



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

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

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

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

**PITTS CENTER**

**Tuesday, February 01, 2022 at 5:30 PM**

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## **MINUTES**

### **Call Meeting to Order**

Pledge of Allegiance

Moment of Silence

### **PRESENT**

Mayor Elizabeth Morey

Mayor pro tem Matt Neal

Council Member Leo Holland

Council Member Paula Sherlock

Council Member Mark Batenic

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

**Motion** made by Council Member Sherlock to approve the agenda with an amendment to include a Mid Currituck Bridge update under new business, Seconded by Council Member Batenic. The motion to approve the agenda with amendment passed unanimously (5-0).

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

### **Consent Agenda**

**Motion** made by Council Member Holland to approve the consent agenda as presented, Seconded by Council Member Sherlock. The motion passed unanimously (5-0).

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

1. Approval of Minutes-January 4, 2022 and January 18, 2022

### **Presentations**

2. Ceremonial Swearing in of New Council Member- Mark Batenic  
Town Clerk Sheila Kane swore in new Council Member Mark Batenic. Mr. Batenic was appointed by Council on January 18, 2022 to fill the council vacancy seat and officially sworn in on January 19, 2022.

### **Staff Reports**

Deputy Town Manager/Planning Director Wes Haskett presented the Planning Department's monthly report. The Planning Board will be meeting on February 18 and may consider amendments to Chapter 26 Solid Waste, the wireless ordinance, and 160D zoning text.

Police Chief David Kole presented his department's monthly report, followed by an awareness report from the Federal Bureau of Investigations which graphed officers killed in the line of duty.

Fire Chief Ed Limbacher presented both the monthly and annual fire department report.

Town Manager Ogburn presented an update on beach nourishment.

- The proposed 2022 construction services for the northern Dare County beach nourishment projects. The contract is broken into six tasks:
  1. Updating of construction drawings and coordination with Division of Coastal Management.
  2. Stake out the first line of stable natural vegetation as a permit requirement.
  3. Observing the contractors work, updates, communication with public, bi-weekly meetings, project completion report.
  4. Construction administrative services.
  5. Beach maintenance plan
  6. Benthic monitoring
- Preliminary early schedule for the project and progress map.

Council Member Batenic inquired as to the cost allocation to each town. Town Manager Ogburn stated some tasks are equally divided, others based on project size, and others may only apply to our town specifically, an example being task #2.

Mayor pro tem Neal asked if the construction admin costs are capped for the County, would those costs be capped for individual towns? Town Manager Ogburn stated that was correct, they are capped for each town.

Mayor Morey asked if all the reports mention in task #3 if they are channeled through the county and then back to the town? Town Manager Ogburn stated those reports will be delivered individually. The project is managed through the county, but each town will have its own report.

Town Manager Ogburn also reported that SEPI will be providing a pavement maintenance plan presentation on Thursday, February 24<sup>th</sup> at 5pm in the Pitts Center.

## General Public Comment

None

## Old Business

### 3. Dare County Government Access Committee Appointment

Council Member Batenic volunteered to represent Southern Shores on the Dare County Government Access Committee.

**Motion** made by Mayor Morey to nominate Mark Batenic as the Southern Shores representative on the Dare County Government Access Committee, Seconded by Mayor pro tem Neal. The motion passed unanimously (5-0).

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

4. Mid-Currituck Bridge Update

Council Member Sherlock stated there has been some publicity about the Mid Currituck bridge last week in the newspaper and asked Town Attorney Gallop if he had any further updates. Town Attorney Gallop that while the Federal District Court for Eastern North Carolina ruled against the Southern Environmental Law Center and found that NCDOT had followed all applicable environmental regulations, the case has now been appealed to the Fourth Circuit Court of Appeals. Attorney Gallop will continue to monitor the appellate case and report to Council on any substantive developments

Mayor Morey asked if there were other lawsuits about the bridge that Council has not discussed. Town Attorney Gallop stated there has not been any others filed yet.

Mayor Morey stated the last Southern Shores newsletter contained information, updates and local officials contact information. The Town will continue to provide this information in future newsletters.

Council Member Holland asked that this information be placed on the Town's website.

## **New Business**

5. Budget Amendment #17

Town Manager Ogburn explained Budget Amendment #17 is for additional part-time salary in Public Works Department to fund the cost of the need for an increase in the work hours for the seasonal part-time position.

**Motion** made by Council Member Sherlock to approve Budget Amendment #17, Seconded by Council Member Holland. The motion passed unanimously (5-0).

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

6. Planning Board Solid Waste Ordinance Recommendations

Planning Board Chairperson Ward presented the board's recommended amendments to Chapter 26 Solid Waste.

**Suggested Improvements to Solid Waste Ordinance**

- Replace "should" with "shall" in several areas within ordinance (i.e. 24 hr. rollback) (TCA)
- Establish minimum number of trash and recycle receptacles based on advertised occupancy (TCA)
- Clear and prominent labeling with arrows toward street on can's lid showing TRASH or RECYCLE (TCA)
- Require fully functional lid covering entire receptacle (TCA)
- Support help from Public Works in off-season roll-backs and clearly obvious receptacle mishaps
- Enlist Police Department help for ID'ing excessive offenders, using provided data base of rental managers' contact information



- Compile a concise notice to send to all property owners and rental managers of pertinent ordinances and expectations explaining penalties for non-compliance (see Section 26-11) (Staff)
- Create brief educational plea for tenant's welcome packet (see "Requirement for Rental Managers") to be required by ordinance (TCA/Staff)
- Roll out service possibilities
- Dumpster possibilities
- Begin transition toward receptacle continuity

### **Suggested Requirements for Rental Managers**

- Provide info on advertised occupancy: occupants must be less than or equal to the septic capacity registered with Dare County Health Department
- Provide direct contact info (phone/email) for head property manager
- Include in tenant's welcome packet a brief educational plea (cut/pasted from TOSS) about trash and recycling, to include:
  - do not overfill container
  - lids open towards street
  - no loose or bagged trash/recycle outside receptacles
  - collection day schedule
  - roll back within 24 hours of collection
  - do not mix trash with recyclables
  - do not bag recyclables

Deputy Town Manager Wes Haskett stated the Town is obtaining trash/recycle stickers for receptacles.

Town Manager Ogburn stated he is looking into rollback service and cost.

Council Member Batenic stated this seems to be mainly an Ocean Blvd. issue and that the police should not be responsible, but rather it should fall back on the rental companies.

Councilman Holland stated the issue is town wide and owners need to take responsibility as well.

Council Member Sherlock did not want to see the police department or public works department taking responsibility for cleanup or rollback. The duty needs to be placed on the homeowners and real estate companies. She would rather see a dumpster than 8-10 cans lined up in front of a single property.

Mayor Morey stated since it is a town code amendment it would not require being sent back to the Planning Board and it can go to staff and the Town Attorney for drafting and legal review. Staff can draft a text amendment that they feel is enforceable.

Mayor pro tem Neal stated the Planning Board provided straight forward suggestions and was in favor of sending it to staff to draft a text code amendment.

Mayor pro tem Neal asked if we could get trash and recycle back to the same day. Town Manager Ogburn stated Bay disposal could not service on the same day.

**By consensus of all Council**, staff with Town Attorney review is directed to draft a town code amendment to Chapter 26 and bring back to Council for consideration at a future date.

Mayor pro tem Neal stated he was fine with some of the Planning Board suggestions, but occupancy should just be occupancy, not advertised occupancy. He suggested engaging the stakeholders.

Police Chief David Kole wanted to go on record that he did not want his police officers involved or responsible for the rollback of cans and public works should not be responsible unless homeowners were being billed for the service.

7. Town Code Amendment 2022-01 Emergency Management Chapter 12

Town Manager Ogburn presented TCA 2022-01, amendments to Town Code Chapter 12 Emergency Management for Council's consideration. These amendments are meant to bring the chapter into compliance with changes to the NC General Statutes and better reflect the town's operation during an emergency event.

Council Member Sherlock asked Town Manager Ogburn to explain why items one and two were struck under the building moratorium section. Town Manager Ogburn explained they did not want to automatically declare a building moratorium unless the impacts of the event were strong enough.

**Motion** made by Council Member Holland to approve Town Code Amendment 2022-01 Emergency Management Chapter 12 as presented, Seconded by Council Member Batenic. The motion passed unanimously (5-0).

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

**General Public Comment (Limit: 3 minutes per speaker.)**

**Council Business**

All of Council welcomed new Council Member Mark Batenic.

