



**Town of Southern Shores
Council Meeting
April 1, 2014**

The Town of Southern Shores Council met in the Pitts Center located at 5375 N. Virginia Dare Trail at 5:30 p.m. on Tuesday, April 1, 2014.

COUNCIL PRESENT: Mayor Tom Bennett, Mayor Pro Tem Jodi Hess, Council Members David Sanders, Larry Lawhon and Leo Holland.

COUNCIL ABSENT: None

OTHERS PRESENT: Town Manager Peter Rascoe, Town Attorney Ben Gallop and Town Clerk Sheila Kane.

CALL TO ORDER / PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE

Mayor Bennett called the meeting to order at 5:30 p.m., led the Pledge of Allegiance, and held a Moment of Silence.

AMENDMENTS / APPROVAL OF AGENDA

MOTION: Mayor Pro Tem Hess moved to approve the agenda as presented. The motion was seconded by Council Member Holland. The motion passed unanimously (5-0).

CONSENT AGENDA

The Consent Agenda consisted of the following item:

- Approval of Minutes- March 4, 2014

MOTION: Council Member Lawhon moved to approve the consent agenda. The motion was seconded by Council Member Sanders. The motion passed unanimously (5-0).

PRESENTATION

Outer Banks Sporting Events (Race Director Dennis DiRaimondo and Executive Director Lynda Wood presenting) presented a power point presentation about the organization and their involvement with the community.

STAFF REPORTS

Town Planner: Town Planner, Wes Haskett, presented his monthly report containing the following:

- Permitting and Inspections for March, 2014

[Clerk's Note: A copy of the Town Planner's report is hereby attached as Exhibit A].

Police Department:

Chief Kole presented his monthly report.

Southern Shores Volunteer Fire Department:
Chief Harvey presented his monthly report.

REPORTS FROM TOWN BOARDS

No reports

PUBLIC HEARINGS

Town Planner, Wes Haskett presented Staff reports and recommendations for the following:

ZTA-14-01 Board of Adjustment- Amendment of the Town Zoning Ordinance regarding the following: Chapter 36, Article XII (Mandated technical changes and consolidation with the Planning Board).

In October, 2013, new legislation adopted by the North Carolina General Assembly which applies to the Board of Adjustment went into effect. The new legislation mandates local changes regarding voting, decisions, hearing notices, appeals, and variances. The Town Zoning Ordinance must be amended in order to be consistent with the recently adopted legislation.

In addition to the required legislative changes, Town Staff is proposing consolidation of the Board of Adjustment with the Planning Board. The Board of Adjustment has not met to consider new business since November 20, 2008.

A recent survey of other Planning jurisdictions with a population under 5,000 asking if their Planning Board served as the Board of Adjustment produced 18 results. Out of the 18 results, 11 of the jurisdictions have assigned the duties of the Board of Adjustment to the Planning Board.

RECOMMENDATION

At its February 18, 2014 meeting, the Town Planning Board unanimously (5-0) recommended Council adoption of the proposed amendments, as well as a finding of consistency with the Town's currently adopted Land Use Plan.

ACTION: Town Attorney Ben Gallop opened the public hearing and called for public comment. Upon hearing no comments Mr. Gallop closed the public hearing.

MOTION: Council Member Lawhon moved to approved ZTA-14-01 Board of Adjustment. The motion was seconded by Council Member Holland. The motion passed unanimously.

ZTA-14-02 Amendment of the Town Zoning Ordinance regarding the following Sections: 36-175, Wireless Telecommunications Sites and Towers; 36-202, RS-1, Single-family District; 36-205, Low-density Residential District; 36-206, Government and Institutional District; and 36-207, C General Commercial District. (Mandated technical changes)

In October, 2013, new legislation adopted by the North Carolina General Assembly which applies to wireless facilities went into effect setting standards regarding local jurisdiction expedited review of collocations and minor modifications requests. The Town Zoning Ordinance must be amended in order to be consistent with the recently adopted legislation.

RECOMMENDATION

At its February 18, 2014 meeting, the Town Planning Board unanimously (4-0) recommended Council adoption of the proposed amendment, as well as a finding that the proposed amendment is consistent with the Town's currently adopted Land Use Plan.

ACTION: Town Attorney Ben Gallop opened the public hearing and called for public comment. Upon hearing no comments Mr. Gallop closed the public hearing.

MOTION: Council Member Lawhon moved to approved ZTA-14-02 Wireless Telecommunications Sites and Towers. The motion was seconded by Council Member Sanders. The motion passed unanimously.

[Clerk's Note: A copy of ZTA-14-01 and ZTA-14-02 is hereby attached as Exhibit B]

GENERAL PUBLIC COMMENT

Lori Williams 109 Pudding Pan

With election time fast approaching, the League of Women's Voters have several candidates' forums and receptions coming up. Two Board of Education Forums will be held in Hatteras and at Nags Head Elementary School. On April 6 a Primary Candidates Reception is being held at Kitty Hawk Town Hall from 2:00-4:00 p.m.

OLD BUSINESS

None

NEW BUSINESS

Recommended Amendment to Purchasing and Bid Policy

MOTION: Mayor Pro Tem Hess moved to approve a staff recommended amendment to the Town's Purchasing and Bid Policy. The motion was seconded by Council Member Holland. The motion passed unanimously (5-0).

Recommended Amendment to Retiree Health and Dental Insurance Benefits Policy

MOTION: Council Member Sanders moved to approve a staff recommended amendment to the Town's Retiree Health and Dental Insurance Benefits Policy. The motion was seconded by Council Member Holland. The motion passed unanimously (5-0).

Recommended Amendment to Travel Policy

MOTION: Council Member Holland moved to approve a staff recommended amendment to the Town's Travel Policy. The motion was seconded by Council Member Lawhon. The motion passed unanimously (5-0).

Budget Amendment #10-Audio/Visual Upgrades to the Pitts Center, LPDI Grant

MOTION: Mayor Pro Tem Hess moved to approve staff recommended Budget Amendment #10. The motion was seconded by Council Member Holland. The motion passed unanimously (5-0).

[Clerk's Note: A copy of all New Business items are hereby attached as Exhibit C]

OTHER ITEMS

Town Manager's report

The Town Manager addressed several issues:

- Early voting will be held at the Pitts Center from April 24th -May 2nd from 10-4 daily Monday through Friday.
- An information session to discuss the details of natural gas availability for properties located along Dogwood Trail will be held at the Pitts Center on Thursday May 8th at 5:30

p.m. Although the meeting focuses on properties along Dogwood Trail, the meeting is pertinent to any resident or property owner in Southern Shores interested in learning about how the utility makes decisions to extend its distribution lines to un-served areas.

- The finance committee will be meeting tomorrow April 2 to review the Manager's preliminary-draft-proposed budget which will be discussed at the Council's open meeting Budget Workshop scheduled for April 15, 2014 at 9:00 a.m. May 6th is the projected date that the formal budget for FY14-15 will be presented.
- Contracts for all current fiscal year's road projects have been now been awarded with the last project, Ocean View Loop improvements, being awarded to RPC Contracting.
- Lifeguard roving service will begin mid-May with two stands to being manned Memorial Day Weekend, and two additional stands being manned mid-June.
- The Police Department is currently seeking to fill its Community Resource Officer position for the season.
- Southern Shores Broadcast News now reaches 1,659 subscribers via email with a reading rate of 60% - which has doubled in the last three years. The Town website for March had 2,137 visitors, each staying an average of three minutes. Of those visits, 61.8 % were new visitors and 38.2 are returning visitors.

In response to a question presented by Council Member Holland pertaining to Deer Path Lane, the Town Manager stated the current commitment of the paving contractor is to initiate the warranty corrections by May 30th and to repave the entire street by September 30th.

Town Attorney:

None

Mayor's comments:

The Mayor stated he attended the ribbon cutting for Southern Bank which just opened an office in Southern Shores. He also wished the Town a happy anniversary stating it is now 35 years old.

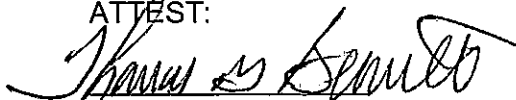
Council Members' comments:

Council Member Holland stated he would like a reminder to citizens to pick up after their dogs in Town street right-of-ways be included in the next broadcast email news.

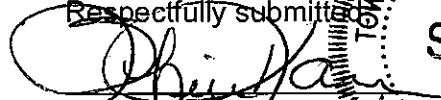
ADJOURN

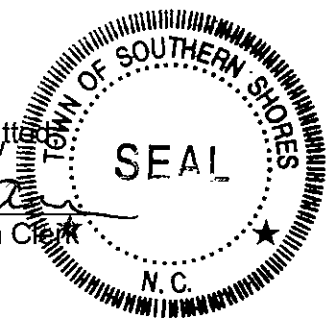
MOTION: Mayor Bennett moved to adjourn. The motion was seconded by Council Member Holland. The motion passed unanimously. The time was 6:49 p.m.

