

CAROLINA BEACH

Town Council Workshop
Meeting

Tuesday, October 27, 2020 – 9:00 AM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



AGENDA

CALL TO ORDER

DISCUSSION ITEMS

- [1.](#) Employee Recognition
- [2.](#) Discussion on Freeman Park and Parking Updates
- [3.](#) A briefing on an upcoming Text Amendment related to changes to Chapter 40 – Zoning related to 160D requirements regarding Conditional Zoning, Special Use Permits, and the Table of Permissible Uses Applicant: Town of Carolina Beach
- [4.](#) CAMA Oceanfront Setbacks Discussion - Development Line vs Static Line Exception Applicant: Town of Carolina Beach
- [5.](#) Manager's Update

NON-AGENDA ITEMS

CLOSED SESSION IF NEEDED

ADJOURNMENT



AGENDA ITEM COVERSHEET

PREPARED BY: Kim Ward, Town Clerk

DEPARTMENT: Clerk

MEETING: Town Council – 10/27/2020 Workshop

SUBJECT: Employee Recognition

BACKGROUND:

New Employees

Mark Meyer will introduce Deidre Fennell and Devin Brooks, the two new Customer Service Billing Representatives.

5 Years of Service

Chief Griffin will recognize Buddy Thompson for 5 years of service with the Fire Department.

15 Years of Service

Chief Griffin will recognize Simon Sanders for 15 years with the Police and Fire Department.
Holly Brooks will recognize Sara Hartman for 15 years of service with Human Resources.
Eric Jelinski will recognize Tim Murphy for 15 years of service with Parks and Rec.

20 Years of Service

Eric Jelinski will recognize Margaret Dowling for 20 years of service with Parks and Rec.
Brian Stanberry will recognize Tim Lawrie for 20 years of service with Environmental.

ACTION REQUESTED:

Department heads will recognize the staff.



AGENDA ITEM COVERSHEET

PREPARED BY: Ed Parvin, Assistant Town Manager **DEPARTMENT:** Executive

MEETING: Town Council – 10/27/2020

SUBJECT: Discussion on Freeman Park and Parking Updates

BACKGROUND:

Assistant Town Manager Ed Parvin will lead a discussion on proposed updates to the Freeman Park Ordinance and parking in general for the 2021 season.

ACTION REQUESTED:

Review and discuss proposed changes.

RECOMMENDED MOTION:

Discussion only. Action will be requested at the November 10, 2020 Council meeting.



AN ORDINANCE TO AMEND Chapter 28 Article IV Freeman Park, Chapter 16 Article V Stopping, Standing, and Parking, and Chapter 16 Article VI Schedules. Amendments are designed to update and clarify current practices for parking and access to Freeman Park.

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ARTICLE IV. - FREEMAN PARK

Sec. 28-139. - Description.

- (a) Freeman Park at Carolina Beach is a park operated by the town under an interlocal agreement with the county and in accord with the statutory and ordinal powers of the town to operate, manage and finance a public park located on the beaches and coastal shoreline public trust resources in this state. The location of Freeman Park is primarily in the extraterritorial jurisdiction of the town within an unincorporated area of the county and portion to the south being located on a tract owned by the town and within the town's geographic boundaries. In particular, the park is located on that strand of public trust ocean beach and coastal shoreline constituting the outer perimeter of the peninsula located generally north of that point where Carolina Beach Avenue North ends at the entryway of the park located at the northern town limits and on a parcel owned by the town. The park land is primarily located between:
 - (1) The mean high-water mark, which is generally located at the first stable line of vegetation maintained by the town; and
 - (2) The Atlantic Ocean on the east, Carolina Beach Inlet to the north, and the Atlantic Intra-Coastal Waterway (AICW) to the west.
- (b) The park is not located on any portion of private lands that are not subject to the public trust. A fence separates the public trust portion of the beach from those portions of private property on the peninsula located landward of the mean high-water mark and not subject to the public trust. Numerous "no trespassing" markers are located along the most landward boundary of the park. Public pedestrian and vehicle ingress/egress for Freeman Park is via that parcel of land owned by the town at the end of Carolina Beach Avenue North. The public may also gain access to the park via the public trust waters of the Atlantic Ocean, Carolina Beach Inlet, and the AICW. ~~A map of Freeman Park will be kept by the Town Clerk for the purposes of reference in regard to this section.~~

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(Code 1986, § 11-43; Ord. No. 06-658,

11-14-2006; Ord. No. 11-882, 11-15-2011)

Sec. 28-140. - Freeman Park Management Plan; intent and application.