Council Member Holland presented the Tourism Board update. After seventeen straight months of growth, occupancy was down 33% for November, up 33% year to date. Meals were up 8% for November, 51% year to date.

## Adjourn

Hearing no further business, Mayor Morey moved to adjourn the meeting at 7:24 p.m., Seconded by Council Member Holland. The motion passed unanimously (5-0).

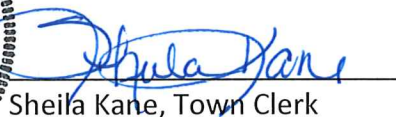
Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

ATTEST:

  
Elizabeth Morey, Mayor



Respectfully submitted,

  
Sheila Kane, Town Clerk

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

**From:** [Dorothy Hester](#)  
**To:** [Eddie Mann](#); [Wally Overman](#); [Keith Parker](#); [John McCord](#); [Renee Cahoon](#); [timothy\\_sweeney@albemarle.edu](mailto:timothy_sweeney@albemarle.edu); [Craig Garriss](#); [Tony Schiano](#); [Sheila Kane](#); [Terry Gray](#)  
**Cc:** [Charlie Burroughs](#); [Brad Daniels](#)  
**Subject:** Update and next meeting  
**Date:** Thursday, December 16, 2021 10:41:31 AM  
**Attachments:** [GEACC Interlocal Shared Use Agreement December 2018.pdf](#)

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Good morning,

No new LPDI requests have been received over the last month so there will not be a December meeting of the Government and Education Access Channels Committee. Honestly, I think it would have been difficult to gather a quorum next week with everyone traveling and preparing for Christmas.

That being said, the next regular meeting will be on Wednesday, January 26 at 3 p.m. Please go ahead and mark your calendar for this date and time. We'll gather in the Dare County Commissioners meeting room in Manteo. If we receive any new LPDI requests by January 15, the subcommittee will meet that same day at 2:30 p.m.

I would like to welcome Tony Schiano as the Town of Duck's representative on the committee. He has significant experience in the food industry in both the retail and consumer packaged goods segments. Welcome aboard Tony, we look forward to meeting and working with you.

The Town of Southern Shores will also be appointing a new representative to the committee and that will likely happen at their workshop that will be held in mid-January.

Once we can confirm all newly appointed representatives to the committee, a short orientation session will be scheduled to acquaint new members with our operations.

I am thrilled to let you know that Brad Daniels will begin working as Channels Manager with CURRENTtv on January 10, so you'll all get to meet him at the January meeting. He and I will have a draft FY 2022-23 budget for your review at the January 26 meeting. Any of your requested changes will be made and presented at the February 23 meeting so that the budget can be adopted and sent to all participating agencies by the end of February, as required by the operating agreement for the channels.

One other note - the first item of business at the meeting on January 26 will be the election of chairperson. No member can serve as chair twice until all members have either served as chair or have declined to serve as chair. Please give some thought as to whether you are willing to serve in this capacity. Tim, thank you for your service as Chairman this past year.

I am attaching the operating agreement for the channels so that you have it for your files. Don't hesitate to reach out if you have questions or need more information.

Wishing each of you a wonderful holiday season and may 2022 be an especially happy and healthy year for you all.

Kind regards,  
Dorothy

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**Dorothy Hester**  
Public Information Officer

Department of Public Relations  
P.O. Box 1000, Manteo, NC 27954  
252.475.5903 phone  
252.473.8328 mobile  
[www.darenc.com](http://www.darenc.com)



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INTERLOCAL SHARED USE AGREEMENT AMONG  
THE TOWNS OF NAGS HEAD, MANTEO, KILL DEVIL HILLS,  
SOUTHERN SHORES, KITTY HAWK, DUCK; THE  
COUNTY OF DARE; THE DARE COUNTY BOARD OF EDUCATION; COLLEGE OF THE  
ALBEMARLE; AND UNC COASTAL STUDIES INSTITUTE  
REGARDING THE GOVERNMENT AND EDUCATION  
ACCESS CHANNELS

THIS INTERLOCAL AGREEMENT is made and entered into by The Towns of Nags Head, Manteo, Kill Devil Hills, Southern Shores, Kitty Hawk, Duck, North Carolina Municipal Corporations, (the "Municipalities"); The County of Dare (the "County") by and through their Boards of Commissioners; the Dare County Board of Education ("BOE"); College of The Albemarle ("COA"); and UNC Coastal Studies Institute ("CSI") effective the 31st day of December, 2018, pursuant to Article 20, Part 1 of Chapter 160A of the North Carolina General Statutes:

W I T N E S S E T H:

THAT WHEREAS, the Towns of Nags Head, Manteo, and Kill Devil Hills heretofore by a document entitled "Agreement for Shared Use of Government Access Channel Provided by Falcon Cable TV" (the "Agreement") which became effective April 5, 1995, upon its approval by the Towns of Nags Head, Manteo, and Kill Devil Hills, created a Government Access Channel Committee to operate and oversee the government access channel to be operated on the cable TV system;

Thereafter in or about April 1997, the County became a Participating Entity upon its request of January 1997 which was approved by the Towns of Nags Head, Manteo, and Kill Devil Hills;

Thereafter in or about March 2002, the Town of Southern Shores became a Participating Entity upon its request of February 2002 which was approved by the Towns of Nags Head, Manteo, Kill Devil Hills and the County; and

Thereafter in or about October 2002, the Town of Kitty Hawk became a Participating Entity upon its request of August 2002 which was approved by the Towns of Nags Head, Manteo, Kill Devil Hills, Southern Shores and the County; and

Thereafter in or about September 2004, the Town of Duck became a Participating Entity upon its request of July 2004 which was approved by the Towns of Nags Head, Manteo, Kill Devil Hills, Southern Shores, Kitty Hawk and the County; and

Thereafter in or about December 2008, the Dare County Board of Education became a Participating Entity by approval of the Towns of Nags Head, Manteo, Kill Devil Hills, Southern Shores, Kitty Hawk, Duck and Dare County; and

Thereafter in or about June 2011, College of The Albemarle and UNC Coastal Studies Institute became Participating Entities by approval of the Dare County Board of Education and

the Towns of Nags Head, Manteo, Kill Devil Hills, Southern Shores, Kitty Hawk, Duck and Dare County; and

AND, WHEREAS Municipalities and County have operated and utilized the Government Access Channel ("Government Channel") pursuant to the Agreement and BOE and non-members COA and CSI have operated and utilized the Education Access Channel ("Education Channel"), upon addition of COA and CSI as members, all have recognized the need to more particularly set out the rights, duties, obligations and responsibilities of the Participating Entities, to update the procedures used to allocate usage of the Government and Education Channels, and to define the operations of the Government-Education Access Channels Committee (the "Committee");

NOW THEREFORE, Municipalities, County, BOE, COA & CSI in consideration of the mutual rights, duties, obligations and responsibilities hereinafter set out; each agrees with the others as follows:

#### Section 1. Definitions.

- (a) Governmental Access Channel (Government Channel). A channel dedicated by the cable system to present programs of interest to the community on a non-commercial basis.
- (b) Education Channel (Education Channel). A channel dedicated by the cable system to be used by educational institutions to present programs of educational interest to the community on a non-commercial basis.
- (c) Lottery. Any device, scheme, plan, promotion, contest, or other program and/or presentation which involves directly or indirectly the elements of prize, chance, and consideration or any such device, scheme, plan promotion, contest, or any other program and/or presentation which is, has been, or may be declared a lottery under applicable local, state, or federal law.
- (d) Obscene or Indecent Material. Any material in a program and/or presentation which would subject the producer or supplier thereof to prosecution under local, state, or federal law for the production or presentation of obscene or indecent material.
- (e) Governmental Unit. Any body politic and corporate under North Carolina law and any agency of the State of North Carolina or Federal Government that is not eligible to become a Participating Entity.
- (f) Participating Entity. Nags Head, Manteo, Kill Devil Hills, Southern Shores, Kitty Hawk, Duck, Dare County, the BOE, COA, and CSI.
- (g) Local Government Entity. Nags Head, Manteo, Kill Devil Hills, Southern Shores, Kitty Hawk, Duck, and Dare County.
- (h) Educational Entity. The BOE, COA, and CSI.

