, including the  
2 date and time of a public hearing at which the application will be considered, to  
3 the owners as contained in said listing. Notice shall be sent by certified mail to  
4 the last address of such owners as appears on the list supplied by the applicant.  
5 Notice shall be given at least ten days in advance of such public hearing by a  
6 legal advertisement placed in a newspaper having general circulation in the  
7 county. Notice of these hearings shall be posted on the property concerned for  
8 at least ten days prior to the public hearing.

9  
10 b. ~~The planning board shall review the application for a special use permit  
11 and shall submit its recommendation as to approval or disapproval along  
12 with such conditions as it may deem necessary to the town council.~~

13  
14 ~~(3) In instances where a property owner seeks to obtain a vested right, pursuant to  
15 section 36-304, a public hearing shall be held by the town council. The town  
16 council shall give written notice by certified mail including the date and time of  
17 the public hearing to the owner of the property or his agent for which the vested  
18 right is sought. Notice shall be given at least ten days in advance of such public  
19 hearing by a legal advertisement placed in a newspaper having general  
20 circulation in the county. Notice of these hearings shall be posted on the  
21 property concerned for at least ten days prior to the public hearing.~~

22  
23 (3) The town planning board shall review the application for a special use permit  
24 and recommend approval, conditional approval or rejection of the application.  
25 The board shall submit its recommendation as to approval or disapproval along  
26 with such conditions as it may deem necessary to town staff.

27  
28 ~~(4) Any party may appear in person, or by agent or attorney.~~

29  
30 (4) The town council shall hold an evidentiary hearing and town staff shall give  
31 written notice, including the date and time of the evidentiary hearing at which  
32 the application will be considered, to the owners as contained in said listing.  
33 Written notice shall also be given to the person or entity whose application is  
34 the subject of the hearing and to the owner of the property that is the subject of  
35 the hearing if the owner did not initiate the hearing. Notice shall be sent by  
36 certified mail to the last address of such owners as appears on the list supplied  
37 by the applicant and subsequently verified by town staff. Notice shall be given  
38 at least ten days in advance of such evidentiary hearing by a legal  
39 advertisement placed in a newspaper having general circulation in the county.  
40 Notice of these hearings shall be posted on the property concerned for at least  
41 ten days prior to the evidentiary hearing.

1           (5) ~~Before they may grant any special use permit or vested right, the town council~~  
2           ~~shall make affirmative findings that:~~

3           a. ~~The applicant has met the requirements of the applicable provisions of the~~  
4           ~~town chapter pertaining to zoning, subdivision chapter, and all other~~  
5           ~~applicable ordinances.~~

6           b. ~~That the use as proposed will conform with the town's land use plan, and~~  
7           ~~will be compatible with the area in which it is to be located, if developed~~  
8           ~~in accordance with the conditions specified in the chapter and additionally~~  
9           ~~required by the town council as authorized by the chapter.~~

10          e. ~~That the use will not materially endanger the public health and safety if~~  
11          ~~located where proposed and developed according to the plan submitted.~~

12          d. ~~That the use as proposed will not overburden the town volunteer fire~~  
13          ~~department fire fighting capabilities and the county water supply capacity~~  
14          ~~to the town, as said facilities and capabilities will exist on the completion~~  
15          ~~date of the special use for which the application is made.~~

16          (5) In instances where a property owner seeks to obtain a vested right, pursuant to  
17          section 36-304, a public hearing shall be held by the town council. Town staff  
18          shall give written notice by certified mail including the date and time of the  
19          public hearing to the owner of the property or his agent for which the vested  
20          right is sought. Notice shall be given at least ten days in advance of such public  
21          hearing by a legal advertisement placed in a newspaper having general  
22          circulation in the county. Notice of these hearings shall be posted on the  
23          property concerned for at least ten days prior to the public hearing.

