



**TOWN OF SOUTHERN SHORES**  
**TOWN COUNCIL REGULAR MEETING**

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

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

[www.southernshores-nc.gov](http://www.southernshores-nc.gov)

**PITTS CENTER**

**Tuesday, March 12, 2024 at 5:30 PM**

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## **MINUTES**

### **Call Meeting to Order**

Pledge of Allegiance

Moment of Silence

### **Present**

Mayor Elizabeth Morey

Mayor pro tem Matt Neal

Council Member Paula Sherlock

Council Member Robert Neilson

### **Absent**

Council Member Mark Batenic

### **Amendments to / Approval of Agenda**

**Motion** made by Council Member Sherlock to approve the March 12, 2024 agenda as presented, Seconded by Council Member Neilson. The motion passed unanimously.

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member Neilson

### **Consent Agenda**

**Motion** made by Council Member Sherlock to approve the consent agenda as presented, Seconded by Council Member Neilson. The motion passed unanimously.

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member Neilson

1. Minute Approval- February 6, 2024 Council Mtg. & Closed Session
2. Government & Education Access Channels proposed budget for 2024-2025

### **Presentations**

3. Recognition (Town Hall Little Free Library)-Eagle Scout Austin Bellinger  
Town Manager Ogburn recognized Eagle Scout Austin Bellinger for his achievements and presented him with a Certificate of Appreciation for his community service.
4. Juniper Trinitie Culvert Bridge Replacement Design-Kimley Horn  
Andrew Phillips, project manager and engineer for Kimley Horn, provided an update on the progress, permitting, and design of the core slab bridge to replace the Juniper/Trinitie

culvert. He stated headway is being made with the design, all permits have been submitted and are currently in review, and Kimley Horn is getting ready to submit 65% completed plans to the town for review. These plans would include all roadway and roadside drainage. The design plans are a bit behind but will be submitted and hopefully to everyone's liking. The bridge will be lowered to provide a better line of sight for vehicles all while not losing much of a vertical clearance for the boats navigating the canal.

## Staff Reports

- Deputy Town Manager/Planning Director-Monthly Permit Report & Planning Board Update
  - December, January, and February monthly permit reports.
  - **Dare County EMS/Fire Station 4 at 28 E. Dogwood Trl.** -The Building Inspector issued the Certificate of Occupancy yesterday. An open house will be held on Friday from 2:00 to 6:00 p.m. which will also include guided tours of the new facility as well as free blood pressure checks provided by Dare County EMS staff members.
  - **Land Use Plan Update** -The draft plan is currently being reviewed by other State and Federal agencies and comments are being accepted from adjoining jurisdictions. All comments are supposed to be sent to the Town no later than April 1st.
  - **Planning Board**-The Town Planning Board meets on March 18th at 5:00 p.m. here in the Pitts Center. The purpose of the meeting is for the Board to reconsider ZTA-23-03, a Zoning Text Amendment application submitted by the Town of Southern Shores to amend the Town's current lot width requirements. The Board will also consider ZTA-24-02, a Zoning Text Amendment application submitted by the Town of Southern Shores to amend the Town's lot disturbance/stormwater management permit requirements by establishing that a lot disturbance/stormwater management permit is required to remove trees greater than 6 inches in diameter, measured at 4.5 feet above the ground, within a front, side or rear yard (setback) on any unimproved lot in the general commercial zoning district and the penalty for noncompliance.
  - **Historic Landmarks Commission**-The Town Historic Landmarks Commission may meet on March 26th at 9:00 a.m. here in the Pitts Center (still waiting on confirmation if all or most members can attend). If the meeting is held, the purpose of the meeting is for the Commission to hold a hearing to consider an application for a Certificate of Appropriateness submitted by Clayton Small to replace the garage windows, garage doors, and siding shingles at 116 Ocean Blvd.
- Police Chief - January and February monthly report.
- Fire Chief- February monthly report and annual end of year report.
- Town Manager-FY2024-25 Budget Planning
  - Town Manager Ogburn reviewed the proposed budget planning schedule and the list of potential capital improvements for FY 2024-25

### **Budget Calendar**

March 7	Department Head Budgets Due to the Town Manager
April 9	Regular Monthly Council Meeting. 5:30

- April 16 Mid-month meeting. 9:00  
Preliminary budget discussion to receive Town Council input.
- May 7 Regular Council Meeting and  
Manager’s Recommended Budget Presented to Town Council. 5:30
- TBA Council Workshop to discuss recommended budget (if necessary).
- ~~May 21 Mid-month meeting. 9:00~~
- TBA Council Workshop to discuss recommended budget (if necessary).
- June 4 Regular Council Meeting and Public Hearing on the Budget and  
potential adoption of the budget.

\*Budget must be adopted no later than June 30.

**Potential Capital Improvement Estimates**

Culvert replacement	\$1,600,000
Duck Rd. multi-use-path ext.	\$325,000
Multi-use-path repairs	\$150,000
Document scanning	\$180,000
Building renovation	\$250,000
<b>TOTAL</b>	<b>\$2,505,000</b>

- Town Attorney-no report

**General Public Comment**

None

**Old Business**

5. Consideration of File Room Addition & Document Scanning

Town Manager Ogburn stated the Planning Department file room is no longer manageable, it is lacking space, and the floor structure is compromised by the weight. The council previously expressed interest in having the documents scanned, to protect the public records and provide a more efficient way for the public to access the documents. To still maintain the paper copies, an addition to the room will be required. There is also a need for some town hall improvements and security upgrades. Town Manager Ogburn would like to bring a couple of bid package options back to Council for consideration. He felt including all improvements, security upgrades, and a file room addition bid together as a package would be cost effective.

Council Member Neilson asked if the documents would then be available electronically to the public. Town Manager Ogburn stated it would. The town already has the software necessary to accomplish this.

Mayor pro tem Neal stated bidding everything together is a good cost-effective way to look at the project.

**By consensus of all council-** direct the town manager to bid out the full package (file room addition and needed renovations/security upgrades) and go out to bid with the projects.

**Mayor Morey called for a five-minutes recess (6:30 p.m.)**

**Meeting Reconvened (6:36 p.m.)**

**New Business**

6. Public Hearing-Consideration of ZTA-24-01

Town Attorney Lauren Arizaga-Womble opened the public hearing and called on staff for a report.

Planning Director Haskett staff presented his staff report. At the February 6, 2024 Town Council meeting, the Town Council directed Town Staff to draft Town Code amendments to modernize the Town Code. As a result, Town Staff has drafted ZTA-24-01 which includes proposed amendments to one Section in Chapter 24, Planning and several Sections in Chapter 36, Zoning. The proposed amendments are as follows:

Part I, Section 24-27, Powers and Duties:

- Removes the previous statutory reference that grants authority for Planning Boards and replaces it with the new reference (160D-301).
- Replaces the powers and duties of the Planning Board so that they are consistent with G.S. 160D-301(b).

Part II, Section 36-203, RS-8 Multifamily Residential District:

- Establishes a 40 percent lot coverage requirement for multifamily dwellings.

Part III, Section 36-207, C General Commercial District:

- Removes multifamily dwellings from the list of Permitted Uses (use by right).
- Establishes a 100-foot setback requirement for restaurants without a drive-through or with a drive through facility from residential districts and residential uses and 50 feet from planned unit developments (PUDS).
- Establishes a 100-foot setback for drive-through facilities or establishments (small) from residential districts and residential uses and 50 feet from PUDs.
- Establishes to establish a 50-foot setback requirement for buildings and other facilities associated with mixed use group development of commercial and residential buildings from residential districts, residential uses, and PUDs.
- Establishes a 20-foot buffer requirement where a mixed-use group development abuts a residential district, residential use, or PUD.
- Establishes multifamily dwellings according to the density and dimensional requirements of the RS-8 multifamily residential district as a Special Use.
- Establishes a 50 ft. setback requirement for commercial buildings and facilities from residential districts, residential uses, and PUDs.

- Establishes a 20-foot buffer requirement where a commercial use or district abuts a residential district, residential use, or planned unit development and to require replanting of dead vegetation in buffers

Part IV, Section 36-209, Prohibited Uses in all Districts:

- Establishes miniature golf courses, storage units, warehouses, and wind farms as prohibited uses in all zoning districts.

Part V, Section 36-297, Building and Zoning Permits Required; Time Limitations for Site Plans, Building Permits and Zoning Permits:

- Establishes that approved site plans expire if a building permit and zoning permit are not issued within one year of approval.
- Establishes that only building permits expire if construction has not commenced within 180 days of issuance of a building permit and zoning permit.
- Establishes that building permits, zoning permits, and site plan approvals expire if work is discontinued for one year.
- Establishes that if an application made in accordance with approved regulation is submitted for a development approval and a development regulation change between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.

Part VI, Section 36-299, Application for Building Permits, Zoning Permits and Site Plan Requirements:

- Requires showing the proposed to scale architectural elevations of the front, sides, rear and rooflines of proposed structures shown on site plans.
- Removes submittal of the proposed method for treating wastewater, location of all wastewater collection and treatment facilities (including any applicable property to be reserved for possible future wastewater use), name of any regulatory agency that must approve wastewater system, name of and written approval for connection from any organization that will collect or dispose of wastewater as requirement for site plan approval and establishes it as a requirement prior to issuance of a building permit and zoning permit.
- Requires a rendering showing the proposed front, sides, and rear appearances of the structures relative to views from adjacent properties, including retained vegetation, proposed landscaping and other site elements.
- Requires showing the number of bedrooms and/or occupants.
- Establishes that improvements that require a new wastewater treatment facility, or connection to an existing wastewater treatment facility, documentation from the North Carolina Utilities Commission certifying that the owner of the wastewater treatment facility is an approved public utility; is the utility franchise holder; and is the permit holder issued by the North Carolina Department of Environmental Quality. All documentation of these requirements shall be submitted with the site plan application.