- (i) Cable TV Operator. Falcon Cable, its successor Charter Communications and any successors thereto,

## Section 2. Rights of Participating Entities.

- (a) Each Participating Local Government Entity shall be entitled to equal participation in the operation and use of the Government Channel.
- (b) Each Participating Educational Entity shall be entitled to equal participation in the operation and use of the Education Channel.
- (c) Each Participating Entity shall appoint one member as provided below (the "Member") to act as its representative on the governing board, which shall be named The Government-Education Access Channels Committee (the "Committee"), and each designated representative to the Committee shall be entitled to one vote on all matters to be decided by the Committee
- (d) In the event of disagreement by Participating Local Government Entities on the operation of the Government Channel, or by Participating Educational Entities on the operation of the Education Channel, the Committee shall resolve any such disputes or disagreements. All decisions of the Committee shall be final.
- (e) All such decisions of the Committee shall be determined by majority vote; provided however that the Committee shall not have the power or authority to impose or create any financial obligation of any kind for any Participating Entity without the express written consent of the Participating Entity, which consent shall be deemed given upon the Participating Entities' approval of the annual budget of the Committee.
- (f) The Cable Operator may participate in the meetings of the Committee upon its request approved by the Chairperson of the Committee, or at the invitation of the Committee, for the purpose of advising and assisting as needed. The Cable Operator shall not have any voting rights at such meeting.

## Section 3. The Government-Education Access Channels Committee (the "Committee").

- (a) From time to time, each Local Government Entity shall designate one of its elected officials to serve as its representative (the "Member") on the Committee and shall advise the other Participating Entities of the Member selected. From time to time, each Educational Entity shall designate a representative to serve as its representative on the Committee (the "Member") and shall advise the other Participating Entities of the member selected.
- (b) The meetings of the Committee shall be scheduled by the Committee but shall be held at least semiannually.

- (c) At the first meeting each calendar year, the Members of the Committee shall elect a Chairperson, who shall be responsible for convening and conducting meetings of the Committee, as well as conducting other actions of the Committee. No Member shall serve as Chairperson twice until all other members have either served as Chairperson or have declined to serve as Chairperson.
- (d) The Committee shall take such steps as it deems necessary and appropriate in order to fulfill its responsibilities and conduct its business, including election or appointment of any other officers or committees, designation of individuals or organizations to perform functions on its behalf, adoption of rules and policies for the conduct of the Committee and operation of the Government Channel and the Education Channel, or other similar actions.
- (e) Subject to the terms and conditions of this Shared Use Agreement, the Committee shall be responsible for supervising and directing the operations of the Government Channel and the Education Channel.

#### Section 4. Operation and Use of Government and Education Channels.

- (a) In accordance with the Franchise Agreement, the Cable TV Operator agreed to furnish the facilities and equipment for operation of the Government and Education Channels. The Cable TV Operator has agreed to provide space to house the equipment and to provide electricity and local telephone service. The Cable TV Operator has also agreed to provide normal maintenance of the equipment as well as technical and consulting assistance to the Committee in the operation of the Government and Education Channels.
- (b) The Participating Entities shall be responsible for furnishing all support needed for the operation of the Government and Education Channels, or other items necessary for the operation of the Government and Education Channels, which is not provided by the Cable TV Operator. Unless otherwise agreed in writing, all such expenses and obligations shall be shared equally by the Participating Entities and shall be administered in accordance with North Carolina law and in accordance with rules established by the committee in accordance with this Shared Use Agreement. In no event shall any Participating Entity have any financial obligation of any kind without its expressed consent, which consent shall be deemed given by the Participating Entities' approval of the annual budget of the Committee.
- (c) The Committee shall adopt a Standard Operating Procedure (SOP), which will conform and comply with this Agreement and set out guidelines for the channels' day-to-day operations.



- (d) The Committee will maintain complete records in accordance with North Carolina Public Records Law (Chapter 132 of the N. C. General Statutes). Copies of materials in the public file shall be available for reproduction upon request, providing the requesting party pays the cost of reproduction.
- (e) In the event of an activation of the Dare County Emergency Operations Center, all programming on the Government Channel and the Educational Channel may be preempted for emergency programming and information as may be deemed necessary by the Dare County Control Group or the Dare County Director of Emergency Operations.

#### Section 5. Regulations.

- (a) The Government Channel and/or the Education Channel, respectively, may be available upon approval by the Committee for non-commercial use by Governmental Units who are not Local Government Entities and by educational institutions who are not Educational Entities, upon the filing of an appropriate request in accordance with Section 3 and consistent with the availability of the channel and staff at the time of and for the duration requested. The Committee, or its designated representative, reserves the right to pre-empt programs due to staffing constraints, and adjust these regulations when deemed necessary.
- (b) The presentation of advertising material designed to promote the sale of commercial products or services or the solicitation of funds (including advertising by or on behalf of legally qualified candidates for public office) by users authorized by the Committee is prohibited.
- (c) These channels shall not be used to present any obscene or indecent matter, or content deemed objectionable as judged by community standards.
- (d) These channels shall not be used to present any information, which directly or indirectly concerns a lottery as defined in Section 1c above.
- (e) These channels may not be used for political purposes.

Section 6. Fiscal Procedures.

- (a) On or before the last day of February annually, the Committee shall submit to the governing boards of Participating Entities a recommended annual budget prepared pursuant to N.C.G.S. 160A-462, meeting all applicable requirements of the Local Government Finance Act and in accordance with the following:
1. Proposed budget expenditures, including expenditures from the fund heretofore established ("Gov-Ed TV Fund") for Government Channel and Education Channel and funded by the parties and by funds received from the State of North Carolina in lieu of franchise fees from the cable provider, shall only be made for and are limited to the acquisition, installation and maintenance of hardware, software and supplies used solely for broadcasting on the Government and Education Channels and for the archiving of broadcast materials and records. Expenditures may be made for production equipment, operating expenses, software, materials, salaries, costs or fees, or anything related to the production of broadcast materials. In addition, expenditures may be made for technological applications including, but not limited to, online streaming video of Government and Education Channel broadcasts. Any expenditures must be approved by the Committee and the governing boards of the Participating Entities, which approval shall be deemed given by the Participating Entities' approval of the annual budget of the Committee. Notwithstanding the foregoing, Gov-Ed TV Fund revenue may be used to construct, equip, maintain and improve a broadcast studio for use by the Participating Communities. Notwithstanding the foregoing, no expenditures shall be made to pay any direct costs or expenses associated with the recording and/or broadcasting of the Council, Commissioner or Board meetings of any Participating Entity.
  2. Committee, at its discretion, may establish a Local Programming Development Initiative ("LPDI") from Gov-Ed TV Fund to promote additional programming by Participating Entities on Government Channel and Education Channel. Committee or its designated representative(s) will establish LPDI process and criteria for Participating Entities.
  3. The unexpended and unobligated surplus of the Gov-Ed TV Fund shall be the primary source of monies with which to fund the proposed budget expenditures. In the event the funds on hand (unexpended and unobligated surplus) are insufficient to meet the budget request, the proposed budget shall allocate the difference among the Participating Entities in the ratio of the usage time of the Channel by each during the next preceding completed fiscal year, i.e. the fiscal year immediately prior to the year in which the budget is being prepared excluding, however, usage of the bulletin board and scrolls from the computation of usage of the channel by the participating communities. Except, however, for any entity that did not use the Channels

during the preceding fiscal year due to suspension or not having been a Participating Entity, the allocation for that entity shall be a fraction of the total funding request with no reduction by the amount of the unexpended and unobligated surplus in which the numerator is one (1) and the denominator is the number of participating entities anticipated for the new fiscal year.

4. Each of the Participating Entities shall consider the proposed Government-Education Access Channels Committee budget in its budget process. In the event any Participating Entity indicates its intent to deny, change, amend, reduce, increase or in any way alter the proposed budget, including its *pro rata* share of the funding request, the Committee shall attempt to reconcile the budget request with and among the Participating Entities.
5. Upon completion of attempts to reconcile the budget, the Committee shall submit an amended budget request to each of the Participating Entities by April 30 of each year. Failure or refusal of any Participating Entity to adopt and ratify the proposed amended budget request, including the requested contribution of funds, shall result in a suspension of that Entity's right to utilize the Channels during the fiscal year for which the budget is requested.
6. If any Participating Entity fails or refuses to adopt the amended budget request, the Committee shall prepare a second amended budget request that reallocates the funding request using the formula in paragraph 3 above among the Participating Entities that adopted the amended budget request. If any Participating Entity has adopted its own budget prior to the receipt of the second amended budget request, that Entity shall process the request following its usual procedure for budget amendments.
7. A permanently withdrawn Entity pursuant to Section 10 of the Agreement shall not be entitled to any portion of the unobligated and unexpended funds remaining on deposit in the Gov-Ed TV Fund.
8. All funds received for use by the Committee in the operation of the Government Channel and the Education Channel shall be deposited in an Gov-Ed TV Fund account held and administered by Dare County solely for the purposes and upon the terms set forth in this agreement. Any Participating Entity shall have the right at any time to request a copy of the account, including a record of all receipts and expenditures.
9. All funds received by a Participating Entity from the State of North Carolina as a part of the franchise fee reimbursement program shall be deposited into the Gov-Ed TV Fund account set forth in Paragraph 8 above to be used solely for the purposes and upon the terms set forth in this agreement or as may be required by the State of North Carolina.