- (a) The town intends for this ordinance to serve as the Freeman Park Management Plan that is designed to protect the environment and public interest in Freeman Park and to discourage unauthorized entry onto private property adjacent to Freeman Park by members of the public using the park.
- (b) The Freeman Park Management Plan shall apply to all vehicles, vessels, owners and guests entering Freeman Park. Any violators of federal laws or regulations, state laws or regulations, county codes or ordinances or town codes or ordinances would result in cause for eviction from Freeman Park and revocation of the Freeman Park vehicular access permit and shall be grounds for immediate prosecution under the provisions of state statutes and/or county or town codes or ordinances.

(Code 1986, § 11-44; Ord. No. 06-658, 11-14-2006; Ord. No. 11-882, 11-15-2011)

Sec. 28-141. - No municipal assumption of liability.

The town assumes no liability for the use of Freeman Park. The town neither assumes nor accepts responsibility for personal possessions, vehicles, vessels or their contents or use while said vehicles and vessels are located within Freeman Park. Persons using Freeman Park shall assume all risk of personal injury and damage and loss of their property. The town assumes no risk due to accident, fire, theft, vandalism or acts of God.

(Code 1986, § 11-45; Ord. No. 06-658, 11-14-2006)

Sec. 28-142. - Careless and reckless driving.

State motor vehicle and traffic laws apply in Freeman Park. Vehicles must be operated in a safe manner that does not endanger or jeopardize the safety of the driver, passengers and other people and wildlife at Freeman Park. Careless and reckless driving of any kind is not permitted. (An example of careless and reckless driving is the practice of using the vehicle wheels to cut circles in the sand, commonly referred to as "making doughnuts.")

(Code 1986, § 11-46; Ord. No. 06-658, 11-14-2006)

Sec. 28-143. - Operational vehicles allowed.

Only operational four wheel drive vehicles that are legally licensed, insured and properly inspected and in compliance with state statutes, particularly the operational and safety standards, shall be allowed within Freeman Park. Motorcycles, ATVs, trailers (including boats and campers) are prohibited from being operated and/or parked within Freeman Park. This section shall not apply to town officials, emergency response personnel, sea turtle program volunteers and others as allowed by the Town Manager. This is to ensure that only passenger vehicles that are functional and operational are allowed in the park, in the interest of public safety and to minimize the environmental impact.

(Code 1986, § 11-47; Ord. No. 06-658, 11-14-2006)

Sec. 28-144. - Vehicle repairs within Freeman Park.

Major repairs of vehicles, including any activity that could result in deposition of any materials into the sound waters or onto the beach, are strictly prohibited since significant water quality violations or other environmental violations would result in an adverse impact on public health.

(Code 1986, § 11-48; Ord. No. 06-658, 11-14-2006)

Sec. 28-145. - Abandonment.

If a vehicle is left unattended for more than 24 continuous hours or in a manner which constitutes hazardous conditions (i.e. in the wet sand area, within 10 feet of the toe of the dune) without giving prior notification to the town police department, the vehicle shall be considered abandoned. If the vehicle is determined abandoned, it may be stored in a secured location during which time the police department shall make a reasonable effort to locate the owner. If the vehicle is not reclaimed within 30 days, the vehicle shall be sold under process prescribed by state statutes at fair market value which will cover the cost of towing and any fees due for storage.

(Code 1986, § 11-49; Ord. No. 06-658, 11-14-2006)

Sec. 28-146. - Public vehicular area.