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

Part VII, Section 36-300, Application for Permit for Special Uses:

- Establishes that written applications for Special Use Permits shall be submitted to the Planning and Code Enforcement Department instead of the Town Planning Board no later than 30 days prior to the Planning Board meeting at which the plan is to be reviewed.
- Establishes that no Special Use Permit application shall be deemed complete unless it is accompanied by a site plan drawn to scale which complies with the site plan requirements contained in section 36-299.
- Establishes that the Town Planning Board shall review Special Use Permit applications and recommend approval, conditional approval, or rejection of applications to Town Staff instead of the Town Council.
  - 160D-301(b)(6) allows Planning Boards to provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.
- Reorganizes the Section so that it follows the Special Use Permit process chronologically.
- Establishes requirements for transmitting Special Use Permit applications, reports, and written materials to the Town Council.
- Establishes procedural requirements for evidentiary hearings held by the Town Council when considering Special Use Permits.
- Establishes that approved Special Use Permits shall be recorded by the applicant in the county registry.
- Establishes that a building permit and zoning permit must be issued within one year of approval of a Special Use Permit application and accompanying site plan. If a building permit and zoning permit are not applied for and issued within one year from the date of final approval of the Special Use Permit application and accompanying site plan, the Special Use Permit approval and site plan expire and the applicant must submit a new Special Use Permit application and accompanying site plan.

Part VIII, Section 36-304, Vested Right:

- Revises the Section title to Vested Rights – Site Specific Vesting Plans.
- Deletes the Section in its entirety and replaces it with the requirements established in G.S. 160D-108.1

**STAFF RECOMMENDATION:**

Approval of ZTA-24-01 with the exception of moving Section 36-299(b)(2)c.5. to 36-299(6)g.

Town Attorney Lauren Arizaga-Womble addressed her concerns with the term “residential use” because it is permitted in the commercial district, it will actually become a moving target when it comes to non-conformities.

Town Attorney Lauren Arizaga-Womble also addressed the Planning Board’s review of a special use permit and making recommendations to staff rather than Town Council. 160D-301(b)(6) allows

Planning Boards to provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.

Mayor Morey stated a quasi-judicial hearing does not allow general public comment. She felt it was important for members of the public to make comments and this process would provide that opportunity through the Planning Board.

The council extensively reviewed each section, noting any corrections or modifications required.

Attorney Womble called on members of the public for comment.

Matt Huband-110 Landing Trail- thanked staff for this ZTA and asked council to pass the ZTA for the betterment of the community.

Mike Stone-8 Sandfiddler Ct-family owns several commercial parcels and felt this would prevent the parcel from being developed to its highest and best use.

Staphanie Huband-110 landing Trail-thought they had bought with the residential 50 ft. protection. The adjacent commercial parcel was given extra lot coverage. The goal of Southern Shores seems to be to protect a lot of the vegetation and not all properties will be built to its full commercial use.

Andy Ward- The most recent special use proceedings have shown several apparent vulnerabilities in our ordinance pertaining to buffers, setbacks, and wastewater treatment. This ZTA tonight is good solid work from both town staff, town attorneys, and the Planning Board. He urged the council to approve the ZTA.

Hearing no further comments, Town Attorney Lauren Arizaga-Womble closed the public hearing.

Hearing no further comments, and having already reviewed each section, **Motion** made by Mayor pro tem Neal to adopt ZTA 24-01 with the following changes:

1. page 3, section 6 strike quasi judicial decision.
2. page 5-6, strike part 3, residential uses within description (found on line 4, 11, 23, 25, and following page line 5, and 7.
- 3. page 10, section 5 which has been stricken, replace in entirety.**
4. page 13, strike line 5 through "propose to wastewater"
5. page 14, line 15 should read " The town planning board shall provide a preliminary review on a special use permit application. The board shall submit the findings of the review to town staff.

Motion Seconded by Council Member Sherlock. The motion passed unanimously.

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member Neilson

**MOTION:** Mayor pro tem Neal moved to consider agenda item #8 before agenda item #7, Seconded by mayor Morey. The motion passed unanimously.

## 8. Consideration of Resolution 2024-03-02 Opposing the Release of Helium Balloons

Southern Shores resident Debbie Swick is heading up a campaign to educate all of Dare County about the detrimental impacts' helium balloons have on our fragile coastal

environment. Attached for your consideration is a Resolution Opposing the Release of Helium Balloons.

Council Member Sherlock supports the resolution but felt further discussion and information would be needed to consider an ordinance.

Mayor Morey stated this is not about selling or purchasing balloons but rather using them wisely and safely.

**Consensus** of the Council to direct staff to present 3-5 examples of ordinances that other coastal towns have adopted, and council will then have further discussions about the potential of an ordinance.

**Motion** made by Mayor pro tem Neal to adopt Resolution # 2024-03-02 Opposing the release of Helium Balloons, Seconded by Council Member Neilson. The motion passed unanimously. Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member Neilson

7. Mini-Brooks Exception Policy Approval-Pursuant to G.S.143-64.32

The agenda summary read as, G.S. 143-64.32 authorizes a unit of local government to exempt itself from the Mini-Brooks Act, which means that it will not be required to use the Qualification Based Services process and may select an architect, engineer, surveyor, or alternative construction delivery method firm by whatever method it chooses (or no method at all). The statute does not impose much by way of requirements for utilizing the exemption – it simply requires the unit to put the exemption in writing. However, the exemption is capped at \$50,000, meaning the estimated cost of the contract cannot exceed this amount. Contracts with an estimated cost of \$50,000 or more cannot be exempted and the QBS process must be used.

Throughout the fiscal year, the town needs the services of an engineer for project design such as street improvements, smaller stormwater projects, multi-use-paths and sidewalk extensions. Most of, if not all, these projects have come at a cost well below the \$50,000 required for exemption.

The process for hiring an engineering firm for projects such as the culvert replacement on Juniper/Trinitie Trail would require a formal QBS process.

Rather than securing these engineering services via a yearly contract or going through the lengthy and time consuming QBS process, staff is requesting the Council adopt the attached resolution which gives the town manager the authority to contract for architectural, engineering, and surveying services for certain small projects.

**Motion** made by Mayor Morey to adopt the attached, Resolution #2024-03-01, Seconded by Council Member Sherlock. The motion passed unanimously. Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member



Neilson

9. Historic Landmarks Commission Reappointment-Wanda Brett-Jordan

Council appointed Wanda Brett-Jordan as the alternate member on the Town Historic Landmarks Commission on May 2, 2023 with a term that was effective immediately and expired on February 3, 2024. Ms. Brett-Jordan has indicated she would like to continue serving on the Commission.

**Motion** made by Mayor Morey to Reappointment-Wanda Brett-Jordan, Seconded by Council Member Neilson. The motion passed unanimously.

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member Neilson

10. Planning Board Appointment

Alternate Planning Board member Dan Fink (first position) resigned from the Board on February 12, 2024. Town Staff has two applications to serve on the Board on file from Charles Ries and Richard Filling.

Staff recommends moving Michael Zehner from the second alternate position to the first alternate position on the Town Planning Board and appointment of Mr. Ries or Mr. Filling as an alternate member in the second position on the Town Planning Board with a term that begins immediately and ends on June 30, 2024.

Council Member Sherlock stated it was an abundance of riches to have these citizen's volunteer.

Mayor Morey felt the applications were equally impressive and in the absence of flipping a coin, **Motion** made by Mayor Morey to appoint Charles Reis as second alternate, Seconded by Council Member Sherlock. The motion passed unanimously. Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member Neilson

**General Public Comment**

None

**Council Business**

Council Member Neilson thanked the council for passing the Government Access Channel budget.

Mayor pro tem Neal stated the Housing Taskforce last scheduled meeting was canceled, but one is scheduled for next week. He hopes to have an update at that point.

Mayor Morey stated the next council meeting is April 9<sup>th</sup> and a workshop on April 16<sup>th</sup> at 9:00 am. She encouraged residents to reach out if they have any questions, concerns, or priorities about the budget. The Flat-Top tour is scheduled for April 27<sup>th</sup> and the town's own 13 Skyline will be included in that tour. This Friday is the grand opening of the new Fire/EMS Station at East Dogwood.

**Adjourn**

Hearing no further business, **Motion** made by Council Member Sherlock to adjourn the meeting at 8:04 p.m., Seconded by Mayor pro tem Neal. The motion passed unanimously.


Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Sherlock, Council Member Neilson

ATTEST:

  
Elizabeth Morey, Mayor



Respectfully submitted,

  
Sheila Kane, Town Clerk

The attached documents are incorporated herewith and are hereby made a part of these minutes.

CURRENTtv

2024-2025 Proposed Budget

The following items are presented to for review and approval.

**Board Action Requested:**

Approve the proposed 2024-2025 GEAC Budget.

**Budget Summary**

The Government Education Access Channels (GEAC) Committee has reviewed and approved the proposed 2024-2025 budget for the operation of the Government and Education Channels. The proposed budget, which would take effect July 1, 2024 must be approved by every participating member entity of the channels, which includes the towns of Duck, Southern Shores, Kitty Hawk, Kill Devil Hills, Nags Head, Manteo, and Dare County, Dare County Schools, College of The Albemarle, and ECU Coastal Studies Institute.

The budget as proposed requires no additional funding from the participating entities above the current annual \$1,000 membership fee. The budget is funded primarily from the North Carolina Video Distribution proceeds, which are disbursed quarterly by the state to certified channels throughout the state. These funds must be used for the operations of the two channels and no other purpose. Additionally, the legislation that originally established the Video Distribution funding required that the proceeds not supplant current funding. Accordingly, the annual \$1000 membership fee that was in place when the program began must remain, or the Channels would lose all Video Distribution funding from the state.

The GEAC committee recommends the attached budget, which includes, in part, the following: continued funding for two full-time staff positions and the Local Programming Development Initiative to assist members in the development of programming for the Government and Education Channels. The funding also includes contractor funding to continue to help produce two regular news magazine shows that highlight each of the participating members on the Education Channel and the Government Channel.