ATTEST:


Mayor Bennett

Respectfully submitted


Sheila Kane, Town Clerk



4-1-14 TC Report

1. Permitting and Inspections for March, 2014

- 7 Zoning Permits were issued.
- 25 building permits were issued: 3 additions, 7 remodels and 15 others.
- 9 single-family dwellings are currently under construction
- Total amount of fees collected in March was \$12,226.30.

2. Comprehensive Bicycle and Pedestrian Plan

- Next Steering Committee meeting will be held on May 1st at 2:00 in the upstairs meeting room of the Pitts Center to discuss draft plan recommendations.



Town of Southern Shores

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ORDINANCE 2014-04-01

**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. § 160A-381, 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. Chap. 160A, Art. 19 et. seq, 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, N.C.G.S. § 160A-388 governs the creation, composition, process and procedures of boards of adjustment. 2013 N.C. Sess. Law 126 makes substantial changes to the text of N.C.G.S. § 160A-388 which become effective as of October 1, 2013. The changes to N.C.G.S. § 160A-388 affect the operation and management of the Town’s Board of Adjustment and require that the Town’s Zoning Ordinance be updated accordingly; and

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Town’s Zoning Ordinance and Town Code of Ordinances as stated below.

ARTICLE II. Construction.

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

ARTICLE III. Amendment of Zoning Ordinance.

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

PART I. That **Chapter 36, Article XII. BOARD OF ADJUSTMENT** be replaced in its entirety with the following:

Sec. 36-360. Planning Board to Act as Board of Adjustment.

By the adoption of this ordinance, the town abolishes the previously established board of adjustment and designates the town planning board established under Chapter 24, Art. II to perform the duties of a board of adjustment as provided in this article. The term "board" when used in this article shall be construed to mean the planning board while performing the duties of board of adjustment under this article. The planning board may perform the duties of a board of adjustment under this article at meetings contemporaneously with other duties or it may hold separate meetings solely for the purpose of performing the duties of a board of adjustment.

Sec. 36-361. Alternate Members.

Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member.

Sec. 36-362. Meetings of the Board of Adjustment.

(a) *Generally.* All meetings of the board shall be held at a regular place and shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, an indication of that fact. Any party may appear in person or be represented by an attorney.

(b) *Notices.* Notice of hearings conducted pursuant to this article shall be mailed to: (i) the person or entity whose appeal, application, or request is the subject of the hearing; (ii) to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; (iii) to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and (iv) to any other persons entitled to receive notice as provided by this chapter. In the absence of evidence to the contrary, the town may rely on the Dare County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

(c) *Burdens.* The burdens of production, persuasion and proof for all quasi-judicial decisions of the board lie with the applicant or appellant seeking such a decision.

(d) *Fees.* A fee in accordance with the regularly adopted fee schedule of the town shall be paid to the town for each notice of appeal or variance application to cover the administrative expenses involved. A notice of appeal or variance application shall not be deemed complete and filed until such time as the associated fees have been paid. The time to file a completed notice of appeal or variance application and associated fee will

be extended for 15 days to receive payment of the fee upon an applicant's timely submission of a notice of appeal or application for variance that is otherwise complete. No hearing will be scheduled before the board until a completed application and fee have both been received.

Sec. 36-363. Quorum.

A quorum of three members shall be seated and present in order to open a meeting of the board and to take action on non-quasi-judicial matters. In order to take action on a quasi-judicial matter the board must have a quorum of five members seated and present unless the appellant or applicant consents to moving forward with less than five members. For calculating a quorum to take action on a quasi-judicial matter, the number of members seated and present includes members who were seated at the opening of the meeting that have been disqualified from voting on the particular matter if there are no qualified alternates available to take the place of such members. In the event that a quorum cannot be met due to vacant positions or a lack of qualified members, the board may continue its meeting in order for absent members to become available and, if necessary, for the town council to make appointments filling vacant seats and/or to make appointments of temporary alternate members who can fulfill the board's duties.

Sec. 36-364. Voting.

The concurring vote of four-fifths majority of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

Sec. 36-365. Powers and duties of the Board of Adjustment.

(a) *Hearings authorized.* The board shall hear and decide requests for variances of the provisions of this chapter and appeals of decisions of administrative officials charged with enforcement of this chapter. The board shall follow quasi-judicial procedures when deciding appeals and requests for variances. The board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development that provides for the board to hear such matters.

(b) *Oaths.* The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board, willfully swears falsely is guilty of a Class 1 misdemeanor.

(c) *Subpoenas.* The board through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393, (d) may make a

written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

(d) *Continuances*. The board may grant a continuance to any party for good cause shown or upon the board's own motion. Requests for continuances should be made in writing, but may be made orally at a meeting of the board. The board chair may grant a continuance request prior to a meeting if the applicant or appellant makes a written request showing good cause. The chair may always defer ruling on such a request to allow for the decision to be made by the board.

(1) Good cause. Good cause for a continuance includes, but is not limited to:

(i) The official issuing the decision subject to an appeal is unavailable;

(ii) There is insufficient membership of the board seated and present to hear a matter; or

(ii) If any party or the town would be unduly prejudiced by the presentation of matters not presented in a notice of appeal.

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

(e) *Rules of Procedure*. The board may adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this article. Where this article and the rules adopted by the board are in conflict, the provisions of this article prevail.

Sec. 36-366. Appeals of administrative decisions.

(a) *Administrative decisions*.

(1) *Defined*. An appealable "administrative decision" is any final and binding order, requirement, or determination issued in writing by an administrative official charged with enforcement of this chapter. Administrative decisions include, but are not limited to: (i) permit issuance or denial, (ii) issuance of a notice of violation, warning citation or civil citation or (iii) issuance of a formal interpretation of a provision of this chapter.

(2) *Formal interpretation.* Only formal interpretations issued in accordance with this subsection are subject to being appealed as an administrative decision. Any written or oral interpretations that do not meet the strict requirements of this subsection are merely advisory and represent only the view, opinion or belief of the administrative official issuing them. Advisory interpretations have no binding force or effect and there is no right to appeal advisory interpretations to the board.

(i) *Request.* Any person may request a formal interpretation of any provision of this chapter or of the location of zoning district boundary unassociated with a permit application or enforcement action. Such request must relate to a specific parcel of property, must be made in writing, must state all of the necessary facts to make the determination and must specifically state the ordinance provisions subject to the interpretation request. If the applicant for the formal interpretation is not the owner of the property, the applicant must certify that a copy of the request has been provided to the property owner.

(ii) *Response.* Only the director of the town's planning and zoning department is authorized to issue a formal interpretation under this subsection. The director may in his/her discretion decide whether or not to respond to a request for a formal interpretation. A response to a request may only be made with the approval of the Town Manager. A response to a request is not a formal interpretation unless it is made in writing and includes a notation on its face that states "This is a Formal Zoning Ordinance Interpretation."

(iii) *Notice.* Formal interpretations are not appealable under this subsection unless they include a certificate of service certifying that a copy of the formal interpretation has been provided to the Town Manager and the owner of the land subject to the interpretation if the applicant for the interpretation was not the owner of the land. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

(3) *Notice of decisions.* The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. Landowners or applicants for a decision may provide for actual or constructive notice to persons who have standing to appeal the decision by acting in accordance with subsection (b)(3)(i).

(b) *Appeals of administrative decisions.* The board shall hear and decide appeals of administrative decisions of administrative officials charged with enforcement of this chapter and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

(1) *Who may appeal.* Any person who has standing under G.S. 160A-393(d) or the town may appeal an administrative decision to the board. Any other party who has such standing may also intervene in an existing appeal by filing a written request to do so with the town clerk prior to the expiration of that party's time to appeal under subsection (b)(3).

(2) *Form of appeal.* An appeal is taken by filing a notice of appeal with the town clerk. The notice of appeal shall state the grounds for the appeal. Each notice of appeal shall include a listing of the names and addresses of all of the persons listed in section 36-362(b) who are entitled to receive notice. The list shall be supplied by the appellant and shall be current according to the most recent tax listing abstract as filed in the office of the Dare County tax supervisor.

(3) *Time to appeal.* The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

(i) It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.

(4) *Duties of official who made decision.* No less than one week before an appeal is to be heard, the official who made the decision being appealed shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner. The official who made the decision being appealed shall be present at the hearing as a witness.

(5) *Stay pending appeal.* An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the board after notice of appeal has been filed that because of the facts stated in an affidavit: (i) a stay would cause imminent peril to life or property or (ii) because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may

file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

(6) *Timing of hearing.* Subject to the provisions of subsection (b)(5) of this section, the board shall hear and decide the appeal within a reasonable time.

(7) *Appeals in the nature of certiorari.* When hearing an appeal from an ordinance provision that requires the appeal be heard in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).

(8) *Alternative dispute resolution.* The town and other parties to an appeal may agree to mediation in accordance with the applicable rules for mediated settlement conferences in Superior Court. If the parties agree to mediation, a hearing on the merits of the matter will be delayed until the regular board meeting following the mediation.

(9) *Authority of the board.* The board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.

(10) *Hearing on appeal.* The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

Sec. 36-367. Variances.