- (a) *Restricted areas.* Closed areas refer to areas landward of markers, fences and other visible marking devices that establish boundaries which prohibit entry by vehicles and pedestrians. At no time shall any vehicle or pedestrian be allowed to cross into these restricted areas. All dunes and vegetation areas are included in these prohibited areas. Vehicles ~~will~~ shall not be driven between the water line and high tide crest (this area is commonly known or referred to as the "wet sand area").
- (b) *Authorized areas.* Areas are established for operation of motor vehicles east of markers, fences and other visible marking devices that establish boundaries for prohibited areas. This public vehicular area (PVA) may be utilized by permitted vehicles to travel throughout authorized areas of Freeman Park. Vehicles operated in the PVA are subject to all state and local ordinances. At no time will vehicles travel within ten feet of any dune or vegetation line regardless of markers, boundary lines, etc.

(Code 1986, § 11-50; Ord. No. 06-658, 11-14-2006; Ord. No. 11-882, 11-15-2011; [Ord. No. 19-1128](#), 11-19-2019)

Sec. 28-147. - Speed limit.

All areas of Freeman Park, including incorporated and non-incorporated parcels or areas, shall have a speed limit of 15 miles per hour.

(Code 1986, § 11-51; Ord. No. 06-658, 11-14-2006)

Sec. 28-148. - Clinging to motor vehicles.

No person shall ride on a vehicle except in a manner in which the manufacturer of the vehicle intended. Examples of this type of activity include riding on a bumper, riding on a tailgate, or riding on the hood of a vehicle. State laws that apply to transporting passengers in the bed of a truck along public streets shall apply to Freeman Park.

(Code 1986, § 11-52; Ord. No. 06-658, 11-14-2006)

Sec. 28-149. - Camping.

- (a) *Location.* **No camping is allowed on any beaches in Carolina Beach except on Freeman Park in designated camping spaces.** Sleeping in a vehicle or overnight camping is permitted at Freeman Park with the following restrictions:
- (1) Friday before Memorial Day weekend through Sunday of Labor Day weekend: Sleeping in a vehicle and/or overnight camping is not allowed.
 - (2) Labor Day night through the Thursday before Memorial Day: Sleeping in a vehicle or overnight camping is allowed in designated camping areas. Reservations are required. All campsites shall be established between Marker D and Marker Z.
- (b) *Duration.* Sleeping in a vehicle or overnight camping for more than 14 consecutive days is not allowed.
- (c) *Day visits.* Day tents, canopies, and other similar devices are allowed all year long, on the beach, except in travel lanes, wet sand area, or within ten feet of the dune or the vegetation line. All day tents, canopies and other similar devices must be removed prior to 10:00 p.m. each night or may be removed by the town.

(Code 1986, § 11-53; Ord. No. 14-967, § 11-53, 2-10-2015; [Ord. No. 19-1128](#), 11-19-2019)

Sec. 28-150. - Campfires.

- (a) Small campfires are allowed at Freeman Park from October 1 through March 31, beginning at Marker F and extending north to the end of the park. The campfire must be contained within a fire pit or container that may not exceed three feet in diameter. Each fire pit must be brought into the park by the visitor and shall be removed following its use. All fire remains and debris must be picked up and removed from the beach. Failure to do so will result in a fine. Any fire pit over three feet in diameter will be considered a bonfire and will require a special permit from the Town Manager. No fires of any kind are permitted south of Marker F.
- (b) All campfires will be subject to regulations of the town fire code. Campfire privileges can be revoked for failure to follow any regulation as outlined in this Code. Fires may not be left unattended and must be extinguished with water, not sand. Only natural firewood can be burned. Burning trash or construction debris is not allowed. No campfires are allowed within ten feet of the dune or the vegetation line.
- (c) The Town Fire Chief, Town Manager or other emergency personnel have the authority to prohibit fires on Freeman Park at any time.

(Code 1986, § 11-54; Ord. No. 06-658, 11-14-2006; Ord. No. 07-720, 11-13-2007; Ord. No. 08-718, 1-8-2008; [Ord. No. 19-1128](#), 11-19-2019)

Sec. 28-151. - Sand dunes.