24  
25          (6) ~~In granting any special use permit, the town council may prescribe appropriate~~  
26          ~~conditions and safeguards in conformity with this article. Violation of such~~  
27          ~~conditions and safeguards, when made a part of the terms under which the~~  
28          ~~special use permit is granted, shall be deemed a violation of this article and~~  
29          ~~punishable under article XI of this chapter. Upon final approval of a site plan~~  
30          ~~by the town council, the building inspector, upon proper application, shall issue~~  
31          ~~a building permit within 180 days from the date of such approval, provided that~~  
32          ~~all other requirements are met. If a building permit is not applied for and issued~~  
33          ~~within 180 days from the date of final approval of the site plan, the site plan~~  
34          ~~expires and the applicant must submit a new site plan, conforming to the then~~  
35          ~~current provisions of the zoning chapter and all other applicable ordinances, for~~  
36          ~~review by the planning board and town council and pay the applicable fees. If~~  
37          ~~any of the conditions of approval or any part of them should be held invalid or~~  
38          ~~void, the entire permit shall be void immediately.~~

39  
40          (6) Any party may appear in person, or by agent or attorney.

41



1       (7) The zoning administrator shall transmit to the town council all applications,  
2 reports, and written materials relevant to the matter being considered. The  
3 administrative materials may be distributed to the members of the town council  
4 prior to the hearing if at the same time they are distributed to the town council a  
5 copy is also provided to the applicant and to the landowner if that person is not  
6 the applicant. The administrative materials may be provided in written or  
7 electronic form. The administrative materials shall become a part of the hearing  
8 record. Objections to inclusion or exclusion of administrative materials to the  
9 hearing record may be made before or during the hearing. Rulings on  
10 unresolved objections shall be made by the town council at the hearing.

11  
12       (8) The applicant, the town, and any person who would have standing under G.S.  
13 160D-1402(c) shall have the right to participate as a party at the evidentiary  
14 hearing. Other witnesses may present competent, material, and substantial  
15 evidence that is not repetitive as allowed by the town council. Objections  
16 regarding jurisdictional and evidentiary issues, including, but not limited to, the  
17 timeliness of an appeal or the standing of a party, may be made to the town  
18 council. The mayor shall rule on any objections, and the mayor's rulings may be  
19 appealed to the full town council. These rulings are also subject to judicial  
20 review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues  
21 may be raised for the first time on judicial review.

22  
23       (9) The mayor or any member acting as mayor and the town clerk are authorized to  
24 administer oaths to witnesses in any matter coming before the town council.  
25 Any person who, while under oath during a proceeding before the town council  
26 determining a quasi-judicial matter, willfully swears falsely is guilty of a Class  
27 1 misdemeanor.

28  
29       (10) The town council through the mayor, or in the mayor's absence anyone acting  
30 as mayor, may subpoena witnesses and compel the production of evidence. To  
31 request issuance of a subpoena, persons with standing under G.S. 160D-1402(c)  
32 may make a written request to the mayor explaining why it is necessary for  
33 certain witnesses or evidence to be compelled. The mayor shall issue requested  
34 subpoenas he or she determines to be relevant, reasonable in nature and scope,  
35 and not oppressive. The mayor shall rule on any motion to quash or modify a  
36 subpoena. Decisions regarding subpoenas made by the mayor may be appealed  
37 to the full town council. If a person fails or refuses to obey a subpoena issued  
38 pursuant to this subsection, the town council or the party seeking the subpoena  
39 may apply to the General Court of Justice for an order requiring that its  
40 subpoena be obeyed, and the court shall have jurisdiction to issue these orders  
41 after notice to all proper parties.

1           (11) The town council may grant a continuance to any party or upon the town  
2           council's own motion. Requests for continuances should be made in writing, but  
3           may be made orally at a meeting of the town council. The mayor may grant a  
4           continuance request prior to a meeting if the applicant makes a written request.  
5           The mayor may always defer ruling on such a request to allow for the decision  
6           to be made by the full town council.

7  
8           (a) If notices of hearing have already been issued, the party granted a  
9           continuance is responsible for the administrative costs of noticing an additional  
10           hearing if such costs are incurred.

11  
12           (12) In granting any special use permit, the town council may prescribe appropriate  
13           conditions and safeguards in conformity with this article. Violation of such  
14           conditions and safeguards, when made a part of the terms under which the  
15           special use permit is granted, shall be deemed a violation of this article and  
16           punishable under article XI of this chapter. Conditions and safeguards imposed  
17           under this subsection shall not include requirements for which the town does  
18           not have authority under statute to regulate nor requirements for which the  
19           courts have held to be unenforceable if imposed directly by the town, including,  
20           without limitation, taxes, impact fees, building design elements within the  
21           scope of G.S. 160D-702(b), driveway-related improvements in excess of those  
22           allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized  
23           limitations on the development or use of land.