(a) *Standards for granting a variance.* When unnecessary hardships would result from carrying out the strict letter of this chapter, the board shall vary any of the provisions of the ordinance upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as

well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

(b) Under no circumstances shall the board of adjustment grant a variance to allow a use either expressly or by implication not permissible under the terms of this chapter in the district involved.

(c) Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Violation of such conditions shall be deemed a violation of this chapter and punishable under chapter 1, section 1-6 of this Code.

(d) Any other ordinance that regulates land use or development may specifically provide for variances consistent with the provisions of this subsection.

(e) A variance that is granted shall be the minimum variance that will resolve the unnecessary hardship resulting from the strict application of this chapter to the land, building or structure.

(f) No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

(g) *Application Requirements.* Each application for a variance must be in writing, accompanied by any associated administrative fee and shall include all of the following information:

(1) A listing of the specific section(s) and subsection(s) of this chapter that the applicant is seeking to vary.

(2) For each provision the applicant is requesting to vary, a listing of how the provision applies to the property without the requested variance and how the applicant proposes the provision should be varied.

(3) A description of how the property can be used without the requested variance compared with how it could be used with the requested variance.

(4) A description of the unnecessary hardship which results from the strict application of this chapter.

- (5) A description of the conditions that are peculiar to the property, such as location, size, or topography which cause the unnecessary hardship.
- (6) A certification that the hardship did not result from actions taken by the applicant or the property owner other than the act of purchasing property with knowledge that circumstances exist requiring a variance.
- (6) A narrative explaining how the requested variance is consistent with the spirit, purpose, and intent of this chapter, such that public safety is secured, and substantial justice is achieved.
- (7) A certification that the requested variance, if granted, will not allow an increase or extension of an existing nonconforming structure or use of land.
- (8) A certification that the requested variance, if granted, will not allow a use of the land otherwise prohibited in the applicable zoning district to occur on the property.
- (9) A listing of the names and addresses of all of the persons listed in section 36-362(b) who are entitled to receive notice. The list shall be supplied by the applicant and shall be current according to the most recent tax listing abstract as filed in the office of the Dare County tax supervisor.
- (h) In addition to the foregoing requirements, when considering a variance from chapter 16, section 16-4, (e) of this Code, flood damage prevention, the board shall follow the additional provisions of such article.
- (i) *Amendments.* The owner of land which has been granted a variance may apply for an amendment to the previously granted variance. All of the standards for granting a variance shall apply to the consideration of an amendment to an existing variance. An amendment may only be granted if:
- (1) The circumstances on the property have substantially changed since the time of the granting of the prior variance in such a way that the use of the property in accordance with prior variance is itself an unnecessary hardship; or
- (2) The amendment requested will be equal to or less of a variance than the previously granted variance.

Sec. 36-368. Appeals from decisions of the Board of Adjustment.

- (a) *Decisions of the board.* The board shall determine contested facts and make its decision within a reasonable time.

(1) *Basis for decision.* Every quasi-judicial decision of the board shall be based upon competent, material, and substantial evidence in the record.

(2) *Form of decision.* Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board. In absence of specific board direction, the written decision will be prepared by the town via the clerk to the board after review by the town's attorney and board attorney and will be presented to the chair for execution if the chair deems it appropriate. The chair, in his/her discretion, may seek the approval of the board for all or any portion of a decision so prepared. Otherwise, the board may at the time of its oral decision direct any party to prepare a proposed written decision and may consider the written decision at its next regular meeting.

(3) *Reasonable time.* The board shall endeavor to reach a decision and file its written final decision as soon as practicable and shall not withhold a decision without a reasonable basis. However, the determination of whether the board's decision has been made within a reasonable time shall take into consideration all of the surrounding circumstances including, but not limited to, additional meetings necessary to consider evidence or findings of fact and continuance requests by the applicant or appellant. The board's decision shall not be considered to be made greater than a reasonable time if a vote on the matter is taken within 45 days following the completion of the public hearing and a final written decision is filed within 45 days following the vote of the board. If the circumstances warrant, additional time may be reasonable to take a vote or make a final decision.

(4) *When effective.* A board decision is effective upon filing the written decision with the clerk to the board. The board decision is filed the later of the date it is received by the clerk to the board or the date it is served by the clerk to the board.

(5) *How served.* The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

(b) *Appeal to Superior Court.* Every quasi-judicial decision of the board shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. A petition for review shall be filed with the Dare County Clerk of Superior Court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subsection (a)(4) of this section. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

Sec. 36-369. Impartiality of Board of Adjustment members.

A member of the board shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

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 of the above-stated reasons and any additional reasons supporting the Town's adoption of this ordinance amendment, 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 1 day of April, 2014.

_____, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Date adopted:

Motion to adopt by Councilmember:

Motion seconded by Councilmember:

Vote: ____AYES ____NAYS



Town of Southern Shores

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ORDINANCE 2014-04-02

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. § 160A-381, 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. Chap. 160A, Art. 19 et. seq, 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, N.C.G.S. § 160A-400.50 et seq. governs the Town's authority to regulate wireless telecommunications facilities. 2013 N.C. Sess. Law 185 made substantial changes to the text of N.C.G.S. § 160A-400.50 et seq. and become the law of North Carolina as of October 1, 2013. The changes to N.C.G.S. § 160A-400.50 et seq. affect the Town's regulations of wireless telecommunications facilities and require that the Town's Zoning Ordinance be updated accordingly; and

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Town's Zoning Ordinance and Town Code of Ordinances as stated below.

ARTICLE II. Construction.

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

ARTICLE III. Amendment of Zoning Ordinance.

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

PART I. That Chapter 36 Section 36-202 be amended as follows:

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

- ...
(8) ~~Collocated wireless facilities permitted to use streamlined processing~~
Collocations and Eligible Facilities Requests in compliance with Section 36-175(~~bc~~).
...

PART II. That Chapter 36 Section 36-205 be amended as follows:

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

- ...
(7) ~~Collocated wireless facilities permitted to use streamlined processing~~
Collocations and Eligible Facilities Requests in compliance with Section 36-175(~~bc~~).
...

PART III. That Chapter 36 Section 36-206 be amended as follows:

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

- ...
(7) ~~Collocated wireless facilities permitted to use streamlined processing~~
Collocations and Eligible Facilities Requests in compliance with Section 36-175(~~bc~~).
...

PART IV. That Chapter 36 Section 36-207 be amended as follows:

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

- ...
(8) ~~Collocated wireless facilities permitted to use streamlined processing~~
Collocations and Eligible Facilities Requests in compliance with Section 36-175(~~bc~~).
...

PART V. That **Sec. 36-175 Wireless telecommunications sites and towers.** be amended as follows:

Sec. 36-175. Wireless telecommunications sites and towers.

(a) *Definitions.* The following definitions shall apply to all portions of the Town Code relating to the use or construction of any portion of a wireless telecommunications site within the town.

- (1) *Antenna:* Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all

types of wireless communications services.

- (2) *Application*: A formal request submitted to the ~~city~~ town to construct or modify a wireless support structure or a wireless facility.
- (3) *Base station*: A station at a specific site authorized to communicate with mobile stations, generally consisting of radio receivers, antennas, coaxial cables, power supplies, and other associated electronics.
- (4) *Building permit*: An official administrative authorization issued by the ~~city~~ town prior to beginning construction consistent with the provisions of G.S. 160A-417.
- ~~(45)~~ *Collocation*: ~~The installation of new wireless facilities on previously approved structures, including towers, buildings, utility poles, and water tanks. The placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with this chapter.~~
- ~~(56)~~ *Eligible facilities request*: A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.
- ~~(7)~~ *Equipment compound*: An area surrounding or near the base of a wireless support structure within which a wireless facility is located.
- ~~Equipment enclosure~~: ~~An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.~~
- ~~(68)~~ *Fall zone*: The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.
- ~~(79)~~ *Geographic antenna coverage area*: The general vicinity within which an antenna serves the transmission requirements of a cellular or other broadcasting network.
- ~~(810)~~ *Land development regulation*: Any ordinance enacted pursuant to this Part.
- ~~(911)~~ *Monopole*: A slender self-supporting telecommunications tower consisting of a single pole.

