



Town of Southern Shores

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

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

www.southernshores-nc.gov

Town Council Regular Meeting

May 6, 2025, 5:30 PM

Pitts Center-5375 N. Virginia Dare Trail, Southern Shores NC 27949

Present

Mayor Morey

Mayor pro tem Neal

Council Member Batenic

Council Member Neilson

Call Meeting to Order-May 6, 2025

Mayor Elizabeth Morey called the meeting to order at 5:30 PM and led the Pledge of Allegiance. In lieu of a traditional moment of silence, the Mayor honored former Mayor James Harold "Hal" Denny, who passed away on April 10, 2025. Mayor Denny served on the Town Council from 1999–2004, was appointed Mayor during that time, and was later elected again as Mayor in 2009 for a four-year term. His contributions to the town and his military service as a U.S. Navy Reserve Captain were recognized. Condolences were extended to his wife, Billie, and their family.

Amendments to / Approval of Agenda

Council member Batenic **moved** to approve the agenda as presented, Seconded by Council member Neilson. The motion passed unanimously.

Consent Agenda

The consent agenda consisted of the following:

1. Approval of Minutes -March 4, 2025 & April 1, 2025
2. Fee Schedule Amendment- Credit Card Convenience Fee
3. Budget Amendment #27-Gov Deal Revenue & Public Works Equipment Repair

Mayor Morey presented the consent agenda. Council member Batenic **moved** to approve the consent agenda as presented, Seconded by Mayor pro tem Neal. The motion passed unanimously.

Staff Reports

Planning/Deputy Town Manager

Planning Director/Deputy Town Manager Wes Haskett provided a brief report for the month of April. He announced the next Planning Board Meeting will be held on May 19th here in the Pitts Center. Planning Director/Deputy Town Manager Wes Haskett added at the February 6, 2024 Town Council meeting, the Town Council directed Town Staff to draft Town Code amendments to modernize the Town Code. Town Staff used that direction to draft several Zoning Text Amendments to address

changes in development trends and conditions as well as legislative changes made by the N.C. General Assembly. Town Staff is now requesting new direction from Council to continue drafting Town Code amendments to modernize the Town Code so that we can continue preparing and recommending Town Code amendments when needed. One example is a ZTA to reinstate guiding standards that must be satisfied prior to issuance of a Special Use Permit, as recommended by the UNC School of Government. If Council is inclined to provide this new direction, a vote to do so is recommended.

MOTION: Mayor Morey moved to direct staff to continue to prepare and recommend town code amendments when needed for the modernization of our code, Seconded by Mayor pro tem Neal. The motion passed unanimously.

Police Chief

Police Chief Kole presented the April police report.

Fire Chief

Fire Chief Limbacher provided the monthly calls report for April.

Town Manager

Town Manager Ogburn presented the following operational highlights:

- Trinitie Trail Bridge Update- Sidewalks and curbs have been poured; binder paving starting next day. The Trinitie Trail Bridge is anticipated to open by Memorial Day.
- Town Association Relocation - SSCA and Chicahauk HOA have relocated to 13 Skyline Rd. Town staff is redirecting visitors accordingly.
- Town Hall Renovation- Porch removal has begun; interior renovations begin after Memorial Day.
- Fire Department Transition-All assets to be transitioned under town insurance by July 1. The town will begin paying fire station debt service directly to bank (requires LGC approval/public hearing in June). There will be a formation of an auxiliary 501(c)(3) for volunteer support. The Fire Real Estate 501(c)(3) will retain ground leases and lease to town for use.
- Southern Shores Cemetery Improvements- Extensive cleanup, reseeding, trimming, and improved signage have taken place at the cemetery. Benches have been installed, the driveway has been resurfaced, and new water access installed. The Eagle Scouts have volunteered to clean headstones.

Town Attorney

Town Attorney Lauren Arizaga-Womble provided no formal report but was present to answer questions.

General Public Comment

Leo Holland-23 Spindrift Trail- announced upcoming Memorial Day ceremony at the Southern Shores Cemetery at 8:30 a.m. by American legion Post 26. He encouraged the public to attend.

Old Business

None

New Business**Pavement Project Bid Award**

The agenda summary read as, the Town bid a 2-inch mill and fill pavement resurfacing project for most of Spindrift Trail, Wild Pony Lane, and Landfall Loop. The project would complete a large section of this area of Town. Wild Pony Lane (PCI 47.61) was scheduled for work before this time but was delayed to coincide with this work.

Though not required because the project falls below the formal bidding threshold, three bids were received, and Fred Smith Company Construction submitted the low bid of \$280,670. The project is scheduled to be completed within 90 days of notice to proceed.

The town received three competitive bids for the project from reputable contractors:

1. Fred Smith Company Construction \$280,670.00
2. Barnhill Contracting Company \$304,868.43
3. C. D. Rose Construction YES \$295,845.00

Staff recommend that the Town Council authorize the town manager to enter a contract with Fred Smith Company Construction for \$280,670 for pavement construction.

The council expressed support for the bid award and the road prioritization strategy, acknowledging the town's significant long-term investment in road infrastructure. Mayor pro tem Neal emphasized the importance of integrating stormwater solutions into paving projects whenever possible.

Council noted that the town has spent nearly \$4 million on road improvements over the last four years, with this project contributing to an overall \$10 million, 10-year capital plan approved in 2020.

MOTION: Mayor pro tem Neal moved to authorize the town manager to enter a contract with Fred Smith Company Construction for \$280,670 for pavement construction, Seconded by Mayor Morey. The motion passed unanimously.

Public Hearing-ZTA-25-02, a Zoning Text Amendment application submitted by Anthony S. Mina to amend Town Code Section 36-414

Mayor Morey read a statement on decorum and recommended setting a reasonable time limit on presentations by staff and applicant Anthony Mina.

MOTION: Mayor pro tem Neal moved to set a 10-minute time limit for presentations, Seconded by Council member Neilson. The motion passed unanimously.

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

Planning Director/Deputy Town Manager Wes Haskett provided the staff report.

"The Applicant is proposing a Zoning Text Amendment (ZTA) to amend Town Code Section 36- 414 to establish a 90-day exemption for property owners in all zoning districts to submit any applications to the Town to seek governance under the Town Code prior to all ordinance amendments adopted within three years of adoption of his proposed amendment. If adopted, property owners would be permitted to submit applications for a 90-day period to seek governance from the Town under the Town Code as it applied prior to adoption of all zoning text amendments that affected their property within the last three years. The proposed language would apply to property owners who owned the property, were under contract to purchase the property, rented the property, or occupied the property at the time the zoning text amendment was adopted.

In July 2024, the Applicant submitted two applications to subdivide the property at 75 E. Dogwood Trl. that were denied. In October 2024, the Town Planning Board considered a Variance application submitted by the Applicant to allow the subdivision of 75 E. Dogwood Trl. that was denied. In January 2025, the Applicant submitted another request to subdivide the property at 75 E. Dogwood Trl. that was denied. In March 2025, the Planning Board considered an Appeal application submitted by the Applicant to allow the subdivision of 75 E. Dogwood Trl. that was denied. The proposed amendment is an attempt to exempt himself and other affected property owners from having to comply with the lot width requirements established in ZTA-23-03 that was adopted on June 6, 2023.

RECOMMENDATION

Town Staff has determined that the proposed amendment is inconsistent with the Town's currently adopted Comprehensive Land Use Plan and Town Staff recommends disapproval of the application. Please note that prior to adopting or rejecting any zoning amendment, the Town Council shall adopt a statement describing whether its action is consistent or inconsistent with the Town's currently adopted Comprehensive Land Use Plan and explaining why the Town Council considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. Since all of the zoning text amendments that were adopted within the last three years were found to be consistent with the Town's Comprehensive Land Use Plan (formerly Land Use Plan), creating an exemption from having to comply with their requirements would be inconsistent with the Town's Comprehensive Land Use Plan. The ZTA does not identify any Comprehensive Land Use Plan policies that are consistent with the proposed amendment. The Town Planning Board unanimously (5-0) recommended disapproval of the proposed amendment at the May 21, 2025 Planning Board meeting and found that their action (to recommend disapproval) was consistent with the Town's currently adopted Comprehensive Land Use Plan, that it was reasonable, and in the public's interest."

The staff report noted that approving such a retroactive exemption would effectively nullify numerous zoning amendments passed in the past three years, undermining adopted policy and the integrity of planning regulations.

Applicant Anthony Mina appeared via Zoom to present his case during the public hearing. Speaking for the full 10-minute time allotment granted by the council, he asserted that the Town had failed to provide the required mailed and posted notice for the original 2023 zoning change, rendering it

invalid. He further claimed that Town staff misled him during his negotiations to purchase the East Dogwood Trail property and cited various emails, public records requests, and communications with planning staff as evidence. Mr. Mina argued that the zoning change diminished his property's value and that the Town's failure to comply with notification procedures constituted legal and ethical violations. He also alleged that he had been denied a fair hearing at a prior Planning Board meeting and referenced federal statutes concerning evidence tampering and racketeering.

Town Attorney Lauren Arizaga-Womble cautioned Mr. Mina to focus on the zoning text amendment itself, rather than personal allegations, and reminded him that the rules of decorum prohibit personal attacks.

Following Mr. Mina's presentation, the public hearing was opened for additional comment, but no other individuals had signed up or wished to speak. The public hearing was then formally closed. After the hearing, the town council members asked no questions for staff or legal counsel and proceeded directly to deliberations.

MOTION: Council member Batenic moved to deny ZTA-25-02, affirming that the denial was consistent with the Town's Comprehensive Land Use Plan and that it was reasonable and in the public interest, Seconded by Council member Neilson. The motion passed unanimously, and the amendment was rejected.

Manager's Recommended Budget FY25-26

Town Manager Cliff Ogburn presented the recommended budget for FY 2025–2026, totaling \$11,076,772, which reflects a 9.45% increase over the prior year's adopted budget, largely due to the Trinitie Trail bridge project and the incorporation of fire services as a municipal department. The budget proposes a 4-cent increase in the ad valorem property tax rate, raising it from the revenue-neutral 14.88¢ to 18.88¢ per \$100 valuation. This marks the first non-beach-nourishment-related tax increase since 2012, despite escalating service costs in areas such as sanitation, fire protection, legal, and ocean rescue. Major drivers of the increase include full municipal integration of the fire department, funding for road work on East Dogwood Trail, stormwater infrastructure improvements, a replacement of the Duck Road multi-use path (\$335,950, with a \$91,000 tourism grant), and rising personnel costs, including a 3% cost-of-living adjustment, merit increases, and mandatory retirement and insurance contributions. The recommended budget funds new positions including a public information officer, an additional police sergeant, and full-time fire staff. Health insurance plan options were revised due to significant premium increases, and a continued monthly cafeteria plan which helps with dependent coverage. The budget uses \$277,395 in unassigned fund balance to maintain services and capital investments, while preserving \$1.78 million in unassigned reserves and \$3.5 million in disaster contingency funds.

Town Manager Ogburn announce a public hearing is scheduled for June 3, 2025, to receive citizen feedback on the proposed budget.

Resolution in Opposition to HB 765 and Similar Legislation to Strip Municipalities of Planning and Zoning Authority

Town Attorney Lauren Arizaga-Womble began by explaining that she was asked to provide a summary of House Bill 765 and its potential impact on the Town. She described the bill as “very expansive,” noting that it represents a significant attempt to limit local governments’ ability to perform zoning and regulatory functions. One of the few positive elements she identified was that the bill would correct a previous downzoning amendment to NCGS §160D-601, which had overly restricted municipalities. The new version would narrow that restriction to only apply to changes in permitted uses within a zoning regulation rather than across entire zoning districts. This revision, she said, was an improvement over the prior language.

However, she emphasized that many of the bill’s provisions are problematic. She highlighted proposed strict time limits on the application review process, such as a 14-day requirement for determining application completeness and 90 days for issuing a decision. If a decision is not made within 90 days, she explained, the application would be “summarily approved,” meaning it would be automatically approved by default. While the bill allows for an extension, it requires the applicant’s agreement and cannot exceed six months. She stated that these timelines are “concerning,” especially for complex or commercial applications.

Town Attorney Lauren Arizaga-Womble also noted that the bill contains substantial changes to the definitions of “lot,” “acre,” and “lot of record,” which she said could affect how the town currently calculates things like lot coverage and size. She emphasized that these changes would directly impact the town’s regulations.

Another key provision she addressed was the removal of Planning Board authority over subdivision plat approvals. She said the bill would require that preliminary and final plat approvals be done solely by staff, which she indicated was a significant shift from current procedure in Southern Shores.

Town Attorney Lauren Arizaga-Womble further highlighted a section of the bill that addresses liability for board members, stating that it includes language allowing for potential personal liability in instances of “gross negligence, wrongful conduct,” or if someone is “listed individually.” While this would apply only in specific circumstances—such as fraud or criminal behavior—she acknowledged it was still a “pretty substantial change” and something the board should be aware of.

She concluded by noting that it is still early in the legislative process and that the bill had not yet been adopted. Some parts of the bill, she added, are simply reorganization or clean-up provisions. Nonetheless, she affirmed that if and when changes are made, the town would revisit the legislation to assess impacts and determine how local procedures and policies may need to be updated. She emphasized that the bill had drawn “a lot of attention from every town, city, and county across the state,” and that the resolution on the agenda reflected the widespread concern.

Mayor pro tem Neal began by asking if the attorney had seen the most recent version of the bill. He noted that while some of the more extreme parts like conflict-of-interest rules had been removed, other parts still concerned him, such as required accessory dwelling units (ADUs) and reduced parking standards. He said the bill was improving but still not good enough. He stated that both the town and Dare County are already working hard on housing solutions, and this bill seems to punish towns that are trying to do the right thing.

Council member Neal stressed that local governments should be the ones making zoning decisions, not the state, because each community is different. He encouraged citizens to let legislators know that the town wants to be part of the solution, but House Bill 765 is not the right way to get there.

Mayor Morey emphasized that there are several other House bills being introduced that essentially want to strip municipalities of planning and zoning authority. She felt the primary purpose of local government is to provide public health and safety and that is through the ability to do planning and zoning.

Council acknowledged some of the information in the resolution was already outdated, as it is changing daily but ultimately felt the resolution still made a statement..

Motion: Mayor Morey moved to adopt the resolution in opposition to HB765 and similar legislation to strip municipalities of planning and zoning authority, Seconded by Council member Neilson. The motion passed unanimously.

Council Business

Council member Batenic reported on the Tourism Board for the month. He reported that while occupancy numbers are down this year visitors who are in town are spending more on dining. He emphasized the efforts of the Outer Banks Visitors Bureau (Tourism Board) to promote events and maintain tourism momentum. He added that several real estate companies are advertising vacation specials for any lulls in the bookings. He concluded by stressing that tourism remains a vital revenue stream for the town.

Mayor pro tem Neal provided an update on the Entry Corridor Committee's activities. He announced that the committee's public survey was ready to launch this week and would be distributed through posters, mailers, and the town's newsletter. The survey will collect resident input on how the town's commercial corridor is used and what improvements are desired. He also noted that a town hall-style meeting is being planned for late May to gather more public feedback.

Council member Neilson reported on recent county level initiatives, including the America 250 (A250) planning efforts to commemorate the 250th anniversary of the Declaration of Independence in 2026. He mentioned that local schools and historical organizations are involved in programming, and that the town may be represented through 13 Skyline Drive and the historic flat-top homes. Council member Neilson also highlighted the upcoming 50th anniversary celebration of Jockey's Ridge, which will include various public events, such as a drone show. Lastly, he introduced the idea of long-term sustainability planning by researching how other municipalities in North Carolina, such as Durham, Greensboro, and Fayetteville are using solar energy to reduce utility costs in municipal buildings, suggesting Southern Shores explore similar options.

Mayor Morey offered several closing announcements and recognitions. She reminded the public of the upcoming Memorial Day ceremony at the Southern Shores Cemetery on May 26 at 8:30 a.m., the Mayor's Chat event on May 14 at 5:00 p.m., and the scheduled public hearing on the FY25–26 budget at the June 3rd Town Council meeting. Mayor Morey recognized two Southern Shores

residents, Len Schmitz and Dale Draper, who recently received the Governor's Volunteer of the Year Award for their community service with beach grass planting and the Interfaith Community Outreach organization. She also extended heartfelt thanks to the Planning Board for their ongoing dedication, hard work, and thoughtful contributions to the town's planning efforts.

Closed Session- Council member Batenic moved to go into closed session per NCGS 143-318.11(a)(3) for attorney-client privilege, Seconded by Council member Neilson. The motion passed unanimously.

Adjourn

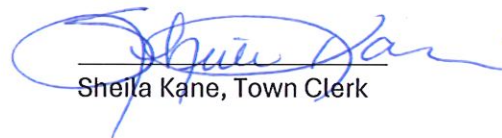
Upon returning into open session and hearing no further business, Mayor Morey called for a motion to adjourn. Council member Batenic moved to adjourn the meeting at 7:48 PM, Seconded by Council member Neilson. The motion passed unanimously.

ATTEST:

Respectfully submitted,


Elizabeth Morey, Mayor




Sheila Kane, Town Clerk

TOWN OF SOUTHERN SHORES FEE SCHEDULE

Adopted: 3/4/2003 | Amendment Date: 05/06/2025

* All fees shall include, whenever applicable, the reasonable cost of any expert advice obtained by the Town or other direct expenses incurred by the Town during the review of the application. All fees must be paid in full prior to any further reviews by the Town or prior to issuance of any permits sought, whichever comes first. Submitted fees shall not be refunded.

Item	Fee
Miscellaneous:	
Returned Checks/charge back (NSF)	Current Bank Fee
Credit Card Convenience Fee	3%
Credit card present	2.65%
Credit card not present	3.5%
Cemetery Lot Purchase:	
TOSS Property Owners	\$500.00
Non-property Owners	\$2,000.00
Cost of Copies	\$0.25 B/W \$0.30 Color
Annual Lease Fee –Town Canal-Street Right of Way	\$5.00
Beach Parking Tag or Sticker-Replacement	\$75.00
Receptacle Lid	\$45.00
Receptacle Wheels	\$40.00
Apparel Merchandise/T-Shirts	\$20.00
Planning	
Development Review:	
Zoning Map Amendment	\$300.00
Zoning Text Amendment	\$200.00
Zoning Compliance Letter	
a. Residential	\$35.00
b. Commercial	\$75.00
Application to Board of Adjustment	\$350.00
(includes cost of certified mailings and public notices)	
Conditional Use Permit	\$300.00
(includes cost of certified mailings and public notices)	
Filing fee for site plan for dwelling or lodging unit, other than single-family detached homes, per unit.	\$50.00
Filing fee for commercial structures and improvements	\$0.10/SF
Wireless Applications:	
a. Application for new tower	\$200.00
b. Tower annual renewal	\$100.00
c. New collocation	\$100.00
d. Collocation annual renewal	\$50.00
Subdivision Plat Review:	
a. Exempt	\$50.00/lot
b. Subdivision	\$100.00/lot
Building Inspections	
Plan Review:	
Lot Disturbance and Stormwater Management Permit	\$150.00
Zoning Permit	\$75.00
Single family new construction	\$150.00
Single family addition or renovation minimum	\$100.00
New Building Permits for Structures/Additions/Reconstruction:	
Heated/living areas - Single Family	\$0.60/SF
All Others	\$0.75/SF
Non heating areas, i.e., deck, porch, garages, etc. - Single Family	\$0.30/SF
All Others	\$0.35/SF
Remodeling and alterations to existing structures (no additional square footage, \$10.00 Per \$1,000 of Construction Cost)	\$10.00
Swimming Pools and Tennis Courts (flat fee)	\$250.00
Demolition	\$150.00
Generator	\$150.00
Sign	\$100.00
Bulkhead	\$150.00
Trade (HVAC, Mechanical, Plumbing, Gas, Electrical)	\$150.00
Re-inspection charge	\$100.00
Work Proceeding Without Necessary Inspections	1/2 Permit Fee

Work Proceeding Without Necessary Permit	Double Permit Fee
	Item 2.
House Moving:	
Out of Southern Shores	\$100.00
Within Southern Shores	\$250.00
Into Southern Shores from elsewhere	\$350.00
Miscellaneous:	
Contractors Licensing Board Fee (Homeowner's Recovery Fund)	\$10.00
CAMA Permit: minor development permit if the project is within the Ocean Hazard or Estuarine AECs and does not qualify for an Exemption	\$100.00
Construction & Demolition Debris Disposal Permit	\$50.00
NOTWITHSTANDING THE ABOVE, THE MINIMUM FEE SHALL BE:	\$100.00

Elizabeth Morey, Mayor

Attest:

Sheila Kane, Town Clerk

Adopted: 3/4/2003
Amended 1/6/04, 2/3/04, 6/27/06, 1/23/07, 2/26/08, 5/27/08, 3/2/2010, 11/3/10, 9/20/2011, 6/2/2015, 6/7/2016,

**Town of Southern Shores
Budget Amendment Number #27**

[illegible]

Explanation: To recognize revenues from GovDeals for the Public Works F-250 Pickup truck.

The cost to repair tractor and the purchase of a trailer for PW

Recommended By:

Approved By: Town Council

Cliff Ogburn, Town Manager

Elizabeth Morey, Mayor

Date _____



Agenda Item Summary Sheet

Date: 5/06/2025

Item #: 4

Item Title: Pavement Project Bid Award

Item Summary: The Town bid a 2-inch mill and fill pavement resurfacing project for most of Spindrift Trail, Wild Pony Lane, and Landfall Loop. The project would complete a large section of this area of Town. Wild Pony Lane (PCI 47.61) was scheduled for work before this time, but was delayed to coincide with this work.

Though not required because the project falls below the formal bidding threshold, three bids were received, and Fred Smith Company Construction submitted the low bid of \$280,670. The project is scheduled to be completed within 90 days of notice to proceed.

Name	Bid Package Requirements Satisfied	Lump Sum
Fred Smith Company Construction	YES	\$280,670.00
Barnhill Contracting Company	YES	\$304,868.43
C. D. Rose Construction	YES	\$295,845.00

Staff Recommendation and Requested Action: Staff recommends that the Town Council authorize the town manager to enter a contract with Fred Smith Company Construction for \$280,670 for pavement construction.



AGENDA ITEM SUMMARY FORM

MEETING DATE: May 6, 2025

ITEM TITLE: ZTA-25-02

ITEM SUMMARY:

The Applicant is proposing a Zoning Text Amendment (ZTA) to amend Town Code Section 36-414 to establish a 90-day exemption for property owners in all zoning districts to submit any applications to the Town to seek governance under the Town Code prior to all ordinance amendments adopted within three years of adoption of his proposed amendment. If adopted, property owners would be permitted to submit applications for a 90-day period to seek governance from the Town under the Town Code as it applied prior to adoption of all zoning text amendments that affected their property within the last three years. The proposed language would apply to property owners who owned the property, were under contract to purchase the property, rented the property, or occupied the property at the time the zoning text amendment was adopted.

In July 2024, the Applicant submitted two applications to subdivide the property at 75 E. Dogwood Trl. that were denied. In October 2024, the Town Planning Board considered a Variance application submitted by the Applicant to allow the subdivision of 75 E. Dogwood Trl. that was denied. In January 2025, the Applicant submitted another request to subdivide the property at 75 E. Dogwood Trl. that was denied. In March 2025, the Planning Board considered an Appeal application submitted by the Applicant to allow the subdivision of 75 E. Dogwood Trl. that was denied. The proposed amendment is an attempt to exempt himself and other affected property owners from having to comply with the lot width requirements established in ZTA-23-03 that was adopted on June 6, 2023.