	Current Fiscal Year	Next Fiscal Year
<b>INCOME</b>	<b>2024 Amount</b>	<b>2025 Amount</b>
NC PEG Supplemental Video Disbursement [1]	247,000.00	257,518.00
Member Fees [2]	10,000.00	10,000.00
Interest Income [3]	5,000.00	8,000.00
Appropriated Fund Balance [4]	63,626.00	66,641.00
<b>Total Revenue</b>	<b>325,626.00</b>	<b>342,159.00</b>
<b>EXPENDITURES</b>		
Salaries (2 Positions) [5]	-128,422.00	-144,144.00
Merit Pay [6]	-2,568.00	-3,000.00
FICA	-9,825.00	-11,027.00
Retirement	-16,579.00	-19,661.00
401K		-4,324.00
Health Insurance [7]	-37,781.00 [1]	-24,596.00 [2]
Life Insurance	-210.00	-210.00
Retiree Health	-231.00	-252.00
Insurance & Bonds	-2,975.00	-3,361.00
Contractual Services [8]	-40,000.00	-40,000.00
Professional Services [9]	-2,000.00	-2,000.00
Equipment Repair & Purchase [10]	-5,000.00	-5,000.00
Supplies [11]	-3,500.00	-3,500.00
Music Library	-350.00	-350.00
Training	-1,000.00	-1,000.00
Travel	-1,000.00	-1,000.00
Professional Memberships	-500.00	-500.00
Channel Operations [12]		
OBX Media	-4,200.00	-4,200.00
Adobe	-600.00	-675.00
Tightrope Hardware	0.00	0.00
Cablecast Software Assurance Service	0.00	0.00
Spectrum Subscription		-324.00
Cablecast Reflect (Streaming/VOD Service)	-2,400.00	-2,500.00
Cablecast Closed Captioning Service (500 hours)	-3,700.00	0.00
Envato Elements Digital Assets Library	-385.00	-385.00
Marketing	-1,000.00	-3,000.00
Miscellaneous	-500.00	-500.00
Capital Outlay Projects	0.00	0.00
Contingency (Reserve for unexpected expenses)	-5,000.00	-10,000.00
Emergency Contingency (Storm related overtime)	-2,500.00	-2,500.00
Car Maintenance	-1,000.00	-1,000.00
Car Fuel	-2,000.00	-2,000.00
Uniforms	-400.00	-400.00

Verizon Contract for Streaming [13]	-750.00	-750.00
<b>Total</b>	<b>-275,626.00</b>	<b>-292,159.00</b>
<b>LPDI</b>		
LPDI 1- Coastal Studies Institute	-5,000.00	-5,000.00
LPDI 2- College of The Albemarle	-5,000.00	-5,000.00
LPDI 3 - Dare County Government	-5,000.00	-5,000.00
LPDI 4 - Dare County Schools	-5,000.00	-5,000.00
LPDI 5 - Duck	-5,000.00	-5,000.00
LPDI 6 - Kill Devil Hills	-5,000.00	-5,000.00
LPDI 7 - Kitty Hawk	-5,000.00	-5,000.00
LPDI 8 - Manteo	-5,000.00	-5,000.00
LPDI 9 - Nags Head	-5,000.00	-5,000.00
LPDI 10 - Southern Shores	-5,000.00	-5,000.00
<b>Total LPDI</b>	<b>-50,000.00</b>	<b>-50,000.00</b>
<b>Total LPDI Grand And Operating Expenditures</b>	<b>-325,626.00</b>	<b>-342,159.00</b>

Continue to footnotes on next page

# Government and Education Access Channel Draft Budget Notes for Fiscal Year 2025

## **Goals and Objectives to be achieved with this budget.**

To continue to fund the operation of the channel at a level that provides a professional, reliable and quality service to the citizens of Dare County. To increase awareness of CURRENTtv.

**[1] NC PEG Supplemental Video Disbursement** - this is revenue that is collected by the state in the form of a use tax on cable and satellite providers. The money is pooled and disbursed to qualifying PEG operations within the state. PEG stands for Public, Education, and Government Access. Dare County has 10 qualifying PEG entities, each is a member of the Government and Education Access Channel Committee. Each quarter, this money is disbursed to the entities by the state, and then the Government and Education Access Channels invoices the entities for this money. These state funds are the main source of funding for the Government and Education Access Channels.

**[2] Member Fees** - Each entity member pays an annual membership fee to participate in the Government and Education Channel Access. This money must remain in place in order for each entity to receive the PEG Supplement from the state. There is no change to this amount from last year, so impact on each entity's budget is unchanged.

**[3] Interest Income** - The unappropriated fund balance is invested and earns interest. Dare County Finance had advised that \$8,000 be included for interest income for this budget.

**[4] Appropriated Fund Balance** -The appropriated fund balance is the amount pulled from the unappropriated fund balance to meet the obligations of the budget. The unappropriated fund balance was \$340,119 as of 6/30/23.

**[5] Salaries** - This budget currently funds two full-time positions that are Dare County employees, and includes a 3.5% COLA increase as recommended by Dare County Finance for planning purposes.

**[6] Merit Pay** - Merit pay is awarded based on employee on performance. Dare County Finance has advised that \$3,000 be included for FY2024/2025.

**[7] Health Insurance** - Includes individual health insurance coverage for both employees.

**[8] Contractual Services** - This is for assistance in the production of Destination Dare and Dare Education Awareness, our two main programming initiatives that highlight interesting aspects of government and education in Dare County. Each entity contributes one segment to each episode. Destination Dare is produced every other month, and Dare Education Awareness is produced in the alternate months.

**[9] Professional Services** - To pay for costs associated with professional services such as professional voiceover work, acting, and potential production support.

**[10] Equipment** - Monies set aside for the purchase and repair of large item video production equipment, such as cameras, editing computers, and lighting equipment.

**[11] Supplies** - This supports the purchase of supplies such as batteries, gaffers tape, lighting gels, accessories, and small equipment items that do not qualify as Capital Outlay or Equipment.

**[12] Channel Operations** - Expenses that support the day to day operation of the channels. This includes:

- \$4,200.00 - OBX Media: for website hosting and maintenance
- \$2,500.00 - Reflect: Streaming Video/VOD for online video streaming service
- \$675.00 - Adobe: Creative Cloud subscription for professional non-linear editing tools
- \$324.00 - Spectrum subscription to monitor channels in CURRENTtv offices
- \$385.00 - Envato Elements: Digital asset and stock footage library

**[13] Verizon Wireless** - Line item dedicated to Verizon Wireless fee for use in mobile live broadcasting with Cradlepoint device.



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** March 12, 2024

**ITEM TITLE:** Public Hearing-Consideration of ZTA-24-01

**ITEM SUMMARY:**

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- Establishes a 20-foot buffer requirement where a mixed use group development abuts a residential district, residential use, or PUD.
- Establishes multifamily dwellings according to the density and dimensional requirements of the RS-8 multifamily residential district as a Special Use.
- Establishes a 50 ft. setback requirement for commercial buildings and facilities from residential districts, residential uses, and PUDs.
- Establishes a 20-foot buffer requirement where a commercial use or district abuts a residential district, residential use, or planned unit development and to require replanting of dead



vegetation in buffers

Part IV, Section 36-209, Prohibited Uses in all Districts:

- Establishes miniature golf courses, storage units, warehouses, and wind farms as prohibited uses in all zoning districts.

Part V, Section 36-297, Building and Zoning Permits Required; Time Limitations for Site Plans, Building Permits and Zoning Permits:

- Establishes that approved site plans expire if a building permit and zoning permit are not issued within one year of approval.
- Establishes that only building permits expire if construction has not commenced within 180 days of issuance of a building permit and zoning permit.
- Establishes that building permits, zoning permits, and site plan approvals expire if work is discontinued for one year.
- Establishes that if an application made in accordance with approved regulation is submitted for a development approval and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.

Part VI, Section 36-299, Application for Building Permits, Zoning Permits and Site Plan Requirements:

- Requires showing the proposed to scale architectural elevations of the front, sides, rear and rooflines of proposed structures shown on site plans.
- Removes submittal of the proposed method for treating wastewater, location of all wastewater collection and treatment facilities (including any applicable property to be reserved for possible future wastewater use), name of any regulatory agency that must approve wastewater system, name of and written approval for connection from any organization that will collect or dispose of wastewater as requirement for site plan approval and establishes it as a requirement prior to issuance of a building permit and zoning permit.
- Requires a rendering showing the proposed front, sides, and rear appearances of the structures relative to views from adjacent properties, including retained vegetation, proposed landscaping and other site elements.
- Requires showing the number of bedrooms and/or occupants.
- Establishes that improvements that require a new wastewater treatment facility, or connection to an existing wastewater treatment facility, documentation from the North Carolina Utilities Commission certifying that the owner of the wastewater treatment facility is an approved public utility; is the utility franchise holder; and is the permit holder issued by the North Carolina Department of Environmental Quality. All documentation of these requirements shall be submitted with the site plan application.
- Establishes that improvements that require connection to an existing wastewater treatment facility, documentation from the North Carolina Department of Environmental Quality certifying that the wastewater treatment facility is in compliance with all applicable requirements must be submitted with the site plan application, including adherence to permit conditions issued by the North Carolina Department of Environmental Quality.

Part VII, Section 36-300, Application for Permit for Special Uses:

- Establishes that written applications for Special Use Permits shall be submitted to the Planning and Code Enforcement Department instead of the Town Planning Board no later than 30 days prior to the Planning Board meeting at which the plan is to be reviewed.
- Establishes that no Special Use Permit application shall be deemed complete unless it is accompanied by a site plan drawn to scale which complies with the site plan requirements contained in section 36-299.
- Establishes that the Town Planning Board shall review Special Use Permit applications and recommend approval, conditional approval, or rejection of applications to Town Staff instead of the Town Council.
  - 160D-301(b)(6) allows Planning Boards to provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.
- Reorganizes the Section so that it follows the Special Use Permit process chronologically.
- Establishes requirements for transmitting Special Use Permit applications, reports, and written materials to the Town Council.
- Establishes procedural requirements for evidentiary hearings held by the Town Council when considering Special Use Permits.
- Establishes that approved Special Use Permits shall be recorded by the applicant in the county registry.
- Establishes that a building permit and zoning permit must be issued within one year of approval of a Special Use Permit application and accompanying site plan. If a building permit and zoning permit are not applied for and issued within one year from the date of final approval of the Special Use Permit application and accompanying site plan, the Special Use Permit approval and site plan expire and the applicant must submit a new Special Use Permit application and accompanying site plan.