10. No employees shall be hired without the consent of the Committee and the Participating Entities' approval of the budget which includes the costs associated with such employee or employees. Applicants for any position to be hired shall be through the Dare County Human Resources Department and shall comply with all requirements thereof. The Dare County Manager shall hire the employee with the advice and consent of the Committee and shall not hire a person that both the Committee and the Manager have not approved. A subcommittee designated by the Committee shall be appointed to participate in the interviews and hiring process. In the event the Dare County Manager and the Committee cannot agree on the person to be hired, no person shall be hired. In the event that an employee is hired, the employee shall be an employee of Dare County. Dare County shall be reimbursed all costs and expenses associated with such employee or employees by the Committee. As an employee of Dare County such employees shall be governed by all rules of employment as from time to time may be established by Dare County, shall be supervised by Dare County as directed by the County Manager, and may be disciplined and/ or terminated by the Dare County Manager as provided in the Dare County employment policies in effect at the time of such discipline or termination.
11. The Committee may approve transfer amounts between objects of expenditure in the annual budget without limitation and without a report or approval of the Boards of participating entities as long as there is no effect on the total annual operating budget. In addition, the Committee may authorize transfer amounts from the Contingency appropriation to objects of expenditure as needed.

#### Section 7. Content and Indemnification.

- (a) Content. The Participating Entities shall have complete responsibility for the content of the programming on the Government Channel and Education Channel. The programming shall comply with all applicable laws, rules and regulations of the FCC. The programming shall not contain any material which is libelous, slanderous, obscene, or otherwise unprotected by the United States Constitution, and will not, when transmitted by the Cable Operator, subject the cable Operator to any liability of any kind or violate any legal requirement, or infringe upon or give rise to any adverse claim with respect to any right of any person or entity.
- (b) Indemnification. Each Participating Entity and/or any governmental or educational unit will at all times indemnify and hold harmless Committee and its members; all Government Channel and Educational Channel employees and volunteers; and other Participating Entities, their elected officials, employees, agenda and licensees from and against any and all claims, judgments, damages, losses, costs and expenses, including programming of the Government and Education Channels arising from their use of the Government and Education Channels.



## Section 8. Programming

- (a) The Local Government Entities may use the Government Channel and the Educational Entities may use the Education Channel for any lawful, nonprofit purpose for the benefit of the citizens in this area, including distribution of educational, governmental, informational, or other public interest programming by units of government. No commercial activity, commercial advertising or other programming for which payment is made shall be permitted. It is further agreed that the Government Channel and the Education Channel cannot be used for political advertising, for programming supporting or opposing any candidate for office, or for other political programming or political purpose with the exception that each Participating Entity may use the Government Channel to air up to four times a candidate forum sponsored by the Participating Entity with candidates in an election for the Participating Entity's jurisdiction and during the Participating Entities election cycle. It is further agreed that if a candidate is seeking an elected office that represents Dare County directly even if the office is a state office, a candidate forum could be sponsored by any of the Participating Entities and aired up to four times.

In order for a forum to be sponsored and broadcast on the Government Channel, no Participating Entity may use LDPI funding to produce a Candidate Forum. Forums must be funded by a neutral third party or a sponsoring municipality/county. Notwithstanding the foregoing, elected officials and employees of the parties to this Agreement may appear on the Government and Education Channels in the performance of their duties in the normal course of business.

- (b) Programming shall be determined by the Committee, or its designated representative(s), in accordance with its rules, Standard Operating Procedures, and this Shared Use Agreement, and may include meetings of government boards and governmental units, and other governmental and educational programming from outside sources, including but not limited to The Open Public Events Network (OpenNet), the Department of Travel and Tourism, and other governmental and educational units.
- (c) The Government Channel and Education Channel programming will include the Bulletin Board as a regular feature, which may carry information:
- (1) Government or Educational Events
  - (2) Scheduling announcements for Government or Education Channel
  - (3) Announcements by Participating Entities
  - (4) Announcements for other communities that become participants

in this Shared Use Agreement.

(5) Announcements for other Governmental or Educational Units

Section 9. Scheduling.

- (a) Each Local Governmental Entity shall be entitled to an equal share of the time available for programming on the Government Channel and the Committee shall establish rules and procedures for scheduling programming to guarantee equal opportunity and access for each Local Governmental Entity, which shall include a fair and equitable rotation of the most desirable time periods. Any disputes or conflicts regarding scheduling may be brought before the Committee by any Participating Entity for resolution. The decision of the Committee on such matters shall be final.
- (b) Each Educational Entity shall be entitled to an equal share of the time available for programming on the Educational Channel and the Committee shall establish rules and procedures for scheduling programming to guarantee equal opportunity and access for each Educational Entity, which shall include a fair and equitable rotation of the most desirable time periods. Any disputes or conflicts regarding scheduling may be brought before the Committee by any Participating Entity for resolution. The decision of the Committee on such matters shall be final.
- (c) The Committee, or its designated representative(s), shall have the power to establish a comprehensive general schedule for the Government Channel and Education Channel, specifying the time for Bulletin Board announcements, programming by the Participating Entities, programming from other governmental and educational units and the amounts of time to be allotted to each. The Committee, or its designated representative(s), shall be responsible for ensuring the maximum use of the Government Channel and Education Channel for their intended purposes and shall have the authority to make rules allowing unused time allotted to a Participating Entity to be used for other appropriate purposes. Any disputes or conflicts regarding scheduling may be brought before the Committee by any Participating Entity for resolution. The decision of the Committee on such matters shall be final.

Section 10. Addition and Withdrawal of Participating Entities

Other Dare County incorporated towns or other educational institutions served by the Cable Operator may be permitted to become participants in this Shared Use Agreement on such terms and conditions as may be negotiated between the Participating Entities and the requesting party. At any time, any Participating Entity may withdraw and shall be relieved of any further obligations under this agreement; provided however that a withdrawing Participating Entity shall remain obligated in all respects for the period of its participation prior to the effective date of withdrawal and for the budgeted obligations of the Committee for the remainder of the fiscal year of withdrawal. In the event this Shared Use Agreement is terminated by all parties, any funds on deposit for operation of the Government and Education Channels shall be first used to pay all existing expenses

and obligations, then to pay all obligated budget items. Upon payment of such sums, the remaining balance will revert to the Participating Entities equally. In the event that any party or parties (but not all parties) shall withdraw from the terms of this agreement, such withdrawing entity shall not be entitled to reimbursement or return of any funds and all such funds on deposit with the Committee shall be deemed forfeited to the Committee by the withdrawing entity. Similarly, a withdrawing entity shall have no claim or right to any equipment or other assets of the Committee or any share thereof.

#### Section 11. Amendments, Modifications and Notices.

This Shared Use Agreement may be amended, modified or terminated at any time by affirmative vote equal to or greater than two thirds of the Participating Entities. Further, any party may withdraw from this agreement by the giving of a ninety (90) day notice, in writing, by the terminating party and addressed to the non-withdrawing parties. Said notice shall designate the effective date of withdrawal.

#### Section 12. Effective Date.

This Shared Use Agreement shall become effective on the latest date that all parties hereto ratify this agreement by a resolution of the governing board of each and the resolution is spread upon the minutes of each of said boards. Upon ratification, this agreement shall continue and be effective for ten (10) calendar years, expiring on the last day of the one hundred twenty first (121<sup>st</sup>) month following ratification unless extended by written agreement of the then participating governments.