- (a) Frontal dunes are the first mounds of sand located landward of the waters of the Atlantic Ocean and Carolina Beach Inlet with sufficient vegetation, height, and configuration to offer protection from ocean storms. Protection of frontal dunes is necessary to provide storm protection, preserve wildlife habitat, and preserve the aesthetics of the oceanfront area.
- (b) It shall be unlawful for any person to traverse or travel upon any frontal dune at any location other than a designated walkway structure or established sand pathway. Examples of unlawful activities include playing on, climbing on, and allowing pets to traverse upon the frontal dunes, the removal of frontal dune vegetation, and other activities that reduce the stability of the frontal dune system and potentially decrease its storm protection, wildlife habitat, and aesthetic values.

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- (c) The following activities are exempt from subsection (b):
- (1) Dune and vegetation maintenance activities; and
 - (2) Regulatory, contract, and research activities conducted by government officials and researchers.

(Code 1986, § 11-55; Ord. No. 06-658, 11-14-2006; Ord. No. [18-1084](#), 4-10-2018)

Sec. 28-152. - Litter.

- (a) Littering in Freeman Park in any form is strictly prohibited. Glass containers are prohibited. All litter must be taken from the park upon leaving. Burning trash or debris is strictly prohibited and will result in fines. Cigarette and cigar butts are considered litter and must be disposed of in public [trash](#) receptacles.
- (b) Only normal camping and beach furniture will be allowed onto Freeman Park. No commonly known household furniture such as couches, chairs, non-inflatable mattresses, box springs, etc., are permitted.
- (c) It is the responsibility of all individuals at Freeman Park to carry away all trash and waste products upon leaving the park.

(Code 1986, § 11-56; Ord. No. 06-658, 11-14-2006; Ord. No. 13-912, 4-9-2013)

Sec. 28-153. - Human and animal waste.

- (a) It shall be unlawful for any person to urinate or deposit any human waste or animal waste in Freeman Park except in an approved sanitary facility. No person shall possess or use any portable human waste device.
- (b) It shall be unlawful for any owner or keeper of any domestic animals, who deposits waste upon public land or property, shall be held responsible for such action and shall be held responsible for cleanup or have cleaned up said waste immediately following the occurrence. An owner or custodian of an animal will have on them or near their person a device such as a plastic bag, or other suitable plastic or paper container, that can be used to fully clean up and contain animal waste until it can be disposed of in an appropriate container. Such a device must be produced and shown, upon request, to anyone authorized to enforce this section.

(Code 1986, § 11-57; Ord. No. 06-658, 11-14-2006; Ord. No. 10-822, 3-23-2010; Ord. No. 13-911, 4-9-2013)

Sec. 28-154. - Wildlife.

- (a) Sea turtles are under the protection of the Endangered Species Act; therefore, it is unlawful to harass, harm, capture or collect sea turtles and live or dead hatchlings, juvenile or adult sea turtles. Violators can be prosecuted under criminal or civil laws and assessed penalties. Extreme caution shall be used while driving on the beach in order to avoid turtle nests.
- (b) Feeding of or disturbing wildlife is prohibited.
- (c) The term "endangered species" is an animal or plant species that is in danger of extinction throughout all or a significant part of its range as defined by federal statute.
- (d) Horses and/or livestock are not permitted in the park except as allowed in section 4-4.

(Code 1986, § 11-58; Ord. No. 06-658, 11-14-2006; Ord. No. 08-719, 1-8-2008)

Sec. 28-155. - Dogs and other commonly accepted animals and fowl on public rights-of-way, public lands, property and beaches.

- (a) Any person, owner, or keeper of "commonly accepted domestic animals or fowls," as defined in section 4-2, herein referred to as "animal," shall have the animal on a leash while in Freeman Park from April 1 to September 30.
- (b) Between October 1 and March 31, animals will be allowed off of a leash in Freeman Park so long as they remain under voice command and the owner is within a reasonable distance from the pet.
- (c) The owner or keeper of any such animal who harms or causes offenses or damages to the public, or who deposits waste upon public land or property, shall be held responsible for such action and shall be held responsible for cleanup or have cleaned up said waste immediately following the occurrence.
- (d) An owner or custodian of an animal will have on or near their person a device, such as a plastic bag, or other suitable plastic or paper container, that can be used to fully clean up and contain dog waste until it can be disposed of in an appropriate container. Such a device must be produced and shown, upon request, to anyone authorized to enforce this section.