24  
25           (13) The town council shall determine contested facts and make its decision within a  
26           reasonable time. The decision shall be based upon competent, material, and  
27           substantial evidence in the record. The decision shall be reduced to writing and  
28           reflect the town council's determination of contested facts and their application  
29           to the applicable standards. The written decision shall be signed by the mayor  
30           or other duly authorized member of the council. The decision is effective upon  
31           filing the written decision with the town clerk. The decision of the town council  
32           shall be delivered by personal delivery, electronic mail, or by first-class mail to  
33           the applicant, property owner, and to any person who has submitted a written  
34           request for a copy, prior to the date the decision becomes effective. The person  
35           required to provide notice shall certify that proper notice has been made.

36  
37           (14) Special use permits issued pursuant to this section shall be recorded by the  
38           applicant in the county registry.

39  
40           (15) Upon final approval of a special use permit application and accompanying site  
41           plan by the town council, the building inspector and zoning administrator, upon  
42           application for a building permit and zoning permit, shall issue a building  
43           permit and zoning permit within one year from the date of such approval,

1 provided that all other requirements are met. If a building permit and zoning  
2 permit are not applied for and issued within one year from the date of final  
3 approval of the special use permit application and accompanying site plan, the  
4 special use permit approval and site plan expires and the applicant must submit  
5 a new special use permit application and accompanying site plan, conforming  
6 to the then current provisions of the zoning chapter and all other applicable  
7 ordinances, for review by the planning board and town council and pay the  
8 applicable fees. If any of the conditions of approval or any part of them should  
9 be held invalid or void, the entire permit shall be void immediately.

10  
11 **PART VIII. That Sec. 36-304. Vested right.** Be deleted in its entirety and replaced as  
12 follows:  
13

14 **~~Sec. 36-304. Vested right.~~**

15 ~~A vested right shall be deemed established with respect to any property upon the~~  
16 ~~valid approval or conditional approval of a site specific development plan, following~~  
17 ~~notice and public hearing by the town council. Such vested right shall confer upon the~~  
18 ~~landowner the right to undertake and complete the development and use of said property~~  
19 ~~under the terms and conditions of the site specific development plan. The town council~~  
20 ~~may approve a site specific development plan upon such terms and conditions as may~~  
21 ~~reasonably be necessary to protect the public health, safety, and welfare. Landowners~~  
22 ~~seeking vested rights shall fully comply with all provisions stated herewith, and G.S.~~  
23 ~~160A-385.1, as amended.~~

24 ~~(1) *Establishment.*~~

- 25 ~~a. Any property owner wishing to establish vested rights shall make their~~  
26 ~~intentions known, in writing, to the town at the time of submittal of the site~~  
27 ~~specific development plan. If the town is not notified, in writing, at the~~  
28 ~~time of submittal of a site specific development plan, then the application~~  
29 ~~shall proceed in accordance with section 36-299 for permitted uses or~~  
30 ~~section 36-300 for special uses.~~
- 31 ~~b. Property owners electing to pursue the vested rights option will be subject~~  
32 ~~to review procedures as specified in section 36-300, pertaining to~~  
33 ~~application for building permits for special uses, and hence forth, the~~  
34 ~~project under consideration for vested rights will be processed as a special~~  
35 ~~use, subject to all conditions, specifications, procedures, and required~~  
36 ~~findings as outlined in section 36-300. If the option for granting of vested~~  
37 ~~rights is successfully exercised, such rights will be specified and issued as~~  
38 ~~part of the special use permit.~~
- 39 ~~e. A vested right may be established only for uses that are currently~~  
40 ~~permitted by right or by special use permits in the appropriate zoning~~  
41 ~~district.~~