IN TESTIMONY WHEREOF The Participating Entities have caused this instrument to be executed in their names and behalf by their Mayors, attested by their Clerks, and their corporate seal affixed hereto, all as the acts and deeds of the Municipalities pursuant to a resolution of their Boards of Commissioners adopted at duly assembled meetings thereof as indicated below; and The County of Dare has caused this instrument to be executed in its name and behalf by its Chairperson, attested by the Clerk to the Board and its seal affixed hereto, all as the act and deed of its Board of Commissioners, pursuant to a resolution adopted as indicated below, all effective the day and year of the latest ratification by a party hereto; The Dare County Board of Education has caused this instrument to be executed in its name and behalf by its Chairperson, attested by the Secretary to the Board and its seal affixed hereto, all as the act and deed of its Board, pursuant to a resolution adopted as indicated below, all effective the day and year of the latest ratification by a party hereto; College of The Albemarle has caused this instrument to be executed in its name and behalf by its Chairperson, attested by the Secretary to the Board and its seal affixed hereto, all as the act and deed of its Board, pursuant to a resolution adopted as indicated below, all effective the day and year of the latest ratification by a party hereto; and UNC Coastal Studies Institute has caused this instrument to be executed in its name and behalf by its President, and its seal affixed

hereto, all as the act and deed of its institution, pursuant to a resolution adopted as indicated below, all effective the day and year of the latest ratification by a party hereto.

Adopted by the Town Council of the Town of Duck, North Carolina, this the 5<sup>th</sup> day of December, 2018.

Town of Duck, North Carolina

(Corporate Seal)

By:

Mayor

Attest:

[Signature]  
Town Clerk

\*\*\*\*\*

Adopted by the Town Council of the Town of Southern Shores, North Carolina, this the 11<sup>th</sup> day of DECEMBER, 2018.

Town of Southern Shores, North Carolina

(Corporate Seal)

By:

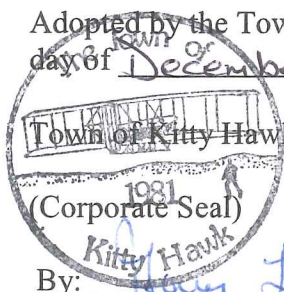
Mayor

Attest:

[Signature]  
Town Clerk



Adopted by the Town Council of the Town of Kitty Hawk, North Carolina, this the 3<sup>rd</sup> day of December, 2018.



Town of Kitty Hawk, North Carolina

By: \_\_\_\_\_  
Mayor

*Gregory L. Perry*

Attest:

*Ann H. Morris*  
Town Clerk

\*\*\*\*\*

Adopted by the Board of Commissioners of the Town of Kill Devil Hills, North Carolina, this the 10<sup>th</sup> day of December, 2018.

Town of Kill Devil Hills, North Carolina

(Corporate Seal)

*Charles F. Davis*

By: \_\_\_\_\_



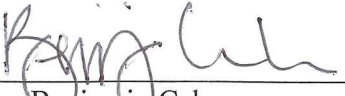
Attest:

*Mary E. O.*  
Town Clerk


Adopted by the Board of Commissioners of the Town of Nags Head, North Carolina, this the 5th day of December 2018.

Town of Nags Head, North Carolina

(Corporate Seal)

By:   
Mayor Benjamin Cahoon

Attest:

  
Town Clerk Carolyn F. Morris



\*\*\*\*\*

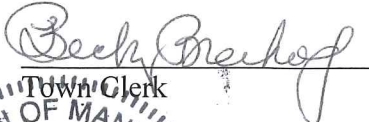
Adopted by the Board of Commissioners of the Town of Manteo, North Carolina, this the 5th day of December, 2018.

Town of Manteo, North Carolina

(Corporate Seal)

By:   
Mayor

Attest:

  
Town Clerk



Adopted by the Board of Commissioners of the County of Dare, North Carolina, this the 19<sup>th</sup> day of November, 2018.

County of Dare, North Carolina

(Corporate Seal)

By: [Signature]  
Robert Woodard, Chairperson

Attest: [Signature]  
Gary L. Gross, Clerk to the Board



\*\*\*\*\*

Adopted by the Dare County Board of Education, this the 11 day of December, 2018.

Dare County Board of Education

(Corporate Seal)

By: [Signature]  
Chairperson

Attest:

[Signature]  
Secretary to the Board



Adopted by College of The Albemarle, this the 27<sup>th</sup> day of November, 2018.

College of The Albemarle

(Corporate Seal)

By: Marion Harris, Jr.

Attest:

Robert Wyner  
Secretary to the Board

\*\*\*\*\*

Adopted by the UNC Coastal Studies Institute, this the 21 day of DECEMBER, 2018.

UNC Coastal Studies Institute

(Corporate Seal)

By: [Signature]

Attest:

[Signature]  
John M. (02)



**Town of Southern Shores  
Budget Amendment Number # 17**

[illegible]

Explanation: Additonal salary needed for more manpower needed in Public Works Department

Recommended By:

Cliff Ogburn, Town Manager

Approved By:

Elizabeth Morey, Mayor

Date \_\_\_\_\_

### **Suggested Improvements to Solid Waste Ordinance**

- Replace “should” with “shall” in several areas within ordinance (i.e. 24 hr. rollback) (TCA)
- Establish minimum number of trash and recycle receptacles based on advertised occupancy (TCA)
- Clear and prominent labeling with arrows toward street on can’s lid showing TRASH or RECYCLE (TCA)
- Require fully functional lid covering entire receptacle (TCA)
- Support help from Public Works in off-season roll-backs and clearly obvious receptacle mishaps
- Enlist Police Department help for ID’ing excessive offenders, using provided data base of rental managers’ contact information
- Compile a concise notice to send to all property owners and rental managers of pertinent ordinances and expectations explaining penalties for non-compliance (see Section 26-11) (Staff)
- Create brief educational plea for tenant’s welcome packet (see “Requirement for Rental Managers”) to be required by ordinance (TCA/Staff)
- Roll out service possibilities
- Dumpster possibilities
- Begin transition toward receptacle continuity

### **Suggested Requirements for Rental Managers**

- Provide info on advertised occupancy: occupants must be less than or equal to the septic capacity registered with Dare County Health Department
- Provide direct contact info (phone/email) for head property manager
- Include in tenant’s welcome packet a brief educational plea (cut/pasted from TOSS) about trash and recycling, to include:
  - do not overfill container
  - lids open towards street
  - no loose or bagged trash/recycle outside receptacles
  - collection day schedule
  - roll back within 24 hours of collection
  - do not mix trash with recyclables
  - do not bag recyclables



## 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

TCA-22-01

Ordinance 2022-02-01

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

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

**WHEREAS**, pursuant to N.C.G.S. Chap. 160A, the Town has duly codified the Town's Code of Ordinances (the "Town Code"); and

**WHEREAS**, pursuant to North Carolina General Statutes § 166A-19.31 the governing body of any municipality or county may enact ordinances designed to permit the imposition of prohibitions and restrictions within the emergency area during a state of emergency declared pursuant to G.S. 166A-19.22.; and

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

#### ARTICLE II. Construction.

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

#### ARTICLE III. Amendment of Town Code.

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

**PART I.** That **Chapter 12 - Emergency Management**. Be amended as follows:

**Chapter 12 - Emergency Management.**

**Sec. 12-1. Short title.**

This chapter shall be known and may be cited and referred to as the "Emergency Management Ordinance for the Town of Southern Shores."

## **Sec. 12-2. Intent and purpose.**

(a) It is the intent and purpose of this chapter to set forth the authority and responsibility of the town, its officers, departments, and employees in the prevention of, preparation and planning for, response to and recovery from any natural or man-made accidental, military, paramilitary, terrorism, weather-related, public health, explosion-related, riot-related cause, or technological failure or accident, including, but not limited to, a cyber incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident. It is further the intent and purpose of this chapter to establish an office that will insure the complete and efficient utilization of all of the town's resources to prepare and plan for, respond to, recover from, and mitigate against emergencies.

(b) This chapter shall not relieve any town department of the moral responsibilities or authority given to it in the town Charter or by local ordinances, nor will it adversely affect the work of any volunteer agency organized for relief in emergencies.

(c) This chapter is adopted pursuant to G.S. § 166A-19.31. To the extent not specifically enumerated herein, all authorities and powers conferred on the town pursuant to G.S. Ch. 166A, and all similar provisions of state and federal law, are incorporated herein by reference.

~~(a) — It is the intent and purpose of this chapter to establish an office that will ensure the complete and efficient utilization of all of the town's resources to combat disaster resulting from disasters.~~

~~(b) — The town emergency management team will be the coordinating agency for all activity in connection with emergency management within the municipality. It will be the instrument through which the town council may exercise the authority and discharge the responsibilities vested in them during disaster emergencies.~~

~~(c) — This chapter will not relieve any town department of the moral responsibilities or authority given to it in the town Charter or by local ordinances, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.~~

## **Sec. 12-3. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Emergency.* - An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, terrorism, weather-related, public health, explosion-related, riot-related cause, or technological failure or accident, including, but not limited to, a cyber incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident.