(Code 1986, § 11-59; Ord. No. 06-658, 11-14-2006; Ord. No. 14-925, 1-14-2014)

Sec. 28-156. - Surfing and other water-related activities.

In order to promote the general health, safety and welfare of the citizens of the town and its tourists from being injured while using the Atlantic Ocean within Freeman Park, any person while surfing and having in his possession any surfboard, boogie board, ski-board, jet ski, wave runner, skip pan or any other device used to propel such person through the waters excepting surf mats and beach rafts shall be subject to the following regulations:

- (1) Personal watercraft vehicles shall be prohibited in the surf area beginning at the mean high-water mark and extending 1,500 feet eastward into the Atlantic Ocean within the corporate beach limits of the town and its extraterritorial jurisdiction, except that town lifeguards and emergency personnel shall be exempted from this provision. Beaching or anchoring on shore will be allowed from Marker V to Marker Z. Beaching and anchoring shall only be done in a safe manner and at a safe speed. See article II of this chapter for operating regulations concerning personal watercraft.
- (2) Any person while surfing within the limits of Freeman Park with any surfboard and boogie boards shall have attached to his ankle a strap or shock cord of sufficient strength attached to the apparatus to prevent it from leaving the person in order to avoid injury to others.
- (3) No surfer shall be nearer to any fishing pier in the Atlantic Ocean than 300 feet on either side of such pier within the town or its extraterritorial jurisdiction. Town lifeguards shall designate and mark with appropriate "no surfing" signs the restricted area on each side of the ocean piers. For surfing contests, or other surf group activities, that are part of a special event permit, the required buffer may be reduced to 200 feet. This allowance is at the discretion of town council or the town manager's designee. The request must be made prior to the approval of the special event permit, and listed as a condition of the permit.
- (4) All surfers shall, when advised by a town official, move to another location for surfing when it is deemed unsafe because of congestion of bathers in any one area.

(Code 1986, § 11-60; Ord. No. 06-658, 11-14-2006; Ord. No. 11-862, 4-12-2011; Ord. No. [17-1055](#), 5-9-2017; [Ord. No. 19-1128](#), 11-19-2019)

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Sec. 28-157. - Permits.

- (a) All permits must be displayed or made available upon request. Permits are not transferable to another vehicle and shall be permanently affixed to the vehicles windshield. A permit may be revoked without refund as a result of the violation of any local or state laws or ordinances.
- (b) Fees shall be established by the annual budget of the town.

(Code 1986, § 11-61; Ord. No. 06-658, 11-14-2006; [Ord. No. 19-1128](#), 11-19-2019)

Sec. 28-158. - Fees.

- (a) Every vehicle entering Freeman Park shall be obligated to obtain a permit. Fees for permits shall be listed in the annually adopted rates and fees schedule. Daily permits will not be valid for more than 24 consecutive hours. Daily permits expire and the vehicle shall be removed from the park the next morning at:
 - (1) 6:00 a.m. for daily pass holders;
 - (2) 10:00 a.m. for daily pass holders with a camping permit; and
 - (3) In no instance shall a camper be allowed to stay in a campsite after the reservation expires at 10:00 a.m.
- (b) Special permit fees shall be set by the Town Council.

(Code 1986, § 11-62; Ord. No. 06-658, 11-14-2006; [Ord. No. 19-1128](#), 11-19-2019)

Sec. 28-159. - Hours.

Freeman Park shall have the following hours:

- (1) Twenty-four hours a day, seven days a week.
- (2) Town Council may vote to close the park.
- (3) Due to an extraordinary event or occurrence, the Town Manager, Fire Chief or Police Chief may close Freeman Park without notice. Public notification of any such closure will be made by the town via the media. Property owners in Freeman Park are exempt from this section.

(Code 1986, § 11-63; Ord. No. 06-658, 11-14-2006; [Ord. No. 19-1128](#), 11-19-2019)

Sec. 28-160. - Conduct of visitors.

Visitors to Freeman Park shall use discretion in using any sound producing devices, which may include, but are not limited to, televisions, radios, stereos, musical instruments, generators or other noisy machinery, so as not to create a nuisance to others. Visitors should conduct themselves in a manner that is respectful of other people in the park and not do anything commonly considered to be offensive, distasteful or insulting to other visitors.