1 ~~(1012)~~ *Search ring*: The area within which a wireless support facility or wireless
2 facility must be located in order to meet service objectives of the wireless
3 service provider using the wireless facility or wireless support structure.
4

5 ~~(1113)~~ *Stealth structure*: A wireless support structure designed to look like or
6 incorporated within a structure which has a primary purpose as something
7 other than a wireless support structure or is otherwise designed in a
8 manner in which all wireless facilities attached to the structure are
9 concealed from view, including, but not limited to trees, flag poles, slick
10 sticks (flag poles without flags), clock towers, bell towers or church
11 steeples.
12

13 ~~(1214)~~ *Substantial modification*: The mounting of a proposed wireless facility on
14 a wireless support structure that substantially changes the physical
15 dimensions of the support structure. A mounting is presumed to be a
16 substantial modification if it meets any one or more of the criteria listed
17 below. The burden is on the local government to demonstrate that a
18 mounting that does not meet the listed criteria constitutes a substantial
19 change to the physical dimensions of the wireless support structure.
20

21 a. Increasing the existing vertical height of the structure by the
22 greater of (i) more than ten percent (10%) or (ii) the height of one
23 additional antenna array with separation from the nearest existing
24 antenna not to exceed 20 feet.
25

26 b. Except where necessary to shelter the antenna from inclement
27 weather or to connect the antenna to the tower via cable, adding an
28 appurtenance to the body of a wireless support structure that
29 protrudes horizontally from the edge of the wireless support
30 structure the greater of (i) more than 20 feet or (ii) more than the
31 width of the wireless support structure at the level of the
32 appurtenance.
33

34 c. Increasing the square footage of the existing equipment
35 compound by more than 2,500 square feet.
36

37 (15) *Telecommunications accessory equipment structure*: A building or
38 cabinet-like structure located adjacent to, or in the immediate vicinity of a
39 wireless support structure or antenna to house equipment incidental to the
40 receiving or transmitting of wireless broadcasts, cellular telephone calls,
41 voice messaging and paging services.
42

43 ~~(1316)~~ *Tower, short telecommunications*: A telecommunications tower with a
44 height that is less than 70 feet.
45

46 ~~(1417)~~ *Tower, tall telecommunications*: A telecommunications tower with a

height that is 70 feet tall or greater up to a height of 195 feet tall.

(1518) *Tower, telecommunication:* A freestanding wireless support structure, including stealth structures which are not incorporated within another type of structure, which are intended to support one or more wireless facilities.

(1619) *Utility pole:* A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

(1720) *Water tower:* A water storage tank, a standpipe, or an elevated tank situated on a support structure originally constructed for use as a reservoir or facility to store or deliver water.

(21) *Wireless facility:* The set of equipment and network components, exclusive of the underlying wireless support structure or tower, including antennas, transmitters, receivers, ~~receivers~~ base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and wireless telecommunications services to a discrete geographic area.

(1822) *Wireless support structure:* A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

(1923) *Wireless telecommunications site:* The combination of all of the materials and equipment on a site used to provide wireless telecommunications service including, but not limited to, any wireless support structures, telecommunications towers, wireless facilities, antennae, ground based communications equipment, telecommunications accessory equipment structures and equipment ~~enclosure~~compounds.

~~(b) — Streamlined collocation procedures. Applications for collocation entitled to streamlined processing under this section shall be reviewed for conformance with applicable site plan and building permit requirements, but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review. To be entitled to streamlined collocation procedures an applicant must meet the requirements of subsection (1), subsection (2) or subsection (3). Otherwise, applications for collocation shall be treated as an application for a new wireless telecommunication site, telecommunication tower or wireless facility.~~

~~(1) — An application for collocation meets the requirements entitling an applicant to streamlined collocation procedures if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed and meets all the requirements and conditions~~

of the original approval. This provision applies to wireless support structures which are approved on or after December 1, 2007.

(2) An application for collocation meets the requirements entitling an applicant to streamlined collocation procedures if all of the following conditions exist:

a. The collocation does not increase the overall height or width of the tower or wireless support structure to which the wireless facilities are to be attached. The overall height and width of a tower shall be measured at the highest and widest points of the existing wireless support structure including all antennae and other equipment mounted on the structure.

b. The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.

c. The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.

d. The additional wireless facilities comply with all federal, State and local safety requirements including accepted industry standards for wind loading, base stabilization and other critical engineering characteristics as defined by American National Standards Institute (ANSI), Telecommunications Industry Association (TIA) and Electronic Industry Alliance (EIA) 222-G or its successors.

e. The collocation does not exceed the applicable weight limits for the wireless support structure as certified by a professional engineer registered in North Carolina, unless the applicant provides plans prepared and certified by a professional engineer registered in North Carolina depicting structural modifications that would sufficiently increase the structural capacity of the wireless support structure.

(3) An application for collocation meets the requirements entitling an applicant to streamlined collocation procedures if the applicant is requesting only the collocation of emergency service antennas used by the town's police department and/or fire service provider and the wireless structure has sufficient structural capacity to support the antennae being collocated without substantial modifications.

(4) An application for collocation is complete when all the necessary grounds stated in this section for entitlement to streamlined processing have been

1 certified to by the applicant in writing or 45 days after its submittal to the
2 town if the town has not provided the applicant with written notice
3 identifying the deficiencies in the application which, if cured, would make
4 the application complete. The application shall be deemed complete on
5 resubmission if the additional materials cure the deficiencies identified.
6

7 ~~———— (5) The town shall issue a written decision approving or denying an~~
8 ~~application entitled to streamlined processing within 45 days of the date~~
9 ~~the application is complete. Failure to issue such a decision shall be~~
10 ~~deemed an approval of the application.~~
11

12 (b) *Requirements for wireless telecommunications sites, new wireless support*
13 *structures or substantial modification of wireless support structures.* All wireless
14 telecommunications sites, new wireless support structures or substantial modification of
15 wireless support structures located within the town must comply with all of the following
16 requirements:
17

18 (1) *Safety standards.* All proposed telecommunication towers, new wireless
19 support structures or substantial modification of wireless support
20 structures and wireless facilities shall comply with all applicable federal,
21 state and local laws including specifically the following:
22

- 23 (a) Federal Communications Commission standards, rules and
24 regulations;
25
- 26 (b) Federal Aviation Administration standards, rules and regulations;
27
- 28 (c) N.C.G.S. § 160-400.50 et seq.;
29
- 30 (d) The North Carolina Building Code;
31
- 32 (e) Accepted industry standards for wind loading, base stabilization
33 and other critical engineering characteristics as defined by
34 American National Standards Institute (ANSI),
35 Telecommunications Industry Association (TIA) and Electronic
36 Industry Alliance (EIA) 222-G or its successors.
37

38 (2) *Use guidelines and dimensional requirements.*
39

- 40 (a) *Permissible uses.* Wireless telecommunications sites and facilities
41 shall only be permitted as follows:
42
- 43 1. As an accessory use to an existing primary use that is not a
44 dwelling.
45
- 46 2. As a collocation of wireless facilities upon an existing

permitted wireless telecommunications site.

(b) *Collocation.*

1. Collocation of new antennas, wireless facilities and other equipment on an existing wireless support structure or structures within the applicant's search ring shall be required whenever reasonably feasible. Collocation is not reasonably feasible if an applicant can show it is technically or commercially impractical for the applicant to collocate or if the owners of all of the telecommunication towers within the applicant's search ring where collocation would be technically practical are unwilling to enter into a contract for such use at fair market value.
2. Short telecommunications towers including the structure and fenced compound shall be designed to accommodate the wireless facilities of at least one provider plus space for emergency communication antennas used by the town's police and fire service provider.
3. Tall telecommunications towers including the structure and fenced compound shall be designed to accommodate collocation of the wireless facilities of at least three providers plus space for emergency communication antennas used by the town's police and fire service provider.

(c) *Location.*

1. Tall telecommunications towers shall not be located within one-half mile of any other tall telecommunications tower or within 250 feet of any other wireless support structure located within the expected geographic antenna coverage area of the proposed telecommunication tower.
2. Short telecommunications towers and stealth structures incorporated within another structure shall not be located within 250 feet of any other wireless support structure located within the expected geographic antenna coverage area of the proposed wireless support structure unless the applicant can show that locating the structure within the prescribed distance is necessary to insure adequate coverage and capacity. In the case of a stealth structure incorporated within another structure, the town council may

1 reduce or disregard the distance requirement stated herein.

2
3 (d) *Height.* The height of a wireless support structure includes any
4 attached or proposed to be attached wireless facilities and shall be
5 measured vertically from the pre-disturbance ground level at the
6 center of the structure. The height shall not include emergency
7 communications antennas or lightning rod(s) attached to the
8 structure.

- 9
10 1. In no case shall a wireless support structure of any kind or
11 any attached wireless facilities exceed 195 feet in height.
12
13 2. The height of tall telecommunications towers shall not
14 exceed 195 feet.
15
16 3. The height of short telecommunications towers shall not
17 exceed 70 feet.
18
19 4. The height of stealth structures incorporated within or upon
20 an otherwise permitted structure shall not exceed the height
21 allowed for the structure.
22
23 5. The height of stealth structures designed to look like
24 another structure or naturally occurring thing, i.e. a tree,
25 shall not unreasonably exceed the height allowed for the
26 type of structure or the typical thing they are designed to
27 look like. The reasonableness of excess height shall be
28 considered on an application by application basis and shall
29 take into account the totality of the circumstances including
30 specifically, the height needed to provide communications
31 services and the wireless support structure's visual
32 consistency with the area in which it will be located.
33
34 6. In no case shall a wireless support structure of any kind or
35 any attached wireless facilities exceed the minimum height
36 necessary to accomplish the purpose it is proposed to serve.
37 Notwithstanding the foregoing, when measuring the height
38 of a wireless support structure, the purpose of the structure
39 may include maximizing the ability for collocations upon
40 the structure and shall include ensuring that the structure is
41 capable of supporting at least the minimum number of
42 collocations required by this ordinance.