~~*Disaster* includes, but is not limited to, extraordinary fire, flood, storm, epidemic, accident, chemical spill or other impending or actual calamity endangering, or threatening to endanger, health, life or property of constituted government.~~

*Emergency Management* includes those measures taken by the public and governmental units operating within the town to minimize the adverse effect of any type of emergency, including the never-ending preparedness cycle of planning, prevention, mitigation, warning, movement, shelter, emergency assistance, response, and recovery.  
~~*Emergency management* means the basic government function of maintaining the public peace, health and safety during an emergency. This term shall include plans and preparations for protection and relief, recovery and rehabilitation from effects of a disaster.~~

~~*Emergency management forces personnel*~~ means the employees, equipment and facilities of all town departments, boards, councils, institutions, and commissions; and in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.

*Emergency management* volunteer means any person duly registered, identified and appointed by the town manager and assigned to participate in the emergency management activity.

*Regulations* shall include plans, programs and other emergency procedures deemed essential to emergency management.

*State of Emergency* is the condition that exists whenever, during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, public safety authorities are unable to maintain public order or afford adequate protection for lives or property, and which constitutes a significant threat to public health, safety and welfare whether actual or imminent as authorized pursuant to G.S. § 166A-19.3(19).

*Volunteer* means contributing a service, equipment or facilities to the emergency management team without remuneration.

#### **Sec. 12-4. Organization and appointments.**

(a) The organization shall consist of the following:

- (1) An agency of emergency management within the administrative department of the town government under the direction of the town-council manager. The

head of the emergency management team shall be the town manager, and such assistants and other employees, as are deemed necessary for the proper functioning of the team, will be appointed or contracted.

(2) The employees and resources of all town departments, boards, institutions, and councils shall participate in the emergency management activities. Duties assigned to a town department shall be the same as, or similar to, the normal duties of the department, where possible.

(3) Volunteer and contracted personnel and agencies offering service to, and accepted by, the town.

(b) The town ~~council~~ manager shall designate and appoint a deputy town manager to assume the emergency duties of the town manager in the event of his absence or inability to act.

### **Sec. 12-5. Day-to-day duties and responsibilities of the town manager.**

The town manager shall be responsible to the town council in regard to all phases of emergency management activity. The town manager shall be responsible for the planning, coordination and operation of the emergency management activities in the town. He shall maintain liaison with the county authorities and the authorities of nearby political subdivisions so as to ensure the most effective operation of the emergency management plan. The town manager's duties shall include, but not be limited to, the following:

(1) Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the town for emergency management purposes.

(2) Development and coordination of plans for the immediate use of all facilities, equipment, manpower and other resources of the town for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety, and welfare.

(3) Negotiating and concluding agreements or contracts, with owners or persons in control of buildings or other property and resources, for the use of such buildings or other property and resources for the emergency management purposes, and designating suitable buildings as public shelters of last resort.

(4) Through public informational programs, educating the populace as to actions necessary and required for the protection of their persons and property in case of disaster, either impending or present.

(5) Conducting public practice alerts within the town alone or in connection with countywide alerts, to ensure the efficient operation of the emergency management forces of the town and to familiarize town residents with emergency management regulations, procedures and operations.

(6) Coordinating the activity of all other public and private agencies of the town engaged in any emergency management activities.

- (7) Serve as the designated point of contact to the Dare County Emergency Operation Center for requesting resources and providing situation updates and reports as needed to ensure common understanding of town impacts and unmet needs.

**Sec. 12-6. Emergency management plan.**

- (a) The town manager shall prescribe in the emergency plans those positions within the comprehensive emergency management plans that shall be adopted and maintained by resolution of the town council. In the preparation of these plans, as it pertains to municipal organization, it is intended that the services, equipment and facilities, and personnel of all existing departments and agencies shall be utilized to the fullest extent. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by these plans, and to maintain their portions of the plans in a current state of readiness at all times. These plans shall have the effect of law whenever a ~~disaster~~ local State of Emergency has been ~~proclaimed~~ declared.
- (b) The town manager shall prescribe in the emergency plans those positions within the ~~disaster~~ emergency response organization, in addition to his own, for which lines of succession are necessary. In each instance the responsible person will designate, and keep on file with the town manager, a current list of persons as successors to his position. The list will be in order of succession and will as nearly as possible designate the persons best capable of carrying out all assigned duties and functions.
- (c) Each ~~service~~ staff member ~~chief~~ and department head and/or organization assigned responsibility in the plans shall be responsible for carrying out all duties and functions assigned therein. Duties will include the organization and training of assigned employees or volunteers. Each ~~chief~~ assigned department and/or organization shall formulate the standard operating procedure to implement the plans for ~~his~~ their assigned duties/ responsibilities ~~service~~.
- (d) Amendments to these plans shall be submitted to the town manager. If approved, the town manager will then submit the amendments to the town council with his recommendation for their approval. Such amendments shall take effect from the date of approval.
- (e) When a required competency or skill for a disaster function is not available within government, the town manager is authorized to seek assistance from persons outside of government. The assignment of duties, when of a supervisory nature, shall also include the granting of authority for the persons so assigned to carry out such duties prior to, during, and after the occurrence of a disaster. Such services from persons outside of government may be accepted by local government on a volunteer or contracted basis. Such citizens shall be enrolled as emergency management volunteers or contracted personnel.



**Sec. 12-7. No municipal or private liability.**

- (a) This chapter is an exercise by the town of its governmental functions for the protection of the public peace, health, and safety, and neither the town nor agents and representatives of same, or any individual, receiver, firm, partnership, corporation, association, or trustee, or any of the agents thereof, in good faith carrying out, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this chapter shall be liable for any damage sustained to persons or property as the result of said activity.
- (b) Any person owning or controlling real estate or other premises, who voluntarily and without compensation grants the town the right to inspect, designate and use the whole or any part of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice disaster situation, shall not be civilly liable for the death of, or injury to, any persons on or about such real estate or premises under such license, privilege or other permission; or for loss of, or damage to, the property of such person.

**Sec. 12-8. Implementation.**

Upon ~~proclamation~~ declaration of a state of emergency, the comprehensive emergency management plans shall be implemented immediately, to the extent determined by the town manager in consultation with the mayor ~~and town council.~~

**Secs. 12-9—12-34. Reserved.**

***ARTICLE II. STATE OF EMERGENCY***

**Sec. 12-35. Declaration; restrictions authorized.**

- ~~(a) A state of emergency shall be deemed to exist whenever, during times of public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.~~
- ~~(b) In an existing or threatened state of emergency, endangering the lives, safety, health and welfare of the people within the town or any part thereof, or threatening damage to or destruction of property, the mayor is hereby authorized and empowered under G.S. 14-288.12 to issue a public proclamation declaring to all persons the existence of such a state of emergency, and in order to more effectively protect the lives and property of people within the town, to place in effect any or all of the restrictions~~

hereinafter authorized. Nothing herein shall limit the authority of the town when such authority has been otherwise granted or inferred by law.

- (c) ~~The mayor is hereby authorized and empowered to limit, by proclamation, the application of all or any part of such restrictions to any area specifically designated or described within the town, and to specify hours of the day or night, and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firefighters and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities, on-duty military personnel, whether state or federal, on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit, and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the town.~~

**Sec. 12-36. Proclamation imposing prohibitions and restrictions.**

- (a) ~~The mayor, by proclamation, may impose the prohibitions and restrictions specified in sections 12-37 through 12-42 in the manner described in those sections. The mayor may impose as many of those specified prohibitions and restrictions as he finds are necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The mayor shall recite his findings in the proclamation.~~
- (b) ~~The proclamation shall be in writing. The mayor shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the town hall. The mayor shall retain a text of the proclamation and furnish, upon request, certified copies of it for use as evidence.~~

**Sec. 12-37. Curfew.**

- (a) ~~The proclamation may impose a curfew prohibiting, in certain areas and during certain periods, the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area and the period during each 24 hours to which the curfew applies. The mayor may exempt from some or all of the curfew restrictions classes of people whose exemption the mayor finds necessary for the preservation of the public health, safety and welfare. The proclamation shall state the exempt classes and the restrictions from which each is exempted.~~
- (b) ~~Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the mayor, by proclamation, removes the curfew.~~

**Sec. 12-38. Restrictions on possession, consumption or transfer of intoxicating liquor.**

The proclamation pursuant to this article may prohibit the possession or consumption of any intoxicating liquor, including beer and wine, other than on one's own premises, and may prohibit the transfer, transportation, sale or purchase of any intoxicating liquor within the area of the town described in this proclamation. The prohibition, if imposed, may apply to transfers of intoxicating liquor by employees of alcoholic beverage control stores as well as by anyone else within the geographical area described.