STAFF RECOMMENDATION:

Town Staff has determined that the proposed amendment is inconsistent with the Town's currently adopted Comprehensive Land Use Plan and Town Staff recommends disapproval of the application. Please note that prior to adopting or rejecting any zoning amendment, the Town Council shall adopt a statement describing whether its action is consistent or inconsistent with the Town's currently adopted Comprehensive Land Use Plan and explaining why the Town Council considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. Since all of the zoning text amendments that were adopted within the last three years were found to be consistent with the Town's Comprehensive Land Use Plan (formerly Land Use Plan), creating an exemption from having to comply with their requirements would be inconsistent with the Town's Comprehensive Land Use Plan. The ZTA does not identify any Comprehensive Land Use Plan policies that are consistent with the proposed amendment. The Town Planning Board unanimously (5-0) recommended disapproval of the proposed amendment at the May 21, 2025 Planning Board meeting and found that their action (to

recommend disapproval) was consistent with the Town's currently adopted Comprehensive Land Use Plan, that it was reasonable, and in the public's interest.

REQUESTED ACTION:

Motion to deny ZTA-25-02 and affirm that the action of denying the proposed amendment is consistent with the Town's currently adopted Comprehensive Land Use Plan, is reasonable, and in the public's interest.

STAFF REPORT

To: Southern Shores Town Council
Date: May 6, 2025
Case: ZTA-25-02
Prepared By: Wes Haskett, Deputy Town Manager/Planning Director

GENERAL INFORMATION

Applicant: Anthony S. Mina
 75 E. Dogwood Trl.
 Southern Shores, NC 27949

Requested Action: Amendment of Town Code Section 36-414

ANALYSIS

The Applicant is proposing a Zoning Text Amendment (ZTA) to amend Town Code Section 36-414 to establish a 90-day exemption for property owners in all zoning districts to submit any applications to the Town to seek governance under the Town Code prior to all ordinance amendments adopted within three years of adoption of his proposed amendment. If adopted, property owners would be permitted to submit applications for a 90-day period to seek governance from the Town under the Town Code as it applied prior to adoption of all zoning text amendments that affected their property within the last three years. The proposed language would apply to property owners who owned the property, were under contract to purchase the property, rented the property, or occupied the property at the time the zoning text amendment was adopted.

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RECOMMENDATION

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amendment. The Town Planning Board unanimously (5-0) recommended disapproval of the proposed amendment at the May 21, 2025 Planning Board meeting and found that their action (to recommend disapproval) was consistent with the Town's currently adopted Comprehensive Land Use Plan, that it was reasonable, and in the public's interest.

ZTAs Adopted Since May 1, 2022

<u>Case Number</u>	<u>Ordinance Number</u>	<u>Purpose</u>	<u>Adoption Date</u>
ZTA-22-04	Ord. 2022-05-01	Commercial Density	5/3/2022
ZTA-22-06	Ord. 2022-06-03	Group Developments	6/7/2022
ZTA-22-07	Ord. 2022-08-01	Special Uses	8/2/2022
ZTA-22-09	Ord. 2022-09-01	Group Fitness Facilities	9/6/2022
ZTA-21-08	Ord. 2022-10-01	Signage	10/4/2022
ZTA-22-10	Ord. 2022-10-02	Mixed Use Group Dev. Bldg. Height	10/4/2022
ZTA-23-01	Ord. 2023-02-01	Definitions	2/7/2023
ZTA-23-03	Ord. 2023-06-03	Lot Width	6/6/2023
ZTA-24-01	Ord. 2024-03-01	PB Duties, PUDs, Prohibited Uses, Procedures, Misc., Vested Rights	3/12/2024
ZTA-24-02	Ord. 2024-04-01	Tree Removal in the Commercial District	4/9/2024
ZTA-24-03	Ord. 2024-07-01	Commercial Design Standards	7/2/2024
ZTA-24-04	Ord. 2024-08-01	PUDs, Cryptocurrency Facilities	8/6/2024
ZTA-24-05	Ord. 2024-12-01	Emergency Tree Removal	12/3/2024
ZTA-25-01	Ord. 2025-02-01	Nonconforming Lots	2/4/2025



Town of Southern Shores

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

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

info@southernshores-nc.gov

www.southernshores-nc.gov

Item 5.

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

Date: 3/20/2025 Filing Fee: \$200 Receipt No. _____ Application No. _____

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

Please check the applicable Chapter/Article:

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

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

Applicant

Name Anthony S. Mina

Address: 75 E. Dogwood Trail
Southern Shores, NC 27949

Phone 610-842-3905 Email chestercountylaw@yahoo.com

Applicant's Representative (if any)

Name _____

Agent, Contractor, Other (Circle one)

Address _____

Phone _____ Email _____

Property Involved: ___ Southern Shores ___ Martin's Point (Commercial only)

Address: _____ Zoning district _____

Section _____ Block _____ Lot _____ Lot size (sq.ft.) _____

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

Change To: ___ Zoning Map ☒ Zoning Ordinance

Signature

Anthony S. Mina

Date

3/20/2025

All property effected
by zoning
amendments made
without posted notice
as required by
Town Code
36-414(b)

* Attach supporting documentation.

ANTHONY S MINA
 75 E DOGWOOD TRAIL
 SOUTHERN SHORES, NC 27949
 610 842 3905
 chestercountylawn@yahoo.com

Zoning Text Amendment (ZTA) _____

March 20, 2025

Ordinance 2025-XX-XX

**PETITION FOR AMENDMENT OF CODE OF ORDINANCES OF THE TOWN OF SOUTHERN
 SHORES, NORTH CAROLINA**

AUTHORITY

1. Pursuant to N.C.G.S. ss 160D-701 and Southern Shores Town Code Section 36-414 the Town of Southern Shores ("the Town") may enact and amend the Town's Code of Ordinances (the "Town Code").

PURPOSE & AMENDMENT OF ZONING ORDINANCE

2. Applicant and/or Southern Shores property owners ("property owners") find that in the accordance with law and the Town Code governing zoning amendments that it is in the interests of the public's health, safety, and general welfare to amend the zoning code Section 36-414 (stated below) to add paragraph "C" to Town Code Section 36-414 as indicated below (paragraphs A and B are identical to the existing Town Code, but paragraph "C" is an addition to Town Code).

Sec. 36-414. - Motion to amend.

- (a) The town council may, on its own motion or upon motion or upon petition by any person within any zoning jurisdiction of the town, after public notice and hearing, amend, supplement, change, modify or repeal the regulations herein established or the maps which are part of this chapter, subject to the rules prescribed in this article. No regulation or map shall be amended, supplemented, changed, modified or repealed until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Prior to adopting or rejecting any zoning amendment, the planning board shall adopt a statement describing whether its action is consistent with the adopted town comprehensive land use plan and explaining why the planning board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. A notice of such hearing shall be given one a week for two successive calendar weeks in a newspaper

of general circulation in the town, said notice to be published the first time not less than ten days nor more than 25 days prior to the date fixed for the hearing.

- (b) In addition and where a zoning map amendment is proposed, the town shall cause to be placed a sign on the subject property announcing the date, time, and place of the public hearing for the purpose of notifying persons of the proposed rezoning.
- (c) **Property owner(s) that have been defrauded by zoning text amendments made pursuant to Section 36-414 without being notified with posted notice as a property subject to the zoning amendment, pursuant to Town Code Section 36-414(b), shall have 90 days from the adoption of this ordinance to submit any applications to the Town seeking governance under the Town Code prior to the Amended Ordinance made without posted notice at the effected property(s). This section applies only to property owners who owned the property, were under contract to purchase the property, rented the property or occupied the property at the time the zoning amendment was adopted. This section also only applies to amendments made within 3 years of the adoption of this amendment.**

FACTS SUPPORTING IMPERATIVENESS OF AMENDMENT TO PROPERTY OWNERS

- 3. This amendment is in the best interest of all property owners because at the current time Town manager Cliff Ogburn is refusing to use the Southern Shores's newsletter email address to notify property owners that a lot width amendment was made on June 6, 2023 to take the right to subdivide from property owners without notifying the effected property owners with posted notice as required by Town Code 36-414(b).
- 4. This amendment is in the best interest of all property owners because during the time the Town was supposed to have posted notice at effected properties of the lot width amendment heard by the Planning Board on May 15, 2023 and Town Council on June 6, 2023 Deputy Town Manager Wes Haskett was hiding the proposed zoning amendment from Applicant in (4) emails during the month of May, 2023 when Applicant was specifically asking about the 75 E Dogwood Trail subdivision and lot width requirements. During the month of May, 2023 the previous owner of 75 E Dogwood Trail was able to negotiate an additional \$75,000 from applicant for a property that was subdividable because Haskett was illegally hiding the proposed lot width amendment. Deputy Haskett and Southern Shores clearly are aware of the damages their fraud has caused and have yet to correct the fraud caused by rezoning subdividable property to unsubdividable with a lot width amendment that was made without complying with Town Code 36-414(b).
- 5. This amendment is in the best interest of all property owners because the nature of the Town's Code Of Ethics prohibits the Town from defrauding property owners intentionally and in the event of a mistake requires the fraud to be corrected. A true and correct copy of the Town's Code of Ethics is attached hereto as Exhibit A.

6. This amendment is in the best interest of all property owners because when property owners question the validity of zoning amendments made to their property Deputy Town Manager Haskett lies and claims Southern Shores had a legal basis to amend zoning code. A true and correct copy of a false police report made to Chief Kole by Wes Haskett in violation of **North Carolina General Statute 14-225** claiming he had a legal basis to amend zoning code on June 6, 2023 by deleting the strictures of Town Code 36-414(b) is attached hereto and marked Exhibit B.
7. This amendment is in the best interest of all property owners because when they ask the Planning Board for a decision to be made about a zoning code amended without the property owner being notified pursuant to Town Code 36-414(b) Deputy Town Manager Haskett lies and states notification requirements were satisfied. A true and correct copy of Haskett's staff report lying about notification requirements being complied with prior to the lot width adoption on June 6, 2023 is attached hereto as Exhibit C. A true and correct copy of a public records response from the Town proving posted notice was not placed at effected property(s) pursuant to Town Code 36-414(b) is attached hereto as Exhibit D.
8. This amendment is in the best interest of all property owners because when criminal complaints are made against Town employee Wes Haskett to Police Chief Kole for violating N.C.G.S. ss 14-225-false reports to law enforcement and N.C.G.S. § 20-112- false sworn testimony Chief Kole refuses to arrest Wes Haskett with claims that the crimes are "civil matters".
9. This amendment is in the best interest of all property owners because when they pay \$350 for the Planning Board to make a decision about a zoning amendment made without compliance with posted notification requirement Town Code 36-414(b) the following people fraudulently misrepresent the language of Town Code 36-414(b) and are on video fraudulently misrepresenting Town Code 36-414(b) at the October 21, 2024 Variance hearing online at www.youtube.com/watch?v=SAHrZazLlz8&t=18617s
 - A) Town Attorney Lauren Womble on behalf of Deputy Town Manager Haskett at 1:41-1:44, 3:24-3:29, 3:48-3:51, 5:09-5:11
 - B) Planning Board Attorney Jay Wheless on behalf of the Planning Board and Haskett at 3:09-3:12, 3:48-3:51 of the video
 - C) Planning Board Chair Andy Ward at 4:27 of the video
10. This amendment is in the best interest of all property owners because when they pay \$350 for the Planning Board to make a decision on whether an amended zoning code can be enforced when there is fraud indicating Town Code 36-414(b) was not complied with, the Planning Board votes unanimously to enforce illegally adopted zoning code. Please see youtube video of the March 19, 2025 Special Hearing from 1:02-1:13 at www.youtube.com/watch?v=gVwcO1hKUo8

FACTS SUPPORTING IMPERATIVENESS OF AMENDMENT TO THE TOWN

11. This amendment is in the best interests of the Town because North Carolina Statutes of limitations for fraud, injury to personal property and contract law is 3 years. The Town is

currently liable for a class action lawsuit from property owners suing the town for defrauding property owners with zoning amendments adopted to take the right to subdivide property with a lot width amendment on June 6, 2023. Taking the right to subdivide substantially decreases property value, according to licensed realtors, and the Town has refused to Order Dare County to reduce property taxes on property they have devalued.

STATEMENT OF IMPERATIVENESS UNDER LAW

12. This amendment is consistent with the Town's Code of Ethics and is imperative under North Carolina State and Federal Laws protecting property owner's due process rights and their right not to be subjected to public corruption crimes committed by local governments.

EFFECTIVE DATE OF ZONING AMENDMENT

13. All amended ordinances made within the last 3 years of the date of this amendment without posted notice at the effected property(s) shall be nullified for a period of 90 days from the adoption of this Ordinance. These ordinances include, but are not limited to ZTA-23-03 and TCA-21-06.

14. This Ordinance amendment shall be in full force and effect for 90 days from the _____ day of _____, 2025.

Elizabeth Morey, Mayor

ATTEST:

Town Clerk

Date adopted:

Motion to adopt by Councilmember:

Motion to second by Councilmember:

Vote: _____ AYES _____ NAYS

Code of Ethics for Town of Southern Shores Employees

The proper operation of democratic government in the Town of Southern Shores requires that Public Officials and employees: a) be independent, impartial and responsible to the people, b) make decisions and policy in public, c) not use their position for personal gain and d) conduct all duties and direct all actions to maintain public confidence in the integrity of Southern Shores Government and its employees.

In recognition of these requirements a Code of Ethics and Standards of Conduct is hereby promulgated:

As an employee in the Town of Southern Shores:

1. I will always obey the law and will not try in any way to influence application of the law by any of the town's authorities or personnel.
2. I will always uphold the integrity and independence of my job.
3. I will always avoid any impropriety or the appearance of impropriety in all of my activities.
4. I will manage and spend the town's funds as if they were my own and will have the best interests of all Southern Shores taxpayers in mind in the expenditure of these funds.
5. I will always minimize the risk of conflict of my private life dealings with my official duties. This particularly applies to any private employment or service for private interests when incompatible with the proper discharge of my official duties.
6. I will never use my position to harass or adversely influence any of the Town's other employees.
7. I will always respond promptly to any concern brought to me by any employee or Town resident. In this regard I will grant no special consideration, treatment or advantage to any citizen beyond that which is available to any other citizen.
8. I will not engage in any contractual dealing with the Town or try to influence any such dealing on the behalf of any friend or relative.
9. I will accept no gift or other gratuity, including meals, from anyone that could do business with the Town or that is presently conducting business with the Town. This will also apply to any gift that a reasonable person believed was intended to influence an employee in the performance of official duties.

Exempted from the provision concerning gifts are advertising items or souvenirs of nominal value or meals furnished at banquets. Gifts between employees and their friends and relatives are also exempted.

"EXHIBIT A"

n

Item 5.

May 21, 2024 at 2:27 PM



Wes Haskett <whaskett@southernshores-nc.gov>

To: Anthony Mina <chestercountylawn@yahoo.com>

Cc: David Kole <dkole@southernshores-nc.gov>, Elizabeth Morey <emorey@southernshores-nc.gov> ,

Phillip Homthal <phornthal@hrem.com>, Cliff Ogburn <cogburn@southernshores-nc.gov>

Good afternoon, Mr. Mina. My responses to your questions are as follows:

1. The Town of Southern Shores Town Code states:

Sec. 1-10. - Amendments to Code.

(a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code. Such amendments may be in the following language: "That section ____ of the Code of Ordinances, Town of Southern Shores, North Carolina (or Southern Shores Town Code), is hereby amended to read as follows:" The new provisions may then be set out in full as desired.

Sec. 36-414. Motion to amend.

(a) The town council may, on its own motion or upon motion or upon petition by any person within any zoning jurisdiction of the town, after public notice and hearing, amend, supplement, change, modify or repeal the regulations herein established or the maps which are part of this chapter, subject to the rules prescribed in this article. *No regulation or map shall be amended, supplemented, changed, modified or repealed until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.* Prior to adopting or rejecting any zoning amendment, the planning board shall adopt a statement describing whether its action is consistent with the adopted town comprehensive land use plan and explaining why the planning board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. A notice of such hearing shall be given one a week for two successive calendar weeks in a newspaper of general circulation in the town, said notice to be published the first time not less than ten days nor more than 25 days prior to the date fixed for the hearing.

Sec. 36-415. Planning board action.

(a) Every proposed amendment, supplement, change, modification, or repeal to this chapter shall be referred to the planning board for its recommendation and report. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the town council may proceed in its consideration of the amendment without the planning board report. The town council is not bound by the recommendations, if any of the planning board.

Attached you will find documentation showing that the Town of Southern Shores legally amended the Town Code on June 6, 2023. The attachments included are:

- Zoning Text Amendment application ZTA-23-03.
- The advertised Planning Board agenda for May 15, 2023 when ZTA-23-03 was heard by the Planning Board.
- Screenshot of the required public notice for the May 15, 2023 Planning Board meeting from the May 10, 2023 edition of the Coastland Times newspaper.
- Screenshots of the required public notices for the June 6, 2023 public hearing for ZTA-23-03 from the May 24, 2023 and May 31, 2023 editions of the Coastland Times newspaper.
- The advertised Town Council agenda for June 6, 2023, when the public hearing was held.
- The minutes from the June 6, 2023 Town Council meeting.
- Ordinance 2023-06-03 enacted with the Mayor's signature.

I've also attached the applicable North Carolina General Statutes that establish authority for municipalities to adopt and amend development regulations.

2. It appears that 172 and 174 S. Dogwood Trl. were created through a recombination of previously platted lots in 1999. At that time, there was only one structure which is currently situated on 174 S. Dogwood Trl. and the applicable side yard (setback) was 10 ft. The structure that is currently situated on 172 S. Dogwood Trl. was permitted in 2000 when the side yard (setback) requirement was still 10 ft. Other than removing the encroaching portion of the structure at 75 E. Dogwood Trl., documents required to make the encroachment conforming include a Zoning Text Amendment application (attached), \$200.00 fee, and proposed language to amend the current side yard (setback) requirement or create an exemption for such situations. The application would have to follow the process noted above and it would have to be approved by the Town Council.

The Southern Shores Town Council has been and will always be the body that adopts and amends the Town's zoning requirements, not Town Staff such as myself. The Town Council directs Town Staff to draft amendments to the Town Code, such as ZTA-23-03 to amend the Town's lot width requirements, which they adopted.

Wes Haskett

Deputy Town Manager/Planning Director

Town of Southern Shores

(252) 261-2394 (ph)

(252) 255-0876 (fx)

www.southernshores-nc.gov

"EXHIBIT B"

STAFF REPORT

To: Southern Shores Planning Board
Date: October 21, 2024
Case: VA-24-01
Prepared By: Wes Haskett, Deputy Town Manager/Planning Director

GENERAL INFORMATION

Applicant: Anthony S. Mina
 75 E. Dogwood Trl.
 Southern Shores, NC 27949

Property Owners: Anthony S. Mina
 75 E. Dogwood Trl.
 Southern Shores, NC 27949

Jennifer L. Franz
 75 E. Dogwood Trl.
 Southern Shores, NC 27949

Requested Action: Variance to seek relief from Town Code Section 30-96(f), Lots and Town Code Section 36-202(d), Dimensional Requirements to allow a subdivision of the property located at 75 E. Dogwood Trl.

PIN #: 986817213502
Location: 75 E. Dogwood Trl.
Zoning: RS-1 Single-Family Residential District

Existing Land Use: "Residential"

Surrounding Land Use & Zoning:

North- Residential; RS-1, Single-Family Residential District

South- Canal

East- Residential; RS-1, Single-Family Residential District

West- Canal

Physical Characteristics: Developed (existing single-family dwelling)

Applicable Regulations: Chapter 30, Subdivision Ordinance: Section 30-6, Exceptions, Section 30-96(f), Lots and Section 30-97, Design Standards.
 Chapter 36, Zoning Ordinance: Section 36-57, Definition of Specific Terms and Words, Section 36-202(d), Dimensional Requirements, and Article XII, Board of Adjustment

ANALYSIS

The Applicant is requesting a Variance to seek relief from Town Code Section 30-96(f) and 36-202(d) to allow a subdivision of 75 E. Dogwood Trl. On July 3, 2024, the Applicant submitted two applications to subdivide the subject property. The first application was denied because the proposed lots did not equal or exceed the standards in Town Code Section 30-97 of the Town's Subdivision Ordinance because both lots did not front upon a public road. Town Code Section

"EXHIBIT C"

30-96(f) states that all lots shall front upon a public road. The denial was not appealed.

The second application was also denied because the proposed lots did not equal or exceed the standards in Town Code Section 30-97 of the Town's Subdivision Ordinance because the proposed lots did not meet the zoning requirements for properties located in the Town's RS-1, Single-Family Residential zoning district as established in the Town's Zoning Ordinance and incorporated into the Town's Subdivision Ordinance via Section 30-97(2). Specifically, the proposed lots did not meet the zoning requirements for properties located in the Town's RS-1, Single-Family Residential zoning district and as a result did not equal or exceed the standards in Section 30-97 of the Town's Subdivision Ordinance because:

1. Town Code Section 36-202(d) of the Town's Zoning Ordinance requires a minimum lot width of 100 feet (measured from the front lot line at right angles to the rear lot line). Both of the proposed lots did not have a lot width of 100 feet measured from the front lot line at right angles to the rear lot line.

The denial was not appealed.

In accordance with N.C.G.S. 160D-705(d), Town Code Section 36-367 in the Town's Zoning Ordinance establishes that the Planning Board, when performing the duties of the Town Board of Adjustment, shall vary any of the provisions of the Zoning 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.
 - There is no unnecessary hardship. The property is zoned single-family residential. There is a single-family dwelling which exists on the property. The Applicant's desire to upgrade and improve the existing structure is not restricted by the ordinance sections sought to be varied. Additionally, the size of the lot could allow for an addition to the existing single-family dwelling and/or an accessory building with living space which could also increase the value 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.
 - The alleged hardship by the Applicant is not peculiar to the property and rather is one of personal circumstances. The Applicant's application fails to demonstrate how the alleged hardship is peculiar to the property. The Applicant makes false allegations that Town Staff illegally adopted zoning requirements and was helping a real estate scam which are not related to the property's size, location, or topography.
- (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.
 - The Applicant claims that the unnecessary hardship is the result of Town Staff not meeting notification requirements for a Town Code Text Amendment that was

" EXHIBIT C "

adopted on August 3, 2021 and a Zoning Ordinance Text Amendment that was adopted on June 6, 2023 and because Town Staff withheld material information prior to the Applicant's purchase of the property.

- All applicable notification requirements established in N.C.G.S 160D-601 and in the Town's Zoning Ordinance were satisfied prior to adoption of the August 3, 2021 Town Code Text Amendment and June 6, 2023 Zoning Ordinance Text Amendment. Neither amendment was appealed.
 - Town Staff reviewed several sketches showing the Applicant's ideas for a subdivision of the property between May 1, 2023 and June 1, 2023 and never confirmed that any of them met all applicable requirements (which would have been advisory and not subject to judicial review). The Applicant moved forward with the purchase of the property on July 7, 2023.
- (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.
- The RS-1, Single-Family Residential zoning district is established to provide for the low-density development of single-family detached dwellings in an environment which preserves sand dunes, coastal forests, wetlands, and other unique natural features of the coastal area. The district is intended to promote stable, permanent neighborhoods characterized by low vehicular traffic flows, abundant open space, and low impact of development on the natural environment and adjacent land uses. In order to meet this intent, the density of population in the district is managed by establishment of minimum lot sizes, building setback and height limits, parking regulations and maximum occupancy limits for single-family residences used as vacation cottages.
 - The Applicant claims that the spirit, purpose, and intent of the ordinance will be able to be utilized by granting a Variance from illegally adopted zoning code(s) and because Town Staff is involved with a false pre-tense real estate scam.
 - The Town Code Text Amendment that was adopted on August 3, 2021 removed the possibility of creating lots that only have frontage on an access easement. The intent of the Town Code Text Amendment was to eliminate the possibility of subdividing property that did not have frontage on a public street, as directed by the Town Council at the June 1, 2021 Town Council meeting, which was a result of a preliminary subdivision plat application that was considered by the Town Council on June 1, 2021.
 - The Zoning Ordinance Text Amendment that was adopted on June 6, 2023 established that lots created after June 6, 2023 in the RS-1, Single-Family Residential zoning district shall be 100 ft. wide measured from the front lot line at right angles to the rear lot line. The intent of the Zoning Ordinance Text Amendment was to clarify the Town's lot width requirements by making them unambiguous, as directed by the Town Council at the March 21, 2023 Town Council meeting, which was a result of an appeal application that was considered by the Planning Board, performing the duties of the Board of Adjustment, on October 5, 2022.
 - Town Staff believes that granting the requested Variance would be inconsistent with the spirit, purpose, and intent of the ordinance.