Part VIII, Section 36-304, Vested Right:

- Revises the Section title to Vested Rights – Site Specific Vesting Plans.
- Deletes the Section in its entirety and replaces it with the requirements established in G.S. 160D-108.1

**STAFF RECOMMENDATION:**

Approval of ZTA-24-01 with the exception of moving Section 36-299(b)(2)c.5. to 36-299(6)g.

**REQUESTED ACTION:**

Motion to approve ZTA-24-01 with the exception of moving Section 36-299(b)(2)c.5. to 36-299(6)g.

## STAFF REPORT

**To:** Southern Shores Town Council  
**Date:** March 12, 2024  
**Case:** ZTA-24-01  
**Prepared By:** Wes Haskett, Deputy Town Manager/Planning Director

### GENERAL INFORMATION

**Applicant:** Town of Southern Shores  
**Requested Action:** Amendment of the Town Code by amending Town Code Sections 24-27, 36-203, 36-207(b)(4), 36-207(c)(12), 36-207(c)(1)b., 36-207(c)(1.5)b., 36-207(c)(11)j., 36-207(c)(11)k., 36-207(c), 36-207(d)(7), 36-207(d)(8), 36-209, 36-297, 36-299, 36-300, and 36-304.

### ANALYSIS

At the February 6, 2024 Town Council meeting, the Town Council directed Town Staff to draft Town Code amendments to modernize the Town Code. As a result, Town Staff has drafted ZTA-24-01 which includes proposed amendments to one Section in Chapter 24, Planning and several Sections in Chapter 36, Zoning. The proposed amendments are as follows:

#### Part I, Section 24-27, Powers and Duties:

- Removes the previous statutory reference that grants authority for Planning Boards and replaces it with the new reference (160D-301).
- Replaces the powers and duties of the Planning Board so that they are consistent with G.S. 160D-301(b).

#### Part II, Section 36-203, RS-8 Multifamily Residential District:

- Establishes a 40 percent lot coverage requirement for multifamily dwellings.

#### Part III, Section 36-207, C General Commercial District:

- Removes multifamily dwellings from the list of Permitted Uses (use by right).
- Establishes a 100-foot setback requirement for restaurants without a drive-through or with a drive through facility from residential districts and residential uses and 50 feet from planned unit developments (PUDS).
- Establishes a 100-foot setback for drive-through facilities or establishments (small) from residential districts and residential uses and 50 feet from PUDs.
- Establishes to establish a 50-foot setback requirement for buildings and other facilities associated with mixed use group development of commercial and residential buildings from residential districts, residential uses, and PUDs.
- Establishes a 20-foot buffer requirement where a mixed use group development abuts a residential district, residential use, or PUD.
- Establishes multifamily dwellings according to the density and dimensional requirements of the RS-8 multifamily residential district as a Special Use.
- Establishes a 50 ft. setback requirement for commercial buildings and facilities from residential districts, residential uses, and PUDs.
- Establishes a 20-foot buffer requirement where a commercial use or district abuts a residential district, residential use, or planned unit development and to require replanting

of dead vegetation in buffers

Part IV, Section 36-209, Prohibited Uses in all Districts:

- Establishes miniature golf courses, storage units, warehouses, and wind farms as prohibited uses in all zoning districts.

Part V, Section 36-297, Building and Zoning Permits Required; Time Limitations for Site Plans, Building Permits and Zoning Permits:

- Establishes that approved site plans expire if a building permit and zoning permit are not issued within one year of approval.
- Establishes that only building permits expire if construction has not commenced within 180 days of issuance of a building permit and zoning permit.
- Establishes that building permits, zoning permits, and site plan approvals expire if work is discontinued for one year.
- Establishes that if an application made in accordance with approved regulation is submitted for a development approval and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.

Part VI, Section 36-299, Application for Building Permits, Zoning Permits and Site Plan Requirements:

- Requires showing the proposed to scale architectural elevations of the front, sides, rear and rooflines of proposed structures shown on site plans.
- Removes submittal of the proposed method for treating wastewater, location of all wastewater collection and treatment facilities (including any applicable property to be reserved for possible future wastewater use), name of any regulatory agency that must approve wastewater system, name of and written approval for connection from any organization that will collect or dispose of wastewater as requirement for site plan approval and establishes it as a requirement prior to issuance of a building permit and zoning permit.
- Requires a rendering showing the proposed front, sides, and rear appearances of the structures relative to views from adjacent properties, including retained vegetation, proposed landscaping and other site elements.
- Requires showing the number of bedrooms and/or occupants.
- Establishes that improvements that require a new wastewater treatment facility, or connection to an existing wastewater treatment facility, documentation from the North Carolina Utilities Commission certifying that the owner of the wastewater treatment facility is an approved public utility; is the utility franchise holder; and is the permit holder issued by the North Carolina Department of Environmental Quality. All documentation of these requirements shall be submitted with the site plan application.
- Establishes that improvements that require connection to an existing wastewater treatment facility, documentation from the North Carolina Department of Environmental Quality certifying that the wastewater treatment facility is in compliance with all

applicable requirements must be submitted with the site plan application, including adherence to permit conditions issued by the North Carolina Department of Environmental Quality.

Part VII, Section 36-300, Application for Permit for Special Uses:

- Establishes that written applications for Special Use Permits shall be submitted to the Planning and Code Enforcement Department instead of the Town Planning Board no later than 30 days prior to the Planning Board meeting at which the plan is to be reviewed.
- Establishes that no Special Use Permit application shall be deemed complete unless it is accompanied by a site plan drawn to scale which complies with the site plan requirements contained in section 36-299.
- Establishes that the Town Planning Board shall review Special Use Permit applications and recommend approval, conditional approval, or rejection of applications to Town Staff instead of the Town Council.
  - 160D-301(b)(6) allows Planning Boards to provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.
- Reorganizes the Section so that it follows the Special Use Permit process chronologically.
- Establishes requirements for transmitting Special Use Permit applications, reports, and written materials to the Town Council.
- Establishes procedural requirements for evidentiary hearings held by the Town Council when considering Special Use Permits.
- Establishes that approved Special Use Permits shall be recorded by the applicant in the county registry.
- Establishes that a building permit and zoning permit must be issued within one year of approval of a Special Use Permit application and accompanying site plan. If a building permit and zoning permit are not applied for and issued within one year from the date of final approval of the Special Use Permit application and accompanying site plan, the Special Use Permit approval and site plan expire and the applicant must submit a new Special Use Permit application and accompanying site plan.

Part VIII, Section 36-304, Vested Right:

- Revises the Section title to Vested Rights – Site Specific Vesting Plans.
- Deletes the Section in its entirety and replaces it with the requirements established in G.S. 160D-108.1

The ZTA is consistent with the Town’s Existing and Future Land Use Map in the Town’s currently adopted Land Use Plan. The Town’s Land Use Plan contains the following Policies and Action Items that are applicable to the proposed ZTA:

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

- **Action Item 2-b** The Town shall encourage the use of low impact development techniques and sound environmental preservation practices for all new development, remodeling and redevelopment within Southern Shores.
- **Policy 7** Support stormwater management programs that reduce flooding and improve coastal water quality.
  - **Action Item 7-b** Encourage the use of Low Impact Development (LID), vegetative buffers to filter stormwater, impervious surface limits, and innovative stormwater management alternatives to reduce runoff and to improve water quality.
- **Policy 26** Promote open space, tree protection, and natural vegetation diversity.
  - **Action Item 26-b** Encourage lot preparation methods that preserve natural vegetation and minimize clear cutting.

### **RECOMMENDATION**

Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan and Town Staff recommends approval of the application with the exception of moving Section 36-299(b)(2)c.5. to 36-299(6)g. The Town Planning Board unanimously (5-0) recommended approval of the application at the February 21, 2024 Planning Board meeting.



# 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  Zoning Ordinance

W. H. Hault  
Signature

2-8-24  
Date

\* Attach supporting documentation.



**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

ZTA-24-01

2-21-24

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 town council.~~
- 33           (7) ~~To perform any other duties which may lawfully be assigned to it. To perform~~  
 34           ~~any other related duties that the town council 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. 36-203. RS-8 multifamily residential district.** Be amended as  
2 follows:

3  
4 **Sec. 36-203. RS-8 multifamily residential district.**

5  
6 ...

7  
8 (d) *Dimensional requirements.*

9  
10 ...

11  
12 (6) For multifamily dwellings, the lot coverage shall not exceed 40 percent.  
13 Maximum allowable lot coverage by all other principal uses and all accessory  
14 structures: 30 percent. In the case of a lot where the boundary is the Atlantic  
15 Ocean, only that portion of the lot area landward of the first line of stable  
16 natural vegetation (as defined by CAMA) shall be used for the calculation of lot  
17 coverage as it pertains to impervious surface limits included in the maximum  
18 allowable lot coverage constraints.

19  
20 ...

21  
22 **PART III.** That **Sec. 36-207. C general commercial district.** Be amended as follows:

23  
24 **Sec. 36-207. C general commercial district.**

25  
26 ...

27  
28 (b) *Permitted uses.* The following uses shall be permitted by right:

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

33  
34 (c) *Special Uses.*

35  
36 ...

37  
38 (1) Restaurants without a drive-through or with a drive through facility, provided:

39

1 ...

2

3 b. The location of the drive-through facility is a minimum of 100 feet from ~~any~~  
4 ~~residentially zoned property districts and residential uses and a minimum of 50~~  
5 feet from any planned unit development.

6 (1.5) Drive-through facility or establishment (small) provided:

7

8 ...