**Sec. 12-39. Restrictions on possession, transportation and transfer of dangerous weapons and substances.**

(a) The proclamation pursuant to this article may prohibit the transportation or possession off one's own premises, or the sale or purchase of, any dangerous weapon or substance. The mayor may exempt, from some or all of the restrictions, classes of people whose possession, transfer or transportation of certain dangerous weapons or substances is necessary to the preservation of the public health, safety or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(b) As used in this section, the term "dangerous weapon or substance" means:

(1) Any deadly weapon, ammunition, incendiary device, explosive, gasoline or other instrument or substance designed for a use that carries threat of serious bodily injury or destruction of property;

(2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument will be so destructively used;

(3) Any part or ingredient in any instrument or substance included in subsections (b)(1) and (2) of this section.

(c) If imposed, the restrictions shall apply throughout the jurisdiction of the town or such part thereof designated in the proclamation.

**Sec. 12-40. Restriction on access to areas.**

(a) The proclamation, pursuant to this article, may prohibit obtaining access, or attempting to obtain access, to any area, designated in the manner described in this section, in violation of any order, clearly posted notice, or barricade, indicating that access is denied or restricted.

(b) ~~Areas to which access is denied or restricted shall be designated by the town manager. When acting under this authority, the town may restrict or deny access to any area, street, highway or location within the town if that restriction, or denial of access or use, is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.~~

**~~Sec. 12-41. Evacuation of areas.~~**

~~The proclamation, pursuant to this article or any amendment thereto, may require the emergency evacuation of any area. The proclamation shall state the geographic boundaries of the area to be evacuated and, upon issuance of the proclamation, the town manager shall take all necessary action to remove all persons from the area and to deny access to the area, as set out in section 12-40.~~

**~~Sec. 12-42. Prohibitions and restrictions generally.~~**

~~The proclamation, pursuant to this article, may prohibit or restrict:~~

- ~~(1) Movements of people in public places;~~
- ~~(2) The operation of offices, business establishments and other places to or from which people may travel or at which they may congregate;~~
- ~~(3) Price gouging, defined as the sale of goods in excess of the manufacturer's suggested retail price or at a price above the pre-emergency level, unless the merchant can document purchase of the goods at increased cost. Any restrictions imposed under this subsection shall extend for a period of 90 days following the date of the declaration of the state of emergency unless sooner terminated by proclamation or resolution.~~
- ~~(4) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the proclamation.~~
- (a) Pursuant to G.S. § 166A-19.22, a state of emergency shall be declared when it is determined that circumstances and conditions exist which create a real or imminent threat of a public crisis, disaster, rioting, catastrophe, or similar public emergency within the town in response to which public safety authorities are unable to maintain public order or afford adequate protection for lives and property and which pose significant threats to public health and safety.
- (b) The Town of Southern Shores Town Council hereby delegates to the Mayor the authority to determine and declare the existence of a state of emergency within the town, to order the evacuation of some or all portions of the town, to authorize the reentry or persons into the town following evacuation, and to impose, during that state of emergency, prohibitions and restrictions deemed necessary to protect public health, safety and welfare and minimize damage to

property: The type of prohibitions and restrictions authorized during a state of emergency include prohibition and restriction:

(1) Of movements of people in public places, including any of the following:

(a) Imposing a curfew;

(b) Directing and compelling the voluntary or mandatory evacuation of all or part of the population from any stricken or threatened area within the governing body's jurisdiction;

(c) Prescribing routes, modes of transportation, and destinations in connection with evacuation;

(d) Controlling ingress and egress of an emergency area, and the movement of persons within that area;

(e) Providing for the closure, within the emergency area of streets, roads, highways, bridges, public vehicular areas, or other areas ordinarily used for vehicular travel, except to the movement of emergency responders and other persons necessary for recovery from the emergency.

(2) Of the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate;

(3) Upon the possession, transportation, sale, purchase, and consumption of alcoholic beverages;

(4) With the exception of lawfully possessed firearms (defined pursuant to G.S. § 166A-19.31(b)(4) as handguns, rifles, or shotguns), upon possession, storage, and use of dangerous weapons and substances, and combustible fuels;

(5) Upon other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency;

(6) Any and all prohibitions and restrictions authorized by G.S. § 166A-19.31.

(c) A state of emergency declared pursuant to this chapter, and all prohibitions and restrictions imposed as a result of the declaration, shall be established by written declaration duly executed by the Mayor, and shall remain in effect until such time as the declaration is amended or rescinded in the same manner. The declaration shall include a listing of all restrictions and prohibitions imposed and, where applicable, the date and time on which such restrictions and prohibitions become effective. When the nature of the emergency requires the mayor to represent the town as a Senior Leader under the Dare County Emergency Management Plan, the mayor may consent to or request the county state of emergency declaration include the town as authorized by G.S 166A-19.22. (b) (2) & (3). The signed declaration shall be posted conspicuously on the Town

website and will be submitted to the North Carolina Department of Public Safety WebEOC critical incident management system as required by G. S. 166A-19.31(d).

(d) At such time as a state of emergency is declared, the Town of Southern Shores Emergency Management Plan, all standard operating procedures adopted pursuant to the Plan, and all applicable mutual aid agreements and other similar agreements and compacts shall be activated.

**~~Sec. 12-43. Amendments of the proclamation.~~**

~~The mayor may amend or extend the proclamation under this article, from time to time, making such modifications as he would have been authorized to include in the original proclamation. The proclamation shall expire five days after its last imposition unless sooner terminated.~~

**~~Sec. 12-44. Removal of prohibitions and restrictions.~~**

~~The mayor shall, by proclamation, remove the prohibitions and restrictions under this article as the emergency no longer requires them, or when directed to do so by the town council.~~

**~~Sec. 12-45~~36. Separate and superseding proclamations-declarations.**

The mayor, in his/her discretion, may invoke the restrictions authorized by this article in separate ~~proclamations~~ declarations , and may amend any ~~proclamation~~ declaration by means of a superseding ~~proclamation~~ declaration.

**~~Sec. 12-46~~37. Absence or disability of mayor.**

In case of the absence or disability of the mayor, the mayor pro tempore shall have and exercise all of the powers given the mayor in this article. In case of the absence or disability of the mayor pro tempore, such other person as may be designated by the town council shall have and exercise all of the powers given the mayor in this article.

**~~Secs. 12-47~~38—12-65. Reserved.**

**ARTICLE III. HURRICANE AND STORM RECONSTRUCTION AND  
REDEVELOPMENT RECONSTRUCTION AND REDEVELOPMENT  
FOLLOWING A TOWN WIDE EMERGENCY DECLARATION**

**Sec. 12-66. Intent.**

Following a damaging storm and enactment of a building moratorium, it is the intent of the town to allow rebuilding and reconstruction in an orderly manner. The town will control the issuance of building permits to manage the location, timing and sequence of reconstruction and repair. It is further the intent of this article that the town establish, prior to the storm, a special reconstruction task force which will oversee the recovery and reconstruction process and serve as an advisory body to the town council on recovery/reconstruction issues. A main responsibility of this body will be to identify opportunities to mitigate future storm damages through the management of reconstruction. To further the intent of this article, the town will make every effort to develop its capacity to identify and coordinate various post-storm reconstruction resources, while at the same time ensuring maximum local control over the reconstruction process.

**Sec. 12-67. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Destroyed structure* means a structure that is a total loss or damaged to such an extent that repairs are not technically or economically feasible, i.e., 50 percent or more of the replacement cost of the entire structure at the time of damage or destruction.

*Incipient inlet* means an ocean-to-sound inlet which has been formed, or an inlet in the first stages of formation, or an inlet which has opened and is now closed as a result of a severe storm event.

*Local damage assessment team* means a damage assessment team, required by the state division of emergency management, whose function is to assess losses to property immediately after a storm. The assessment is used to determine if the area can qualify for federal or state disaster assistance.

*Major damaged structure* means a structure that can be made habitable with extensive repairs. Damage may include foundation, roof structure and major structural components. The indicator for this category is if the cost to repair is greater than ten percent and less than 50 percent of the replacement cost of the entire structure at the time of damage.