"EXHIBIT C"

Public Records Request Regarding TCA-21-06 and ZTA-23-03

chestercounty Item 5.



Sheila Kane <skane@southernshores-nc.gov>
To: Anthony Mina <chestercountylawn@yahoo.com>

Jun 20, 2024 at 5:07 PM

Dear Mr. Mina:

On June 17, 2024 you filed a Request for Public Records from the Town of Southern Shores, specifically requesting:

Public Records Request Regarding TCA-21-06 and ZTA-23-03

1. A copy of the letters mailed to the owner of 75 E. Dogwood Trail and proof of receipt of mail informing the owner of TCA-21-06 and ZTA-23-03. **NOT REQUIRED**
2. A paid receipt for the advertising of TCA-21-06 and ZTA-23-03 in the Coastland Times (or other newspaper of general circulation) at least 1/2 of a newspaper page size.
 1. **Coastland Times Advertisement Invoices and copies of notices are attached. A 1/2 of a page size is NOT REQUIRED**
3. A copy of the posted notices of TCA-21-06 and ZTA-23-03, paid receipts for printing the notices of TCA-21-06 and ZTA-23-03 and location of all posted notices of TCA-21-06 and ZTA-23-03.
 1. **Bulletin Board(s) notices have been attached (one inside and one outside Town Hall), as well as notice to the sunshine list, Town Newsletter, meeting notices/agenda/ packets all listed on the town website. There are no "paid receipt for printing", see above for newspaper advertisement charges.**
4. A copy of all communication to property owners informing them of TCA-21-06 and ZTA-23-03 and the addresses of the property owners receiving the communication.
 1. **NOT REQUIRED**
 2. **Communication with one property owner attached (Anthony Mina).**

Please feel free to contact me if you have further questions.

Sheila Kane, CMC, NCCMC
Town Clerk
Town of Southern Shores
5375 N Virginia Dare Trail
Southern Shores, NC 27949
(252) 261-2394 phone
(252) 255-0876 fax
skane@southernshores-nc.gov



11 Files | 13.9MB

"EXHIBIT D"



Town of Southern Shores

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

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

info@southernshores-nc.gov

www.southernshores-nc.gov

ZTA-25-02

3-20-2025

Ordinance 2025-XX-XX

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

ARTICLE I. Purpose(s) and Authority.

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

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

WHEREAS, This amendment is in the best interest of all property owners because at the current time Town manager Cliff Ogburn is refusing to use the Southern Shores’s newsletter email address to notify property owners that a lot width amendment was made on June 6, 2023 to take the right to subdivide from property owners without notifying the effected property owners with posted notice as required by Town Code 36-414(b).

WHEREAS, This amendment is in the best interest of all property owners because during the time the Town was supposed to have posted notice at effected properties of the lot width amendment heard by the Planning Board on May 15, 2023 and Town Council on June 6, 2023 Deputy Town Manager Wes Haskett was hiding the proposed zoning amendment from Applicant in (4) emails during the month of May, 2023 when Applicant was specifically asking about the 75 E Dogwood Trail subdivision and lot width requirements. During the month of May, 2023 the previous owner of 75 E Dogwood Trail was able to negotiate an additional \$75,000 from applicant for a property that was subdividable because Haskett was illegally hiding the proposed lot width amendment. Deputy Haskett and Southern Shores clearly are aware of the damages their fraud has caused and have yet to correct the fraud caused by rezoning subdividable

1 property to unsubdividable with a lot width amendment that was made without
2 complying with Town Code 36-414(b).

3
4 **WHEREAS,** This amendment is in the best interest of all property owners
5 because the nature of the Town's Code Of Ethics prohibits the Town from defrauding
6 property owners intentionally and in the event of a mistake requires the fraud to be
7 corrected. A true and correct copy of the Town's Code of Ethics is attached to the
8 Zoning Text Application dated March 20, 2025 as Exhibit A.

9
10 **WHEREAS,** This amendment is in the best interest of all property owners because
11 when property owners question the validity of zoning amendments made to their property
12 Deputy Town Manager Haskett lies and claims Southern Shores had a legal basis to amend
13 zoning code. A true and correct copy of a false police report made to Chief Kole by Wes
14 Haskett in violation of North Carolina General Statute 14-225 claiming he had a
15 legal basis to amend zoning code on June 6, 2023 by deleting the strictures of Town
16 Code 36-414(b) is attached to Zoning Text Application dated March 20, 2025 and
17 marked Exhibit B.

18
19 **WHEREAS,** This amendment is in the best interest of all property owners because
20 when they ask the Planning Board for a decision to be made about a zoning code
21 amended without the property owner being notified pursuant to Town Code 36-414(b)
22 Deputy Town Manager Haskett lies and states notification requirements were satisfied.
23 A true and correct copy of Haskett's staff report lying about notification requirements
24 being complied with prior to the lot width adoption on June 6, 2023 is attached to the
25 Zoning Text Amendment Applications as Exhibit C. A true and correct copy of a public
26 records response from the Town proving posted notice was not placed at effected
27 property(s) pursuant to Town Code 36-414(b) is attached to the Zoning Text Amendment
28 Application Dated March 20, 2025 as Exhibit D.

29
30 **WHEREAS,** This amendment is in the best interest of all property owners
31 because when criminal complaints are made against Town employee Wes Haskett to
32 Police Chief Kole for violating N.C.G.S. ss 14-225-false reports to law enforcement
33 and N.C.G.S. § 20-112- false sworn testimony Chief Kole refuses to arrest Wes
34 Haskett with claims that the crimes are "civil matters".

35
36 **WHEREAS,** This amendment is in the best interest of all property owners because
37 when they pay \$350 for the Planning Board to make a decision about a zoning
38 amendment made without compliance with posted notification requirement Town Code
39 36-414(b) the following people fraudulently misrepresent the language of Town Code 36-
40 414(b) and are on video fraudulently misrepresenting Town Code 36-414(b) at the

October 21, 2024 Variance hearing online at
www.youtube.com/watch?v=SAHrZazLlz8&t=18617s

A) Town Attorney Lauren Womble on behalf of Deputy Town Manager Haskett
 at 1:41-1:44, 3:24-3:29, 3:48-3:51, 5:09-5:11

B) Planning Board Attorney Jay Wheless on behalf of the Planning Board and
 Haskett at 3:09-3:12, 3:48-3:51 of the video

C) Planning Board Chair Andy Ward at 4:27 of the video

WHEREAS, This amendment is in the best interest of all property owners
 because when they pay \$350 for the Planning Board to make a decision on whether an
 amended zoning code can be enforced when there is fraud indicating Town Code 36-
 414(b) was not complied with, the Planning Board votes unanimously to enforce illegally
 adopted zoning code. Please see youtube video of the March 19, 2025 Special Hearing
 from 1:02-1:13 at www.youtube.com/watch?v=gVwcO1hKUo8

WHEREAS, This amendment is in the best interests of the Town because North
 Carolina Statutes of limitations for fraud, injury to personal property and contract law is 3
 years. The Town is currently liable for a class action lawsuit from property owners suing
 the town for defrauding property owners with zoning amendments adopted to take the
 right to subdivide property with a lot width amendment on June 6, 2023. Taking the right
 to subdivide substantially decreases property value, according to licensed realtors, and
 the Town has refused to Order Dare County to reduce property taxes on property they
 have devalued.

WHEREAS, This amendment is consistent with the Town's Code of Ethics and
 is imperative under North Carolina State and Federal Laws protecting property owner's
 due process rights and their right not to be subjected to public corruption crimes
 committed by local governments.

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

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

Policy: Southern Shores Code Of Ethics

**Policy: Town Code 36-414(b) requiring posted notice at property(s) effected
 by zoning amendment rezoning them (for reasons including, but not limited
 to rezoning from subdividable to unsubdividable).**

**Policy: North Carolina State Law and Federal Law, including Federal Rights
Protecting property owners “property rights” and “due process rights”.**

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 **Sec. 36-414. Motion To Amend.** Be amended as follows:

Sec. 36-414. Motion To Amend.

- (a) The town council may, on its own motion or upon motion or upon petition by any person within any zoning jurisdiction of the town, after public notice and hearing, amend, supplement, change, modify or repeal the regulations herein established or the maps which are part of this chapter, subject to the rules prescribed in this article. No regulation or map shall be amended, supplemented, changed, modified or repealed until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Prior to adopting or rejecting any zoning amendment, the planning board shall adopt a statement describing whether its action is consistent with the adopted town comprehensive land use plan and explaining why the planning board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. A notice of such hearing shall be given one a week for two successive calendar weeks in a newspaper of general circulation in the town, said notice to be published the first time not less than ten days nor more than 25 days prior to the date fixed for the hearing.
- (b) In addition and where a zoning map amendment is proposed, the town shall cause to be placed a sign on the subject property announcing the date, time, and place of the public hearing for the purpose of notifying persons of the proposed rezoning.

- (c) Property owner(s) that have been defrauded by zoning text amendments made pursuant to Section 36-414 without being notified with posted notice as a property subject to the zoning amendment, pursuant to Town Code Section 36-414(b), shall have 90 days from the adoption of this ordinance to submit any applications to the Town seeking governance under the Town Code prior to the Amended Ordinance made without posted notice at the effected property(s). This section applies only to property owners who owned the property, were under contract to purchase the property, rented the property or occupied the property at the time the zoning amendment was adopted. This section also only applies to amendments made within 3 years of the adoption of this amendment.

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 ____ day of _____, 2025.

Elizabeth Morey, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Date adopted:

Motion to adopt by Councilmember:

Motion seconded by Councilmember:

Vote: ____AYES ____NAYS

EVIDENCE IN SUPPORT OF PROPOSED TOWN CODE AMENDMENT

36-414(C):

- 1) Town Code 36-414(a) which provides in part "Prior to adopting or rejecting any zoning amendment, the planning board shall adopt a statement describing whether its action is consistent with the adopted town comprehensive land use plan and explaining why the planning board considers the action to be taken to be reasonable and in the public interest". Town Code 36-414(b) which states posted notice is required "in addition" to Town Code 36-414(a) notification requirements for amendments.
- 2) Town Code 36-362(b) which states mailed notice should be mailed to the owner of a property subject to the subject of the hearing & Town Code 36-365(a) which states the Adjustment 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".
- 3) An email from Wes Haskett refusing to respond to notification of property owners of the March 31, 2023 lot width amendment on June 12, 2023.
- 4) Public Records Request proving property owners weren't notified of the March 31, 2023 lot width amendment with the Town Newsletter until June 2, 2023 after not being told about the lot width amendment in the April 6, 2023, April 21, 2023, May 5, 2023, May 19, 2023 and May 25, 2023 Town Newsletter.
- 5) Public Records Request proving mailed Notice of the May 15, 2023 Planning Board Hearing on the lot width amendment was not provided and proof that Wes Haskett lied and said the Planning Board did not hear the lot width amendment on May 15, 2023 (Wes Haskett's June 1, 2023 email proves Wes Haskett has knowledge the Planning Board heard and voted to recommend approval of the lot width amendment).
- 6) Public Records Request proving Southern Shores does not even have a record of the property owners required to receive notification of the March 31, 2023 lot width amendment pursuant to 36-414(b) and 36-362(b).
- 7) Public Records Request proving Southern Shores did not comply with Town Code 36-414(b) and Town Code 36-362(b) prior to adopting the TCA-21-06 amendment preventing lot access through easements.
- 8) Proof Wes Haskett permitted irregular shaped lots without compliance to the 100' lot width requirement prior to the June 6, 2023 lot width amendment. This property proves that Wes Haskett's June 7, 2023 email (in exhibit 3) stating Town Staff will be submitting a text amendment to allow pie shaped and irregular shaped lots completely contradicts the June 6, 2023 amendment.
- 9) 4 emails from Wes Haskett proving Wes Haskett hid the March 31, 2023 lot width amendment in May of 2023 after being specifically asked on May 1, 2023 "Can you please tell me anything that would prevent me from subdividing the 75 E Dogwood Trail lot so I could build another house".
- 10) North Carolina law also provides that a court must construe ambiguous contract terms against the drafter. *Cosey v. Prudential Ins. Co. of Am.*, 735 F.3d 161, 170 (4th Cir. 2013). Paying filing fees to Southern Shores establishes a contract under law and the Town Code.

- (a) The town council may, on its own motion or upon motion or upon petition by any person within any zoning jurisdiction of the town, after public notice and hearing, amend, supplement, change, modify or repeal the regulations herein established or the maps which are part of this chapter, subject to the rules prescribed in this article. No regulation or map shall be amended, supplemented, changed, modified or repealed until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Prior to adopting or rejecting any zoning amendment, the planning board shall adopt a statement describing whether its action is consistent with the adopted town comprehensive land use plan and explaining why the planning board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. A notice of such hearing shall be given one a week for two successive calendar weeks in a newspaper of general circulation in the town, said notice to be published the first time not less than ten days nor more than 25 days prior to the date fixed for the hearing. *These 2 words do not say "IF"*
- (b) In addition and where a zoning map amendment is proposed, the town shall cause to be placed a sign on the subject property announcing the date, time, and place of the public hearing for the purpose of notifying persons of the proposed rezoning.

(Code 1988, § 11-14.01; Ord. No. 06-08-02, art. III, § 1, 10-3-2006)

- (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. Item 5.
- (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 ten 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.

(Ord. No. 2014-04-01, art. III, 4-1-2014)

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.

(Ord. No. 2014-04-01, art. III, 4-1-2014)

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.

(Ord. No. 2014-04-01, art. III, 4-1-2014)

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. (Such as 36-414(a))
- (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
- (iii) 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.

(Ord. No. 2014-04-01, art. III, 4-1-2014)

RE: Zoning Amendment To Require 100' Street Frontage For Each Southern Shores Lot

Item 5.

From: Wes Haskett (whaskett@southernshores-nc.gov)
To: chestercountylawn@yahoo.com
Cc: philadelphia.complaints@ic.fbi.gov; emorey@southernshores-nc.gov
Date: Monday, June 12, 2023 at 12:17 PM EDT

Good afternoon, Mr. Mina. At this point, you should direct your questions to our Town Attorney, Phillip Hornthal. He can be reached at 252-335-0878.

Wes Haskett
Deputy Town Manager/Planning Director
Town of Southern Shores
(252) 261-2394 (ph)
(252) 255-0876 (fx)
www.southernshores-nc.gov

From: Anthony Mina <chestercountylawn@yahoo.com>
Sent: Thursday, June 8, 2023 9:17 AM
To: Wes Haskett <whaskett@southernshores-nc.gov>; Elizabeth Morey <emorey@southernshores-nc.gov>
Cc: FBI <philadelphia.complaints@ic.fbi.gov>
Subject: Fw: Zoning Amendment To Require 100' Street Frontage For Each Southern Shores Lot

Hello,

When you respond to my email, could you please tell me I am understanding you correctly when you say the zoning code is to prevent future sub-divisions and higher densities. My understanding is you are saying the zoning code has been adopted to prevent the population from increasing per square mile by additional homes being built.

If I am correct, I believe that the legal way to achieve this goal is through eminent domain.
§ 40A-2.

(3) "Eminent domain" means the power to divest right, title or interest from the owner of property and vest it in the possessor of the power against the will of the owner upon the payment of just compensation for the right, title or interest divested.

How does Southern Shores possibly believe that taking a property right with the new zoning amendment from a tax payer is legal? I am having a hard time understanding how Linda Lauby and/or me have not been stolen from by Southern Shores.

Thank you,
Anthony S Mina

----- Forwarded Message -----

From: Anthony Mina <chestercountylawn@yahoo.com>

To: Wes Haskett <whaskett@southernshores-nc.gov>; Elizabeth Morey <emorey@southernshores-nc.gov>

Sent: Wednesday, June 7, 2023 at 03:22:04 PM EDT

Subject: Re: Zoning Amendment To Require 100' Street Frontage For Each Southern Shores Lot

Hello,

Thank you for the email.

Could you please tell me how Southern Shores residents and home owners were notified of the proposed amendment to the zoning code dated 3/31/2023 (the zoning code adopted last night). I asked my realtor Alan Creech and Southern Shores questions about Southern Shores zoning code prior to providing a \$5000 due diligence fee and June 1, 2023 is the first time I was informed about the proposed amendment (75 E. Dogwood Trail was listed for sale as being potentially sub-dividable).

Could you please explain how and when Southern Shores "will be submitting another text amendment in the near future that may allow pie-shaped or other irregularly-shaped lots". How will this next amendment reverse the fact that the amendment passed last night literally steals land value from Southern Shores residents that have been paying property taxes on enough square footage to sub-divide (In the world of finance, land is considered an asset and owning enough property to sub-divide is a financial plan that is taxed at a higher rate than owning not enough square footage to sub divide)?

Thank you for your help,
Anthony S Mina

On Wednesday, June 7, 2023 at 09:10:34 AM EDT, Wes Haskett <whaskett@southernshores-nc.gov> wrote:

Good morning, Mr. Mina. The Town Council voted 3-2 to approve the text amendment. That means that at this time, all new lot must be 100 ft. wide measured from the front lot line to the rear lot line. The meeting video recording will soon be available on YouTube here: <https://www.southernshores-nc.gov/meetings>. As I told the Town Council during the public hearing, we realize that these requirements are more strict than what has been in place, but we believe that they're unambiguous and will prevent future subdivisions and recombinations with higher densities. Town Staff will be submitting another text amendment in the near future that may allow pie-shaped or other irregularly-shaped lots.

Wes Haskett
Deputy Town Manager/Planning Director
Town of Southern Shores
(252) 261-2394 (ph)
(252) 255-0876 (fx)
www.southernshores-nc.gov

-----Original Message-----

From: Anthony Mina <chestercountylawn@yahoo.com>

Sent: Wednesday, June 7, 2023 8:35 AM

To: Wes Haskett <whaskett@southernshores-nc.gov>

Subject: Zoning Amendment To Require 100' Street Frontage For Each Southern Shores Lot

Good Morning,

Could you please provide me the results to the vote to increase the street frontage zoning requirement to 100' per lot.

Thank you,
Anthony S Mina

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https://us1.proofpointessentials.com/index01.php?mod_id=11&mod_option=logitem&mail_id=1686141324-FWeUsGXDoMzC&r_address=whaskett%40southernshores-nc.gov&report=1

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FW: Public Records Request_55

From: Cliff Ogburn (cogburn@southernshores-nc.gov)

To: chestercountylawn@yahoo.com

Date: Friday, April 11, 2025 at 05:04 PM EDT

From: Sheila Kane <skane@southernshores-nc.gov>

Sent: Friday, April 11, 2025 4:37 PM

To: Cliff Ogburn <cogburn@southernshores-nc.gov>

Subject: Public Records Request_55

Dear Mr. Mina:

On April 7, 2025 you filed a Request for Public Records from the Town of Southern Shores, specifically requesting:

- 1) An email of each Town Newsletter referencing Anthony Mina and/or 75 E Dogwood Trail.
 - October 18, 2024
 - March 7, 2025
- 2) An email of each Town Newsletter referencing the March 31, 2023 lot width amendment.
 - June 2, 2023
- 3) All Town Newsletters between March 30, 2023 and June 6, 2023.
 - April 6, 2023
 - April 21, 2023
 - May 5, 2023
 - May 19, 2023
 - May 25, 2023
 - June 2, 2023
- 4)The total amount of recipients of each town newsletter referencing Anthony Mina and/or 75 E Dogwood Trail.
 - There are no records pertaining to the criteria that you provided.

Please find all records that pertain to your request attached.

Sheila Kane, CMC, NCCMC
Town Clerk
Town of Southern Shores
5375 N Virginia Dare Trail
Southern Shores, NC 27949
(252) 261-2394 phone
(252) 255-0876 fax
skane@southernshores-nc.gov

-  JUNE 2, 2023 NEWSLETTER.pdf
1.4MB
-  MAY 25, 2023 NEWSLETTER.pdf
254.3kB
-  MAY 19, 2023 NEWSLETTER.pdf
3.3MB
-  MAY 5, 2023 NEWSLETTER.pdf
5.1MB
-  APRIL 21, 2023 NEWSLETTER.pdf
4.4MB
-  APRIL 6, 2023 NEWSLETTER.pdf
3.4MB
-  Southern Shores News-March 7, 2025.pdf
174.6kB
-  Southern Shores News-October 18, 2024.pdf
169.3kB

FW: Public Records Request For Proof Of Notification Pursuant To Sec. 36-362(b) For Wes Haskett's Amendments

From: Phillip Hornthal (phornthal@hrem.com)
 To: chestercountylawn@yahoo.com
 Cc: skane@southernshores-nc.gov
 Date: Wednesday, October 30, 2024 at 02:57 PM EDT

Mr. Mina:

Please find attached and below the Town's response to your earlier, above referenced, Public Records Request.

Thank you.

Phil Hornthal

L. Phillip Hornthal, III
Attorney at Law
 Direct: 252.698.0214
 Office: 252.335.0871
 Fax: 252.335.4223 Attn: P. Hornthal
 Email: phornthal@hrem.com
 301 East Main Street
 Elizabeth City, NC 27909
www.hrem.com



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 Legal Notices & Privacy Policy](#)



From: Sheila Kane <skane@southernshores-nc.gov>
Sent: Wednesday, October 30, 2024 2:09 PM
To: Phillip Hornthal <PHornthal@hrem.com>
Subject: FW: Public Records Request For Proof Of Notification Pursuant To Sec. 36-362(b) For Wes Haskett's Amendments

>>Warning! The source of this email is from outside of the firm.<<

Phillip:

On October 24, 2024, Mr. Mina filed a Request for Public Records from the Town of Southern Shores, specifically requesting:

- All notification records including paid receipts of posted notice and postal records (including letters sent) pursuant to Section 36-362(b) for the May 15, 2023 Planning Board/Board of Adjustments hearing on Wes Haskett's 3/31/2023 zoning amendment application and the zoning amendment (including Planning Board/Board of Adjustments meeting notification) notifications for the 8/3/2021 zoning amendment.

Please find all records that pertain to this request attached. Also, a response from Wes Haskett can be seen in the email below, explaining the notice requirements.

Sheila Kane, CMC, NCCMC
Town Clerk
Town of Southern Shores
5375 N Virginia Dare Trail
Southern Shores, NC 27949
(252) 261-2394 phone
(252) 255-0876 fax
skane@southernshores-nc.gov

From: Wes Haskett <whaskett@southernshores-nc.gov>
Sent: Wednesday, October 30, 2024 10:37 AM
To: Sheila Kane <skane@southernshores-nc.gov>
Cc: Cliff Ogburn <cogburn@southernshores-nc.gov>
Subject: FW: Public Records Request For Proof Of Notification Pursuant To Sec. 36-362(b) For Wes Haskett's Amendments

See attached documents to be included with the response to Mr. Mina's request below. The Planning Board did not hold a hearing for TCA-21-06 on July 19, 2021 or ZTA-23-03 on May 15, 2023 because no hearings were required (hearings were subsequently required and held by the Town Council). There also were no posted or mailed notices for the Planning Board's consideration of TCA-21-06 on July 19, 2021 and ZTA-23-03 on May 15, 2023 because they weren't required.