9

10 b. The location of the drive-through facility is a minimum of 100 feet from ~~any~~  
11 ~~residentially zoned property districts and residential uses and a minimum of 50~~  
12 feet from any planned unit development.

13

14 ...

15

16 (11) Mixed use group development of commercial and residential buildings,  
17 provided:

18

19 ...

20

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

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

27

28 ...

29

30 (12) Multifamily dwellings according to the density and dimensional  
31 requirements of the RS-8 multifamily residential district.

32

33 ...

34

35 (d) *Dimensional requirements.*

36

1 ...

2

3 (7) No building or other facility (such as parking areas, incinerators, trash  
4 collection areas, etc.) shall be located nearer than 50 feet to boundaries of  
5 residential districts, residential uses or planned unit developments.

6 (8) Where a commercial use or ~~zone~~ district abuts a residential ~~zone~~ district,  
7 residential use or planned unit development, a buffer of dense vegetative planting  
8 or natural vegetation is required. The buffer area shall have a minimum width of  
9 20 feet with two rows of planting material placed ten feet on center that are a  
10 minimum of five feet in height when installed that expect to achieve a height of  
11 eight feet within three years. Suitable plant types shall be those recommended for  
12 the coastal area by the U.S. Department of Agriculture which can be expected to  
13 reach a mature growth of eight to ten feet. Vegetation plan to be approved by the  
14 town council. Buffers shall be maintained by the property owner. Dead vegetation  
15 shall be replanted during the appropriate planting season.

16

17 ...

18

19 **PART IV. That Sec. 36-209. Prohibited uses in all districts.** Be amended as follows:

20

21 **36-209. Prohibited uses in all districts.**

22

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

24

25 ...

26

27 (25) Manufacturing, processing, assembly and other industrial facilities;

28 (26) Miniature golf courses;

29 (~~267~~) Motor vehicle body and paint establishments;

30 (~~278~~) Motor vehicle dealerships;

31 (~~289~~) Motor vehicle washing establishments;

32 (~~2930~~) Night clubs;

33 (~~301~~) Nitrogenous tankage, fish meal or manufacture, of any fertilizer materials  
34 carrying an objectionable odor;

35 (~~342~~) Nursing homes;

36 (~~323~~) Outdoor advertising or billboards except where prohibition is preempted by  
37 state or federal law;

38 (~~334~~) Outdoor shooting ranges;

- 1 (345)Package treatment plant wastewater disposal systems that discharge to surface  
2 waters;
- 3 (356)Pawn shops;
- 4 (367)Satellite dish farms;
- 5 (378)Sexually oriented businesses;
- 6 (389)Shooting ranges;
- 7 (3940)Slaughterhouses;
- 8 (401)Smoke and vapor shops;
- 9 (412)Solar energy farms;
- 10 (423)Storage or processing of radioactive or infectious waste;
- 11 (434)Storage units;
- 12 (445)Tattoo, body piercing, and body art establishments;
- 13 (446)Taxi and pedicab storage and dispatch; or
- 14 (457)Use of a boat, houseboat, or other floating structure as a temporary or  
15 permanent residence (this shall not prevent the overnight occupancy of a vessel  
16 temporarily;
- 17 (48) Warehouses;
- 18 (49) Wind farms.

19  
20 **PART V. That Sec. 36-297. Building and zoning permits required; time**  
21 **limitations for site plans and building permits.** Be amended as follows:

22  
23 **Sec. 36-297. Building and zoning permits required; time limitations for site plans, and**  
24 **building permits and zoning permits.**

25  
26 (a) The following provisions pertaining to time limitations to obtain building and  
27 zoning permits, and to commence, ~~and~~ continue ~~and complete~~ construction, shall  
28 apply in all cases in which site plan approval is required, unless otherwise provided  
29 for in section 36-304. ~~Subsection (a)(4) of this section, pertaining to site plan~~  
30 ~~extensions, shall not apply in instances where a landowner has been granted a vested~~  
31 ~~right pursuant to section 36-304.~~

32 (1) *Building and zoning permits required.* No building or other structure shall be  
33 erected, moved, added to, or structurally altered, without a permit issued by the  
34 building inspector and zoning administrator. No building or zoning permit shall  
35 be issued except in conformity with the provisions of this article. A zoning  
36 permit, if required, shall be issued by the zoning administrator prior to the  
37 issuance of a building permit. A fee for building permits and zoning permits is  
38 required which shall be in accordance with a regularly adopted fee schedule of  
39 the town.

1 (2) *Time limitation to obtain building permit and zoning permit.* Upon final  
 2 approval of a site plan, if required by the town council, the building inspector  
 3 and zoning administrator may issue a building permit and zoning permit within  
 4 180 days one year from the date of such approval, provided that all other  
 5 requirements are met. If a building permit and zoning permit are not issued  
 6 within 180 days one year from the date of final approval of the site plan, the  
 7 site plan expires and the applicant must submit a new site plan, conforming to  
 8 the then current provisions of the zoning chapter and all other applicable  
 9 ordinances, for review by the planning board and town council and pay the  
 10 applicable fees.

11 (3) *Time limitation to commence and continue construction.* If the start of  
 12 construction has not commenced within 180 days from the date of issuance of a  
 13 building permit, the building permit, zoning permit and the approval of that site  
 14 plan shall expire. If, after commencement, the work is discontinued for a period  
 15 of 12 months one year, the building permit, zoning permit, and site plan shall  
 16 immediately expire. No work authorized by any permit or site plan that has  
 17 expired shall be performed until a new site plan has been approved and a new  
 18 building permit and zoning permit have been issued and all applicable fees  
 19 paid.

20 (4) *Time limitation to complete construction.* ~~If the work authorized by any~~  
 21 ~~building permit, issued in accordance with an approved site plan, is started but~~  
 22 ~~not prosecuted to completion within 18 months of the date of issuance of the~~  
 23 ~~building permit and zoning permit, the approval of that site plan shall expire~~  
 24 ~~and the building permit and zoning permit shall be revoked. At the time of~~  
 25 ~~expiration, all work shall cease, and shall be allowed to continue only after a~~  
 26 ~~new site plan has been reviewed and approved by the planning board and town~~  
 27 ~~council, and a new building permit and zoning permit issued and all applicable~~  
 28 ~~fees paid. The new site plan shall depict work in accordance with the then~~  
 29 ~~current provisions of the town zoning chapter and any further construction or~~  
 30 ~~use shall be in conformity with those regulations.~~

31 (b) ~~As an alternative to subsections (a)(2), (3) and (4) of this section, a developer may,~~  
 32 ~~no sooner than 60 days and no later than 30 days prior to the date of expiration of a~~  
 33 ~~site plan, petition the town council and upon a subsequent finding by the town~~  
 34 ~~council that the delay in construction has been due to circumstances beyond the~~  
 35 ~~control of the developer, and that an extension of the approval of the site plan will~~  
 36 ~~not be detrimental to the health, safety and general public welfare, and will be in~~  
 37 ~~harmony with the spirit and intent of the town zoning ordinance, the town council~~  
 38 ~~may extend the approval of the site plan for up to 90 days. In the event the town~~  
 39 ~~council grants an extension to a site plan and the time limitation for the building~~  
 40 ~~permit and zoning permit have expired pursuant to G.S. 160A-418 and G.S. 160A-~~  
 41 ~~382, the applicant will be required to purchase a new building permit and zoning~~  
 42 ~~permit. If a site plan expires or the town council does not grant an extension, the~~  
 43 ~~applicant must submit a new site plan conforming to the then current provisions of~~  
 44 ~~the zoning ordinance and pay the applicable fees.~~

1       (4) Permit choice. If an application made in accordance with approved regulation  
 2       is submitted for a development approval required pursuant to this chapter and a  
 3       development regulation changes between the time the application was  
 4       submitted and a decision is made, the applicant may choose which version of  
 5       the development regulation will apply to the application. If the development  
 6       permit applicant chooses the version of the rule or ordinance applicable at the  
 7       time of the permit application, the development permit applicant shall not be  
 8       required to await the outcome of the amendment to the rule, map, or ordinance  
 9       prior to acting on the development permit. This section applies to all  
 10       development approvals issued by the town.

11  
 12       **PART VI. That Sec. 36-299. Application for building permits, zoning permits and**  
 13       **site plan requirements.** Be amended as follows:

14  
 15       **Sec. 36-299. Application for building permits, zoning permits and site plan**  
 16       **requirements.**

17  
 18       ...

19  
 20       (b) *All uses other than one- and two-family dwelling units.*

- 21       (1) Site plans must be reviewed by the planning board and approved by the town  
 22       council before a building permit and zoning permit for construction may be  
 23       issued.
- 24       (2) Site plan requirements. Twelve copies of the site plan shall be submitted no  
 25       later than 30 days prior to the planning board meeting at which the plan is to be  
 26       reviewed. All plans shall be prepared, stamped and endorsed by a state  
 27       registered engineer, surveyor or architect, or other person duly authorized by  
 28       the state to prepare such plans. All plans shall contain at least the following  
 29       information:
- 30       a. *Property and ownership information.*
- 31           1. Present recorded owner and the map book reference of the site
  - 32           2. Owners, lot numbers or map book and page reference of all adjacent
  - 33           3. Boundary of the entire lot by course and distance.
  - 34           4. Width of the existing rights-of-way.
  - 35           5. Nature or purpose, location and size of existing easements.
  - 36           6. Iron pins three-eighths of one inch in diameter and 36 inches in
  - 37           length, or concrete monuments shall be shown and installed at all lot
  - 38           corners, points of tangents, and any angle point along a given course
  - 39           of the lot.
  - 40
  - 41