(Code 1986, § 11-64; Ord. No. 06-658, 11-14-2006)

Sec. 28-161. - Advertising and promotions.

There shall be no advertising and/or promotions of any events, product or service at Freeman Park. This shall include distribution of literature, such as advertising fliers, brochures and pamphlets.

(Code 1986, § 11-66; Ord. No. 06-658, 11-14-2006)

Sec. 28-162. - Organized events not allowed.

There will be no organized corporate or business sponsored events, mass gatherings in which tickets are sold, private parties or any event that will restrict the public use and access to the beach. This section excludes family gatherings, groups of friends, school or church groups, and other similar gatherings. Special events can be approved by the town council at their discretion with these events primarily being for not-for-profit organizations. Special requirements may be imposed by the town council to ensure that the liability of the town is covered and the safety of Freeman Park patrons is preserved.

(Code 1986, § 11-67; Ord. No. 06-658, 11-14-2006)

Sec. 28-163. - Peddle, solicit or beg without a license.

It shall be unlawful for any person to solicit, beg or ask for money or other things of value, to exhibit oneself for the purpose of soliciting, begging or asking for money or other things of value, or to solicit or otherwise offer the sale of goods or services in Freeman Park, with the exception of fundraising activities approved by the Town Manager.

(Code 1986, § 11-68; Ord. No. 06-658, 11-14-2006)

Sec. 28-164. - Dangerous weapons and fireworks.

- (a) It shall be unlawful for any person to carry, use or possess firearms within Freeman Park without a conceal carry weapons permit
- (b) It shall be unlawful for any person to carry, use or possess any dangerous weapon.
- (c) It shall be unlawful for any person to be in possession of, or cause to ignite any pyrotechnic or fireworks that is prohibited by state law.

(Code 1986, § 11-70; Ord. No. 06-658, 11-14-2006; Ord. No. 10-822, 3-23-2010)

Sec. 28-165. - Noises prohibited; nuisances.

- (a) *General prohibitions.* It shall be unlawful to create, cause or allow the continuance of any loud, disturbing, unusual, frightening or unnecessary noise, particularly during nighttime, which prevents or unreasonably interferes with neighboring residents' reasonable use of their properties. Such noise may include, but not be limited to, the following:
 - (1) *Yelling, shouting, whistling or singing.* Yelling, shouting, whistling or singing on the public streets or private property at nighttime.
 - (2) *Loading operations.* Noise resulting from loading, unloading, opening or otherwise handling boxes, crates, containers, garbage cans, or other similar objects during nighttime.
 - (3) *Repair of motor vehicles.* Noise resulting from the repair, rebuilding or testing of any motor vehicle during nighttime.
 - (4) *Radio, phonograph, television, or musical instrument.* Noise resulting from the playing of any radio, phonograph, musical instrument, television, or any such device, particularly during nighttime.
 - (5) *Nuisance noise.* Nuisance noise which does not exceed the noise threshold but creates an irritating impact sufficient to disturb an individual's sleep pattern or the peace and quiet of the area.

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- (b) *Specific prohibitions.* The following acts are prohibited and shall be considered nuisance acts:
- (1) *Horns and signaling devices.* The intentional sounding of any horn or signaling device on any street or public place continuously or intermittently, except as a danger or emergency warning.
 - (2) *Motor vehicles.* Operating or permitting the operation of any motor vehicle or motorcycle not equipped with a muffler or other device in good working order so as to effectively prevent loud or explosive noises therefrom.
 - (3) *Exterior loud speakers.* Operating or permitting the operation of any mechanical device or loudspeaker, without a permit to do so, in a fixed or movable position exterior to any building, or mounted in/on any motor vehicle or watercraft in such a manner that the sound therefrom is in excess of the maximum decibel level as described in section 18-133.
 - (4) *Power equipment.* Operating or permitting the operation of any power saw, sander, drill, grinder, leaf blower, lawn mower, or other garden equipment, or tools of a similar nature, outdoors during nighttime.
 - (5) *Explosives.* The use or firing of explosives, firearms, fireworks or similar devices which create impulsive sound.
 - (6) *Security alarms.* The sounding of a security alarm, for more than 20 minutes after being notified by law enforcement personnel.
 - (7) *Animals and birds.* The keeping of any animal or bird that frequently or for long periods of time makes noises that tend to annoy or disturb others.
 - (8) *Construction.* Construction, construction preparation, building and operation of construction or building equipment.
 - (9) *Motor vehicles.* Operation of any motor vehicle so as to cause the tires to squeal or screech unnecessarily.
 - (10) *Model cars.* Operation of model cars, boats or airplanes, go carts, mini bikes or all-terrain vehicles or other unlicensed toy or recreational vehicles or devices powered by an internal combustion engine.