42 ~~(2) *Duration and termination.*~~

- 1            ~~a. A right which has been vested as provided for in this section shall remain~~  
2            ~~vested for a period of two years from the date of town council approval of~~  
3            ~~the site specific development plan. This vesting shall not be extended by~~  
4            ~~any amendments or modifications to a site specific development.~~
- 5            ~~b. The town council may rescind the approval of a site specific development~~  
6            ~~plan for failure to comply with applicable terms and conditions of the~~  
7            ~~approval or the chapter pertaining to zoning.~~
- 8            ~~e. Upon issuance of a building permit, the provisions of G.S. 160A-418 and~~  
9            ~~160A-422 shall apply, except that a permit shall not expire or be revoked~~  
10           ~~because of the running of time while a vested right under this section is~~  
11           ~~outstanding.~~
- 12           ~~d. A right which has been vested as provided in this section shall terminate at~~  
13           ~~the end of the applicable vesting period with respect to buildings and uses~~  
14           ~~for which no valid building permit applications have been filed.~~

15        ~~(3) Subsequent changes prohibited; exceptions.~~

- 16           ~~a. A vested right, once established as provided for in this section, precludes~~  
17           ~~any zoning action by the town which would change, alter, impair, prevent,~~  
18           ~~diminish, or otherwise delay the development or use of the property as set~~  
19           ~~forth in an approved site specific development plan, except:~~
  - 20            ~~1. With the written consent of the affected landowner;~~
  - 21            ~~2. Upon findings at a public hearing by the town council that natural or~~  
22            ~~manmade hazards on or in the immediate vicinity of the property, if~~  
23            ~~uncorrected, would pose a serious threat to the public health, safety,~~  
24            ~~and welfare if the project were to proceed as contemplated in the site~~  
25            ~~specific development plan;~~
  - 26            ~~3. To the extent that the affected landowner received compensation for~~  
27            ~~all costs, expenses, and other losses incurred by the landowner,~~  
28            ~~including but not limited to all fees, paid in consideration of~~  
29            ~~financing, and all architectural, planning, marketing, legal, and other~~  
30            ~~consultant's fees incurred after approval by the town, together with~~  
31            ~~interest thereon at the legal rate until paid. Compensation shall not~~  
32            ~~include any diminution in value of the property which is caused by~~  
33            ~~such action;~~
  - 34            ~~4. Upon findings at a public hearing by the town council that the~~  
35            ~~landowner or his representative intentionally supplied inaccurate~~  
36            ~~information or made material misrepresentations which made a~~  
37            ~~difference in the approval by the town of the site specific~~  
38            ~~development plan; or~~
  - 39            ~~5. Upon the enactment or promulgation of a state or federal law or~~  
40            ~~regulation which precludes development as contemplated in the site-~~  
41            ~~specific development plan, in which case the town may modify the~~  
42            ~~affected provisions, upon a finding at a public hearing by the town~~

1 council that the change in state or federal law has a fundamental  
2 effect on the plan.

- 3 b. Nothing in this article shall prevent the town from amending this chapter,  
4 pertaining to zoning, or the official map in such a way that a development  
5 project for which a vested right has been established is rendered  
6 noneonforming in any way.
- 7 e. The establishment of a vested right shall not preclude the application of  
8 overlay zoning, which imposes additional requirements but does not affect  
9 the allowable type or intensity of use, or ordinances or regulations, which  
10 are general in nature and applicable to all property, subject to land use  
11 regulations by the town including, but not limited to, building, fire,  
12 plumbing, electrical, and mechanical codes. Otherwise, applicable new  
13 regulations shall become effective with respect to property which is  
14 subject to a site specific development plan upon the expiration or  
15 termination of the vesting rights period provided for in this section.
- 16 d. The establishment of a vested right shall not preclude, change, or impair  
17 the authority of the town to adopt and enforce zoning chapter provisions  
18 governing noneonforming situations or uses.

19 (4) *Miscellaneous provisions:*

- 20 a. A vested right obtained under this section is not a personal right, but shall  
21 attach to and run with the applicable property. After approval of a site-  
22 specific development plan, all successors to the original landowner shall  
23 be entitled to exercise such rights.
- 24 b. Each site specific development plan, which obtains a vested right under  
25 this section, shall contain the following notation: "Approval of this plan  
26 establishes a vested right under G.S. 160A-385.1. Unless terminated at an  
27 earlier date, the vested right shall be valid until (date)."
- 28 e. In the event that G.S. 160A-385.1 is repealed, this section shall be deemed  
29 repealed and the provisions hereof no longer effective.
- 30 d. This section shall be effective October 1, 1991, and shall only apply to site  
31 specific development plans for which a vested right has been applied for  
32 and obtained on or after October 1, 1991.