43
44 (e) *Permitted structures.* Stand alone wireless support structures and
45 pole-like stealth structures shall be monopoles. Stealth structures
46 designed to look like other structures or naturally occurring things,

1 i.e. a tree, or that are incorporated within or upon any existing or
2 permitted structure are allowed if otherwise consistent with this
3 ordinance. Wireless support structures using other designs,
4 including, but not limited to guyed towers and lattice type towers
5 shall not be permitted.
6

7 (f) *Setbacks.*
8
9

10 1. Unless otherwise provided by this ordinance, the
11 dimensions of the entire lot shall be used to determine if a
12 wireless telecommunications site meets the dimensional
13 and setback requirements of this section. An existing use or
14 structure on the same lot shall not preclude locating a
15 wireless telecommunications site on a lot so long as
16 compliance with subsection 36-175(2)(a) is maintained.
17

18 2. The base of a wireless support structure shall be at located
19 at least one foot from the nearest property line for every
20 one foot of proposed height. In the case of stand alone
21 stealth structures only, the town council may in its
22 discretion consider publicly maintained roadways as
23 providing additional property for calculation of set backs
24 and/or reduce the setback requirement from this 1:1 setback
25 ratio to a setback of one-third of the height of the proposed
26 structure. The 1:1 setback requirement may only be
27 reduced to one-third of the height of the proposed structure
28 when a North Carolina registered professional engineer
29 certifies that the wireless support structure's fall zone is
30 equal to or less than the setback requested and that the
31 structure is designed to collapse within the setback
32 requested provided any or all of the following are also
33 shown by the applicant:
34

35 i. No dwelling unit is located or can be constructed
36 within the fall zone of the wireless support
37 structure; or
38

39 ii. Where a dwelling unit is located or can be
40 constructed within the fall zone of the wireless
41 support structure, all property owners within the fall
42 zone have agreed in writing or through sworn
43 testimony that they are willing to accept the risks of
44 the reduced setback.
45

46 3. When stealth structures are incorporated within or upon an

existing or otherwise permitted structure, the setbacks associated with the structure shall apply.

4. Telecommunications accessory equipment structures, any equipment ~~enclosure~~compounds and any other structures shall be set back a minimum of 50 feet from all property lines and rights-of-way. Where visual impact and public safety concerns will not be affected, the town council may reduce the setback to no less than 15 feet.

(g) *General aesthetics.*

1. Telecommunication towers, wireless facilities, accessory equipment structures and equipment ~~enclosure~~compounds shall be constructed and maintained to minimize visual obtrusiveness in color and finish. Stealth structures shall be consistent with the overall appearance of the town and of the area of town in which they are located.
2. Accessory equipment structures, equipment ~~enclosure~~compounds and related structures at telecommunication tower sites shall be of such design, materials and colors to blend with surrounding structures.
3. Outdoor storage of equipment or related items shall be prohibited at all wireless telecommunication sites.
4. Electrical and telephone lines serving a wireless telecommunication site shall be installed underground from the point of existing service.
5. Sound emissions, such as alarm bells, buzzers and the like, shall not be permitted. Nothing contained herein shall prohibit the reasonable use of emergency generators at wireless telecommunications sites.

(h) *Fencing.* All telecommunication towers, their accessory equipment structures and equipment ~~enclosure~~compounds shall be enclosed by chain link fencing and/or wall, not less than six feet nor more than ten feet in height. Such fences may be equipped with anti-climbing devices. The gate into the fenced area shall be located so that it is not easily visible from a street or adjacent property.

(i) *Screening/landscaping and buffers.*

1. The base of a wireless support structure, to a minimum

height of ten feet above average grade at the tower base, shall not be visible from any publicly owned or maintained roadway.

2. Screening is required along all exterior sides of the fence described above excluding the gate. Screening shall be a minimum width of ten feet with two staggered rows of planting material placed ten feet on center, that are a minimum of five feet in height when planted, and that are expected to reach a height of eight feet within three years. Suitable plant types shall be those recommended by the U.S. Department of Agriculture to achieve a mature growth height of eight to ten feet in the coastal area. The town council may waive or modify this requirement where existing trees, vegetation and/or structures provide suitable screening and buffering.

(j) *Lighting.*

1. Telecommunication towers shall be lighted only if specifically required by the Federal Aviation Administration, in which case, Federal Aviation Administration minimum lighting requirements shall be applied.
2. When lighting is required by the Federal Aviation Administration, strobe lights shall be avoided unless specified by Federal Aviation Administration. When strobe lights are required on telecommunication towers, a dual lighting system of white strobes for daytime lighting and a red flashing light atop the tower for nighttime lighting shall be used unless other lighting is specifically required by the Federal Aviation Administration, the U.S. Fish and Wildlife Service or any state or federal agency having regulatory authority over the applicant.
3. Except for lighting described in 2. above, all lighting at a wireless telecommunications site shall be shielded and shall comply with the provisions for outdoor lighting contained in section 36-166.

- (k) *Signage.* Wireless telecommunication sites shall not display signage, logos symbols or any messages of a commercial or non-commercial nature except for legal notices, identifications, directional and informational signs erected or required by governmental bodies, public utilities or civic associations with the

1 approval of town council;. A sign, not visible from a public right-
2 of-way or adjacent residences, shall be posted on the fence gate
3 identifying the current owner of the tower, emergency contact
4 person or agency, and applicable contact numbers. This provision
5 shall not preclude the applicant from posting any additional
6 signage required by federal or state law.
7

8 (c) Collocation and eligible facilities requests of wireless support structures.
9

10 (1) The town may not deny and shall approve any eligible facilities
11 request as provided in this section.
12

13 (2) No application or approval is required for routine maintenance and
14 this section shall not be construed to limit the performance of routine
15 maintenance on wireless support structures and facilities, including
16 in-kind replacement of wireless facilities. Routine maintenance
17 includes activities associated with regular and general upkeep of
18 transmission equipment, including the replacement of existing
19 wireless facilities with facilities of the same size.
20

21 (3) For all collocations and eligible facilities request, an application is
22 required.
23

24 (4) A collocation or eligible facilities request application is deemed
25 complete unless the town provides notice that the application is
26 incomplete in writing to the applicant within 45 days of submission or
27 within some other mutually agreed upon time frame. The notice shall
28 identify the deficiencies in the application which, if cured, would
29 make the application complete. The town may deem an application
30 incomplete if there is insufficient evidence provided to show that the
31 proposed collocation or eligible facilities request will comply with
32 federal, State, and local safety requirements. The town may not deem
33 an application incomplete for any issue not directly related to the
34 actual content of the application and subject matter of the collocation
35 or eligible facilities request. An application is deemed complete on
36 resubmission if the additional materials cure the deficiencies
37 indicated.
38

39 (5) The town shall issue a written decision approving an eligible facilities
40 request application within 45 days of such application being deemed
41 complete. For a collocation application that is not an eligible facilities
42 request, the town shall issue its written decision to approve or deny
43 the application within 45 days of the application being deemed
44 complete.
45

46 (6) The town may impose a fee not to exceed one thousand dollars
47 (\$1,000) for technical consultation and the review of a collocation or
48 eligible facilities request application. The fee must be based on the

1 actual, direct, and reasonable administrative costs incurred for the
2 review, processing, and approval of a collocation application. The
3 town may engage a third-party consultant for technical consultation
4 and the review of a collocation application. The town may incorporate
5 such fees into its generally adopted fee schedule. The fee imposed by
6 the town for the review of the application may not be used for either
7 of the following:

8
9 (a) Travel expenses incurred in a third-party's review of a collocation
10 application.

11
12
13 (b) Reimbursement for a consultant or other third party based on a
14 contingent fee basis or results-based arrangement.

15
16 (3d) Application requirements: Any person that proposes to construct or
17 substantially modify a wireless telecommunications site (including construction of wireless
18 support structures or substantial modifications of wireless support structures) or who
19 proposes to collocate or make an eligible facilities request shall submit a completed
20 application with the necessary copies to the town planning department. An application shall
21 not be deemed complete until all of the following items required have been submitted:

22
23 (1). For wireless telecommunications sites only, documentation
24 showing the reasonable feasibility of collocating new antennas,
25 wireless facilities and equipment on an existing structure or
26 structures within the applicant's search ring. If an applicant
27 contends that collocation on an existing structure is not reasonably
28 feasible he shall submit documentation that (1) collocation is
29 technically or commercially impractical; or (2) the owner of the
30 telecommunication tower is unwilling to enter into a contract for
31 such use at fair market value. At a minimum, technical
32 documentation shall include a map of the search ring displaying all
33 potential collocation sites and stating why each is suitable or
34 unsuitable. Where an applicant contends that the owner or an
35 existing wireless support structure or other feasible structure will
36 not contract for its use for fair market value, the applicant must
37 submit, in writing (1) a declaration from owners of all technically
38 feasible collocation sites stating the price at which they are willing
39 to negotiate space; (2) evidence that the applicant has tried in good
40 faith to negotiate market value terms for the collocation at each site
41 and (3) an licensed appraiser's certified opinion on the market
42 value of collocation at each technically feasible collocation site.