Wes Haskett
Deputy Town Manager/Planning Director
Town of Southern Shores
(252) 261-2394 (ph)
(252) 255-0876 (fx)
www.southernshores-nc.gov



7-19-21 PB Mtg Public Notice.pdf
77.7kB



7-14-21 PB Mtg Notice.pdf
345.6kB



7-19-21 PB Mtg Sunshine List Notice.pdf
415.7kB

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 **Wes Haskett**

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Starred
Drafts 674
Sent
Archive
Spam
Trash
^ Less
Views Show
Folders Show

Thank you for your help,
Anthony S Mina

On Thursday, June 1, 2023 at 09:44:07 AM EDT, Wes Haskett
<whaskett@southernshores-nc.gov> wrote:

Good morning. The main issue is the setback encroachment. The lot widths as shown may be ok per our current lot width requirements but I can't confirm that without seeing them on a plat prepared by a surveyor. However, we have been discussing amending our current lot width requirements. The Town Planning Board recommended approval of the attached amendments on May 15th and the Town Council will be holding a public hearing on June 6th. If the proposed amendments are adopted, I can say that the lots as drawn would not be in compliance. Let me know if you have any additional questions.

Wes Haskett

Deputy Town Manager/Planning Director

Town of Southern Shores

(252) 261-2394 (ph)

(252) 255-0876 (fx)

www.southernshores-nc.gov



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5

From: Sheila Kane (skane@southernshores-nc.gov)

To: chestercountylawn@yahoo.com

Date: Friday, June 7, 2024 at 11:43 AM EDT

Dear Mr. Mina:

On June 4, 2024 you filed a Request for Public Records from the Town of Southern Shores, specifically requesting:

- The addresses of all RS-1 lots of greater than 40,000 sq. feet that became ineligible for lot subdivision plans to create (2) lots of at least 20,000 sq. ft each when the zoning code changed lot width requirements on June 6, 2023.

Following review of your request, no records exist pertaining to your request.

Please feel free to contact me if you have further questions.

Sheila Kane, CMC, NCCMC
Town Clerk
Town of Southern Shores
5375 N Virginia Dare Trail
Southern Shores, NC 27949
(252) 261-2394 phone
(252) 255-0876 fax
skane@southernshores-nc.gov



PRR Mina Anthony 06.04.2024.pdf
500.3kB

Public Records Request 06.10.2024

From: Sheila Kane (skane@southernshores-nc.gov)

To: chestercountylawn@yahoo.com

Date: Friday, June 14, 2024 at 09:04 AM EDT

Dear Mr. Mina:

On June 10, 2024 you filed a Request for Public Records from the Town of Southern Shores, specifically requesting:

- A list of all RS-1 properties with more than 40,000 sq. foot lot size and less than 200 lot width where lot width is measured.

Southern Shores does not have a record that lists the RS-1 properties you are referencing; therefore, no public record exists.

Please feel free to contact me if you have further questions.

Sheila Kane, CMC, NCCMC
Town Clerk
Town of Southern Shores
5375 N Virginia Dare Trail
Southern Shores, NC 27949
(252) 261-2394 phone
(252) 255-0876 fax
skane@southernshores-nc.gov



Public Records Request 06.10.2024.pdf
640.6kB

FW: Public Records Request-Mina 11/3/2024

From: Phillip Hornthal (phornthal@hrem.com)
To: chestercountylawn@yahoo.com
Date: Monday, November 18, 2024 at 03:44 PM EST

Mr. Mina:

Please see response to your Public Records Request below.

Thank you.

Phil Hornthal

L. Phillip Hornthal, III
Attorney at Law
Direct: 252.698.0214
Office: 252.335.0871
Fax: 252.335.4223 Attn: P. Hornthal
Email: phornthal@hrem.com
301 East Main Street
Elizabeth City, NC 27909
www.hrem.com



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From: Sheila Kane <skane@southernshores-nc.gov>
Sent: Monday, November 18, 2024 3:04 PM
To: Phillip Hornthal <PHornthal@hrem.com>
Subject: Public Records Request-Mina 11/3/2024

>>Warning! The source of this email is from outside of the firm.<<

Phillip:

Please see the public records request below.

Mr. Mina:

Below are your public records. I have added some explanations in hopes of clarifying the confusion.

On November 3, 2024 you filed a Request for Public Records from the Town of Southern Shores, specifically requesting:

- 1) Proof of letters mailed to 75 E. Dogwood Trail and/or Linda Lauby prior to the July 6, 2021 town council meeting and July 19, 2021 Planning Board Meeting.
- 2) Proof of posted notice at 75 E. Dogwood Trail prior to the July 6, 2021 town council meeting and July 19, 2021 Planning Board Meeting.
- 3) All records, including digital records of the May 15, 2023 Planning Board Meeting being deleted from the Southern Shores website. Staff login name and identity of staff is needed.

"The attached response to my October 24, 2024 Public Records Request violates North Carolina law. Wes Haskett claims a hearing was not held for the **TCA-21-06 amendment** to Town Code Section 30-96 on July 19, 2021 but the meeting minutes indicate the amendment was heard and the motion to remove easement access passed unanimously." ***PLEASE SEE MEMO BELOW**

Number #1 and Number #2: have been answered in previous requests, no mailing or posted notices required. TEXT AMENDMENTS do not require posted notices. MAP AMENDMENTS do, but none of these ZTA (Zoning Text Amendment) or TCA (Town Code Amendment) you have requested information about are map amendments. They are text amendments. Map amendments and text amendments are entirely two different things, and each amendment has a different notice requirement.

Text amendments: N.C.G.S. 160D-601

Map Amendments: N.C.G.S. 160D-602

– When a **zoning map amendment** is proposed, the local government shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing.

Item #3- I do not know what you are trying to reference. I have found everything pertaining to "May 15, 2023 Planning Board Meeting" on the website, as well as the video on the town's YouTube page. If you go to the calendar on the website and go back to May 15, 2023 and click the planning board meeting, all previous supporting documents are listed. <https://www.southernshores-nc.gov/bc-pb/meeting/planning-board-will-meet-may-15-2023> video: <https://www.youtube.com/watch?v=8qtIeHJNv9Y>

* "a hearing was not held for the TCA-21-06 amendment to Town Code Section 30-96 on July 19, 2021 but the meeting minutes indicate the amendment was heard and the motion to remove easement access passed unanimously."

The public hearing for TCA-21-06 was held at the town council level, not the planning board. So, the July 19, 2021, was a Planning Board Meeting and they reviewed TCA 21-06 and made changes by a motion. TCA-21-06 was then passed on to town council level, which a public hearing was held August 3, 2021. TCA -21-06 (Town code amendment) was noticed as required.

Sheila Kane, CMC, NCCMC
Town Clerk
Town of Southern Shores
5375 N Virginia Dare Trail
Southern Shores, NC 27949
(252) 261-2394 phone
(252) 255-0876 fax
skane@southernshores-nc.gov



5-15-23 REVISED PB Mtg Public Notice.pdf
133.5kB



5-10-23 PB Meeting Notice.JPG
59.2kB



8-3-21 TC Mtg Public Notice.pdf
78.8kB



Published Notices.pdf
4.9MB



Additional Planning Board mtg Notices.pdf
1.4MB



August 3 2021 Council Mtg. Notices.pdf
1.9MB



REFERENCES

UNCLASSIFIED//NOFORN

[illegible]

NOTES:

7-2116

7-2146
DATE

Jalene M. Davis

Jessica Tenson Hyde

Valen m. Dair

6/30/19

100

30

THIRY

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of the

—M. J. M. J.

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RECOMBINATION PLAT FOR:
JESSICA PENSON-MYDER, TRUSTEE

ATLANTIC TRIST DANE COUNTY NORTH CAROLINA

LOTS 43-45, BLK. H, SOUTHERN SHORES AMENDED SECTION "A"

REVISIONS

[illegible]

Coastal

$\frac{d}{dt} \left(\frac{1}{2} m v^2 \right) = \frac{d}{dt} \left(\frac{1}{2} m \dot{x}^2 \right)$

[illegible]

RE: 75 E Dogwood Trail Subdivision

chestercountyla...inbox

Item 5.



Wes Haskett <whaskett@southernshores-nc.gov>
To: Anthony Mina <chestercountylawn@yahoo.com>

Jun 1, 2023 at 9:44 AM

Good morning. The main issue is the setback encroachment. The lot widths as shown may be ok per our current lot width requirements but I can't confirm that without seeing them on a plat prepared by a surveyor. However, we have been discussing amending our current lot width requirements. The Town Planning Board recommended approval of the attached amendments on May 15th and the Town Council will be holding a public hearing on June 6th. If the proposed amendments are adopted, I can say that the lots as drawn would not be in compliance. Let me know if you have any additional questions.

Wes Haskett
Deputy Town Manager/Planning Director
Town of Southern Shores
(252) 261-2394 (ph)
(252) 255-0876 (fx)
www.southernshores-nc.gov



Wes Haskett's July 16th, 2024 subdivision denial (Variance "Exhibit 1B") confirmed lot widths met town code as the drawing referenced in this email was provided on a plat prepared by a surveyor and is found as Variance "EXHIBIT 2B"

From: Anthony Mina <chestercountylawn@yahoo.com>
Sent: Wednesday, May 31, 2023 7:58 AM
To: Wes Haskett <whaskett@southernshores-nc.gov>
Subject: Re: 75 E Dogwood Trail Subdivision

Good Morning,

The attached drawing shows lot B with a 100' front set back.

The attached drawing is not drawn exactly to scale. I anticipate wanting to keep the street frontage of lot B only wide enough to install a driveway with walls on each side of the driveway so I can landscape the driveway entrance myself. I expect the street frontage of Lot B to be under 35'.

Thank you for your help,
Anthony S Mina

On Tuesday, May 30, 2023 at 04:41:19 PM EDT, Wes Haskett <whaskett@southernshores-nc.gov> wrote:

Good afternoon. Thank you for sending the drawing. How much frontage would Lot B have and at what point is it 100 ft. wide?

Wes Haskett
Deputy Town Manager/Planning Director
Town of Southern Shores
(252) 261-2394 (ph)
(252) 255-0876 (fx)
www.southernshores-nc.gov



WES HASKETT ADMITTING ON JUNE 1, 2023 THE LOT WIDTH REQUIREMENTS FOR A SUBDIVISION WERE MET, BUT THEN TELLING APPLICANT FOR THE 1ST TIME THAT LOT WIDTH REQUIREMENTS OF 100' AT THE FRONT BUILDING SETBACK LINE WERE BEING CHANGED ON JUNE 6/2023 TO REQUIRE THE ENTIRE LOT

From: Anthony Mina <chestercountylawn@yahoo.com>
Sent: Friday, May 26, 2023 12:21 PM
To: Wes Haskett <whaskett@southernshores-nc.gov>
Subject: 75 E Dogwood Trail Subdivision

Hello,

I've attached a subdivision plan I sketched to give you an idea of one idea I had that I believe meets Southern Shores zoning requirements (I am still deciding whether I would remove 1' of the existing 75 E Dogwood Trail structure, purchase 1' of property from 73 E Dogwood Trail or request a variance).

I really only want enough street frontage to build some walls at the beginning of the driveway like in the attached picture. I'll be able to give you a much more accurate subdivision plan after I purchase 75 E Dogwood Trail and get some legal advice about all my possible subdivision plans. But I am thinking that I may want both lots sharing one driveway opening that I own, if zoning code allows a subdivision plan like this (if not Lot A could use the existing driveway).

TO BE 100' WIDE. (ATTACHMENT EXPLAINED PROPOSED ZONING AMENDMENT)

Lot A has 20,000 sq. ft and lot B has 28,853 sq. ft.
Both lots will have 100 ft width at the front set back.

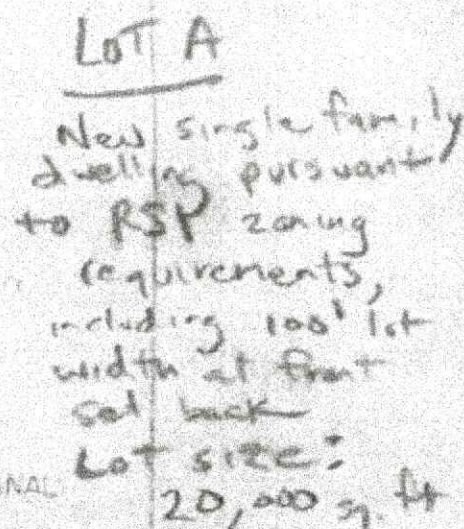
Thank you for your help.

Anthony S Mina

1 File 2.2MB



5-16-23 ZTA-23-03 Lot Width.pdf
2MB



LOT 6
EXISTING HOME
WITH STREET
FRONTAGE

SURVEYED FOR
LINDA L. LAUBY
LOT 1, BLOCK 105
SOUTHERN SHORES
ATLANTIC TOWNSHIP, DARE COUNTY, NORTH CAROLINA

DATE: MARCH 6, 1997 SCALE: 1" = 40'
FILE #807-72-71 OR, BY: JDA
SHEET NO. 12 OF 162
DRAWN BY: JDA/SC/DOON/C (4/2/93)
INCHES

KIRK R. FOREMAN
LAND SURVEYING COMPANY
PO BOX 1061
KILL DEVIL HILLS, NC 27948
(919) 281-1331

SUBDIVISION LINES NOT TO SCALE



Wes Haskett <whaskett@southernshores-nc.gov>
To: Anthony Mina <chestercountylawn@yahoo.com>

May 23, 2023 at 2:13

Good afternoon. I had a good weekend and I hope the same for you. Purchasing land from the adjacent property owner (both properties and structures meet all requirements) or removing a portion of the building would resolve the setback issue. Can you please explain or show on a drawing how the Town's 100 ft. lot width requirement would be satisfied for both lots?

Wes Haskett
Deputy Town Manager/Planning Director
Town of Southern Shores
(252) 261-2394 (ph)
(252) 255-0876 (fx)
www.southernshores-nc.gov

WES HASKETT
HIDING JUNE 6, 2023
LOT WIDTH AMENDMENT

-----Original Message-----

From: Anthony Mina <chestercountylawn@yahoo.com>
Sent: Monday, May 22, 2023 12:41 PM
To: Wes Haskett <whaskett@southernshores-nc.gov>
Subject: 75 E. Dogwood Trail Subdivision

Hello,

I hope you had a good weekend.

I am writing you again about 75 E. Dogwood Trail. I apologize if I am asking a lot of questions. My last job in Pennsylvania was building an addition onto a house on a non-conforming lot and I feel like the job went smoothly because I asked the building inspector lots of questions before I even started getting my building plans (and as of right now, I still don't even live at 75 E Dogwood Trail).

Can I ask you how you would suggest I go about subdividing 75 E. Dogwood Trail if it was your property and you wanted to make it two properties (or how you think the smartest way to get Southern Shores approval would be)?

I believe my options are (assuming the house is 14' from the 73 E. Dogwood Trail property line):

- Remove one foot of the existing home (the back left corner of the home) and make the lot farthest from the street similar to a "flag lot". 193 N. Dogwood Trail is the closest home with a small amount of public road frontage.

- Apply for a variance and make the lot farthest from the street similar to a "flag lot". 193 N. Dogwood Trail is the closest home with a small amount of public road frontage.

- Purchase a few square feet of property from 73 E. Dogwood Trail so the property line angles around the house of 75 E Dogwood Trail so there is at least 15' between the house and property line. Some examples of property lines literally wrapping around houses like I am describing are at 233 N Dogwood Trail and 378 Sea Oats Trail. Then the lot would then again be subdivided with a "flag lot" in the back.

Thank you for your help,
Anthony S Mina

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https://us1.proofpointessentials.com/index01.php?mod_id=11&mod_option=logitem&mail_id=1684773651-ibKTs-23fXS&address=whaskett%40southernshores-nc.gov&report=1

Re: 75 E. Dogwood Trail Zoning Question

chestercountyla Item 5.

Anthony Mina <chestercountylawn@yahoo.com>
To: Wes Haskett <whaskett@southernshores-nc.gov>

May 18, 2023 at 2:54 PM

Thank you for your help. I am not going to ask to meet with you next Tuesday to review my proposed subdivision for 75 E. Dogwood Trail, but I hope to provide you the drawing of the subdivision before then. I will talk to you soon. Anthony S Mina

On Thursday, May 18, 2023, 01:51:04 PM EDT, Wes Haskett <whaskett@southernshores-nc.gov> wrote:

Good afternoon. See my responses below.

Wes Haskett
Deputy Town Manager/Planning Director
Town of Southern Shores
(252) 261-2394 (ph)
(252) 255-0876 (fx)
www.southernshores-nc.gov



WES HASKETT HIDING
JUNE 6, 2023 PROPOSED
LOT WIDTH AMENDMENT

From: Anthony Mina <chestercountylawn@yahoo.com>
Sent: Wednesday, May 17, 2023 12:18 PM
To: Wes Haskett <whaskett@southernshores-nc.gov>
Subject: Re: 75 E. Dogwood Trail Zoning Question

Hello,

Thank you for your help.

-Could you please tell me which ordinance I need to read to understand the zoning requirements for subdividing a lot that has an existing structure that could possibly be 14' from the property line. See Town Code Section 30-97(2):
https://library.municode.com/nc/southern_shores/codes/code_of_ordinances?nodeId=PTIICOOR_CH30SU_ARTIVMISTDEGE_S30-97DEST.

-Could you also please tell me about Southern Shores' procedure for asking Southern Shores to make an exception to their local code. For example, if I hired an attorney to file my applications and ask Town Council or Dare County to approve the subdivision. An exception would be in the form of a Variance. Our Town Planning Board considers Variances which are only granted if the applicant can demonstrate that there is a hardship involved if a Variance is not granted. See attached application which includes questions that address the criteria for granting a Variance.

75 E. Dogwood Trail can be divided so each property has street frontage and a 100' lot width at the front of the building (by making the existing lot similar to a "flag lot"). I would just prefer not to literally remove 1' of the existing home if the home was really built 14' from a property line that required 15'. Please submit a drawing showing what you have in mind, including the existing structure and measurements from existing and proposed property lines.

If you would like, I am available to meet with you to make sure I am creating a subdivision plan consistent with other approved subdivisions and existing zoning requirements. I am available to meet next Tuesday at 10:30 or 2:00 if you'd like to meet to discuss and review your drawing.

Thank you,
Anthony S Mina

On Wednesday, May 17, 2023, 11:31:21 AM EDT, Wes Haskett <whaskett@southernshores-nc.gov> wrote:

Good morning, Anthony. I'm doing well and I hope the same for you. I don't believe that creating two lots that front E. Dogwood Trl. would work either, unfortunately. This is due to our minimum lot width requirement which is 100 ft. so both lots would have to be 100 ft. wide and front E. Dogwood Trl. However, I'd be glad to take a look at a sketch if you'd like to draw what you have in mind. The other issue is the existing structure not being at least 15 ft. from the side property line. Our ordinance requires compliance with all zoning requirements whenever new lots are created.

Wes Haskett
Deputy Town Manager/Planning Director
Town of Southern Shores
(252) 261-2394 (ph)
(252) 255-0876 (fx)
www.southernshores-nc.gov



WES HASKETT HIDING JUNE
6, 2023 PROPOSED LOT
WIDTH REQUIREMENT

From: Anthony Mina <chestercountylawn@yahoo.com>
Sent: Tuesday, May 16, 2023 11:51 AM

To: Wes Haskett <whaskett@southernshores-nc.gov>
Subject: Re: 75 E. Dogwood Trail Zoning Question

Item 5.

Good Morning,

I hope you are doing good. I'm a little confused about the Southern Shores local codes governing subdivision plans. Can you tell me why 75 E. Dogwood Trail could not be divided so each of the (2) new lots has street frontage. There is about 155' of street frontage and it does not matter to me if the lots shared the driveway or each had their own driveway. I believe that a second house could be built at 75 E Dogwood Trail and positioned so each lot has at least a 75' width at the side of the house closest to Dogwood Trail.

Thank you for your help,
Anthony S Mina

On Monday, May 1, 2023, 01:54:54 PM EDT, Wes Haskett <whaskett@southernshores-nc.gov> wrote:

Good afternoon. I'm doing well and I hope the same for you. I don't think a subdivision of 75 E. Dogwood Trl. would be allowed per Town Code Section 30-96(f) in our Subdivision Ordinance which states: All lots shall front upon a public road. Let me know if you have any additional questions.

Wes Haskett
Deputy Town Manager/Planning Director
Town of Southern Shores
(252) 261-2394 (ph)
(252) 265-0876 (fx)
www.southernshores-nc.gov

-----Original Message-----

From: Anthony Mina <chestercountylawn@yahoo.com>
Sent: Monday, May 1, 2023 12:50 PM
To: Kevin Clark <kclark@southernshores-nc.gov>; Kevin Clark <kclark@southernshores-nc.gov>; Marcey Baum <mbaum@southernshores-nc.gov>; Wes Haskett <whaskett@southernshores-nc.gov>
Subject: 75 E. Dogwood Trail Zoning Question

Hello,

I hope you are doing good.

I have attached a survey with a sketch of a proposed subdivision for 75 E. Dogwood Trail and wanted to make sure I am correct to believe that the lot can be subdivided as a right to the homeowner because the lot is larger than one acre. The only thing I noticed that did not meet the current zoning code requirements is a 14' setback from the existing home to the property line on the left side (I believe there should be 15').

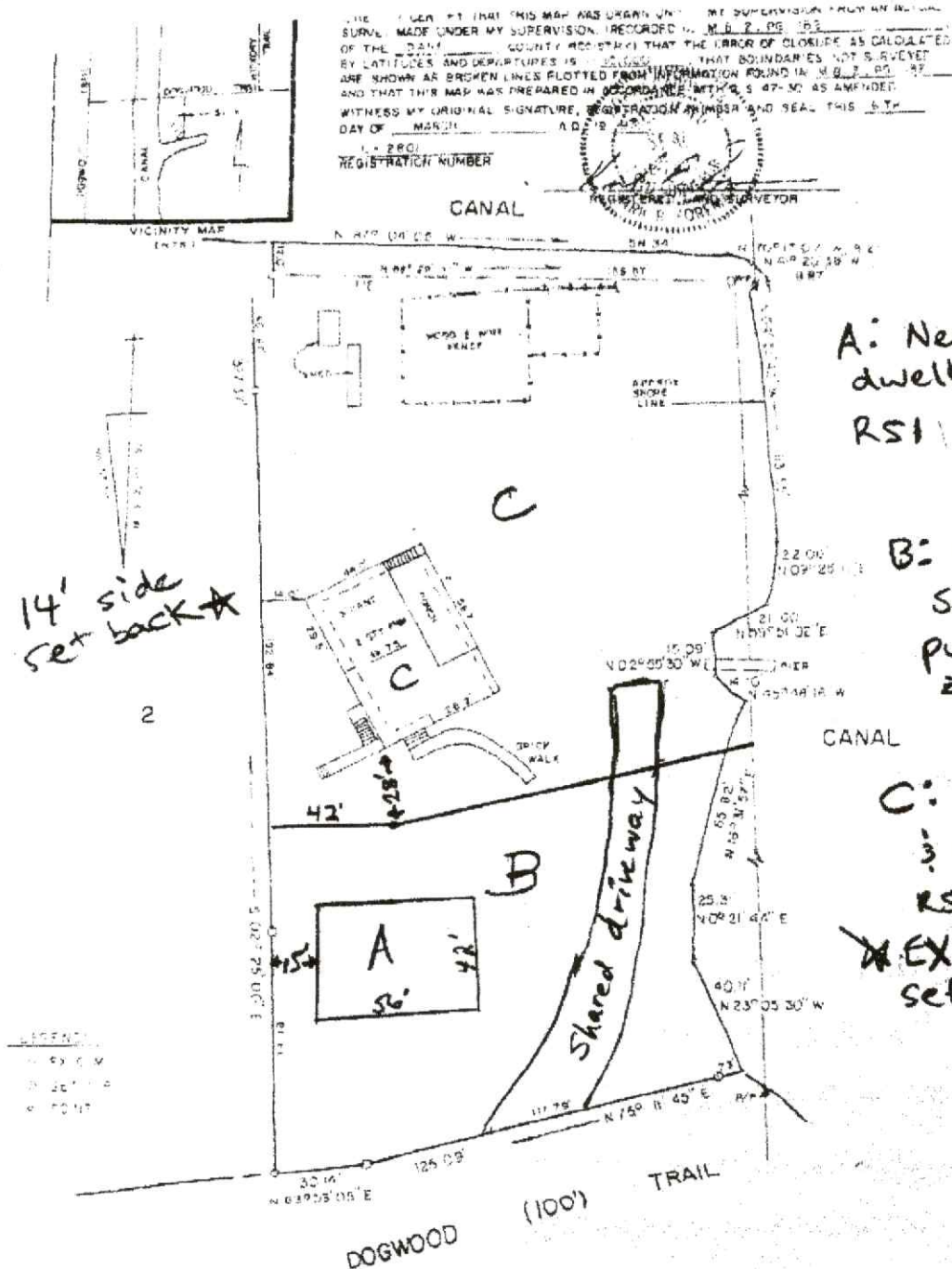
Could you please tell me anything that would prevent me from subdividing the 75 E. Dogwood Trail lot so I could build another house. I do not own the property but have made an offer on the property.