33  
34 **36-304. Vested rights – site-specific vesting plans.**

35  
36 (a) Site-Specific Vesting Plan. A site-specific vesting plan consists of a plan submitted to  
37 the town in which the applicant requests vesting pursuant to this section, describing with  
38 reasonable certainty on the plan the type and intensity of use for a specific parcel or  
39 parcels of property. The plan may be in the form of, but not be limited to, any of the  
40 following plans or approvals: a planned unit development plan, a subdivision plat, or a  
41 special use permit. Unless otherwise expressly provided by the town, the plan shall at a  
42 minimum meet the requirements of a site plan set forth in section 36-299.

1  
2 (b) Establishment of Vested Right. A vested right is established with respect to any  
3 property upon the valid approval, or conditional approval, of a site-specific vesting plan  
4 as provided in this section. Such a vested right confers upon the landowner the right to  
5 undertake and complete the development and use of the property under the terms and  
6 conditions of the site-specific vesting plan, including any amendments thereto.  
7

8 (c) Approval and Amendment of Plans. If a site-specific vesting plan is based on an  
9 approval required by a local development regulation, the town shall provide whatever  
10 notice and hearing is required for that underlying approval. A duration of the underlying  
11 approval that is less than two years does not affect the duration of the site-specific vesting  
12 plan established under this section. If the site-specific vesting plan is not based on such  
13 an approval, a legislative hearing with notice as required by G.S. 160D-602 shall be held.  
14 The town may approve a site-specific vesting plan upon any terms and conditions that  
15 may reasonably be necessary to protect the public health, safety, and welfare. Conditional  
16 approval results in a vested right, although failure to abide by the terms and conditions of  
17 the approval will result in a forfeiture of vested rights. The town shall not require a  
18 landowner to waive the landowner's vested rights as a condition of developmental  
19 approval. A site-specific vesting plan is deemed approved upon the effective date of the  
20 town's decision approving the plan or another date determined by the town council upon  
21 approval. An approved site-specific vesting plan and its conditions may be amended with  
22 the approval of the owner and the town as follows: any substantial modification must be  
23 reviewed and approved in the same manner as the original approval; minor modifications  
24 may be approved by staff, if such are defined and authorized by local regulation.  
25

26 (d) Continuing Review. – Following approval or conditional approval of a site-specific  
27 vesting plan, the town may make subsequent reviews and require subsequent approvals  
28 by the town to ensure compliance with the terms and conditions of the original approval,  
29 provided that these reviews and approvals are not inconsistent with the original approval.  
30 The town may, pursuant to G.S. 160D-403(f), revoke the original approval for failure to  
31 comply with applicable terms and conditions of the original approval or the applicable  
32 local development regulations.  
33

34 (e) Duration and Termination of Vested Right.  
35

36 (1) A vested right for a site-specific vesting plan remains vested for a period of  
37 two years. This vesting shall not be extended by any amendments or  
38 modifications to a site-specific vesting plan unless expressly provided by the  
39 town.  
40

41 (2) Notwithstanding the provisions of subdivision (1) of this subsection, the town  
42 may provide for rights to be vested for a period exceeding two years but not  
43 exceeding five years where warranted in light of all relevant circumstances,  
44 including, but not limited to, the size and phasing of development, the level of  
45 investment, the need for the development, economic cycles, and market  
46 conditions or other considerations. These determinations are in the sound

1 discretion of the town and shall be made following the process specified for the  
2 particular form of a site-specific vesting plan involved in accordance with  
3 subsection (a) of this section.  
4

5 (3) Upon issuance of a building permit, the provisions of G.S. 160D-1111 and  
6 G.S. 160D-1115 apply, except that a permit does not expire and shall not be  
7 revoked because of the running of time while a vested right under this section is  
8 outstanding.  
9

10 (4) A right vested as provided in this section terminates at the end of the  
11 applicable vesting period with respect to buildings and uses for which no valid  
12 building permit applications have been filed.  
13