43
44 (2). A scaled site plan, scaled elevation view, and supporting drawings,
45 calculations and other documentation, prepared and sealed by
46 appropriate licensed professionals, showing the location and
47 dimensions of all improvements for the wireless

telecommunications site including topography, wireless supports structure height requirements, setbacks, access driveways or easements, parking, fencing, landscaping, adjacent uses and any other information necessary to assess compliance with this article and compatibility with surrounding uses.

- (3). For wireless telecommunications sites only, documentation that Federal Aviation Administration's minimum lighting standards have been met for the wireless telecommunications site.
- (4). For wireless telecommunications sites only, documentation that the proposed wireless telecommunications site will comply with all applicable FCC rules and regulations.
- (5). Documentation, prepared and sealed by a professional engineer registered in North Carolina, that the proposed wireless support structure and any attached wireless facilities and antennae meet or exceed accepted industry standards for wind loading, base stabilization and other critical engineering characteristics required by this ordinance, the North Carolina Building Code and the accepted industry standards for wind loading, base stabilization and other critical engineering characteristics as defined by American National Standards Institute (ANSI), Telecommunications Industry Association (TIA) and Electronic Industry Alliance (EIA) 222-G or its successors.
- (6). Documentation, prepared and sealed by a professional engineer registered in North Carolina, that the proposed wireless support structure and any attached wireless facilities and antennas do not exceed the minimum height necessary to accomplish the purpose for which they are constructed.
- (7). For wireless telecommunications sites only, documentation, prepared and sealed by a professional engineer registered in the state, stating the number of collocations that the proposed wireless support structure is designed to accommodate once constructed.
- (8). Documentation, prepared and sealed by a professional engineer registered in the state, to demonstrate that the wireless support structure has sufficient structural integrity for its intended uses. Documentation shall include a certification that all wireless support structures and attached wireless facilities shall be capable of withstanding sustained winds of at least 135 miles per hour whether or not all of the collocations the structure has been designed to accommodate have been attached to the structure.

- (9). ~~If the proposed wireless telecommunications site is to be located on lands owned by a party other than the applicant or the town,~~ A copy of the lease agreement with the property owner along with copies of any easement agreements necessary for ingress, egress and use of the property.
- (10). Documentation consisting of a certificate of insurance verifying the existence of general liability insurance coverage of at least \$5,000,000.00 at no cost to the town. The certificate shall contain a requirement that the insurance company notify the town 30 days prior to the cancellation, modification, or failure to renew the insurance coverage required.
- (11). For wireless telecommunications sites only, a copy of the approved National Environmental Policy Act of 1969 (NEPA) compliance report for all wireless support structures, antennas, wireless facilities, accessory structures or equipment proposed for the site, if such report is required to be produced pursuant to federal or state law.
- (12). For wireless telecommunications sites only, documentation from the town's police and fire service providers regarding the number and type of emergency communication antennas which are necessary for the wireless telecommunications site to support such communications along with a certification from a professional engineer registered in the state stating that the wireless telecommunications site is designed to support the attachment of the necessary emergency communication antennas.
- (13). For wireless telecommunications sites only, a memorandum of understanding regarding removal of abandoned structures and equipment located at the proposed wireless telecommunication site. Any wireless telecommunications site that is not operated for 180 continuous days in a 12-month period shall be considered abandoned. The owner of an abandoned wireless telecommunications site shall be responsible for the removal of all structures and equipment on the site within ninety (90) days of receipt of such notification by the town. Failure to remove abandoned equipment will result in its removal by the town at the owner's expense. In its discretion, the town may condition approval of a permit for building of the proposed wireless support structure on the applicant providing a bond or letter of credit sufficient to allow the town to remove the proposed structure if it is abandoned and not removed within the allowed time period by the applicant.
- (14). Any other documentation necessary to ensure compliance with this

1 section as well as applicable federal and state laws.

2
3 (4e) *Review process.* The town will use the following criteria in its review of
4 an application for any wireless telecommunication site, telecommunication tower,
5 wireless facility, antennae or accessory structure.

- 6
7 1. The proposed application meets or exceeds the standards of this
8 section.
9
10 2. The use will not materially endanger the public health, safety or
11 welfare if located where proposed and developed according to the
12 plan submitted.
13
14 3. The required conditions, specifications, and actions described in
15 this article have been met.
16
17 4. The location and character of the facility will be in harmony with
18 the area in which it is to be located.
19

20 (5a) *Consultants.* ~~The town may fix and charge an application fee,~~
21 ~~consulting fee, or other fee associated with the submission, review,~~
22 ~~processing, and approval of an application to site or modify wireless~~
23 ~~support structures or wireless facilities that is based on the costs of the~~
24 ~~services provided and does not exceed what is usual and customary for~~
25 ~~such services. Any charges or fees assessed by the town on account of an~~
26 ~~outside consultant shall be fixed in advance and incorporated into a permit~~
27 ~~or application fee and shall be based on the reasonable costs to be incurred~~
28 ~~by the town in connection with the regulatory review of an application.~~
29 ~~The town may impose additional reasonable and cost based fees for costs~~
30 ~~incurred should an applicant amend its application. On request, the amount~~
31 ~~of the consultant charges incorporated into the permit or application fee~~
32 ~~shall be separately identified and disclosed to the applicant. The town may~~
33 fix and charge an application fee, consulting fee, or other fee associated with
34 the submission, review, processing, and approval of an application to site new
35 wireless support structures or to substantially modify wireless support
36 structures or wireless facilities that is based on the costs of the services
37 provided and does not exceed what is usual and customary for such services.
38 Any charges or fees assessed by the Town on account of an outside consultant
39 shall be fixed in advance and incorporated into a permit or application fee and
40 shall be based on the reasonable costs to be incurred by the town in
41 connection with the regulatory review authorized under this section. The town
42 may incorporate such fees into its generally adopted fee schedule. The town
43 may impose additional reasonable and cost based fees for costs incurred
44 should an applicant amend its application. On request, the amount of the
45 consultant charges incorporated into the permit or application fee shall be
46 separately identified and disclosed to the applicant. The fee imposed by the

town for review of the application may not be used for either of the following:

(i) Travel time or expenses, meals, or overnight accommodations incurred in the review of an application by a consultant or other third party.

(ii) Reimbursements for a consultant or other third party based on a contingent fee basis or a results-based arrangement.

(6b) *Conditions.* The town council may place reasonable conditions on the issuance of a conditional use permit pursuant to this section regarding public safety, land use, or zoning issues, including, but not limited to, aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones. The town may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. The town shall not deny an initial land-use or zoning permit based on such documentation.

(c) *Decisions.* The town shall issue a written decision approving or denying an application under this section within a reasonable period of time consistent with the issuance of other land-use permits in the case of other applications, each as measured from the time the application is deemed complete.

(d) *Annual review.* Any person who holds a zoning or conditional use permit issued pursuant to this section shall annually submit an application for a renewal permit.

(1) *Procedure.* In order for a zoning or conditional use permit to remain valid, a renewal permit must be issued within 365 days of the issuance of the certificate of occupancy related to the initial permit or of the date of the issuance of the previous annual renewal permit. The application for a renewal permit must be received no less than ten days prior to nor more than 30 days prior to the date a renewal permit must be issued. Upon review of the application and determination of the applicant's compliance with the annual review requirements of this section the town's code enforcement and inspections department shall issue a renewal permit for an additional 365-day period. A permit holder's renewal application packet must include all of the following:

a. A renewal application fee in the amount set by the town.

b. A complete renewal application presented on a form prepared and

provided by the town's code enforcement and inspections department.

c. Documentation consisting of a certificate of insurance verifying the continued existence of general liability insurance coverage meeting or exceeding the requirements of section 36-175(c)(3)j. during the time period that the renewal permit will be valid.

d. Documentation signed and sealed by a state registered engineer indicating that all structures and equipment have remained in compliance with all local, state, and federal requirements, including but not limited to, the requirements of this ordinance at the time the original permit was issued and any requirements or conditions stated in the original permit.

(2) *Noncompliance.* Upon a permit holder's failure to submit a timely renewal application or the permit holder's failure to otherwise comply with this section the previously issued permit and/or renewal permit shall be suspended upon reaching the date that a renewal permit must be issued. Once suspended, the permit shall remain suspended until the permit holder submits an application and a review of the application by the town's code enforcement and inspections departments determines that the permit holder has complied with the annual review requirements of this section. Upon such a showing, the town shall issue a renewal permit for an additional 365-day period. If a suspension continues for more than 30 days, the permit holder's existing permit and/or renewal permit(s) shall expire.

(eg) *Validity of permits.* A conditional use permit or zoning permit issued pursuant to this section shall expire if the improvements permitted are not completely constructed within 24 months of the date of the approval of a building permit.