Thank you,
Anthony S Mina

CC Ashton Hamrell, MM & J Law Firm

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A: New single family dwelling pursuant to RSI zoning requirements

B: New lot with
shared driveway
pursuant to RS1
zoning requirements

C: EXISTING HOME
3 L.T. Pursuant to
RS1 ZONING requirements
X EXCEPT for 44' side
setback X

14' side
set back *

2

LEGEND:
 * 50 C M
 0 100 C M
 0 200 C M

SURVEYED FOR
LINDA L. LAUBY
LOT 1, BLOCK 105
SOUTHERN SHORES
ATLANTIC TOWNSHIP, DARE COUNTY, NORTH CAROLINA

DATE MARCH 6, 1987	SCALE: 1" = 40'
TILE 4A27 - T2 7	DR. BY: SDB
REF. M. B. 2, PG. 1B2	
I.R.M. # 370430 0001 p (4/2/93)	

SCALE: 1" = 40'
DR. BY: BDB

KIRK R. FOREMAN
LAND SURVEYING COMPANY
P.O. BOX 1961
KILL DEVIL HILLS, NC 27948
(919) 261-1221



Town of Southern Shores

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

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

www.southernshores-nc.gov

Resolution in Opposition to HB 765 and Similar Legislation to Strip Municipalities of Planning and Zoning Authority

WHEREAS, the Town of Southern Shores recognizes the essential need of planning and zoning regulations for orderly management of growth, public safety, and general welfare of its citizens; and

WHEREAS, the recent trends of some proposed legislation in the General Assembly limit or eliminate a municipality's ability to protect the public with approaches that include overly broad changes to planning and zoning authority for local governments in North Carolina; and

WHEREAS, House Bill 765, entitled

"AN ACT TO REFORM LOCAL GOVERNMENT DEVELOPMENT
REGULATIONS IN THIS STATE"

would result in sweeping changes to planning and zoning standards, including some of the following:

- Burdening a municipality with developing a fiscal note each time any new, amended, or repealed ordinance is proposed, with the note required to identify and estimate the financial costs of the proposed change.
- Increasing an unprecedented conflicts of interest standard for legislative determinations to that of quasi-judicial levels for development regulations.
- Prohibiting a municipality's authority to regulate development by removing the ability to establish or require parking or parking space requirements, including space sizes, the location of spaces, the number of spaces in a development through zoning, and eliminating a municipality's ability to require street standards.
- Introducing new civil penalties / liabilities for local officials and municipalities.
- Elimination of a municipality's ability to establish minimum lot size in residential zoning districts;

and,

WHEREAS, the 550 municipalities in our State are the first contact with the people of North Carolina, with each community and its citizens having the longstanding right and ability granted by the General Assembly to guide their respective planning and zoning processes through public participation with the development of Land Use Plans, ordinances, and policies; and

WHEREAS, multiple bills have been authored and submitted for consideration without any input from municipal representatives to share how these numerous enactments would lead to negative, costly, and potentially dangerous situations for a community and its citizens, businesses, and property owners; Therefore, be it

RESOLVED, that the Board of Commissioners for the Town of Southern Shores opposes the adoption of HB 765 and similar legislation that strips essential authority of municipal governments to protect its citizens and businesses through planning and zoning regulation; and

BE IT FURTHER RESOLVED that the Town of Southern Shores encourages its citizens, businesses, property owners, and sister municipalities in communicating with their representatives and share their concerns regarding HB 765 and similar proposed legislation.

This 6 day of May, 2025.

SEAL

Elizabeth Morey, Mayor
Southern Shores

ATTEST:

Sheila Kane
Town Clerk

Bill Analysis: House Bill 765 (2025) “Local Gov. Development Regulations Omnibus”

Bill Summary: House Bill 765 is a bill that would change various laws related to local government development regulation and related issues, generally reducing, limiting, or removing local government authority to regulate land use and development activities.

Bill Status: 4/16/25 Referral to Judiciary 2 stricken, re-referred to Rules, Calendar, and Operations of the House.

Received favorable report in the Housing and Development Committee, currently pending Rules, Calendar, and Operations of the House.

NCLM Staff: Patrick Buffkin, Director of Legislative Affairs, pbuffkin@nclm.org

Derrick Applewhite, Senior Government Affairs Associate, dapplewhite@nclm.org

Detailed Bill Analysis: House Bill 765, version 2, current as of April 17, 2025

Section	G.S. Section	Effect
1(a)	160D-601	Reinstates that local governments may initiate a down-zoning amendment without the consent of all property owners. Clarifies the definition of down-zoning to no longer include nonconformities.
2	160D-101	Repeals a provision of Ch. 160D “Development Regulation” that preserves local government authority under other chapters of the General Statutes. Enacts a new provision of Ch. 160D that restricts local government authority under 160D to that “expressly” stated and prohibits certain development regulations that are more restrictive than state law (other than floodplain management regulations).
3	160D-102	Amends statute to include definitions for the terms acre, buffer yard, dwelling unit, and nonconformities
4	160D-108	Clarifies that the statutory vesting period is automatically tolled for the duration of any emergency disaster declaration.
5	160D-108.1	Amends statute related to site-specific vesting by extending the time for vesting from two (2) to five (5) years, or up to eight (8) years at the local government’s discretion, and broadens the scope of site-specific vesting rights to include “land development regulation” and overlay districts.
6	160D-108.2 (new)	Further clarifies the establishment of vested rights with regard to nonconformities, mandating that nonconformities may continue until intentionally and voluntarily discontinued. Establishes the right to repair and reconstruct nonconformities if not enlarged or intensified.

7	160D-109	Amends the standard for local government elected and appointed officials to recuse themselves from legislative decisions regarding a development regulation adopted under Ch. 160D. Adds the same standards for local government staff. The current two-part standard, (1) “reasonably likely to have a direct, substantial, and readily identifiable financial impact on the official,” and (2) involvement of a “close familial, business, or other associated relationship,” would in addition require recusal when the official has “a fixed opinion...not susceptible to change” or when the member has “undisclosed <i>ex parte</i> communication about the matter.”
8	160D-203	Provides an alternative method to determine zoning and planning jurisdiction when a parcel lies in more than one jurisdiction, dependent upon whether one, all, or none of the local governments can provide water and/or sewer service to the parcel. Allows for development applicant to override interlocal agreements.
9	160D-402(a) 160D-402(d)	Requires local governments to designate one staff member charged with making determinations regarding zoning districts as described in 160D-703. Revises local government authority to collect fees for planning and development regulation by providing that those fees shall not exceed the amount “reasonably required” to support, administer, and implement the programs.
10	160D-403	Enacts new timelines for site plan reviews and new requirements for the local government to respond, as follows: • Within 14 days of Application: “Completeness Determination” or “Deficiency Notice” • Applicant may “cure” deficiencies • Within 14 days of Amended Application: “Completeness Review” • Day that Application is determined to be Complete: Issue notice of 90-day period • Within 90 days of completeness determination: approve or deny • Extension, up to six months, only by agreement with Applicant • Failure to comply “shall constitute approval”
11	160D-605	Would provide that the governing board consistency statement required when adopting a zoning text or map amendment is subject to judicial review.
12	160D-702	Restricts local government zoning authority as applied to residential development by removing authority to

		1. Regulate by voluntary consent of property owner to certain regulations (“conditional zoning” see also section 10, <i>infra</i>.) 2. Regulate width and length of residential structures 3. Require parking spaces other than as required by the ADA 4. Set minimum driveway sizing unless connected to a city or NCDOT maintained road 5. Set minimum road design standards in excess of NCDOT’s requirements, unless the city takes ownership prior to site plan approval. 6. Require sidewalks, except in certain circumstances For cities larger than 125K, establish setback or buffer yard requirements for multi-family developments in excess of 15 units per acre
13	160D-703	Requires that residential zoning districts be based upon density, expressed in dwelling unit per acre. Establishes minimum density requirements in a graduated scale based on county and city population, either 4, 5, or 6 units per acre, as minimum density districts. Additional requirements for by right development in cities larger than 125,000. Further restricts conditional zoning by removing the consent of petitioner as a basis for zoning regulation (“conditional zoning”)
14	160D-707 (new)	Enacts new timelines for rezoning decisions and new requirements for the local government to respond, as follows: • Within 14 days of Application: “Completeness Determination” or “Deficiency Notice” • Applicant may “cure” deficiencies • Within 14 days of Amended Application: “Completeness Review” • Day that Application is determined to be Complete: Issue notice of 90-day period • Within 90 days of completeness determination: approve or deny • Extension, up to six months, only by agreement with Applicant Failure to comply “shall constitute approval”
15	160D-803	Requires that decisions on subdivision plats be administrative and removes authority for planning board and governing board decisions. Within 10 days of approving preliminary plat, the local government representative must affix approval of the final plat.
16	160D-912	Establishes conforming changes to off-premises outdoor advertisement regarding nonconformities. See section 1.

17	160D-912.1	Establishes conforming changes to on-premises advertisement regarding nonconformities. See section 1.
18	160D-944	Requires that 75% of property owners consent to the creation of a historic district Requires that the governing board approve the historic district application “unanimously”
19	160D-974 (new) 160D-975 (new)	In cities with a population of 125,000 or more, requires that the zoning regulations allow for “tiny houses” and “accessory dwelling units,” and exempts accessory dwelling units from various regulations.
20	160D-1102(c)	Extends the requirement of local governments to publish an annual financial report on how it used fees from prior fiscal year for its building code enforcement program. The report would be required annually.
21	160D-1110(d)	Prohibits local governments from requiring more than a “shell permit” (allowing for “structural construction of a building”) for the construction of a multifamily project, and requires the issuance of a certificate of occupancy for individual units as they meet the requirements, upon request of the permittee.
22	160D-1403	Requires that the administrative decision implementing a subdivision regulation decision must be appealed as provided in 160D-405 (Board of Adjustment).
23	160D-1403.1	Expands the right to sue local government officials and staff for development regulation decisions. Establishes that an association whose membership is comprised of an individual with standing, may also have standing and can bring action under this section.
24	160D-1403.3 (new)	Expands the private remedies available for civil suits against local government officials and staff, including for the enforcement of Ch. 160D and to recover money damages, plus attorneys’ fees and “costs of investigation”
25	160D-1406 (new in part)	Expands the circumstances when a local government decision-making board can be held personally liable for involvement in board decisions and allows for the award of attorneys’ fees and other costs. Provides that the city general ordinance-making authority does not apply to development regulations under Ch. 160D
26	63-31(e)	Establishes conforming changes to airport zoning regulations regarding nonconformities. See section 1.
27	63-36	Establishes conforming changes to air rights regulations regarding nonconformities. See section 1.
28(a)	120-36.7	Requires that the General Assembly’s Fiscal Research Division prepare fiscal notes for any legislation that impacts the cost of constructing, owning, or selling a single-family residence.

28(b)	159-42.2	Requires that the governing body of a city or county have a fiscal note prepared prior to adopting, amending, or repealing an ordinance that could impact the cost of constructing, owning, or selling a single-family residence.
29	130A-343.5	Establishes an exception to city authority to require connections to sewer systems, and allows property owners to install community sewer systems (package plants), subject to certain conditions.
30	136-102.6	Requires that NCDOT's highways division accept a performance guarantee under 160D-804.1 to ensure completion of streets required by a municipal subdivision ordinance and requires the division of highways to issue a certificate of approval upon receipt of the performance guarantee.
31	136-131.5(c)	Establishes conforming changes to nonconforming signs. See section 1.
33	136-133.1(d)	Clarifies sign statutes to specify the definition of outdoor advertising signs.
34 35	160A-31(h) 160A-58.1(d)	Clarifies vested rights under the new changes proposed by sections 4,5, and 6.
36	160A-307	Limits city authority to require transportation related improvements unless the need is established through "substantial evidence."
37(a)	162A-1000	Establishes a new regulatory scheme related to the reservation of water and sewer capacity by, among other things, limiting the ability to reserve capacity to only those projects having a pending development application, and not "speculative or future development"; requiring the local government to reserve the capacity within 24 months of the application (if capacity to serve is present) or to initiate plans to expand capacity to serve (if not present).
37(b)	162A-900	Repeals S.L. 2024-45 and S.L. 2024-49
37(c)		Requires water and sewer providers shall provide water and sewer to applicants if the provider committed to doing so on or after July 1, 2020.
37(d)	162A-1003	The annual report required by section 37 is due by October 1, 2026.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025**

H

2

**HOUSE BILL 765
Committee Substitute Favorable 4/17/25**

Short Title: Local Gov. Development Regulations Omnibus.

(Public)

Sponsors:

Referred to:

April 7, 2025

A BILL TO BE ENTITLED
AN ACT TO REFORM LOCAL GOVERNMENT DEVELOPMENT REGULATIONS IN
THIS STATE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 160D-601, as amended by Section 3K.1 of S.L. 2024-57, reads as rewritten:

"§ 160D-601. Procedure for adopting, amending, or repealing development regulations.

...

(d) Down-Zoning. – No amendment to ~~zoning regulations or a zoning map~~ a zoning regulation that down-zones property shall be initiated, enacted, or enforced without the written consent of all property owners whose property is the subject of the down-zoning ~~amendment~~ amendment, unless the down-zoning amendment is initiated by the local government.

(e) For purposes of this section, "down-zoning" or "down-zone" means a zoning ~~ordinance~~ regulation that affects an area of land in one of the following ways:

- (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- (2) By reducing the substantive permitted uses of the land that are specified in a zoning ordinance ~~or land development regulation~~ to fewer uses than were allowed under its previous usage.
- (3) ~~By creating any type of nonconformity on land not in a residential zoning district, including a nonconforming use, nonconforming lot, nonconforming structure, nonconforming improvement, or nonconforming site element."~~

SECTION 1.(b) This section is effective when it becomes law and applies retroactively to December 11, 2024. Any development ordinance affected by Section 3K.1 of S.L. 2024-57 shall be treated as if it remained in effect from June 14, 2024, to December 11, 2024.

SECTION 2.(a) G.S. 160D-101 reads as rewritten:

"§ 160D-101. Application.

(a) The provisions of this Article shall apply to all development regulations and programs adopted pursuant to this Chapter or applicable or related local acts. To the extent there are contrary provisions in local charters or acts, G.S. 160D-111 is applicable unless this Chapter expressly provides otherwise. The provisions of this Article also apply to any other local ordinance that substantially affects land use and development.

(b) The provisions of this Article are supplemental to specific provisions included in other Articles of this Chapter. To the extent there are conflicts between the provisions of this



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Article and the provisions of other Articles of this Chapter, the more specific provisions shall control.

(c) Local governments may also apply any of the definitions and procedures authorized by this Chapter to any ordinance that does not substantially affect land use and development adopted under the general police power of cities and counties, Article 8 of Chapter 160A of the General Statutes and Article 6 of Chapter 153A of the General Statutes respectively, and may employ any organizational structure, board, commission, or staffing arrangement authorized by this Chapter to any or all aspects of those ordinances.

~~(d) This Chapter does not expand, diminish, or alter the scope of authority for planning and development regulation authorized by other Chapters of the General Statutes.~~

(e) Except as provided by local act, notwithstanding any other provision of law, a local government may not exercise development regulation authority except as expressly authorized by this Chapter. If State law governs a particular subject matter related to a local development regulation authority, a local government shall not enact or enforce development regulations more restrictive than those established by State law, unless the development regulation pertains to floodplain management regulations as described in G.S. 143-138(e).

SECTION 2.(b) G.S. 160D-110(a) reads as rewritten:

"(a) G.S. 153A-4 and G.S. 160A-4 are not applicable to this Chapter."

SECTION 2.(c) G.S. 153A-121 is amended by adding a new subsection to read:

"(d) This section does not apply to the adoption or enforcement of development regulations under Chapter 160D of the General Statutes."

SECTION 2.(d) G.S. 160A-174 is amended by adding a new subsection to read:

"(c) This section does not apply to the adoption or enforcement of development regulations under Chapter 160D of the General Statutes."

SECTION 3. G.S. 160D-102 is amended by adding the following new subdivisions to read:

"(1a) Acre. – The actual gross acreage of a parcel or parcels. For purposes of determining allowable residential density, the actual gross acreage shall not be reduced by subtracting buffers, setbacks, public or private streets, open space or recreation areas, or other nondevelopable areas.

...

(3m) Buffer yard. – A designated landscape area to separate uses or densities; to reduce impacts of traffic, noise, odor; or to enhance visual appearance.

...

(15c) Dwelling unit. – A single unit, subject to the North Carolina Residential Code, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

...

(23m) Nonconformity. – Any of the following that was lawfully operated, established, or commenced in accordance with applicable development regulations in effect at the time the nonconformity became nonconforming so long as the nonconformity is not extended, expanded, enlarged, increased, or intensified:

a. A lot, parcel, or tract of land that fails to meet all current development regulation requirements.

b. A structure that no longer complies with all current development regulation requirements applicable to that structure.

c. The use of a property for a purpose or activity, or in a manner, made unlawful by a current development regulation.

d. Any dwelling, accessory building, accessory structure, outdoor lighting, fence, wall, sign, off-street parking, vehicular surface area, or private access point."

SECTION 4. G.S. 160D-108 reads as rewritten:

"§ 160D-108. Permit choice and vested rights.

...

(d) Duration of Vesting. – Upon issuance of a development permit, the statutory vesting granted by subsection (c) of this section for a development project is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced. A local land development regulation may provide for a longer permit expiration period. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive.

Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, ~~and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months.~~ The 24-month discontinuance period is automatically tolled during ~~the~~ any of the following:

(1) The pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section.

(2) ~~The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.~~

(3) The duration of any emergency declaration issued under G.S. 166A-19.20 or G.S. 166A-19.22 for which the defined emergency area includes the property, in whole or in part.

...

(h) Process to Claim Vested Right. – A person claiming a statutory or common law vested right may submit information to substantiate that claim to the zoning administrator or other officer designated by a land development regulation, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1. This subsection shall apply to the claiming of vested rights in a nonconformity under G.S. 160D-108.2.

...."

SECTION 5. G.S. 160D-108.1 reads as rewritten:

"§ 160D-108.1. Vested rights – site-specific vesting plans.

...

(c) Approval and Amendment of Plans. – If a site-specific vesting plan is based on an approval required by a local development regulation, the local government shall provide whatever notice and hearing is required for that underlying approval. A duration of the underlying approval that is less than ~~two~~ five years does not affect the duration of the site-specific vesting plan established under this section. If the site-specific vesting plan is not based on ~~such an~~

approval, ~~an approval required by a development regulation,~~ a legislative hearing with notice as required by G.S. 160D-602 shall be held.

A local government may approve a site-specific vesting plan upon any terms and conditions that may reasonably be necessary to protect the public health, safety, and welfare. Conditional approval results in a vested right, although failure to abide by the terms and conditions of the approval will result in a forfeiture of vested rights. A local government shall not require a landowner to waive the landowner's vested rights as a condition of developmental approval. A site-specific vesting plan is deemed approved upon the effective date of the local government's decision approving the plan or another date determined by the governing board upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government as follows: any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if ~~such~~ the modifications are defined and authorized by local regulation.

...

(e) Duration and Termination of Vested Right. –

- (1) A vested right for a site-specific vesting plan remains vested for a period of ~~two~~ five years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the local government.
- (2) Notwithstanding the provisions of subdivision (1) of this subsection, a local government may provide for rights to be vested for a period exceeding ~~two~~ five years but not exceeding five-eight years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the local government and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with subsection (a) of this section.
- (3) Upon issuance of a building permit, the provisions of G.S. 160D-1111 and G.S. 160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this section is outstanding.
- (4) A right vested as provided in this section terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

(f) Subsequent Changes Prohibited; Exceptions. –

- (1) A vested right, once established as provided for in this section, precludes any ~~zoning action~~ development regulation by a local government which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under one or more of the following conditions:
 - a. With the written consent of the affected landowner.
 - b. Upon findings, by ordinance after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific vesting plan.
 - c. To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting

fees incurred after approval by the local government, together with interest as provided under G.S. 160D-106. Compensation shall not include any diminution in the value of the property which is caused by the action.

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

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

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

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

...."

SECTION 6. Article 1 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-108.2. Nonconformities.

(a) Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to a nonconformity. All of the following shall apply to vested rights in a nonconformity established under this section:

(1) The establishment of a vested right under this section does not preclude vesting under one or more other provisions of law or vesting by application of common law principles.

(2) A vested right, once established as provided for in this section or by common law, precludes any action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by applicable development regulations, except where a change in State or federal law mandating local government enforcement occurs after the nonconformity was established that has a fundamental and retroactive effect on the development or use.

(3) G.S. 160D-108(h) shall apply to the claiming of nonconformities.

(4) Unless otherwise specified by this section or another statute, a nonconformity may continue until intentionally and voluntarily discontinued.

(b) The statutory vesting period granted by this section for a nonconformity expires if the nonconformity is intentionally and voluntarily discontinued for a period of not less than 24

consecutive months. The 24-month discontinuance period shall be automatically tolled during any of the following events:

- (1) The pendency of any board of adjustment proceeding or civil action in a State or federal court regarding the validity of the use of the property or the existence of the statutory vesting period granted by this section.
- (2) The pendency of any litigation involving use of the property that is the subject of the vesting.
- (3) The duration of any emergency declaration issued under G.S. 166A-19.20 or G.S. 166A-19.22 for which the defined emergency area includes the property, in whole or in part.
- (c) Reconstruction, re-establishment, repair, and maintenance of a nonconformity shall be allowed by right provided the nonconformity is not extended, expanded, enlarged, increased, or intensified by the reconstruction, re-establishment, repair, or maintenance.
- (d) This section shall not apply to G.S. 160D-912 and G.S. 160D-912.1."

SECTION 7. G.S. 160D-109 reads as rewritten:

"§ 160D-109. Conflicts of interest.

(a) Governing Board. – A governing board member shall not participate in or vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the one or more of the following apply:

- (1) The outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. ~~A governing board member shall not vote on any zoning amendment if the~~
- (2) The landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- (3) The member has expressed or holds a fixed opinion prior to the hearing on the matter that appears not susceptible to change.
- (4) The member has undisclosed ex parte communication about the matter.

(b) Appointed Boards. – Members of appointed boards shall not participate in or vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the one or more of the following apply:

- (1) The outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. ~~An appointed board member shall not vote on any zoning amendment if the~~
- (2) The landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
- (3) The member has expressed or holds a fixed opinion prior to the hearing on the matter that appears not susceptible to change.
- (4) The member has undisclosed ex parte communication about the matter.

(c) Administrative Staff. – ~~No~~ If a staff member has a conflict of interest under this subsection, the administrative decision shall be assigned to the supervisor of the staff member or such other staff member as may be designated by the development regulation. A staff member shall not make a final decision on an administrative decision required by this Chapter if the where one or more of the following apply:

- (1) The outcome of that administrative decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the member.
- (2) The applicant or other person subject to that administrative decision is a person with whom the staff member has a close familial, business, or other associational relationship. ~~If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person~~

or such other staff person as may be designated by the development regulation or other ordinance. No

(3) ~~The staff member shall be~~ is financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved.