14 (f) Subsequent Changes Prohibited; Exceptions.  
15

16 (1) A vested right, once established as provided for in this section, precludes any  
17 zoning action by the town which would change, alter, impair, prevent, diminish,  
18 or otherwise delay the development or use of the property as set forth in an  
19 approved site-specific vesting plan, except under one or more of the following  
20 conditions:  
21

22 a. With the written consent of the affected landowner.  
23

24 b. Upon findings, by ordinance after notice and an evidentiary hearing,  
25 that natural or man-made hazards on or in the immediate vicinity of the  
26 property, if uncorrected, would pose a serious threat to the public health,  
27 safety, and welfare if the project were to proceed as contemplated in the  
28 site-specific vesting plan.  
29

30 c. To the extent that the affected landowner receives compensation for all  
31 costs, expenses, and other losses incurred by the landowner, including, but  
32 not limited to, all fees paid in consideration of financing, and all  
33 architectural, planning, marketing, legal, and other consulting fees  
34 incurred after approval by the local government, together with interest as  
35 provided under G.S. 160D-106. Compensation shall not include any  
36 diminution in the value of the property which is caused by the action.  
37

38 d. Upon findings, by ordinance after notice and an evidentiary hearing,  
39 that the landowner or the landowner's representative intentionally supplied  
40 inaccurate information or made material misrepresentations that made a  
41 difference in the approval by the town of the site-specific vesting plan or  
42 the phased development plan.  
43

44 e. Upon the enactment or promulgation of a State or federal law or  
45 regulation that precludes development as contemplated in the site-specific  
46 vesting plan or the phased development plan, in which case the town may

1 modify the affected provisions, upon a finding that the change in State or  
2 federal law has a fundamental effect on the plan, by ordinance after notice  
3 and an evidentiary hearing.

4  
5 (2) The establishment of a vested right under this section does not preclude the  
6 application of overlay zoning or other development regulations which impose  
7 additional requirements but do not affect the allowable type or intensity of use, or  
8 ordinances or regulations which are general in nature and are applicable to all  
9 property subject to development regulation by the town, including, but not limited  
10 to, building, fire, plumbing, electrical, and mechanical codes. Otherwise  
11 applicable new regulations become effective with respect to property which is  
12 subject to a site-specific vesting plan upon the expiration or termination of the  
13 vesting rights period provided for in this section.

14  
15 (3) Notwithstanding any provision of this section, the establishment of a vested  
16 right does not preclude, change, or impair the authority of the town to adopt and  
17 enforce development regulations governing nonconforming situations or uses.

18  
19 (g) Miscellaneous Provisions.

20  
21 (1) A vested right obtained under this section is not a personal right, but attaches  
22 to and runs with the applicable property. After approval of a site-specific vesting  
23 plan, all successors to the original landowner are entitled to exercise these rights.

24  
25 **ARTICLE IV. Statement of Consistency with Comprehensive Plan and**  
26 **Reasonableness.**

27  
28 The Town's adoption of this ordinance amendment is consistent with the Town's adopted  
29 comprehensive zoning ordinance, land use plan and any other officially adopted plan that  
30 is applicable; for all the above-stated reasons, including but not limited to it encourages the  
31 use of low impact development techniques and sound environmental preservation practice,  
32 encourages lot preparation methods that preserve natural vegetation and minimize clear  
33 cutting and furthers the founder's original vision for Southern Shores of a low-density  
34 residential community served by a small commercial district. The Town considers the  
35 adoption of this ordinance amendment to be reasonable and in the public interest.

36  
37 **ARTICLE V. Severability.**

38  
39 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are  
40 hereby repealed. Should a court of competent jurisdiction declare this ordinance  
41 amendment or any part thereof to be invalid, such decision shall not affect the remaining  
42 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the  
43 Town of Southern Shores, North Carolina which shall remain in full force and effect.

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45 **ARTICLE VI. Effective Date.**



1 This ordinance amendment shall be in full force and effect from and after the \_\_\_\_ day of  
2 \_\_\_\_\_, 2024.

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\_\_\_\_\_  
Elizabeth Morey, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

Date adopted:

\_\_\_\_\_  
Motion to adopt by Councilmember:

\_\_\_\_\_  
Motion seconded by Councilmember:

Vote: \_\_AYES\_\_ NAYS