- 1           7. Plan drawn to at least one inch: 100-foot scale showing north arrow.
- 2           8. Zoning district of the site and all adjacent properties.
- 3           9. Lot area by upland; by swamp, marsh and wetland; and the total area.
- 4       b. *Existing features information.*
- 5           1. Streets showing the type and width of pavement, curbs and
- 6                 sidewalks.
- 7           2. Topographic features of the lot and existing grades for the lot, streets,
- 8                 storm drainage, etc.
- 9           3. All underground utilities and facilities.
- 10          4. All existing buildings and structures.
- 11          5. Wetlands as certified by the U.S. Army Corps of Engineers or their
- 12                 authorized agent.
- 13          6. Flood zone, base flood elevation, and map reference, as determined
- 14                 by the latest FEMA flood insurance rate map, with the notation
- 15                 "flood zones subject to change by FEMA."
- 16       c. Site improvements, show all proposed site improvements including, but
- 17             not limited to:
- 18           1. ~~Anticipated final appearance~~ Proposed to scale architectural
- 19                 elevations of the front, sides, rear and rooflines of proposed structures
- 20                 shown on the site plan, ~~plus a rendering showing the anticipated front~~
- 21                 ~~appearance of the structure relative to landscaping. Final appearance~~
- 22                 ~~of all structures shall be determined at time of building permit~~
- 23                 ~~application.~~
- 24           2. Proposed building type and material (i.e., steel, brick, concrete or
- 25                 wood frame), number of floors and dimensions.
- 26           3. Proposed lowest floor elevation.
- 27           4. Location and type of all sidewalks and curbs with the site.
- 28           5. ~~Proposed method for treating wastewater, location of all wastewater~~
- 29                 ~~collection and treatment facilities (including any applicable property~~
- 30                 ~~to be reserved for possible future wastewater use), name of any~~
- 31                 ~~regulatory agency that must approve wastewater system, name of and~~
- 32                 ~~written approval for connection from any organization that will~~
- 33                 ~~collect or dispose of wastewater.~~
- 34           65. Layout and number of parking stalls, driveway connections, and
- 35                 internal traffic plans.
- 36           76. Finished grades.
- 37           87. A tabulation of the total number of dwelling units of various types in
- 38                 the project and the overall project density in dwelling units per acre.

1 98. Rights-of-way improvements in accordance with the policy of the  
2 town council.

3 ~~109.~~ Storm drainage in accordance with the policy of the town council.

4 ~~110.~~ A tabulation of lot coverage by type of cover and overall project  
5 coverage and percent coverage.

6 ~~1211.~~ Limits of land disturbing activity and the calculated area of land  
7 disturbance.

8 ~~1312.~~ Proposed use under this chapter, pertaining to zoning.

9 ~~1413.~~ Parking requirements and spaces provided.

10 ~~1514.~~ Proposed signage and calculations.

11 ~~1615.~~ Proposed water supply.

12 ~~1716.~~ Proposed outdoor lighting.

13 ~~1817.~~ Required and provided buffers, and proposed landscaping.

14 ~~1918.~~ Location of solid waste container, plus location of separate  
15 recycling container.

16 19. A rendering showing the proposed front, sides, and rear appearances  
17 of the structures relative to views from adjacent properties, including  
18 retained vegetation, proposed landscaping and other site elements.

19 20. Proposed number of bedrooms and/or occupants.

20 d. All items on the site plan and all pertinent provisions of this chapter,  
21 pertaining to zoning, shall be addressed by the applicant before the site  
22 plan is presented for review by the planning board.

23 e. Dimensional requirements and development standards shall be in  
24 accordance with the district in which the development is to be located.

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

26 a. No proposed site plan shall be accepted by the town, as part of an  
27 application for approval or conditional approval by the planning board,  
28 without written tentative approval of the proposed sewage treatment and  
29 disposal facilities by the department of environmental health or the state  
30 department having jurisdiction.

31 i. For improvements that require a new wastewater treatment facility, or  
32 connection to an existing wastewater treatment facility, documentation  
33 from the North Carolina Utilities Commission certifying that the owner of  
34 the wastewater treatment facility is an approved public utility; is the utility  
35 franchise holder; and is the permit holder issued by the North Carolina  
36 Department of Environmental Quality. All documentation of these  
37 requirements shall be submitted with the site plan application.

38 ii. For improvements that require connection to an existing wastewater  
39 treatment facility, documentation from the North Carolina Department of

1                    Environmental Quality certifying that the wastewater treatment facility is  
 2                    in compliance with all applicable requirements must be submitted with the  
 3                    site plan application, including adherence to permit conditions issued by  
 4                    the North Carolina Department of Environmental Quality.

- 5                    b. No proposed site plan shall be accepted by the town, as part of an  
 6                    application for approval or conditional approval by the planning board,  
 7                    without written tentative approval of the proposed water distribution  
 8                    facilities by the water department or the state department having  
 9                    jurisdiction.

- 10                  (4) The planning board may recommend approval, conditional approval or  
 11                  rejection of any proposed site plan. Upon completion of review, the planning  
 12                  board will transmit their recommendations to the town council. The town  
 13                  council may approve, approve with specific requirements or disapprove any site  
 14                  plan. A rejected site plan may be resubmitted, in accordance with this section,  
 15                  when redrafted to meet the specifications of this article and upon payment of a  
 16                  plan review fee.

17                  (5) *Site plan amendments.*

- 18                  a. Following town council's final site plan approval, minor changes or  
 19                  amendments to the approved site plan may be approved by the zoning  
 20                  administrator upon written application if the site plan as amended will  
 21                  otherwise meet the requirements for approval. All other changes or  
 22                  amendments to an approved site plan must be approved by the town  
 23                  council after review by the planning board in the same manner required for  
 24                  the initial review of a site plan.
- 25                  b. Changes or amendments to an approved site plan may be considered minor  
 26                  if, in the discretion of the zoning administrator, they have no substantial  
 27                  impact on neighboring properties or the general public and do not prevent  
 28                  the spirit and intent of a condition of the prior approval or the  
 29                  requirements of the zoning ordinance from being met. If, in the zoning  
 30                  administrator's sole discretion, the zoning administrator cannot clearly  
 31                  determine whether a change or amendment qualifies as minor or upon the  
 32                  written request of the applicant, the changes or amendments to a site plan  
 33                  shall be considered by the town council after review by the planning board  
 34                  in the same manner required for the initial review of a site plan.

- 35                  (6) Prior to issuance of a building permit and zoning permit, evidence shall be  
 36                  presented to the town showing satisfaction of all appropriate state and federal  
 37                  permits, including but not limited to:

- 38                  a. U.S. Army Corps of Engineers wetlands permit.  
 39                  b. NCDOT driveway permit and/or encroachment application for work in a  
 40                  state right-of-way.  
 41                  c. State soil erosion and sedimentation control plan approval.  
 42                  d. State stormwater plan approval.

- 1 e. State or town CAMA permit.
- 2 f. Receipts for payment of water connection fee, county regional water
- 3 system.
- 4 g. Septic tank or other wastewater treatment approval by the department of
- 5 environmental health or other appropriate permitting agencies. Proposed
- 6 method for treating wastewater, location of all wastewater collection and
- 7 treatment facilities (including any applicable property to be reserved for
- 8 possible future wastewater use), name of any regulatory agency that must
- 9 approve wastewater system, name of and written approval for connection
- 10 from any organization that will collect or dispose of wastewater.
- 11 (7) Inspections of sites involving public rights-of-way and inspections of any on-
- 12 site construction shall be made by the town.

13

14 **PART VII. That Sec. 36-300. Application for permit for special uses.** Be amended as  
15 follows:

16

17 **Sec. 36-300. Application for permit for special uses.**

18

19 ...

20

21 (1) Written application for a special use permit shall be submitted to the planning  
22 and code enforcement department ~~board~~ no later than 30 days prior to the  
23 planning board meeting at which the plan is to be reviewed. Such written  
24 application shall indicate the section of this article under which a permit is  
25 being sought, and shall contain the information required by the appropriate  
26 section and such other information as may be required, to ensure compliance  
27 with this article. No application shall be deemed complete unless it is  
28 accompanied by a site plan drawn to scale which complies with the site plan  
29 requirements contained in section 36-299.

30

31 (2) ~~a.~~ The written application shall include a list of the names and addresses of all  
32 abutting property owners and the owners of property immediately across the  
33 street from the property affected by the special use application. The list shall be  
34 supplied by the applicant and shall be current according to the most recent tax  
35 listing abstract as filed in the office of the county tax supervisor. ~~The town~~  
36 ~~council shall hold a public hearing and shall give written notice, including the~~  
37 ~~date and time of a public hearing at which the application will be considered, to~~  
38 ~~the owners as contained in said listing. Notice shall be sent by certified mail to~~  
39 ~~the last address of such owners as appears on the list supplied by the applicant.~~  
40 ~~Notice shall be given at least ten days in advance of such public hearing by a~~  
41 ~~legal advertisement placed in a newspaper having general circulation in the~~  
42 ~~county. Notice of these hearings shall be posted on the property concerned for~~  
43 ~~at least ten days prior to the public hearing.~~

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

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

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

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

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

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

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

~~b. That the use as proposed will conform with the town's land use plan, and will be compatible with the area in which it is to be located, if developed~~

1 in accordance with the conditions specified in the chapter and additionally  
2 required by the town council as authorized by the chapter.

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

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

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

17  
18 (6) ~~In granting any special use permit, the town council may prescribe appropriate~~  
19 ~~conditions and safeguards in conformity with this article. Violation of such~~  
20 ~~conditions and safeguards, when made a part of the terms under which the~~  
21 ~~special use permit is granted, shall be deemed a violation of this article and~~  
22 ~~punishable under article XI of this chapter. Upon final approval of a site plan~~  
23 ~~by the town council, the building inspector, upon proper application, shall issue~~  
24 ~~a building permit within 180 days from the date of such approval, provided that~~  
25 ~~all other requirements are met. If a building permit is not applied for and issued~~  
26 ~~within 180 days from the date of final approval of the site plan, the site plan~~  
27 ~~expires and the applicant must submit a new site plan, conforming to the then~~  
28 ~~current provisions of the zoning chapter and all other applicable ordinances, for~~  
29 ~~review by the planning board and town council and pay the applicable fees. If~~  
30 ~~any of the conditions of approval or any part of them should be held invalid or~~  
31 ~~void, the entire permit shall be void immediately.~~

32  
33 (6) Any party may appear in person, or by agent or attorney.