~~No~~
(4) ~~The staff member~~ member, or other individual or an employee of a company contracting with a local government to provide staff support ~~shall engage support, is engaging~~ in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

...."

SECTION 8. G.S. 160D-203 reads as rewritten:

"§ 160D-203. Split jurisdiction.

(a) If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, ~~for the purposes of this Chapter, the local governments may, by mutual agreement pursuant to Article 20 of Chapter 160A of the General Statutes and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction under this Chapter for the entire parcel to any one of those local governments. Such a mutual agreement~~ government, the following shall apply:

(1) If only one local government has the ability to provide water and sewer services to the parcel at the time a site plan for the parcel is submitted, the local government that has the ability to provide public water and sewer services shall have planning and development regulation jurisdiction over the entire parcel.

(2) If all of the local governments have the ability to either provide public water services or public sewer services to the parcel, but not both, at the time a site plan for the parcel is submitted, the landowner may designate which local government's planning and development regulations shall apply to the land.

(3) If all or none of the local governments have the ability to provide public water and sewer services to the parcel at the time a site plan for the parcel is submitted, the local government where the majority of the parcel is located shall have jurisdiction over the land.

(b) The jurisdiction established by this section shall only be applicable to development regulations and shall not affect taxation or other nonregulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the register of deeds in the county where the property is located within 14 days of the adoption of the last required resolution."

SECTION 9. G.S. 160D-402, as amended by S.L. 2024-49, reads as rewritten:

"§ 160D-402. Administrative staff.

(a) Authorization. – Local governments may appoint administrators, inspectors, enforcement officers, planners, technicians, and other staff to develop, administer, and enforce development regulations authorized by this Chapter. Local governments shall designate at least one staff member charged with making determinations under that local government's development regulations for purposes of G.S. 160D-703.

(b) Duties. – Duties assigned to staff may include, but are not limited to, drafting and implementing plans and development regulations to be adopted pursuant to this Chapter; determining whether applications for development approvals are complete; receiving and processing applications for development approvals; providing notices of applications and hearings; making decisions and determinations regarding development regulation implementation; determining whether applications for development approvals meet applicable

standards as established by law and local ordinance; conducting inspections; issuing or denying certificates of compliance or occupancy; enforcing development regulations, including issuing notices of violation, orders to correct violations, and recommending bringing judicial actions against actual or threatened violations; keeping adequate records; and any other actions that may be required in order adequately to enforce the laws and development regulations under their jurisdiction. A development regulation may require that designated staff members take an oath of office. The local government shall have the authority to enact ordinances, procedures, and fee schedules relating to the administration and the enforcement of this Chapter. The administrative and enforcement provisions related to building permits set forth in Article 11 of this Chapter shall be followed for those permits.

(c) Alternative Local Government Staff Arrangements. – A local government may enter into contracts with another city, county, or combination thereof under which the parties agree to create a joint staff for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties may make any necessary appropriations for this purpose.

In lieu of joint staff, a governing board may designate staff from any other city or county to serve as a member of its staff with the approval of the governing board of the other city or county. A staff member, if designated from another city or county under this ~~section~~, subsection, shall, while exercising the duties of the position, be considered an agent of the local government exercising those duties. The governing board of one local government may request the governing board of a second local government to direct one or more of the second local government's staff members to exercise their powers within part or all of the first local government's jurisdiction, and they shall thereupon be empowered to do so until the first local government officially withdraws its request in the manner provided in G.S. 160D-202.

The contract or designation of staff under this subsection shall specify at least one individual designated as charged with making determinations under each local government's development regulations for purposes of G.S. 160D-703.

(c1) Alternative Contract Staff Arrangements. – A local government may contract with an individual, company, council of governments, regional planning agency, metropolitan planning organization, or rural planning agency to designate an individual who is not a city or county employee to work under the supervision of the local government to exercise the functions authorized by this section. The local government shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the local government as it does for an individual who is an employee of the local government. The company or individual with whom the local government contracts shall have errors and omissions and other insurance coverage acceptable to the local government. The contract shall require at least one individual designated as charged with making determinations under that local government's development regulations for purposes of G.S. 160D-703.

(d) Financial Support. – The local government may appropriate for the support of the staff any funds that it deems necessary. It shall have power to fix reasonable fees for support, administration, and implementation of programs authorized by this ~~Chapter~~, Chapter, and those fees shall not exceed the actual direct and reasonable costs required to support, administer, and implement programs authorized by this Chapter. All fees collected by a building inspection department for the administration and enforcement of provisions set forth in Article 11 of this Chapter shall be used to support the administration and operations of the building inspection department and for no other purposes. When an inspection, for which the permit holder has paid a fee to the local government, is performed by a marketplace pool Code-enforcement official upon request of the State Fire Marshal under G.S. 143-151.12(9)a., the local government shall promptly return to the permit holder the fee collected by the local government for such inspection. This subsection applies to the following types of inspection: plumbing, electrical systems,

1 general building restrictions and regulations, heating and air-conditioning, and the general
2 construction of buildings."

3 **SECTION 10.** G.S. 160D-403, as amended by S.L. 2024-49, reads as rewritten:

4 **"§ 160D-403. Administrative development approvals and determinations.**

5 (a) Development Approvals. – To the extent consistent with the scope of ~~regulatory~~
6 development regulation authority granted by this Chapter, no person shall commence or proceed
7 with development without first securing any required development approval from the local
8 government with jurisdiction over the site of the development. A development approval shall be
9 in writing and may contain a provision requiring the development to comply with all applicable
10 State and local laws. A local government may issue development approvals in print or electronic
11 form. Any development approval issued exclusively in electronic form shall be protected from
12 further editing once issued. Applications for development approvals may be made by the
13 landowner, a lessee or person holding an option or contract to purchase or lease land, or an
14 authorized agent of the landowner. An easement holder may also apply for development approval
15 for ~~such the~~ development as is authorized by the easement.

16 (a1) Time Period for Approval. – Within 14 calendar days of the filing of an application
17 for a development approval, a local government or its designated administrative staff, as
18 described under G.S. 160D-402, shall (i) determine whether the application is complete and
19 notify the applicant of the application's completeness and, (ii) if the local government or its
20 designated administrative staff determines the application is incomplete, specify all of the
21 deficiencies in the notice to the applicant. The applicant may file an amended application or
22 supplemental information to cure the deficiencies identified by the local government or its
23 designated administrative staff for a completeness review, which shall be completed within 14
24 calendar days after receiving an amended application or supplemental application from the
25 applicant. Upon the date the application is deemed complete, the local government or its
26 designated administrative staff shall issue a receipt letter or electronic response stating that the
27 application is complete and that a 90-calendar day review period has started as of that date. The
28 local government shall approve or deny the application within 90 calendar days of the date the
29 application was deemed complete by the local government or its designated administrative staff,
30 except that if the applicant requests a continuance of the application, the review period shall be
31 tolled for the duration of any continuance. The time period for review may be extended only by
32 agreement with the applicant if the application cannot be reviewed within the specified time
33 limitation due to circumstances beyond the control of the local government. The extension shall
34 not exceed six months. Failure of the local government or its designated administrative staff to
35 act before the expiration of the time period allowed for review shall constitute an approval of the
36 application, and the local government shall issue a written approval upon demand by the
37 applicant.

38 ...

39 (c) Duration of Development Approval. – Unless a different period is specified by this
40 Chapter or other specific applicable law, including for a development agreement, a development
41 approval issued pursuant to this Chapter expires one year after the date of issuance if the work
42 authorized by the development approval has not been substantially commenced. Local
43 development regulations may provide for development approvals of shorter duration for
44 temporary land uses, special events, temporary signs, and similar development. Local
45 development regulations may also provide for development approvals of longer duration for
46 specified types of development approvals. Nothing in this subsection limits any vested rights
47 secured under ~~G.S. 160D-108 or G.S. 160D-108.1.~~ G.S. 160D-108, 160D-108.1, or 160D-108.2.

48"

49 **SECTION 11.** G.S. 160D-605(a) reads as rewritten:

50 "(a) Plan Consistency. – When adopting or rejecting any zoning text or map amendment,
51 the governing board shall approve a brief statement describing whether its action is consistent or

inconsistent with an adopted comprehensive or land-use plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive or land-use plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment has the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment is required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is ~~not~~ subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken."

SECTION 12. G.S. 160D-702 reads as rewritten:

"§ 160D-702. Grant of power.

(a) A local government may adopt zoning regulations. Except as provided in subsections (b) and (c) of this section, a zoning regulation may regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings, structures, and land. A local government may regulate development, including floating homes, over estuarine waters and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12. A zoning regulation shall provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11. Where appropriate, a zoning regulation may include requirements that street and utility rights-of-way be dedicated to the public, that provision be made of recreational space and facilities, and that performance guarantees be provided, all to the same extent and with the same limitations as provided for in G.S. 160D-804 and G.S. 160D-804.1.

(b) Any regulation relating to building design elements adopted under this Chapter may not be applied to any structures subject to regulation under the North Carolina Residential Code except under one or more of the following circumstances:

- (1) The structures are located in an area designated as a local historic district pursuant to Part 4 of Article 9 of this Chapter.
- (2) The structures are located in an area designated as a historic district on the National Register of Historic Places.
- (3) The structures are individually designated as local, State, or national historic landmarks.
- (4) The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.
- (5) Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160D-908 and federal law.
- (6) Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.

Regulations prohibited by this subsection may not be applied, directly or indirectly, in any zoning district or conditional ~~district unless voluntarily consented to by the owners of all the property to which those regulations may be applied as part of and in the course of the process of seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval, district,~~ nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604 or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted comprehensive plan or other applicable officially adopted plan.

For the purposes of this subsection, the phrase "building design elements" means exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of

windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms. The phrase "building design elements" does not include any of the following: (i) the height, bulk, orientation, or location of a structure on a zoning lot, (ii) the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect the privacy of neighbors, or (iii) regulations adopted pursuant to this Article governing the permitted uses of land or structures subject to the North Carolina Residential Code.

Nothing in this subsection affects the validity or enforceability of private covenants or other contractual agreements among property owners relating to building design elements.

(c) A zoning or other development regulation shall not do any of the following:

- (1) Set a minimum width, length, or square footage of any structures subject to regulation under the North Carolina Residential Code.
- (2) Require a or otherwise specify the size of parking space spaces, placement of parking spaces, configuration of parking spaces, or allocation of parking spaces to be larger than 9 feet wide by 20 feet long unless the parking space is designated for handicap, parallel, or diagonal parking greater than those required by the Americans with Disabilities Act.
- (3) Require additional fire apparatus access roads into developments of one- or two-family dwellings that are not in compliance with the required number of fire apparatus access roads into developments of one- or two-family dwellings set forth in the North Carolina Fire Code of the North Carolina Residential Code for One- and Two-Family Dwellings Code.
- (4) Except as provided under G.S. 160A-307, set a minimum width, length, or square footage for driveways within a development unless the driveway abuts a public road. This subdivision shall not be construed to expand, diminish, or alter the Department of Transportation's authority to regulate driveways adjacent to public roads owned by the State.
- (5) Except as provided in this subdivision, set design standards for public roads within a development in excess of those required by the Department of Transportation. A city may set design standards for public roads within a development in excess of those required by the Department of Transportation if the city is financially responsible for the cost of the excess and accepts ownership and maintenance responsibility for the public road prior to, or in conjunction with, site plan approval. Confirmation of conformity of the improvements consistent with the city's design standards under this subsection shall be conducted consistent with G.S. 160D-804.1(1c). Upon confirmation that the improvements have been made consistent with G.S. 160D-804.1(1c), the city shall record with the register of deeds a plat evidencing the city's ownership of the public road.
- (6) Require installation of sidewalks or improvement of existing sidewalks for any residential, commercial, or school property unless the sidewalk is either of the following:
 - a. Connected to an existing sidewalk.
 - b. Will be connected to a planned adjacent sidewalk that the local government believes, based on a development approval, will be constructed within two years of the residential, commercial, or school property site plan approval.
- (7) For cities with a population of 125,000 or more, according to the most recent decennial federal census, establish setback or buffer yard requirements for a multifamily development that exceeds 15 units per acre.

(d) In exercising its authority under this section, a local government shall support its determinations by demonstrating there is a rational and substantial relationship between the

1 zoning map, zoning regulations, or zoning amendment and the health, safety, and welfare of the
2 public through finding of facts and information, other than mere personal preferences or
3 speculation, that a reasonable person would accept in support of a conclusion.

4 (e) For purposes of this section, the term "public road" shall mean any road, street,
5 highway, thoroughfare, or other way of passage that is owned and maintained by a city or the
6 Department of Transportation."

7 **SECTION 13.** G.S. 160D-703 reads as rewritten:

8 **"§ 160D-703. Zoning districts.**

9 (a) Types of Zoning Districts. – A-Except as provided in subsection (a1) of this section,
10 a local government may divide its territorial jurisdiction into zoning districts of any number,
11 shape, and area deemed best suited to carry out the purposes of this Article. Within those districts,
12 it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of
13 buildings, structures, or land. ~~Zoning~~By illustration, zoning districts may include, but are not be
14 limited to, include any of the following:

15 (1) Conventional districts, in which a variety of uses are allowed as permitted uses
16 or uses by right and that may also include uses permitted only with a special
17 use permit.

18 (2) Conditional districts, in which site plans or individualized development
19 conditions are imposed.

20 (3) Form-based districts, or development form controls, that address the physical
21 form, mass, and density of structures, public spaces, and streetscapes.

22 (4) Overlay districts, in which different requirements are imposed on certain
23 properties within one or more underlying conventional, conditional, or
24 form-based districts.

25 (5) Districts allowed by charter.

26 (a1) Residential Zoning Districts Classified Based on Density. – A local government shall
27 classify residential zoning districts based on the number of dwelling units allowed per acre. A
28 local government shall not classify residential zoning districts based on the minimum lot size
29 allowed in the district.

30 (a2) Permitted Uses in Counties. – In areas zoned for residential use, a county zoning
31 regulation shall allow the following uses by right in an area with public sewer connections:

32 (1) In a county with a population of 49,999 or less, according to the most recent
33 decennial federal census, the siting of no fewer than four dwelling units per
34 acre.

35 (2) In a county with a population between 50,000 and 274,999, according to the
36 most recent decennial federal census, the siting of no fewer than five dwelling
37 units per acre.

38 (3) In a county with a population of 275,000 or more, according to the most recent
39 decennial federal census, the siting of no fewer than six dwelling units per
40 acre.

41 (a3) Permitted Uses in Cities. – A city zoning regulation shall allow the following uses by
42 right in an area with public sewer connections:

43 (1) In areas zoned for residential use in a city with a population of 19,999 or less,
44 according to the most recent decennial federal census, the siting of no fewer
45 than four dwelling units per acre.

46 (2) In areas zoned for residential use in a city with a population between 20,000
47 and 124,999, according to the most recent decennial federal census, the siting
48 of no fewer than five dwelling units per acre.

49 (3) In areas zoned for residential use in a city with a population of 125,000 or
50 more, according to the most recent decennial federal census, the siting of no

fewer than six dwelling units per acre. The minimum dwelling unit requirement may be met by duplexes, triplexes, and quadruplexes.

- (4) In areas zoned for non-agricultural commercial, business, or industrial use in a city with a population of 125,000 or more, according to the most recent decennial federal census, the siting of buildings and structures subject to the North Carolina Residential Code and multifamily housing structures with more than four residential dwelling units, with a maximum height restriction of not less than 60 feet.

(a4) Exemption from Local Design Standards and Buffer Yards. – In a city with a population of 125,000 or more, according to the most recent decennial federal census, buildings and structures subject to the North Carolina Residential Code and uses allowable under subdivision (3) or (4) of subsection (a3) of this section shall not be subject to either of the following:

- (1) Local design standards, except those adopted as a condition of participation in the National Flood Insurance Program.

- (2) Buffer yards or other landscape buffering regulations.

(a5) Applicability of Permitted Uses. – Subsections (a2) and (a3) of this section do not apply to land used for a bona fide farm purpose as described in G.S. 160D-903 or an open space land purpose as described in G.S. 160D-1307.

(b) Conditional Districts. – Property may be placed in a conditional district only in response to a petition by all owners of the property to be included. Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions approved by the local government and consented to by the petitioner in writing may be incorporated into the zoning regulations. ~~Unless consented to by the petitioner in writing, Notwithstanding any other provision of law, in the exercise of the authority granted by this section, a local government may not (i) require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise applicable law, regulations any condition, requirement, or deed restriction not specifically authorized by law, (ii) require, enforce, or incorporate into the zoning regulations any condition or requirement that the courts have held to be unenforceable if imposed directly by the local government, or (iii) accept any offer by the petitioner to consent to any condition not specifically authorized by law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. This subsection shall also apply to the approval of any site plan, development agreement, conditional zoning permit, or any other instrument under this Chapter.~~ Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to G.S. 160D-501, or the impacts reasonably expected to be generated by the development or use of the site. The zoning regulation may provide that defined minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments. If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved apply only to those properties whose owners petition for the modification.

(b1) Limitations. – For parcels where multifamily structures are an allowable use, a local government may not impose a harmony requirement for permit approval if the development

contains affordable housing units for families or individuals with incomes below eighty percent (80%) of the area median income.

(c) Uniformity Within Districts. – Except as authorized by the foregoing, all zoning regulations shall be uniform for each class or kind of building throughout each district but the zoning regulations in one district may differ from those in other districts.

(d) Standards Applicable Regardless of District. – A zoning regulation or unified development ordinance may also include development standards that apply uniformly jurisdiction-wide rather than being applicable only in particular zoning districts.

(e) Staff Approvals. – Development approvals for a development that is a permitted use in the zoning district where the development is located shall be made only by the designated staff member as described in G.S. 160D-402.

(f) Basis for Conditional District. – In exercising its authority under subsection (b) of this section, a local government shall support its determinations with facts and information, other than mere personal preferences or speculation, that a reasonable person would accept in support of a conclusion there is a rational and substantial relationship between the conditional district and the health, safety, and welfare of the public."

SECTION 14. Article 7 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-707. Review period for rezoning decisions.

Within 14 calendar days of the filing of an application for amendment of a zoning map or zoning regulations, a local government or its designated administrative staff, as described under G.S. 160D-402, shall (i) determine whether the application is complete and notify the applicant of the application's completeness and, (ii) if the local government or its designated administrative staff determines the application is incomplete, specify all the deficiencies in the notice to the applicant. The applicant may file an amended application or supplemental information to cure the deficiencies identified by the local government or its designated administrative staff for a completeness review, which shall be completed within 14 calendar days after receiving an amended application or supplemental application from the applicant. Upon the date the application is deemed complete, the local government or its designated administrative staff shall issue a receipt letter or electronic response stating that the application is complete and that a 90-calendar day review period has started as of that date. The local government shall approve or deny the application within 90 calendar days of the date the application was deemed complete by the local government or its designated administrative staff, except that if the applicant requests a continuance of the application, the review period shall be tolled for the duration of any continuance. The time period for review may be extended only by agreement with the applicant if the application cannot be reviewed within the specified time limitation due to circumstances beyond the control of the local government. The extension shall not exceed six months. Failure of the local government or its designated administrative staff to act before the expiration of the time period allowed for review shall constitute an approval of the application, and the local government shall issue a written approval upon demand by the applicant."

SECTION 15. G.S. 160D-803 reads as rewritten:

"§ 160D-803. Review process, filing, and recording of subdivision plats.

(a) Any subdivision regulation adopted pursuant to this Article shall contain provisions setting forth the procedures and standards to be followed in granting or denying approval of a subdivision plat prior to its registration.

(b) A subdivision regulation shall provide that the following agencies be given an opportunity to make recommendations concerning an individual subdivision plat before the plat is approved:

- (1) The district highway engineer as to proposed State streets, State highways, and related drainage systems.

(2) The county health director or local public utility, as appropriate, as to proposed water or sewerage systems.

(3) Any other agency or official designated by the governing board.

(c) The subdivision regulation ~~may shall~~ provide that final decisions on preliminary plats and final plats are administrative and to be made by any of the following:

(1) ~~The governing board.~~

(2) ~~The governing board on recommendation of a designated body.~~

(3) ~~A designated planning board, technical review committee of local government staff members, or other designated body or staff person.~~

~~If the final decision on a subdivision plat is administrative, the decision may be assigned to a staff person or committee comprised entirely of staff persons, and notice of the decision shall be as provided by G.S. 160D-403(b). If the final decision on a subdivision plat is quasi-judicial, the decision shall be assigned to the governing board, the planning board, the board of adjustment, or other board appointed pursuant to this Chapter, and the procedures set forth in G.S. 160D-406 shall apply.~~

(d) After the effective date that a subdivision regulation is adopted, no subdivision within a local government's planning and development regulation jurisdiction shall be filed or recorded until it shall have been submitted to and approved by the governing board or appropriate body, a staff person or committee comprised entirely of staff persons, as specified in the subdivision regulation, and until this approval shall have been entered on the face of the plat in writing by an authorized representative of the local government. Within 10 days after approving a preliminary or final plat, an authorized representative of the local government shall enter the approval on the face of the preliminary or final plat. The review officer, pursuant to G.S. 47-30.2, shall not certify a subdivision plat that has not been approved in accordance with these provisions nor shall the clerk of superior court order or direct the recording of a plat if the recording would be in conflict with this section.

(e) Notwithstanding G.S. 160D-403(c), once approval has been entered on the face of the plat in accordance with this section, the approval shall be valid and not expire unless the landowner applies for, and receives, a subsequent development approval."

SECTION 16. G.S. 160D-912 reads as rewritten:

"§ 160D-912. Outdoor advertising.

(a) As used in this section, the term "off-premises outdoor advertising" includes off-premises outdoor advertising signs visible from the main-traveled way of any road.

(b) A local government may require the removal of an off-premises outdoor advertising ~~sign that is nonconforming under a local ordinance not in compliance with a development regulation~~ and may regulate the use of off-premises outdoor advertising within its planning and development regulation jurisdiction in accordance with the applicable provisions of this Chapter and subject to G.S. 136-131.1 and G.S. 136-131.2.

(c) A local government shall give written notice of its intent to require removal of off-premises outdoor advertising not in compliance with a development regulation by sending a letter by certified mail to the last known address of the owner of the off-premises outdoor advertising and the owner of the property on which the off-premises outdoor advertising is located.

(d) No local government may enact or amend an ordinance of general applicability to require the removal of any ~~nonconforming~~, lawfully erected off-premises outdoor advertising ~~sign that is not in compliance with a development regulation~~ without the payment of monetary compensation to the owners of the off-premises outdoor advertising, except as provided below. The payment of monetary compensation is not required if:

(1) The local government and the owner of the ~~nonconforming~~ off-premises outdoor advertising enter into a relocation agreement pursuant to subsection (g) of this section.

- 1 (2) The local government and the owner of the ~~nonconforming~~ off-premises
2 outdoor advertising enter into an agreement pursuant to subsection (k) of this
3 section.
4 (3) The off-premises outdoor advertising is determined to be a public nuisance or
5 detrimental to the health or safety of the populace.
6 (4) The removal is required for opening, widening, extending, or improving
7 streets or sidewalks, or for establishing, extending, enlarging, or improving
8 any of the public enterprises listed in G.S. 160A-311, and the local
9 government allows the off-premises outdoor advertising to be relocated to a
10 comparable location.
11 (5) The off-premises outdoor advertising is subject to removal pursuant to
12 statutes, ordinances, or regulations generally applicable to the demolition or
13 removal of damaged structures.