(fh) *Waiver or modification of requirements:* If upon the review of any application submitted pursuant to this section, the town council determines that denial of a permit based on any requirement or requirements of this section as applied to the application before the town council may be contrary to federal or state law, the town council may in its sole discretion vary, modify or disregard any such requirement in a manner which complies with the relevant law. The town council may continue any public hearing on a permit application for a reasonable time to consider such a determination and its actions thereon.

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

1 is applicable. For all of the above-stated reasons and any additional reasons supporting
2 the Town's adoption of this ordinance amendment, the Town considers the adoption of
3 this ordinance amendment to be reasonable and in the public interest.
4

5 **ARTICLE V. Severability.**
6

7 All Town ordinances or parts of ordinances in conflict with this ordinance amendment
8 are hereby repealed. Should a court of competent jurisdiction declare this ordinance
9 amendment or any part thereof to be invalid, such decision shall not affect the remaining
10 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the
11 Town of Southern Shores, North Carolina which shall remain in full force and effect.
12

13 **ARTICLE VI. Effective Date.**
14

15 This ordinance amendment shall be in full force and effect from and after the 1 day of
16 April, 2014.
17
18
19

20 _____, Mayor
21
22
23

24 ATTEST:
25
26
27

28 _____
29 Town Clerk
30

31 APPROVED AS TO FORM:
32
33
34

35 _____
36 Town Attorney
37

38 Date adopted:
39

40 _____
41 Motion to adopt by Councilmember:
42

43 _____
44 Motion seconded by Councilmember:
45
46

Vote: ___AYES___NAYS



TOWN OF SOUTHERN SHORES PURCHASING AND BID REQUIREMENTS POLICY

This purchasing and bid requirements policy is intended to serve as a guide for all departments in obtaining supplies, materials, equipment, apparatus, and services. The Town of Southern Shores' purchasing and bidding program is based on the principal of competitive bidding. A valid reason must be provided and documented when competitive bidding is not sought and obtained. The practice of favoritism, whether to the seller or the user department, is not permissible.

The Town's purchasing and bidding requirements are governed by North Carolina General Statutes and, therefore, must seek competitive offers from qualified sources of supply unless the items can be obtained through existing contracts established by NC State Purchasing and Contracts Division. Whenever possible, the Town of Southern Shores participates in the NC State Contracts. The Town's local purchasing and bidding requirements may cite provisions which are stricter in policy thresholds than the requirements of the applicable North Carolina General Statutes.

The Finance Officer relies on the Department Heads to fully identify their needs, obtain competitive pricing, and exercise sound and legal purchasing and contracting practices. Department Heads are responsible for communicating their needs to the Finance Officer on a timely basis in order to obtain the correct items at the best possible price.

Any and all purchases and contracts that are made on behalf of the Town of Southern Shores must be for the use of the Town. Such purchases can only be made if an appropriation has been set up in the approved annual budget.

A purchase order is needed for services, materials, supplies and equipment purchased that exceed \$250.00. The amount for shipping and handling along with sales tax should be included on the purchase order. The Finance Officer may not validate any purchase order unless sufficient unencumbered funds are available to pay at the time of purchase. A properly signed purchase order must **precede** the purchase. No invoice will be honored if the purchase order has not been issued and signed by the appropriate Department Head and Finance Officer. The purchase orders will be pre-numbered for control purposes and should include descriptions of the items being purchased. Unauthorized purchases are classified as a personal expense, and therefore, will be paid by the employee. In the event that the Finance Officer is not available, the purchase order can be signed by both the Department Head and the Town Manager.

The following steps must be taken:

1. All Department Heads will read and understand this policy;
2. All employees involved in the purchasing process will become familiar with the procedures outlined in this policy;
3. This policy will be kept where it is easily accessible for reference;
4. All comments or clarifications of contents contained in this policy will be directed to the Town Manager or the Finance Officer.

GENERAL RULES AND PROCEDURES FOR PURCHASING AND BIDDING

Note: all obligations evidenced by a contract or agreement, regardless of amount, must be certified as pre-audited by the Finance Officer.

Purchases of \$250.00 to \$29,999.99

All purchases between \$250.00 and \$29,999.99 (individually or in total) must be made with the use of a purchase order. The department wishing to make the purchase will prepare a purchase order and present it to the Finance Officer for approval. Town Council has given authority to the Town Manager to approve all contracts/purchases up to a maximum of \$29,999.99.

Informal Bidding Process

For all purchases, lease-purchases, and contracts above \$29,999.99 and below the state mandated thresholds for formal bidding prescribed by NCGS § 143-129, informal bids must be obtained. Notwithstanding, and consistent with an annual budget authorization, the Town Manager is authorized to renew or extend any service provider contract in effect as of the date of this policy as amended and determined by the Town Manager to be in the best interest of the Town. Only written informal proposals will be accepted. The purpose of public bidding is to obtain the best value for tax dollars, to provide fairness in contracting and prevent favoritism. Contracts will be awarded to the lowest responsible bidder, taking into consideration quality, performance and time. A Bid Form will be used for this process. Three (3) written proposals will be sought during the bidding process. In cases where available or appropriate vendors are limited, every effort will be made to obtain bids from at least two (2) vendors. In cases where the item or service is available from a single source, this information must be noted on the Bid Form. For any purchase, lease-purchase or contract cost not previously authorized by the Council in an annual budget appropriation, the Town Council must authorize the award of all bids over \$29,999.99. The Finance Officer will issue a purchase order to the chosen vendor and the Department Head will proceed with the purchase.

Formal Bidding Process

Expenditure of funds totaling or exceeding the state mandated thresholds for formal bidding prescribed by NCGS § 143-129, either for the purchase of apparatus, supplies, materials and equipment, or for construction or repair work, are required to be handled by the Formal Bid Process, and the bonding requirements of NCGS §44A-26 shall apply.

Note: Performance and payment bonds are required for contracts costing more than \$50,000 that are part of a project costing more than \$300,000.

The advertisement for bidders required by this section shall appear at a time where at least seven (7) full days shall lapse between the date on which the notice appears and the date of the opening of bids. The advertisement shall: (i) state the time and place where plans and specifications of proposed work or a complete description of the apparatus, supplies, materials, or equipment may be had; (ii) state the time and place for opening of the proposals; and (iii) reserve to the board or governing body the right to reject any or all proposals.

Purchases not requiring a Purchase Order

The following purchases do not require a purchase order:

- A. Advertising;
- B. Dues;
- C. Utilities;
- D. Insurance;
- E. Postage;
- F. Professional services for accounting, legal, engineering, etc. that are covered by a separate approved contract;
- G. Purchases less than \$250.00.
- H. Purchases obligated by written contract or agreement (These written obligations require Finance Officer certification, regardless of amount).

Emergency Purchases

An emergency is defined as a sudden, urgent, usually unexpected occurrence or occasion requiring immediate action. When an emergency does arise, and can be rectified only by immediate purchase or rental of equipment, supplies, materials or services, the following procedures must be followed:

- A. Secure a purchase order from the Finance Officer or the Town Manager. If the emergency occurs when offices are closed, the department should proceed to acquire only the materials or services necessary to meet the emergency;
- B. On the next working day, the Department Head must submit a requisition to the Finance Officer with the following information:
 - 1. Nature of the Emergency;
 - 2. Itemized list of purchases made;
 - 3. Cost per item;
 - 4. Vendor's name and address;
 - 5. Account Number
 - 6. Authorizing signature of the Department Head
 - 7. Purchase Order Number – if one was given.
- C. The Finance Officer will prepare a confirming purchase order and send the requesting department a copy of the purchase order. The employee receiving the requested items should verify that the purchase order information is correct. The employee should also make sure that the vendor knows who to invoice and the correct address for billing. All invoices should be made out to the appropriate Town Department. Failure to make sure this information is passed on to the vendor could result in the misplacement of the invoice, causing late payment on the invoice and loss of any possible discount. No emergency purchase orders will be given unless it is an emergency as described above. North Carolina General Statutes govern this procedure. Written approval for disallowed emergency purchases will have to be obtained from the Town Manager, with overall approval resting with the Town Council.

Telephone Purchase Order Procedures

In certain emergency or special situations, the Finance Officer will issue a purchase order number over the telephone to the requesting department. In such cases, the requesting department will be required to submit a supporting requisition to the Finance Officer the next business day. The requisition is to include the vendor, complete item description, quantity, price, and the purchase order number that was issued.

Credit Cards

The credit cards are kept under the control of the Finance Officer and should be signed out by the employee and returned to the Finance Officer once the purchase is completed. All purchases in excess of \$100.00 made with the Town credit card must be preceded with a purchase order. When traveling out of town for training purposes, the employee **may** use the credit card for hotel stays and for the purchase of fuel **only**, providing that pre-approval **is obtained** from the Town Manager or the Finance Officer. A purchase order must be filled out immediately upon return. **A cash advance may be issued for the employee's cost of meals while out of town for training. Prior to departure, the employee may fill out a travel advance request form,** and a check will be issued to the employee for the amount of per diem **meal costs** as stated on the website at <http://www.gsa.gov/portal/content/104877> for the length of their stay and as outlined in the Town's travel policy. The employee is not authorized to pay for meals on the Town credit card, unless specifically authorized by the Town Manager. The Department Head must approve purchases. Unauthorized purchases are a violation of this policy. If proper procedures are not followed, the employee may be personally liable for the payment.