34  
35 (7) The zoning administrator shall transmit to the town council all applications,  
36 reports, and written materials relevant to the matter being considered. The  
37 administrative materials may be distributed to the members of the town council  
38 prior to the hearing if at the same time they are distributed to the town council a  
39 copy is also provided to the applicant and to the landowner if that person is not  
40 the applicant. The administrative materials may be provided in written or  
41 electronic form. The administrative materials shall become a part of the hearing  
42 record. Objections to inclusion or exclusion of administrative materials to the

1 hearing record may be made before or during the hearing. Rulings on  
 2 unresolved objections shall be made by the town council at the hearing.

3  
 4 (8) The applicant, the town, and any person who would have standing under G.S.  
 5 160D-1402(c) shall have the right to participate as a party at the evidentiary  
 6 hearing. Other witnesses may present competent, material, and substantial  
 7 evidence that is not repetitive as allowed by the town council. Objections  
 8 regarding jurisdictional and evidentiary issues, including, but not limited to, the  
 9 timeliness of an appeal or the standing of a party, may be made to the town  
 10 council. The mayor shall rule on any objections, and the mayor's rulings may be  
 11 appealed to the full town council. These rulings are also subject to judicial  
 12 review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues  
 13 may be raised for the first time on judicial review.

14  
 15 (9) The mayor or any member acting as mayor and the town clerk are authorized to  
 16 administer oaths to witnesses in any matter coming before the town council.  
 17 Any person who, while under oath during a proceeding before the town council  
 18 determining a quasi-judicial matter, willfully swears falsely is guilty of a Class  
 19 1 misdemeanor.

20  
 21 (10) The town council through the mayor, or in the mayor's absence anyone acting  
 22 as mayor, may subpoena witnesses and compel the production of evidence. To  
 23 request issuance of a subpoena, persons with standing under G.S. 160D-1402(c)  
 24 may make a written request to the mayor explaining why it is necessary for  
 25 certain witnesses or evidence to be compelled. The mayor shall issue requested  
 26 subpoenas he or she determines to be relevant, reasonable in nature and scope,  
 27 and not oppressive. The mayor shall rule on any motion to quash or modify a  
 28 subpoena. Decisions regarding subpoenas made by the mayor may be appealed  
 29 to the full town council. If a person fails or refuses to obey a subpoena issued  
 30 pursuant to this subsection, the town council or the party seeking the subpoena  
 31 may apply to the General Court of Justice for an order requiring that its  
 32 subpoena be obeyed, and the court shall have jurisdiction to issue these orders  
 33 after notice to all proper parties.

34  
 35 (11) The town council may grant a continuance to any party or upon the town  
 36 council's own motion. Requests for continuances should be made in writing, but  
 37 may be made orally at a meeting of the town council. The mayor may grant a  
 38 continuance request prior to a meeting if the applicant makes a written request.  
 39 The mayor may always defer ruling on such a request to allow for the decision  
 40 to be made by the full town council.

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

4  
 5           (12) In granting any special use permit, the town council may prescribe appropriate  
 6 conditions and safeguards in conformity with this article. Violation of such  
 7 conditions and safeguards, when made a part of the terms under which the  
 8 special use permit is granted, shall be deemed a violation of this article and  
 9 punishable under article XI of this chapter. Conditions and safeguards imposed  
 10 under this subsection shall not include requirements for which the town does  
 11 not have authority under statute to regulate nor requirements for which the  
 12 courts have held to be unenforceable if imposed directly by the town, including,  
 13 without limitation, taxes, impact fees, building design elements within the  
 14 scope of G.S. 160D-702(b), driveway-related improvements in excess of those  
 15 allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized  
 16 limitations on the development or use of land.

17  
 18           (13) The town council shall determine contested facts and make its decision within a  
 19 reasonable time. The decision shall be based upon competent, material, and  
 20 substantial evidence in the record. The decision shall be reduced to writing and  
 21 reflect the town council's determination of contested facts and their application  
 22 to the applicable standards. The written decision shall be signed by the mayor  
 23 or other duly authorized member of the council. The decision is effective upon  
 24 filing the written decision with the town clerk. The decision of the town council  
 25 shall be delivered by personal delivery, electronic mail, or by first-class mail to  
 26 the applicant, property owner, and to any person who has submitted a written  
 27 request for a copy, prior to the date the decision becomes effective. The person  
 28 required to provide notice shall certify that proper notice has been made.

29  
 30           (14) Special use permits issued pursuant to this section shall be recorded by the  
 31 applicant in the county registry.

32  
 33           (15) Upon final approval of a special use permit application and accompanying site  
 34 plan by the town council, the building inspector and zoning administrator, upon  
 35 application for a building permit and zoning permit, shall issue a building  
 36 permit and zoning permit within one year from the date of such approval,  
 37 provided that all other requirements are met. If a building permit and zoning  
 38 permit are not applied for and issued within one year from the date of final  
 39 approval of the special use permit application and accompanying site plan, the  
 40 special use permit approval and site plan expires and the applicant must submit  
 41 a new special use permit application and accompanying site plan, conforming  
 42 to the then current provisions of the zoning chapter and all other applicable  
 43 ordinances, for review by the planning board and town council and pay the



1 applicable fees. If any of the conditions of approval or any part of them should  
2 be held invalid or void, the entire permit shall be void immediately.

3  
4 **PART VIII. That Sec. 36-304. Vested right.** Be deleted in its entirety and replaced as  
5 follows:  
6

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

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

17 ~~(1) *Establishment.*~~

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

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

- 36 ~~a. A right which has been vested as provided for in this section shall remain~~  
37 ~~vested for a period of two years from the date of town council approval of~~  
38 ~~the site specific development plan. This vesting shall not be extended by~~  
39 ~~any amendments or modifications to a site specific development.~~
- 40 ~~b. The town council may rescind the approval of a site specific development~~  
41 ~~plan for failure to comply with applicable terms and conditions of the~~  
42 ~~approval or the chapter pertaining to zoning.~~

- 1 e. Upon issuance of a building permit, the provisions of G.S. 160A-418 and  
 2 160A-422 shall apply, except that a permit shall not expire or be revoked  
 3 because of the running of time while a vested right under this section is  
 4 outstanding.
- 5 d. A right which has been vested as provided in this section shall terminate at  
 6 the end of the applicable vesting period with respect to buildings and uses  
 7 for which no valid building permit applications have been filed.

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

- 9 a. ~~A vested right, once established as provided for in this section, precludes~~  
 10 ~~any zoning action by the town which would change, alter, impair, prevent,~~  
 11 ~~diminish, or otherwise delay the development or use of the property as set~~  
 12 ~~forth in an approved site specific development plan, except:~~
- 13 1. ~~With the written consent of the affected landowner;~~
  - 14 2. ~~Upon findings at a public hearing by the town council that natural or~~  
 15 ~~manmade hazards on or in the immediate vicinity of the property, if~~  
 16 ~~uncorrected, would pose a serious threat to the public health, safety,~~  
 17 ~~and welfare if the project were to proceed as contemplated in the site~~  
 18 ~~specific development plan;~~
  - 19 3. ~~To the extent that the affected landowner received compensation for~~  
 20 ~~all costs, expenses, and other losses incurred by the landowner,~~  
 21 ~~including but not limited to all fees, paid in consideration of~~  
 22 ~~financing, and all architectural, planning, marketing, legal, and other~~  
 23 ~~consultant's fees incurred after approval by the town, together with~~  
 24 ~~interest thereon at the legal rate until paid. Compensation shall not~~  
 25 ~~include any diminution in value of the property which is caused by~~  
 26 ~~such action;~~
  - 27 4. ~~Upon findings at a public hearing by the town council that the~~  
 28 ~~landowner or his representative intentionally supplied inaccurate~~  
 29 ~~information or made material misrepresentations which made a~~  
 30 ~~difference in the approval by the town of the site specific~~  
 31 ~~development plan; or~~
  - 32 5. ~~Upon the enactment or promulgation of a state or federal law or~~  
 33 ~~regulation which precludes development as contemplated in the site-~~  
 34 ~~specific development plan, in which case the town may modify the~~  
 35 ~~affected provisions, upon a finding at a public hearing by the town~~  
 36 ~~council that the change in state or federal law has a fundamental~~  
 37 ~~effect on the plan.~~
- 38 b. ~~Nothing in this article shall prevent the town from amending this chapter,~~  
 39 ~~pertaining to zoning, or the official map in such a way that a development~~  
 40 ~~project for which a vested right has been established is rendered~~  
 41 ~~nonconforming in any way.~~

- e. ~~The establishment of a vested right shall not preclude the application of overlay zoning, which imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations, which are general in nature and applicable to all property, subject to land use regulations by the town including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new regulations shall become effective with respect to property which is subject to a site-specific development plan upon the expiration or termination of the vesting rights period provided for in this section.~~
- d. ~~The establishment of a vested right shall not preclude, change, or impair the authority of the town to adopt and enforce zoning chapter provisions governing nonconforming situations or uses.~~

(4) ~~Miscellaneous provisions.~~

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

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

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

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

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

18  
 19 (d) Continuing Review. – Following approval or conditional approval of a site-specific  
 20 vesting plan, the town may make subsequent reviews and require subsequent approvals  
 21 by the town to ensure compliance with the terms and conditions of the original approval,  
 22 provided that these reviews and approvals are not inconsistent with the original approval.  
 23 The town may, pursuant to G.S. 160D-403(f), revoke the original approval for failure to  
 24 comply with applicable terms and conditions of the original approval or the applicable  
 25 local development regulations.

26  
 27 (e) Duration and Termination of Vested Right.

28  
 29 (1) A vested right for a site-specific vesting plan remains vested for a period of  
 30 two years. This vesting shall not be extended by any amendments or  
 31 modifications to a site-specific vesting plan unless expressly provided by the  
 32 town.