*Minor damaged structure* means a structure that can be made habitable in a short period of time with minimal repairs. Damage may include doors, windows, floors,



furnaces, water heaters and other minor structural damage. An indicator for this category is if the cost to repair is ten percent or less of the replacement cost of the entire structure at the time of damage.

*Storm event* means any natural weather event causing damage and destruction of property. (A storm event shall include, but not be limited to, hurricanes, northeasters, tornadoes, lightning, waterspouts, rain, and ice or snow storms.)

## **Sec. 12-68. Hurricane and storm reconstruction.**

(a) *Determination of damage.* A primary task of the local damage assessment team is to identify structures which, as a result of the storm event, have been damaged. The local damage assessment team will recommend to the ~~building inspector~~ Planning and Code Enforcement Department those structures which have been destroyed, received major damage or received minor damage. The ~~building inspector~~ Planning and Code Enforcement Department will then inspect the damaged structures and place each structure in one of the categories defined in section 12-67.

(b) *Declaration of a building moratorium.* The initial post-storm reconstruction moratorium shall be declared in effect upon the occurrence of one or more of the following findings:

~~(1) The town is struck by a hurricane of force equal to or greater than four on the Saffir Simpson scale, as determined by the National Weather Service.~~

~~(2) The town is declared a disaster area by either the governor of the state or the President of the United States.~~

(3) 25 or more structures have received major damage or have been destroyed, as determined by the ~~building inspector~~ Planning and Code Enforcement Department.

(4) Upon the finding by the mayor, or in the absence of the mayor, the mayor pro tem, of the existence of a state of emergency, in accordance with G.S. ~~14-288~~ 166A-19.22, as amended, the mayor, or the mayor pro tem, as the case may be, shall declare the initial building moratorium, pursuant to G.S. 160A-174, where the mayor finds a moratorium is necessary for the protection of lives, safety and property, or due to the inability of the town to maintain acceptable levels of public order and services. The mayor may, based upon the above finding, extend the initial moratorium until such time as the state of emergency no longer exists.

(c) *Moratoriums.*

(1) *Initial building moratorium.* Upon the declaration of a building moratorium, the initial post-storm moratorium shall be in effect for a minimum period of 48 hours. No building permits shall be issued during this time period. After expiration of this initial moratorium, the following moratoria shall then apply:

- 1 a. *Destroyed structure moratorium.* No building permit shall be issued within  
 2 30 days following the expiration of the initial moratorium for the  
 3 replacement of any structure which has been destroyed. All replacement  
 4 building shall be subject to meeting the requirements of chapter 36, article  
 5 XVI, all applicable sections pertaining to zoning, and all applicable town  
 6 codes, prior to the issuance of a building permit.
- 7 b. *Major damaged structure moratorium.* No building permit for repairs of a  
 8 major damaged structure shall be issued for at least seven days following  
 9 the expiration of the initial moratorium. All repairs to a major damaged  
 10 structure shall meet the requirements of chapter 36, article XVI, all  
 11 applicable sections pertaining to zoning, and all applicable town codes,  
 12 prior to the issuance of a building permit.
- 13 c. *Minor damaged structure moratorium.* Permits for the repair of minor  
 14 damaged structures may be issued following the expiration of the initial  
 15 moratorium. All repairs to minor damaged structures shall meet the  
 16 requirements of chapter 36, article XVI, all applicable sections pertaining  
 17 to zoning, and all applicable town codes, prior to the issuance of a building  
 18 permit.
- 19 ~~d. *Outstanding building permits moratorium.* All building permits which~~  
 20 ~~were issued prior to the storm event shall be revoked and shall not be~~  
 21 ~~reissued for a minimum period of 30 days following the expiration of the~~  
 22 ~~initial moratorium, unless upon finding by the building inspector, on a~~  
 23 ~~case by case basis, that sufficient inspection capability is available to~~  
 24 ~~adequately inspect the structures, should construction begin or resume. All~~  
 25 ~~permits issued prior to the storm event must meet the additional~~  
 26 ~~requirements of article XVI of chapter 36 before construction can resume.~~  
 27 ~~Applications for building permits revoked under this section shall be~~  
 28 ~~reissued at no charge.~~
- 29 ed. *Site plan review.* Site plans which have been submitted to the town prior to  
 30 the storm event shall not be reviewed by the staff, planning board or town  
 31 council for a period of 30 days following the expiration of the initial  
 32 moratorium. All submittal dates and review periods shall be adjusted  
 33 accordingly to reflect the time period covered by this 30-day moratorium.
- 34 fe. *New site plans, zoning requests and subdivision plats.* No new site plans,  
 35 zoning requests or subdivision plats shall be accepted by the town for a  
 36 period of 30 days following the expiration of the initial moratorium. All  
 37 submittal dates and review periods shall be adjusted accordingly to reflect  
 38 the time period covered by this 30-day moratorium.
- 39 (2) *Duration of moratorium.* All moratoriums, other than the initial moratorium as  
 40 enacted in subsection (b)(4) of this section, shall be in effect for the length of  
 41 time described above and may be cancelled or extended by the mayor or  
 42 resolution by the town council.

- (d) *Emergency repairs.* While a moratorium is in effect, no construction or reconstruction activity may be undertaken, excepting only minor interior repairs and emergency repairs necessary to prevent injury or loss of life or imminent collapse or other substantial additional damage to the structure. For illustrative purposes only, items that constitute minor repairs may include temporary roof repairs to avoid further water damage, minor repairs to steps and the temporary shoring up of a structure to avoid imminent collapse.

**Sec. 12-69. Reconstruction task force.**

- (a) *Activation.* The reconstruction task force shall be activated upon the declaration of the initial building moratorium. The task force shall be responsible for advising the town council on a wide range of post-storm reconstruction issues.
- (b) *Responsibilities.*
- (1) The reconstruction task force shall have the responsibilities outlined in this subsection. A primary function of the task force is to receive and review damage reports and other analyses of post-storm circumstances and to compare these circumstances with mitigation opportunities identified prior to the storm, to discern appropriate areas for post-storm change and innovation. Where needed, the reconstruction task force can review, in a more specific fashion, alternative mechanisms for bringing these changes about and recommend the coordination of internal and external resources for achieving these ends.
  - (2) In addition to the responsibilities in subsection (b)(1) of this section, the reconstruction task force shall:
    - a. Review the nature of damages, identify and evaluate alternate program approaches for repairs and reconstruction, and formulate recommendations for handling community recovery.
    - b. Recommend rezoning changes in areas of damage.
    - c. Set a calendar of milestones for reconstruction tasks in conjunction with the town council.
    - d. Initiate requests for repairs to critical utilities and facilities.
    - e. Recommend the expiration or extension of a moratorium for major and minor repairs.
    - f. Recommend the lifting or extension of a moratorium for the outstanding building moratorium.
    - g. Evaluate hazards and the effectiveness of mitigation policies and recommend the amendment of policies, if necessary.

h. Initiate recommendations for negotiations for relocations and acquisitions of property.

i. Participate in federal hazard mitigation planning.

The task force shall recommend any changes in zoning, subdivision regulations, setback, density, elevation requirements, building codes, or any other ordinances which it deems necessary or advisable to prevent recurrence of coastal storm damage.

~~(3) The reconstruction task force may also undertake a similar process for nonmitigative local objectives and opportunities. The task force may recommend for the town council consideration the following specific opportunities:~~

~~a. Enhancement of local recreational and open space opportunities; enhancement of public access to estuarine and ocean beaches.~~

~~b. Enhancement and restoration of local natural ecosystems.~~

~~c. Reduction of traffic congestion, noise and other transportation related problems.~~

~~d. Enhancement of the longterm economic vitality of the local commercial and industrial base.~~

~~e. Other goals which further the stated goals and policies of the town.~~

(c) *Composition of the reconstruction task force.* The reconstruction task force will be composed of the following individuals reflecting a broad-based representation of community interest and shall be appointed ~~annually~~ as needed by the town council:

~~(1) Two elected officials~~ Mayor and Mayor Pro Tem or other elected official.

(2) Town manager.

~~(3) Two planning board members~~ Planning Board Chairman and Vice Chairman.

~~(4) One board of adjustment member.~~

~~(54)~~ One representative each from Southern Shores Civic Association (SSCA) and Chicahawk Civic Association.

~~(65)~~ Building inspector.

~~(76)~~ Police chief or his representative.

~~(87)~~ Fire chief or his representative.

~~(98)~~ One representative from either the realty or the construction community.

#### **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 \_\_\_\_\_, 2022.

\_\_\_\_\_  
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