14 (d1) ~~This subsection~~ Subsection (d) of this section shall be construed subject to and
15 without any reduction in the rights afforded to owners of off-premises outdoor advertising signs
16 along interstate and federal-aid primary highways in this State as provided in ~~Article 13 of~~
17 Chapter 136 of the General Statutes. Nothing in this section shall be construed to diminish the
18 rights given to owners or operators of nonconformities as set forth in G.S. 160D-108 and
19 G.S. 160D-108.2 or the rights of owners or operators of outdoor advertising signs in Article 11
20 of Chapter 136 of the General Statutes.

21 (e) Monetary compensation is the fair market value of the off-premises outdoor
22 advertising in place immediately prior to its removal and without consideration of the effect of
23 the ordinance or any diminution in value caused by the ordinance requiring its removal. Monetary
24 compensation shall be determined based on the following:

- 25 (1) The factors listed in G.S. 105-317.1(a).
26 (2) The listed property tax value of the property and any documents regarding
27 value submitted to the taxing authority.

28 (f) If the parties are unable to reach an agreement under subsection (e) of this section on
29 monetary compensation to be paid by the local government to the owner of the ~~nonconforming~~
30 off-premises outdoor advertising ~~sign~~ for its removal and the local government elects to proceed
31 with the removal of the ~~sign, off-premises outdoor advertising~~, the local government may bring
32 an action in superior court for a determination of the monetary compensation to be paid. In
33 determining monetary compensation, the court shall consider the factors set forth in subsection
34 (e) of this section. Upon payment of monetary compensation for the ~~sign, off-premises outdoor~~
35 advertising, the local government shall own the ~~sign, off-premises outdoor advertising~~.

36 (g) In lieu of paying monetary compensation, a local government may enter into an
37 agreement with the owner of a ~~nonconforming~~ off-premises outdoor advertising ~~sign~~ to relocate
38 and reconstruct the ~~sign, off-premises outdoor advertising~~. The agreement shall include the
39 following:

- 40 (1) Provision for relocation of the ~~sign, off-premises outdoor advertising~~ to a site
41 reasonably comparable to or better than the existing location. In determining
42 whether a location is comparable or better, the following factors shall be taken
43 into consideration:
44 a. The size and format of the ~~sign, off-premises outdoor advertising~~.
45 b. The characteristics of the proposed relocation site, including visibility,
46 traffic count, area demographics, zoning, and any uncompensated
47 differential in the ~~sign owner's cost to the owner of the off-premises~~
48 outdoor advertising to lease the replacement site.
49 c. The timing of the relocation.

(2) Provision for payment by the local government of the reasonable costs of relocating and reconstructing the ~~sign~~, off-premises outdoor advertising including the following:

- a. The actual cost of removing the ~~sign~~, off-premises outdoor advertising.
- b. The actual cost of any necessary repairs to the real property for damages caused in the removal of the ~~sign~~, off-premises outdoor advertising.
- c. The actual cost of installing the ~~sign~~, off-premises outdoor advertising at the new location.
- d. An amount of money equivalent to the income received from the lease of the ~~sign~~, off-premises outdoor advertising for a period of up to 30 days if income is lost during the relocation of the ~~sign~~, off-premises outdoor advertising.

(h) For the purposes of relocating and reconstructing a ~~nonconforming~~ ~~sign~~, off-premises outdoor advertising pursuant to subsection (g) of this section, a local government, consistent with the welfare and safety of the community as a whole, may adopt a resolution or adopt or modify its ordinances to provide for the issuance of a permit or other approval, including conditions as appropriate, or to provide for dimensional, spacing, setback, or use variances as it deems appropriate.

(i) If a local government has offered to enter into an agreement to relocate a ~~nonconforming~~ ~~sign~~, off-premises outdoor advertising pursuant to subsection (g) of this section and within 120 days after the initial notice by the local government the parties have not been able to agree that the site or sites offered by the local government for relocation of the ~~sign~~, off-premises outdoor advertising are reasonably comparable to or better than the existing site, the parties shall enter into binding arbitration to resolve their disagreements. Unless a different method of arbitration is agreed upon by the parties, the arbitration shall be conducted by a panel of three arbitrators. Each party shall select one arbitrator, and the two arbitrators chosen by the parties shall select the third member of the panel. The American Arbitration Association rules shall apply to the arbitration unless the parties agree otherwise.

(j) If the arbitration results in a determination that the site or sites offered by the local government for relocation of the ~~nonconforming~~ ~~sign~~, off-premises outdoor advertising are not comparable to or better than the existing site, and the local government elects to proceed with the removal of the ~~sign~~, off-premises outdoor advertising, the parties shall determine the monetary compensation under subsection (e) of this section to be paid to the owner of the ~~sign~~, off-premises outdoor advertising. If the parties are unable to reach an agreement regarding monetary compensation within 30 days of the receipt of the arbitrators' determination and the local government elects to proceed with the removal of the ~~sign~~, off-premises outdoor advertising then the local government may bring an action in superior court for a determination of the monetary compensation to be paid by the local government to the owner for the removal of the ~~sign~~, off-premises outdoor advertising. In determining monetary compensation, the court shall consider the factors set forth in subsection (e) of this section. Upon payment of monetary compensation for the ~~sign~~, off-premises outdoor advertising, the local government shall own the ~~sign~~, off-premises outdoor advertising.

(k) Notwithstanding the provisions of this section, a local government and an off-premises outdoor advertising ~~sign~~, owner may enter into a voluntary agreement allowing for the removal of the ~~sign~~, off-premises outdoor advertising after a set period of time in lieu of monetary compensation. A local government may adopt an ordinance or resolution providing for a relocation, reconstruction, or removal agreement.

(l) A local government has up to three years from the effective date of an ordinance enacted under this section to pay monetary compensation to the owner of the off-premises

1 outdoor advertising provided the affected ~~property off-premises outdoor advertising~~ remains in
2 place until the compensation is paid.

3 (m) This section does not apply to any ordinance in effect on July 1, 2004. A local
4 government may amend an ordinance in effect on July 1, 2004, to extend application of the
5 ordinance to off-premises outdoor advertising located in territory acquired by annexation or
6 located in the extraterritorial jurisdiction of the city. A local government may repeal or amend
7 an ordinance in effect on July 1, 2004, so long as the amendment to the existing ordinance does
8 not reduce the period of amortization in effect on June 19, 2020.

9 (n) The provisions of this section shall not be used to interpret, construe, alter, or
10 otherwise modify the exercise of the power of eminent domain by an entity pursuant to Chapter
11 40A or Chapter 136 of the General Statutes.

12 (o) Nothing in this section shall limit a local government's authority to use amortization
13 as a means of phasing out nonconforming uses other than off-premises outdoor advertising."

14 **SECTION 17.** G.S. 160D-912.1 reads as rewritten:

15 **"§ 160D-912.1. On-premises advertising.**

16 (a) As used in this section, the following definitions apply:

17 (1) Monetary compensation. – An amount equal to the sum of (i) the greater of
18 the fair market value of the ~~nonconforming on-premises advertising sign~~ that
19 is not in compliance with a development regulation in place immediately prior
20 to the removal or the diminution in value of the real estate resulting from the
21 removal of the on-premises advertising sign and (ii) the cost of a new
22 on-premises advertising sign that conforms to the local government's
23 development regulations.

24 (2) On-premises advertising sign. – A sign visible from any local or State road or
25 highway that advertises activities conducted on the property upon which it is
26 located or advertises the sale or lease of the property upon which it is located.

27 (3) Reconstruction. – Erecting or constructing anew, including any new or
28 modern instrumentalities, parts, or equipment that were allowed under the
29 local development rules in place at the time the on-premises advertising sign
30 was erected.

31 (b) Notwithstanding any local development regulation to the contrary, a lawfully erected
32 on-premises advertising sign may be relocated or reconstructed within the same parcel so long
33 as the square footage of the total advertising surface area is not increased, and the on-premises
34 advertising sign complies with the local development ~~rules-regulations~~ in place at the time the
35 on-premises advertising sign was erected. The construction work related to the relocation of the
36 lawfully erected on-premises advertising sign shall commence within two years after the date of
37 removal. The local government shall have the burden to prove that the on-premises advertising
38 sign was not lawfully erected.

39 (c) A local government may require the removal of a lawfully erected on-premises
40 advertising sign under a local development regulation only if the local government pays the
41 owner of the on-premises advertising sign monetary compensation for the removal. Upon
42 payment of monetary compensation, the local government shall own the on-premises advertising
43 sign and remove it in a timely manner.

44 (d) Nothing in this section shall be construed to diminish the rights given to owners or
45 operators of ~~nonconforming uses, including nonconforming structures, nonconformities~~ as set
46 forth in ~~G.S. 160D-108~~ G.S. 160D-108 and G.S. 160D-108.2 or the rights of owners or operators
47 of outdoor advertising signs in Article 11 of ~~Chapter 136~~ Chapter 136 of the General Statutes."

48 **SECTION 18.** G.S. 160D-944 reads as rewritten:

49 **"§ 160D-944. Designation of historic districts.**

50 (a) Any local government may, as part of a zoning regulation adopted pursuant to Article
51 7 of this Chapter or as a development regulation enacted or amended pursuant to Article 6 of this

Chapter, designate and from time to time amend one or more historic districts within the area subject to the development regulation. Historic districts established pursuant to this Part shall consist of areas that are deemed to be of special significance in terms of their history, prehistory, architecture, or culture and to possess integrity of design, setting, materials, feeling, and association.

A development regulation may treat historic districts either as a separate use district classification or as districts that overlay other zoning districts. Where historic districts are designated as separate use districts, the ~~zoning-development~~ regulation may include as uses by right or as special uses those uses found by the preservation commission to have existed during the period sought to be restored or preserved or to be compatible with the restoration or preservation of the district.

(b) No historic district or districts shall be designated under subsection (a) of this section until all of the following occur:

(1) An investigation and report describing the significance of the buildings, structures, features, sites, or surroundings included in the proposed district and a description of the boundaries of the district have been prepared.

(2) The Department of Natural and Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, has made an analysis of and recommendations concerning the report and description of proposed boundaries. Failure of the Department to submit its written analysis and recommendations to the governing board within 30 calendar days after a written request for the analysis has been received by the Department relieves the governing board of any responsibility for awaiting the analysis, and the governing board may at any subsequent time take any necessary action to adopt or amend its zoning regulation.

(3) Seventy-five percent (75%) of the property owners in the proposed district sign a petition requesting designation of the district.

(c) The governing board may also, in its discretion, refer the report and proposed boundaries under subsection (b) of this section to any local preservation commission or other interested body for its recommendations prior to taking action to amend the ~~zoning-development~~ regulation. With respect to any changes in the boundaries of a district, subsequent to its initial establishment, or the creation of additional districts within the jurisdiction, the investigative studies and reports required by subdivision (1) of subsection (b) of this section shall be prepared by the preservation commission and shall be referred to the planning board for its review and comment according to procedures set forth in the ~~zoning-development~~ regulation. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the Department of Natural and Cultural Resources in accordance with the provisions of subdivision (2) of subsection (b) of this section.

On receipt of these reports and recommendations, the local government may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate ~~zoning regulation~~. development regulation, except that the governing board shall unanimously approve the adoption of the district.

(d) G.S. 160D-914 applies to ~~zoning or other~~ development regulations pertaining to historic districts, and the authority under that statute for the ordinance to regulate the location or screening of solar collectors may encompass requiring the use of plantings or other measures to ensure that the use of solar collectors is not incongruous with the special character of the district."

SECTION 19. Article 9 of Chapter 160D of the General Statutes is amended by adding the following two new sections to read:

"§ 160D-974. Tiny houses in residential districts in certain cities.

(a) Tiny Housing in Residential Zones. – A city shall allow tiny housing in areas zoned for residential or mixed-use residential, including those that allow for the development of detached single-family dwellings.

(b) Regulation and Scope. – Nothing in this section affects the validity or enforceability of private covenants or other contractual agreements among property owners relating to dwelling type restrictions. Any development regulation adopted pursuant to this section shall not apply to an area designated as a local historic district (i) pursuant to Part 4 of this Article or (ii) on the National Register of Historic Places, unless approved by the local historic preservation authority. For septic systems, a city may require a new system or an upgrade to an existing system if it is determined that the existing system is incapable of handling increased capacity.

(c) Definitions. – As used in this section, the term "tiny housing" means a detached single-family dwelling unit that is no greater than 600 square feet, built to standards applicable to the North Carolina Residential Code, and is either constructed or mounted on a foundation and is connected to utilities. The term does not include a recreational vehicle or manufactured home that has not been affixed to real property.

(d) Applicability. – This section applies only to cities with a population of 125,000 or more, according to the most recent decennial federal census.

"§ 160D-975. Accessory dwelling units in certain cities.

(a) A city shall allow the development of at least one accessory dwelling unit which conforms to the North Carolina Residential Code, including applicable provisions from the North Carolina Fire Code, for each detached single-family dwelling that is greater than 600 square feet, in areas zoned for residential use that allow for development of detached single-family dwellings. An accessory dwelling unit may be built or sited concurrently with the primary dwelling or after the primary dwelling has been constructed or sited. Nothing in this section shall prohibit a local government from permitting accessory dwelling units in any area not otherwise required under this section.

(b) Development and permitting of an accessory dwelling unit shall not be subject to any of the following requirements:

(1) Owner-occupancy of any dwelling unit, including an accessory unit.

(2) Minimum parking requirements or other parking restrictions, including the imposition of additional parking requirements where an existing structure is converted for use as an accessory dwelling unit.

(3) Conditional use zoning.

(c) In permitting accessory dwelling units under this section, a city shall not do any of the following:

(1) Prohibit the connection of the accessory dwelling unit to existing utilities serving the primary dwelling unit.

(2) Charge any fee, other than a building permit fee, that exceeds the amount charged for any single-family dwelling unit similar in nature.

(d) Except as otherwise provided in this section, a city may regulate accessory dwelling units pursuant to this Chapter, provided that the development regulations do not act to discourage development or siting of accessory dwelling units through unreasonable costs or delay. Nothing in this section shall affect the validity or enforceability of private covenants or other contractual agreements among property owners relating to dwelling type restrictions.

(e) A city may impose a setback minimum for accessory dwelling units of 5 feet or the setback minimum imposed generally upon lots in the same zoning classification, whichever is less.

(f) For the purposes of this section, the term "accessory dwelling unit" means an attached or detached residential structure that is used in connection with or that is accessory to a primary single-family dwelling and that has less total square footage than the primary single-family dwelling.

(g) This section applies only to cities with a population of 125,000 or more, according to the most recent decennial federal census."

SECTION 20. G.S. 160D-1102(c) reads as rewritten:

"(c) No later than October 1 of 2023, 2024, and 2025, each year, every local government shall publish an annual financial report on how it used fees from the prior fiscal year for the support, administration, and implementation of its building code enforcement program as required by G.S. 160D-402(d). This report is in addition to any other financial report required by law."

SECTION 21. G.S. 160D-1110(d) is amended by adding a new subdivision to read:

"(3) Require more than a shell permit for the construction of a multifamily development. Upon the request of the permittee, the local government shall issue certificates of occupancy for individual units in a multifamily development permitted under a shell permit as the units meet the criteria for issuance of a certificate of occupancy. For purposes of this subdivision, "shell permit" means a permit that allows for the structural construction of a building but does not result in the issuance of a certificate of occupancy."

SECTION 22. G.S. 160D-1403 reads as rewritten:

"§ 160D-1403. Appeals of decisions on subdivision plats.

(a) ~~When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is quasi-judicial, then that decision of the board is subject to review by the superior court by a proceeding in the nature of certiorari. G.S. 160D-406 and this section apply to those appeals.~~

(b) ~~When a subdivision regulation adopted under this Chapter provides that the decision whether to approve or deny a preliminary or final subdivision plat is administrative, or for For any other administrative decision implementing a subdivision regulation, the following applies:~~

(1) ~~If made by the governing board or planning board, the decision is subject to review by filing an action in superior court seeking appropriate declaratory or equitable relief within 30 days from receipt of the written notice of the decision, which shall be made as provided in G.S. 160D-403(b).~~

(2) ~~If made by the staff or a staff committee, the decision is subject to appeal as provided in G.S. 160D-405.~~

(c) ~~For purposes of this section, a subdivision regulation is deemed to authorize a quasi-judicial decision if the decision-making entity under G.S. 160D-803(c) is authorized to decide whether to approve or deny the plat based not only upon whether the application complies with the specific requirements set forth in the regulation but also on whether the application complies with one or more generally stated standards requiring a discretionary decision to be made."~~

SECTION 23. G.S. 160D-1403.1 reads as rewritten:

"§ 160D-1403.1. Civil action for declaratory relief, injunctive relief, other remedies; joinder of complaint and petition for writ of certiorari in certain cases.

(a) Civil Action. – Except as otherwise provided in this section for claims involving questions of interpretation, in lieu of any remedies available under G.S. 160D-405 or G.S. 160D-108(h), a person with standing, as defined in subsection (b) of this section, may bring an original civil action seeking declaratory relief, injunctive relief, damages, or any other remedies provided by law or equity, in superior court or federal court to challenge the enforceability, validity, or effect of a ~~local land~~ development regulation or development approval for any of the following claims:

(1) ~~The ordinance, development regulation,~~ either on its face or as applied, is unconstitutional.

(2) The ~~ordinance, development regulation~~, either on its face or as applied, is ultra vires, preempted, arbitrary or capricious, or is otherwise in excess of statutory authority.

(3) The ~~ordinance, development regulation~~, either on its face or as applied, constitutes a taking of property.

(4) The development approval is ultra vires, preempted, in excess of its statutory authority, made upon unlawful procedure, made in error of law, arbitrary and capricious, or an abuse of discretion.

(a1) Appeals of Administrative Decisions. – If the ~~decision~~ development approval being challenged under subsection (a) of this section is from an administrative official charged with enforcement of a ~~local land~~ development regulation, the party with standing must first bring any claim that the ~~ordinance-development regulation~~ was erroneously interpreted to the applicable board of adjustment pursuant to G.S. 160D-405. An adverse ruling from the board of adjustment may then be challenged in an action brought pursuant to this subsection with the court hearing the matter de novo together with any of the claims listed in this subsection.

(b) Standing. – Any of the following criteria provide standing to bring an action under this section:

(1) The person has an ownership, leasehold, or easement interest in, or possesses an option or contract to purchase the property that is the subject matter of a final and binding decision made by an administrative official charged with applying or enforcing a ~~land~~ development regulation.

(2) The person was a development permit applicant before the decision-making board whose decision is being challenged.

(3) The person was a development permit applicant who is aggrieved by a final and binding decision of an administrative official charged with applying or enforcing a ~~land~~ development regulation.

(4) An association, organization, society, or entity whose membership is comprised of an individual or entity identified in subdivision (2) or (3) of this subsection.

...

(g) Definitions. – The ~~definitions~~ definition of "development permit" in G.S. 143-755 shall apply in this section."

SECTION 24. Article 14 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-1403.3. Private remedies.

In addition to any other remedy otherwise provided by law, any person with standing under G.S. 160D-1403.1(b) may bring a civil action to enforce the provisions of this Chapter and recover damages, costs, and disbursements, including costs of investigation and reasonable attorneys' fees, and receive other equitable relief as determined by the court."

SECTION 25.(a) Article 14 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-1406. Civil liability in certain instances.

(a) In addition to any other remedy available, actual damages resulting from any development decision, or lack thereof, may be recovered by civil action naming a member or members of the decision-making board individually. A civil action under this section may be instituted by any person with standing as described in G.S. 160D-1402(c) to recover civil damages from any member or members of the decision-making board who did any of the following with respect to the development decision:

(1) Engaged in impermissible violations of due process.

(2) Considered evidence or other material gained outside of an evidentiary hearing when making a quasi-judicial decision.

(3) Acted maliciously, arbitrarily and capriciously, or unlawfully.

(4) Acted grossly negligent or wrongfully.

(b) If a court determines that a member of a decision-making board is liable under subsection (a) of this section, the court may also award punitive damages.

(c) Notwithstanding the common law of legislative privilege and legislative immunity, a court may compel disclosure of information if, in the presiding judge's opinion, the disclosure is necessary to a proper administration of justice.

(d) Attorneys' fees and costs shall be awarded in accordance with G.S. 6-21.7."

SECTION 25.(b) G.S. 6-21.7 reads as rewritten:

"§ 6-21.7. Attorneys' fees; cities or counties acting outside the scope of their authority.

(a) In any action in which a city or county is a party, upon a finding by the court that the city or county violated a statute or case law setting forth unambiguous limits on its authority, the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the city's or county's action. In any action in which a member of a decision-making board under Chapter 160D of the General Statutes is found to be liable under G.S. 160D-1406, the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the acts of the member of a decision-making board under Chapter 160D of the General Statutes.

(b) In any action in which a city or county is a party, upon finding by the court that the city or county took action inconsistent with, or in violation of, G.S. 160D-108(b) or G.S. 143-755, the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the local government's failure to comply with any of those provisions.

(c) In all other ~~matters~~, matters not covered by subsection (a) or (b) of this section, the court may award reasonable attorneys' fees and costs to the prevailing private litigant.

(d) For purposes of this section, "unambiguous" means that the limits of authority are not reasonably susceptible to multiple constructions."

SECTION 26. G.S. 63-31(e) reads as rewritten:

"(e) All airport zoning regulations adopted under this Article shall be reasonable, and none shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any ~~nonconforming use~~, nonconformity as defined in G.S. 160D-102 except as provided in G.S. 63-32, subsection (a)."

SECTION 27. G.S. 63-36 reads as rewritten:

"§ 63-36. Acquisition of air rights.

(a) In any case in which:

(1) It is desired to remove, lower, or otherwise terminate a ~~nonconforming use~~; nonconformity; or

(2) The approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this Article; or

(3) It appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations,

the political subdivision within which the property or ~~nonconforming use~~ nonconformity is located or the political subdivision owning the airport or served by it may acquire, in the manner provided by the law under which municipalities are authorized to acquire real property for public purposes, such an air right, easement, or other estate or interest in the property or ~~nonconforming use~~ nonconformity in question as may be necessary to effectuate the purposes of this Article.

(b) If any political subdivision, or if any board or administrative agency appointed or selected by a political subdivision, shall adopt, administer or enforce any airport zoning regulations which results in the taking of, or in any other injury or damage to any existing structure, such political subdivision shall be liable therefor in damages to the owner or owners of any such property and the liability of the political subdivision shall include any expense which the owners of such property are required to incur in complying with any such zoning regulations.

(c) For purposes of this section, "nonconformity" shall have the same meaning as in G.S. 160D-102."

SECTION 28.(a) G.S. 120-36.7 is amended by adding a new subsection to read:

"(e) Proposed Increases Affecting Home Affordability. – Every bill and resolution introduced in the General Assembly proposing any change in the law that could cause a net increase in the cost of constructing, purchasing, owning, or selling a building or structure subject to the North Carolina Residential Code, either directly or indirectly, shall have attached to it at the time of its consideration by the General Assembly a fiscal note prepared by the Fiscal Research Division. The fiscal note shall identify and estimate, for the first five fiscal years the proposed change would be in effect, all anticipated effects on costs of the proposed change. The fiscal note shall be prepared on the basis of a median priced single-family residence and may include an estimate for a larger development as an analysis of the long-range effect of a measure. If, after careful investigation, the Fiscal Research Division determines that no dollar estimate is possible, the note shall contain a statement to that effect, setting forth the reasons why no dollar estimate can be given. No comment or opinion shall be included in the fiscal note with regard to the merits of the measure for which the note is prepared. However, technical and mechanical defects may be noted.

The sponsor of each bill or resolution to which this subsection applies shall present a copy of the bill or resolution with the request for a fiscal note to the Fiscal Research Division. Upon receipt of the request and the copy of the bill or resolution, the Fiscal Research Division shall prepare the fiscal note as promptly as possible. The Fiscal Research Division shall prepare the fiscal note and transmit it to the sponsor within two weeks after the request is made, unless the sponsor agrees to an extension of time.

This fiscal note shall be attached to the original of each proposed bill or resolution that is reported favorably by any committee of the General Assembly but shall be separate from the bill or resolution and shall be clearly designated as a fiscal note. A fiscal note attached to a bill or resolution pursuant to this subsection is not a part of the bill or resolution and is not an expression of legislative intent proposed by the bill or resolution.