33  
 34 (2) Notwithstanding the provisions of subdivision (1) of this subsection, the town  
 35 may provide for rights to be vested for a period exceeding two years but not  
 36 exceeding five years where warranted in light of all relevant circumstances,  
 37 including, but not limited to, the size and phasing of development, the level of  
 38 investment, the need for the development, economic cycles, and market  
 39 conditions or other considerations. These determinations are in the sound  
 40 discretion of the town and shall be made following the process specified for the  
 41 particular form of a site-specific vesting plan involved in accordance with  
 42 subsection (a) of this section.

43  
 44 (3) Upon issuance of a building permit, the provisions of G.S. 160D-1111 and  
 45 G.S. 160D-1115 apply, except that a permit does not expire and shall not be

1 revoked because of the running of time while a vested right under this section is  
2 outstanding.

3  
4 (4) A right vested as provided in this section terminates at the end of the  
5 applicable vesting period with respect to buildings and uses for which no valid  
6 building permit applications have been filed.

7  
8 (f) Subsequent Changes Prohibited; Exceptions.

9  
10 (1) A vested right, once established as provided for in this section, precludes any  
11 zoning action by the town which would change, alter, impair, prevent, diminish,  
12 or otherwise delay the development or use of the property as set forth in an  
13 approved site-specific vesting plan, except under one or more of the following  
14 conditions:

15  
16 a. With the written consent of the affected landowner.

17  
18 b. Upon findings, by ordinance after notice and an evidentiary hearing,  
19 that natural or man-made hazards on or in the immediate vicinity of the  
20 property, if uncorrected, would pose a serious threat to the public health,  
21 safety, and welfare if the project were to proceed as contemplated in the  
22 site-specific vesting plan.

23  
24 c. To the extent that the affected landowner receives compensation for all  
25 costs, expenses, and other losses incurred by the landowner, including, but  
26 not limited to, all fees paid in consideration of financing, and all  
27 architectural, planning, marketing, legal, and other consulting fees  
28 incurred after approval by the local government, together with interest as  
29 provided under G.S. 160D-106. Compensation shall not include any  
30 diminution in the value of the property which is caused by the action.

31  
32 d. Upon findings, by ordinance after notice and an evidentiary hearing,  
33 that the landowner or the landowner's representative intentionally supplied  
34 inaccurate information or made material misrepresentations that made a  
35 difference in the approval by the town of the site-specific vesting plan or  
36 the phased development plan.

37  
38 e. Upon the enactment or promulgation of a State or federal law or  
39 regulation that precludes development as contemplated in the site-specific  
40 vesting plan or the phased development plan, in which case the town may  
41 modify the affected provisions, upon a finding that the change in State or  
42 federal law has a fundamental effect on the plan, by ordinance after notice  
43 and an evidentiary hearing.

44  
45 (2) The establishment of a vested right under this section does not preclude the  
46 application of overlay zoning or other development regulations which impose

additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to development regulation by the town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations become effective with respect to property which is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this section.

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

(g) Miscellaneous Provisions.

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

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

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

**ARTICLE V. Severability.**

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

**ARTICLE VI. Effective Date.**

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

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

ATTEST:

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

APPROVED AS TO FORM:

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

Date adopted:

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

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

Vote: \_\_\_AYES\_\_\_NAYS



**Date:** 3/12/24

**Agenda Item Summary Sheet**

**Item #:** 7

**Item Title:** Mini-Brooks Exception Policy Approval-Pursuant to G.S.143-64.32

**Item Summary:** G.S. 143-64.32 authorizes a unit of local government to exempt itself from the Mini-Brooks Act, which means that it will not be required to use the Qualification Based Services process and may select an architect, engineer, surveyor, or alternative construction delivery method firm by whatever method it chooses (or no method at all). The statute does not impose much by way of requirements for utilizing the exemption – it simply requires the unit to put the exemption in writing. However, the exemption is capped at \$50,000, meaning the estimated cost of the contract cannot exceed this amount. Contracts with an estimated cost of \$50,000 or more cannot be exempted and the QBS process must be used.

Throughout the fiscal year, the town needs the services of an engineer for project design such as street improvements, smaller stormwater projects, multi-use-paths and sidewalk extensions. Most of, if not all, these projects have come at a cost well below the \$50,000 required for exemption.

The process for hiring an engineering firm for projects such as the culvert replacement on Juniper/Trinitie Trail would require a formal QBS process.

**Staff Recommendation:** Rather than securing these engineering services via a yearly contract or going through the lengthy and time consuming QBS process, staff is requesting the Council adopt the attached resolution which gives the town manager the authority to contract for architectural, engineering, and surveying services for certain small projects.

**Requested Action:** A motion to adopt the attached resolution.

**Attachments:** G.S. 143-64.321 and G.S. 143-64.32  
Resolution





**§ 143-64.32. Written exemption of particular contracts.**

***Units of local government or the North Carolina Department of Transportation may in writing exempt particular projects from the provisions of this Article in the case of proposed projects where an estimated professional fee is in an amount less than fifty thousand dollars (\$50,000). (1987, c. 102, s. 2; 2013-401, s. 2.)***

***How does a local government exempt itself from the Mini-Brooks Act?***

[G.S. 143-64.32](#) authorizes a unit of local government to exempt itself from the Mini-Brooks Act, which means that it will not be required to use the QBS process and may select an architect, engineer, surveyor, or alternative construction delivery method firm by whatever method it chooses (or no method at all). The statute does not impose much by way of requirements for utilizing the exemption – it simply requires the unit to put the exemption in writing. However, the exemption is capped at \$50,000, meaning the estimated cost of the contract cannot exceed this amount. Contracts with an estimated cost of \$50,000 or more *cannot* be exempted and the QBS process *must* be used. Governing board approval is not required, but many local governments choose to do so anyway, which is a good practice to follow.

***What justification must be given for the exemption?***

[G.S. 143-64.32](#) does not require the unit to provide any justification for utilizing the exemption. The statute merely requires the exemption be in writing and the estimated cost of the contract be less than \$50,000. Although units are not required to provide a justification for using the exemption, units may choose to do so as long as the justification is not for an illegal purpose (for example, citing a justification that constitutes unlawful discrimination).



# Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949  
Phone 252-261-2394 / Fax 252-255-0876  
www.southernshores-nc.gov

## A RESOLUTION EXEMPTING TOWN OF SOUTHERN SHORES FROM THE REQUIREMENTS OF THE MINI-BROOKS ACT

### Resolution #2024-03-01

**WHEREAS**, G.S. 143-64.31 requires the initial solicitation and evaluation of firms to perform architectural, engineering, surveying, construction management-at-risk services, and design-build services (collectively “design services”) to be based on qualifications and without regard to fee; and

**WHEREAS**, G.S. 143-64.32 authorizes units of local government to exempt contracts for design services from the qualifications-based selection requirements of G.S. 143-64.31 if the estimated fee is less than \$50,000 and provided that exemption be in writing; and

**WHEREAS**, the Town of Southern Shores proposes to enter into one or more contracts for design services for work on various small projects throughout the fiscal year such as multi-use-paths, sidewalk extensions, street design and stormwater improvements; and

**WHEREAS**, the estimated fee for design services for the above-described projects is less than \$50,000; and

**WHEREAS**, Council also finds that it is more efficient and in the public’s interest to exempt such proposed projects from the Mini-Brooks Act’s procurement requirements; and

**NOW, THEREFORE**, The Town Council of the Town of Southern Shores resolves the above-described projects are hereby made exempt from the provisions of G.S. 143-64.31, provided the town manager puts the exemption in writing.

**BE IT FURTHER RESOLVED**, this exemption will be included as part of the town’s purchasing policy

**BE IT FURTHER RESOLVED**, subsequent approval of this exemption will be included with the annual adoption of the town’s annual operating budget.

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

ATTEST:

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



**Date:** 3/12/24

**Agenda Item Summary Sheet**

**Item #:** 8

**Item Title:** Consideration of Resolution Opposing the Release of Helium Balloons

**Item Summary:** Southern Shores resident Debbie Swick is heading up a campaign to educate all of Dare County about the detrimental impacts helium balloons have on our fragile coastal environment. Attached for your consideration is a Resolution Opposing the Release of Helium Balloons.

**Attachments:** Resolution



# Town of Southern Shores

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

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## A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHERN SHORES OPPOSING THE RELEASE OF BALLOONS

### Resolution #2024-03-02

**WHEREAS**, The Town’s Vision Statement stresses that the Town’s identity is intimately tied to its natural resources and desire to protect its environment.

**WHEREAS**, the release of helium and other lighter-than-air balloons into the atmosphere has a deleterious effect on the environment when the balloons inevitably deflate; and

**WHEREAS**, Mylar and latex balloons which have washed ashore are a source of pollution which the Town of Southern Shores should decrease in order to eliminate the pollution, improve the Town’s aesthetics, and reduce the amount of flotsam endangering marine and animal life; and

**WHEREAS**, these balloons, many of which land in the ocean, Jean Guite Creek or the Albemarle and Currituck Sound, represent the most common form of floating garbage and flotsam within 200 miles of the shore; and

**WHEREAS**, the effect that this pollution has on marine life is incalculable at the present time and that research has indicated that marine life and animals ingest these balloons as they appear near the surface because they believe they are spotting jellyfish or other edible resources; and

**WHEREAS**, that since animals and marine life are not able to process the balloons, they will either choke on the balloon or the balloon will form an intestinal obstruction; and

**WHEREAS**, the ability for a local government to regulate harmful impacts to the environment is essential in order to protect public health and safety.

**NOW, THEREFORE, BE IT RESOLVED** that the Town Council of The Town of Southern Shores, North Carolina, meeting on March 12, 2024, is opposed to the release of helium or lighter-than-air balloons into the atmosphere within the town of Southern Shores in order to protect the air, land, and waters of Southern Shores against environmental contamination and degradation and to protect the health and life of animals, birds, and fish.

\_\_\_\_\_  
Mayor,

ATTEST:

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

This Legislature further finds and determines that