Updated 1/28/08

Revised 7/6/10

Revised 1/22/13

Revised 10/1/13

Revised 4/1/14

Adopted
November 7, 2007

**TOWN OF SOUTHERN SHORES
RETIREE HEALTH AND DENTAL
INSURANCE BENEFITS
POLICY**

A. HEALTH INSURANCE FOR RETIREES HIRED ON OR AFTER NOVEMBER 1, 2007

For employees hired on or after November 1, 2007, the term "qualified retiree" is defined as an employee who:

- (1) Retires from the Town with **25** completed years of service with the Town; **and**
- (2) Retires with **unreduced benefits** from the NC Local Government Employee's Retirement System. See definition of unreduced benefits in Section F of this policy.

A qualified retiree will have their individual health and dental insurance coverage paid for by the Town if the retiree elects to retain health and dental insurance for themselves through the Town. In the event that the Town's health insurance plan does not provide retiree health coverage, the Town shall reimburse the qualified retiree for monthly health premiums paid by the qualified retiree for individual employee only coverage. This shall be done upon receipt of proof of payment. The amount the Town will pay for coverage or will reimburse a qualified retiree for coverage shall not exceed the then current health benefit paid by the Town for active employees for individual employee only coverage. The Town will pay the premium (as stated above), for health and dental coverage **only** until the qualified retiree becomes eligible for Medicare coverage. Upon a qualified retiree becoming eligible for Medicare coverage or reaching the age of 65 whichever comes first, the Town will no longer pay premiums for health or dental coverage of any kind.

B. HEALTH INSURANCE BENEFITS FOR RETIREES HIRED BEFORE NOVEMBER 1, 2007

For employees hired before November 1, 2007, the term "qualified retiree" is defined as an employee who:

- (1) Retires from the Town with **10** completed years of service with the Town; **and**
- (2) Retires with **unreduced benefits** from the NC Local Government Employee's Retirement System. See definition of unreduced benefits in Section F of this policy.

A qualified retiree will have their health and dental insurance coverage paid for by the Town if the retiree elects to retain health and dental insurance for themselves through the Town. In the event the Town's health insurance plan does not provide retiree health coverage, the Town shall reimburse the qualified retiree for individual employee only coverage. The amount the Town will pay for coverage or will reimburse a qualified retiree for coverage shall not exceed the then current health benefit paid by the Town for active employees for individual employee only coverage.

Upon a qualified retiree becoming eligible for Medicare coverage or reaching the age of 65 whichever comes first, the Town will ~~no longer~~ pay premiums for a Medicare supplement and prescription plan only. The Town will no longer pay dental or vision premiums. Under no circumstances will the Town pay more than the amount the Town pays for individual employee only coverage for employees actively participating in the Town's health program.

Dependent coverage may also be purchased, but must be paid entirely by the qualified retiree.

In the event of the death of the retired employee, covered dependents may continue coverage for 36 months under COBRA.

C. ELECTION OF RETIREE HEALTH INSURANCE COVERAGE

Qualified retirees must decide within thirty (30) days after their retirement if they wish to continue Town health/dental insurance coverage, if it is available through the Town's plan. Before insurance can be reinstated, the qualified retiree must make payment arrangements for any premium due during the 30 day election period. If a decision has been made not to continue coverage, coverage will not be reinstated at any future date.

D. PAYMENT OF PREMIUM

Payment of premiums for coverage on dependents and the portion of the qualified retiree's premium not covered by the Town must be made by the last business day of the month prior to coverage. For example, payments of premiums for coverage during the month of July must be made on or before June 30. (If June 30 is a Saturday, the payment must be made by June 29th). A 2% administrative fee may be charged in addition to the monthly premium. Payments can be made monthly or quarterly and can either be mailed or brought to the Town's Finance Department so long as the payment is actually received before the last business day of the month. Monthly statements will be sent out indicating any balances due. Failure to pay the required premium to the Town's Finance Department within thirty (30) days of the due date will result in cancellation and loss of coverage. Once coverage has been cancelled for any reason, it cannot be reinstated.

E. AMENDMENTS

This policy is subject to change from time to time as the coverage requirements of the NC Local Government Employee's Retirement System or other benefit plans sponsored by the Town change. All benefits are contingent on the financial condition of the Town and the provision for such funding in each annual budget. The insurance benefits are subject to change with or without notice and in no way should this section be construed as a contract or guarantee of provision of these benefits beyond the current fiscal year. This policy supersedes all other policies relating to health/dental benefits.

F. DEFINITION OF UNREDUCED BENEFITS

The NC Local Government Employee's Retirement System classifies unreduced benefits to be one of the following:

- Law Enforcement Employees who are age 55 and have completed 5 years of creditable service as an officer **OR** 30 years of creditable service at any age.
- All General Employee's who are age 65 and completed 5 years of creditable service **OR** age 60 with 25 years of creditable service **OR** 30 years of creditable service at any age.

Revised 7/6/10
Revised 4/1/14

TOWN OF SOUTHERN SHORES TRAVEL POLICY

Purpose

It is the intent of this policy to provide Town employees' a comprehensive reference for uniform interpretation of payment or reimbursement for travel expenses incurred while traveling on Town business.

All employees and officials of the Town are subject to this policy.

Employee & Council Member Responsibility

It is the responsibility of the Town employee or Council Member to use moderation in incurring travel expenses; thus the same care should be exercised in incurring expenses that a prudent person would exercise if traveling on personal business and spending personal funds. Excess costs, circuitous routes, luxury accommodations, and unnecessary and unjustified services in the performance of official business are not acceptable under this standard. Town employees and Council Members will be responsible for unauthorized costs and any additional expenses incurred for personal preference or convenience. Where practical, a travel advance for meals will be issued to responsible Town employees as a tool to help minimize the personal financial impact of conducting Town business. Detailed documentation is required of all Town credit card use. Willful violation of this policy may result in dismissal from Town employment or other disciplinary action.

Transportation

Transportation expenses include personal automobile, taxi, bus, train, airplane, motor pool charges, auto rentals, tolls and parking fees. All travel expenses must be incurred by and for employees or Council Members while conducting official Town business to be eligible for reimbursement. Receipts are necessary for reimbursement for auto rentals and all other means of transportation when available. The Town will pay the allowable automobile mileage rate as established by the Internal Revenue Service. Whenever possible employees should ride together or use Town owned vehicles.

Lodging

The Town will pay actual expenses incurred for lodging. Moderately priced accommodations should be sought as well as a government rate where available.

Meals

The Town credit card cannot be used for purchasing meals while out of town, unless specifically authorized by the Town Manager. The Town will issue a check to the employee for meals, upon completion of a travel advance form according to the current guidelines under GSA (US General Services Administration). If, for reason unforeseen, an employee does not receive a cash advance, the Town will only pay the costs of meals, up to the current per diem GSA guidelines, when a request for reimbursement is accompanied by receipts

The per diem may not be used, when a meal is furnished as part of a conference registration or is otherwise provided without cost. Employees and Council Members may receive allowances for meals (as stated above) for partial days of travel when the partial day is the day of departure or the day of return. Below are the guidelines:

Breakfast: Depart duty station prior to 6:00 a.m.

Lunch: Depart duty station prior to 10:00 a.m. (day of departure). Return to duty station after 2:00 p.m. (day of return).

Dinner: Return to duty station after 8:00 p.m. If stopping for dinner would cause the employee to return after 8:00 p.m., when he/she would otherwise have returned before 8:00 p.m., dinner will not be reimbursed.

Travel Advances

Travel advances may be made at the request of the department head; upon submission of a travel advance request from. Within 10 working days after the travel is completed, actual expense receipts will be attached to the completed expense voucher and presented for settlement. No travel advances will be approved unless all previous advances have been cleared.

Other Expenses

The Town will reimburse for long distance calls that relate to Town business. Personal phone calls while traveling are at the employee's expense.

Local Expenses

The cost of meals may be reimbursed when an employee/official pays for someone else's meal as a legitimate guest of the Town. The Town will also reimburse for after hours meals when attendance is a matter of Town business. The Town will not reimburse employees for "working lunches".

The Town will pay the allowable rate for local mileage for use of personal vehicles on Town business. Transportation from home to office is not reimbursable. Local mileage reimbursement expenses shall be submitted within 90 days of occurrence.

Adopted September 2007

Revised 4/1/14

**Town of Southern Shores
Budget Amendment Number # 10**

**Administration
Increases**

Account Number	Description	Amount
	Revenues	
40-39926	Government Channel Grant	\$23,000
40-39909	Undesignated FB	\$10,000
	Expenditures	
42-50144	Technology Upgrade at Pitts Center	\$33,000

**Administration
Decreases**

Account Number	Description	Amount

Explanation: Lighting and Video Upgrade at the Pitts Center

Recommended By:

J. Peter Rascoe, III, Town Manager

Approved By:

Tom Bennett, Mayor

Date

4/1/2014