If a committee of the General Assembly reports favorably a proposed bill or resolution with an amendment that proposes a change in the law that could cause a net increase in the cost of constructing, purchasing, owning, or selling a building or structure subject to the North Carolina Residential Code, either directly or indirectly, the chair of the committee shall obtain from the Fiscal Research Division and attach to the amended bill or resolution a fiscal note as provided in this section."

SECTION 28.(b) Article 3 of Chapter 159 of the General Statutes is amended by adding a new section to read:

"§ 159-42.2. Fiscal note required for ordinances affecting housing affordability.

(a) Prior to adopting, amending, or repealing an ordinance that could cause a net increase in the cost of constructing, purchasing, owning, or selling a building or structure subject to the North Carolina Residential Code, either directly or indirectly, the governing body of a county or city shall have a fiscal note prepared by its planning department or another department designated by the governing body. The fiscal note shall be submitted to the governing body at least five days prior to the meeting at which the ordinance is to be introduced and shall be made available to the public at that meeting. For purposes of this section, the term "introduced" has the same meaning as in G.S. 160A-75(c). In preparing the fiscal note, the planning department or other department may consult with relevant trade organizations representing the real estate or home building industries. The fiscal note shall identify and estimate, for the first five fiscal years the ordinance, or the amendment or repeal thereof, would be in effect, all anticipated effects on costs of the proposed change. The fiscal note shall be prepared on the basis of a median priced single-family residence and may include an estimate for a larger development as an analysis of the long-range effect of a measure. If, after careful investigation, the planning or other department determines

that no dollar estimate is possible, the fiscal note shall contain a statement to that effect, setting forth the reasons why no dollar estimate can be given. No comment or opinion shall be included in the fiscal note with regard to the merits of the measure for which the note is prepared. However, technical and mechanical defects may be noted.

(b) Any resident of the county or city may bring a civil action in the superior court of the county for failure of the governing body to have a fiscal note prepared as required by this section or for failure to prepare an accurate or sufficient fiscal note. If the court determines the governing body failed to have a fiscal note prepared as required by this section or failed to prepare an accurate or sufficient fiscal note, the court shall order that a fiscal note be prepared. The court shall have authority to determine the sufficiency of a fiscal note."

SECTION 29. Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-343.5. Wastewater systems for property within service area of a public or community wastewater system.

(a) Notwithstanding G.S. 130A-55(16), 153A-284, 160A-317, 162A-6(a)(14d), and 162A-14(2), a property owner may install a wastewater system in accordance with this Article to serve any undeveloped or unimproved property located so as to be served by a public or community wastewater system.

(b) Notwithstanding G.S. 130A-55(16), 153A-284, 160A-317, 162A-6(a)(14d), and 162A-14(2), a property owner of developed or improved property located so as to be served by a public or community wastewater system may install a wastewater system in accordance with this Article if the public or community wastewater system has not yet installed sewer lines directly available to the property or otherwise cannot provide wastewater service to the property at the time the property owner desires wastewater service.

(c) Upon compliance with this Article, the property owner installing a wastewater system pursuant to subsection (a) or (b) of this section shall not be required to connect to the public or community wastewater system for so long as the wastewater system installed in accordance with this Article remains compliant and in use. A property owner may opt to connect to the public or community wastewater system if the property owner so desires.

(d) Nothing in this section shall require a property owner to install a wastewater system in accordance with this Article if the property is located so as to be served by a public or community wastewater system and the public or community wastewater system is willing to provide wastewater service to the property.

(e) This section shall not apply, and a public or community wastewater system may mandate connection to that public or community wastewater system, in any of the following situations:

- (1) The wastewater system in accordance with this Article serving the property has failed and cannot be repaired.
- (2) The public authority or unit of government operating the public water system is being assisted by the Local Government Commission.
- (3) The public authority or unit of government operating the public or community wastewater system is in the process of expanding or repairing the public or community wastewater system and is actively making progress to having wastewater lines installed and directly available to provide wastewater service to that property within the 24 months of the time the property owner applies for a permit under this Article."

SECTION 30. G.S. 136-102.6 is amended by adding a new subsection to read:

"(c1) Notwithstanding anything to the contrary in this section, the Division of Highways shall accept a performance guarantee as provided under G.S. 160D-804.1 to ensure completion of streets that are required by a development regulation under Chapter 160D of the General

Statutes. On receipt of the performance guarantee, the Division of Highways shall issue a certificate of approval to the municipality or county as to those streets."

SECTION 31. G.S. 136-131.5(c) reads as rewritten:

"(c) A nonconforming sign ~~not conforming to State standards~~ shall not be relocated pursuant to this section unless the ~~nonconformity is removed~~ nonconforming sign is brought into conformity with State law, rules, and regulations as part of the relocation."

SECTION 32. The catch line of G.S. 136-131 reads as rewritten:

"§ 136-131. Removal of certain existing nonconforming advertising signs."

SECTION 33. G.S. 136-133.1(d) reads as rewritten:

"(d) Except as provided in subsection (e) of this section, trees existing at the time the outdoor advertising sign was erected may only be removed within the zone created in subsection (a) of this section if the applicant satisfies one of the following two options selected by the applicant: (i) reimbursement to the Department pursuant to G.S. 136-93.2 or (ii) trees that existed at the time of the erection of the outdoor advertising sign may be removed if the applicant agrees to remove two nonconforming ~~outdoor advertising signs~~ for each outdoor advertising sign at which removal of existing trees is requested. The surrendered nonconforming signs must be fully disassembled before any removal of existing trees is permitted and shall not be eligible for future outdoor advertising permits in perpetuity."

SECTION 34. G.S. 160A-31(h) reads as rewritten:

"(h) A city council which receives a petition for annexation under this section may by ordinance require that the petitioners file a signed statement declaring whether or not vested rights with respect to the properties subject to the petition have been established under ~~G.S. 160D-108 or G.S. 160D-108.1. G.S. 160D-108, 160D-108.1, or 160D-108.2.~~ If the statement declares that such rights have been established, the city may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established under ~~G.S. 160D-108 or G.S. 160D-108.1. G.S. 160D-108, 160D-108.1, or 160D-108.2~~ shall be binding on the landowner and any such vested right shall be terminated."

SECTION 35. G.S. 160A-58.1(d) reads as rewritten:

"(d) A city council which receives a petition for annexation under this section may by ordinance require that the petitioners file a signed statement declaring whether or not vested rights with respect to the properties subject to the petition have been established under ~~G.S. 160D-108 or G.S. 160D-108.1. G.S. 160D-108, 160D-108.1, or 160D-108.2.~~ If the statement declares that such rights have been established, the city may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established under ~~G.S. 160D-108 or G.S. 160D-108.1. G.S. 160D-108, 160D-108.1, or 160D-108.2~~ shall be binding on the landowner and any such vested rights shall be terminated."

SECTION 36. G.S. 160A-307 reads as rewritten:

"§ 160A-307. Curb cut regulations.

(a) ~~A-Except as expressly permitted by Chapter 160D of the General Statutes, a city may not regulate by ordinance regulate~~ the size, location, direction of traffic flow, and manner of construction of driveway connections into any street or alley. ~~The-To the extent allowed by Chapter 160D of the General Statutes, the~~ ordinance may require the construction or reimbursement of the cost of construction and public dedication of medians, acceleration and deceleration lanes, and traffic storage lanes for driveway connections into any street or alley if all of the following apply:

- (1) The city has shown through substantial evidence the need for such-the improvements is reasonably attributable to the traffic using the driveway.
- (2) The city has shown through substantial evidence the improvements serve the traffic of the driveway.

(b) No street or alley under the control of the Department of Transportation may be improved without the consent of the Department of Transportation. A city shall not require the

applicant to acquire right-of-way from property not owned by the applicant. However, an applicant may voluntarily agree to acquire such right-of-way.

(c) For purposes of this section, "substantial evidence" means facts and information, other than mere personal preferences or speculation, that a reasonable person would accept in support of a conclusion."

SECTION 37.(a) Chapter 162A of the General Statutes is amended by adding a new Article to read:

"Article 12.

"Water and Sewer Allocation.

"§ 162A-1000. Short title and purpose.

(a) This Article shall be known and may be cited as the "Water and Sewer Capacity Allocation and Planning Act."

(b) The purpose of this Article is to require all public water and sewer service providers to plan for future growth and allocate water and wastewater system capacity in a fair, transparent, and accountable manner. This act will ensure that sufficient water supply and wastewater treatment capacity is available for anticipated development and that capacity is allocated without discrimination or abuse.

"§ 162A-1001. Definitions.

For the purposes of this Article, the following definitions apply:

- (1) Allocation or capacity allocation. – A reservation of a specific quantity of water or sewer capacity for a particular project.
- (2) Applicant. – Any person, business, developer, property owner, or entity that has received preliminary or final site plan approval, as defined under G.S. 160D-102(29), for a project and submits an application for allocation for a new development or expansion of an existing development to a public water or sewer provider.
- (3) Approved applicant. – An applicant whose application for allocation has been approved.
- (4) Available capacity. – The portion of a facility's capacity that is not currently being used by existing customers and is not already reserved by prior allocations. Available capacity is determined by establishing a facility's capacity minus the sum of current actual usage and any outstanding allocations for projects in their reservation period.
- (5) Capacity or system capacity. – The actual capacity of a facility. For wastewater systems, actual capacity refers to hydraulic capacity, meaning the maximum volume of wastewater that can be collected, conveyed, and treated under the facility's permit limits without violation. For water systems, actual capacity refers to the actual available water supply, meaning the reliable quantity of water that can be treated and delivered, accounting for permitted withdrawal limits and treatment plant output, wells, or other sources, including any contractual or bulk supply capacity available to the local governmental unit.
- (6) Department. – The Department of Environmental Quality.
- (7) Facility. – As defined in G.S. 162A-201(4).
- (8) Local governmental unit. – As defined in G.S. 162A-201(5) and any third-party persons who own or operate a facility on behalf of a local governmental unit.
- (9) Project. – A development, as defined by G.S. 160D-102(12), for which water or sewer service is requested. This includes new developments, and expansion or additions to existing developments, that require new or additional water or sewer service.

- (10) Substantial expenditure. – A significant or considerable outlay of money, resources, or financial investment, viewed in light of the stage in which the project exists, that is not merely nominal or trivial.

"§ 162A-1002. Allocation process.

(a) Allocation Request. – A local governmental unit shall approve capacity allocation requests in accordance with this Article. Once approved, a capacity allocation guarantees the local governmental unit shall provide water service or sewer service for that project up to the approved allocation amount.

(b) Form of Application. – A local governmental unit may request only the following information from an applicant, and may not require any other information that is not necessary for the local governmental unit to determine whether it has available capacity to serve the project:

- (1) The name, address, and other relevant contact information of the applicant.
- (2) Documentation evidencing that the applicant has received preliminary or final approval for a site plan, as defined under G.S. 160D-102(29), for the project.
- (3) The amount of capacity allocation requested in gallons per day or other similarly objective measurement.
- (4) The anticipated date the project will begin utilizing the capacity allocation.

(c) Approval of Allocation Request. – Not later than 10 days after receiving an application for allocation, a local governmental unit shall approve the allocation if available capacity exists and the application is complete. Upon approving the allocation, the local governmental unit shall provide the applicant with written documentation specifying (i) the allocation reserved, (ii) the amount of allocation reserved, (iii) the project for which the allocation has been reserved, (iv) the date of the allocation approval, and (v) the date the reservation period expires. The local governmental unit shall approve or deny applications for allocation according to the following process:

- (1) The local governmental unit shall approve the total allocation requested by the applicant unless the request for allocation exceeds the local governmental unit's available capacity, in which case the local governmental unit shall, within 10 days after receiving the application for allocation, offer to provide the applicant with allocation equivalent to the available capacity, if any. The local governmental unit shall reserve the reduced allocation for a project under this subsection provided the applicant agrees, in writing, to the reduced allocation.
- (2) Except as expressly provided in this section, a local governmental unit may not deny, reduce, or otherwise modify the amount of an allocation requested through an application if available capacity exists sufficient to accommodate an application's allocation request.
- (3) A local governmental unit shall not require an applicant to agree to any condition not otherwise authorized by this section, or to accept any offer by the applicant to consent to any condition not otherwise authorized by law. These conditions include, without limitation, any of the following:
 - a. Payment of taxes, impact fees, or other fees or contributions to any fund.
 - b. Adherence to any restrictions related to development regulations under Chapter 160D of the General Statutes, including those within the scope of G.S. 160D-702(c).
 - c. Adherence to any restriction related to building design elements within the scope of G.S. 160D-702(b).
- (4) A local governmental unit shall not implement a scoring or preference system to allocate water service or sewer service among applicants, except as specifically authorized by this section.

(d) Reservation Period. – The initial reservation period shall be for 24 months after the date the allocation is approved. A local governmental unit shall extend the initial reservation period or extension reservation period for an additional 12 months provided (i) the applicant notifies the local governmental unit that it requires an extension of the initial reservation period or extension reservation period not later than 90 days prior to the expiration of the initial reservation period or extension reservation period and, (ii) concurrent with its notification, the applicant provides the local governmental unit with documentation demonstrating that the applicant has made substantial expenditure towards the completion of the project or the applicant provides documentation of a valid building permit.

(e) Allocations Approved in Chronological Order. – Except for requests to reserve capacity in accordance with G.S. 115C-521 and under subsection (k) of this section, allocations shall be granted in the chronological order that completed applications are received by the local governmental unit.

(f) Denial of Allocation Request. – A local governmental unit shall deny an application for allocation, within 10 days after receiving an application for allocation, only if one of the following applies:

- (1) The applicant cannot demonstrate approval of a preliminary or final site plan, as defined in G.S. 160D-102(29).
- (2) The local governmental unit does not have any available capacity.
- (3) The applicant has rejected, in writing, the local governmental unit's offer to provide allocation equivalent to its available capacity as provided in subdivision (1) of subsection (c) of this section, if any.

(g) Modification of Allocation. – In the event an approved applicant determines that the allocation necessary to serve the project increases or decreases by more than ten percent (10%) of the approved allocation, the approved applicant shall immediately notify the local governmental unit, and the following shall apply:

- (1) If the allocation approved by the local governmental unit decreases by more than ten percent (10%), the local governmental unit shall adjust its available capacity accordingly and the local governmental unit shall honor the approved allocation, less the decrease in necessary allocation.
- (2) If the allocation approved by the provider increases by more than ten percent (10%), the local governmental unit shall increase the allocation provided available capacity exists. In the event available capacity does not exist, the local governmental unit shall notify the approved applicant that the local governmental unit does not have available capacity and extend an offer to the approved applicant to increase the allocation in an amount equivalent to the available capacity. If the approved applicant determines that the existing allocation or the offer by the local governmental unit to increase the allocation in an amount equivalent to the local governmental unit's available capacity does not meet the needs of the project, the approved applicant shall immediately notify the local governmental unit that it intends to terminate the allocation.
- (3) In the event the allocation is terminated by the applicant, the provider shall adjust its available capacity accordingly.

(h) Expiration or Termination of Allocation. – Upon expiration or termination of allocation, including allocations that are not used in full, the local governmental unit shall return the expired, terminated, or unused capacity to its available capacity balance. Upon a return of the expired, terminated, or unused capacity to the local governmental unit's available capacity balance, the local governmental unit shall recalculate its available capacity and shall make it available to future applicants for allocation.

(i) Vested Right. – Allocation approved under this section shall be deemed a vested element of the project for the duration of the reservation period. The vested right to allocation during the reservation period shall be in addition to any other vested rights the project may have by law and shall run with the land for the benefit of the project. During the vesting period, the local governmental unit may not revoke or reduce the allocation except by request of the applicant or as described in this section.

(j) Transferability of Allocation. – Allocation shall be provided to the project described in the application. An approved applicant may not transfer an unused allocation to a different project. If the project for which an allocation has been reserved is sold or the development rights are assigned to a successor in interest, the allocation shall transfer to the successor in interest and the allocation and reservation period shall be honored and may not be terminated or revoked by the local governmental unit. In the event the project for which the allocation was reserved is sold or transferred to a successor in interest, the approved applicant shall immediately notify the local governmental unit of the sale or transfer.

(k) Emergency Allocations. – Notwithstanding any other provision of this section, a local governmental unit shall provide priority in allocation to applications demonstrating a substantial threat to public health, safety, or welfare that can be mitigated only by the immediate provision of water service or sewer service. An applicant seeking an emergency allocation must present competent evidence to the local governmental unit of the risk to the public health, safety, or welfare. Upon verifying that the application constitutes an emergency, the local governmental unit shall approve allocation in the minimum amount necessary to abate the emergency on a priority basis.

(l) Use of Allocation. – A local governmental unit shall not unreasonably delay an approved applicant's ability to connect the approved applicant's project to the local governmental unit's infrastructure. A local governmental unit shall begin providing water service or sewer service to an approved applicant within 90 days after receiving a request from the approved applicant to begin providing water service or sewer service, provided (i) the project is connected to the local governmental unit's infrastructure and (ii) the request is made within the reservation period described in subsection (d) of this section.

"§ 162A-1003. Planning and reporting.

(a) Each local governmental unit shall prepare an annual report not later than October 1 of each year documenting facility capacity and available capacity. The report shall include, at a minimum, all of the following information for each facility of the local governmental unit:

- (1) The current system capacity.
- (2) The current available capacity.
- (3) The amount of capacity allocated to approved developments or projects not yet connected to the local governmental unit's infrastructure.
- (4) The remaining available capacity for new allocations.
- (5) Any changes in capacity since the last report.
- (6) Any planned improvements or expansions and the expected impact on capacity.
- (7) The current actual usage of the facility, including average daily demand and peak daily demand over the year immediately preceding the preparation of the report.
- (8) If the local governmental unit receives State or federal funding for water or sewer infrastructure, a description of efforts to expand capacity to meet growth, including progress on any State-funded projects.

(b) The Department shall make the annual reports available to the public. Each local governmental unit shall also post the annual report on the website of that local governmental unit, if any.

"§ 162A-1004. Enforcement and remedies.

1 (a) State Enforcement Authority. – If the Department finds that a local governmental unit
2 has violated any requirement of this Article, the Department may take appropriate preventive or
3 remedial enforcement action authorized by Part 1 of Article 21 of Chapter 143 of the General
4 Statutes.

5 (b) Civil Penalties. – A local governmental unit that fails to comply with the provisions
6 of this Article or willfully fails to administer or enforce the provisions of this Article shall be
7 subject to a civil penalty pursuant to G.S. 143-215.6A(e).

8 (c) Judicial Review. – Any applicant whose application was denied by a local
9 governmental unit, or who is otherwise aggrieved or injured by the action of a local governmental
10 unit, may file an action in the superior court of the county where the local governmental unit is
11 located or where the project is located. In any civil action brought under this section, the court
12 may award reasonable attorneys' fees to a prevailing plaintiff who brought the action."

13 **SECTION 37.(b)** G.S. 162A-900, as enacted by S.L. 2024-45 and S.L. 2024-49, is
14 repealed.

15 **SECTION 37.(c)** For applicants that, on or after July 1, 2020, received a service
16 commitment from a public water system, public sewer system, or public water and sewer system
17 confirming availability of capacity for the applicant's development project, but whose capacity
18 needs have not been provided, the system shall reserve, allocate, and provide those applicants
19 with the capacity assured in the system's service commitment in the chronological order that the
20 service commitment was issued before the system reserves, allocates, or provides capacity to
21 another applicant.

22 **SECTION 37.(d)** The annual report required by G.S. 162A-1003, as enacted by this
23 act, shall be due October 1, 2026.

24 **SECTION 38.** If any provision of this act or the application thereof to any person or
25 circumstances is held invalid, such invalidity shall not affect other provisions or applications of
26 this act that can be given effect without the invalid provision or application and, to this end, the
27 provisions of this act are declared to be severable.

28 **SECTION 39.** Except as otherwise provided, this act becomes effective October 1,
29 2025, and applies to applications, approvals, and actions filed on or after that date. Any local
30 government ordinance in effect on, or adopted subsequent to, October 1, 2025, that is inconsistent
31 with this section is void and unenforceable.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025**

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2

**HOUSE BILL 627
Committee Substitute Favorable 4/29/25**

Short Title: Regulation of Accessory Dwelling Units.

(Public)

Sponsors:

Referred to:

April 2, 2025

A BILL TO BE ENTITLED
AN ACT TO INCREASE AFFORDABLE HOUSING BY ALLOWING FOR THE
CONSTRUCTION OR SITING OF ACCESSORY DWELLING UNITS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Part 1 of Article 9 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"§ 160D-917. Accessory dwelling units.

(a) A local government shall allow the development of at least one accessory dwelling unit which conforms to the North Carolina Residential Code for One- and Two-Family Dwellings, including applicable provisions from fire prevention codes, for each single-family detached dwelling in areas zoned for residential use that allow for development of single-family detached dwellings. An accessory dwelling unit may be built or sited concurrently or after the primary single-family detached dwelling has been constructed or sited. Nothing in this section shall prohibit a local government from permitting accessory dwelling units in any area not otherwise required under this section.

(b) In permitting accessory dwelling units under this section, a local government shall not do any of the following:

- (1) Prohibit the use of the primary single-family detached dwelling and the accessory dwelling for long-term rentals by separate households.
- (2) Require placement in a conditional zoning district.
- (3) Establish minimum parking requirements or other parking restrictions, including imposition of additional parking requirements where an existing structure is converted for use as an accessory dwelling unit.
- (4) Prohibit the connection of the accessory dwelling unit to existing utilities systems serving the primary single-family detached dwelling, provided the utility service to that primary single-family detached dwelling has capacity to serve both dwellings.
- (5) Charge any fees in excess of those charged for the permitting of a single-family detached dwelling similar in nature.
- (6) Set a maximum accessory dwelling unit size of less than 800 square feet.

(c) A local government may do any of the following:

- (1) Impose a setback minimum for accessory dwelling units of 10 feet or the setback minimum imposed generally upon lots in the same zoning classification, whichever is less.
- (2) Require that accessory dwelling units be located to the side or rear of the primary single-family detached dwelling.



1 (3) Require that accessory dwelling units be smaller than the primary
2 single-family detached dwelling.

3 (d) Except as otherwise provided in this section, a local government may regulate
4 accessory dwelling units pursuant to this Chapter and nothing in this section shall be construed
5 to impair the authority of a local government to adopt and enforce ordinances pursuant to Part 2
6 of this Article to comply with State and federal law, rules, and regulations, or permits consistent
7 with the interpretations and directions of the State or federal agency issuing the permit.

8 (e) Nothing in this section shall apply to any of the following:

9 (1) The validity or enforceability of private covenants or other contractual
10 agreements among property owners related to dwelling type restrictions.

11 (2) Properties located in a historic preservation district established pursuant to
12 Part 4 of this Article.

13 (3) Properties designated as a National Historic Landmark by the United States
14 Department of Interior.

15 (4) An accessory dwelling unit that is not connected to water, well and septic, and
16 sewer.

17 (f) For the purposes of this section, the term "accessory dwelling unit" means an attached
18 or detached residential structure that is used in connection with, or that is an accessory to, a
19 primary single-family detached dwelling and that has less total square footage than the primary
20 single-family detached dwelling."

21 **SECTION 1.(b)** This section becomes effective October 1, 2025, and applies to
22 applications for accessory dwelling unit permits submitted on or after that date.

23 **SECTION 1.(c)** A local government that has enacted an ordinance that meets the
24 requirements of this act and G.S. 160D-917, as enacted by this act, is not required to adopt a new
25 ordinance.

26 **SECTION 2.** Local governments shall adopt development regulations to implement
27 the provisions in this act no later than January 1, 2027. If a local government fails to adopt
28 development regulations as required by this act by January 1, 2027, accessory dwelling units
29 shall be allowed in that local government without any limitations.

30 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
31 law.