(Code 1986, § 11-71; Ord. No. 06-658, 11-14-2006)

Sec. 28-166. - Public nudity.

- (a) It shall be unlawful for any fully developed female to willfully expose her breasts in Freeman Park or on any public beach, any public street or in any public park. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning. For the purpose of this article, exposing of breasts shall mean the revealing of the female breast with less than a fully opaque covering on any portion thereof lower than the top of any part of the areola.
- (b) It shall be unlawful for any person to appear on any public beach, any public street or in any public park in a state of dress or undress so as to expose to the view of others the human male or female pubic area, pubic hair, anus, or vulva with less than a fully opaque covering.

(Code 1986, § 11-72; Ord. No. 06-658, 11-14-2006; Ord. No. [19-1119](#), 8-13-2019)

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Sec. 28-167. - Penalties and remedies.

- (a) Any person violating the provisions of section 28-167 shall be subject to a civil penalty punishable by a fine issued in accordance with the town's annually adopted rates and fees schedule to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within 15 days after having been cited for violation of the ordinance. In accordance with G.S. 160A-175(b), a violation of the section enumerated herein shall not be subject to the penalty provisions of G.S. 14-4 and shall not be considered a breach of the penal laws of the state.
- (b) A violation of any remaining section of this chapter is a misdemeanor punishable in accordance with the provisions of G.S. 14-4. The fine for such violation shall be set in the annually adopted budget. ~~not exceed \$500.00.~~
- (c) A violation of any remaining section of this chapter shall subject the offender to a civil penalty punishable by a fine issued in accordance with the town's annually adopted rates and fees schedule. If any person fails to pay a civil penalty within 15 days after being cited for a violation, the town may seek to recover the penalty in a civil action in the nature of debt.
- (d) The provisions of this chapter may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- (e) Each day's continuing violation of any provisions of this chapter shall be a separate and distinct offense.
- (f) This article may also be enforced, by any appropriate equitable means, including the revocation of the offender's Freeman Park pass.
- (g) Any person issued a civil citation under the provisions of this section may appeal the issuance of such citation to the Town of Carolina Beach Chief of Police ("chief of police"). An appeal shall be perfected in accordance with the following:
 - (1) An appeal shall be taken by giving written notice of appeal to the chief of police within 7 ~~14~~ calendar days of the date of issuance of the civil citation. In determining the ~~14~~ 7 calendar days within which such appeal may be taken, the date of the civil citation shall not be counted.
 - (2) Such written notice must be received by the chief of police no later than 5:00 p.m. on the fourteenth day of the appeal period. If the fourteenth day falls on a Saturday, Sunday or holiday recognized by the town, the time for filing such appeal shall be extended to 5:00 p.m. on the next day which is not a Saturday, Sunday or holiday.
 - (3) A copy of the citation issued to the appealing party shall be attached to such written notice of appeal.
 - (4) The written notice of appeal shall set forth the grounds for the appeal, include other information that the appealing party believes supports its position and must include the name, email address, mailing address and telephone number of the appealing party.
 - (5) Within 15 calendar days of receipt of the written notice of appeal, the chief of police or his designee shall issue a written decision. The chief of police or his designee may uphold the citation, dismiss the citation or reduce the citation to some lesser offense. Provided, that the chief of police or his designee may not impose any penalty greater than that set forth in the citation from which appeal was taken. The written decision of the chief of police or his designee will be emailed or mailed by first class mail to the appealing party within five days of issuance to the email address or mailing address of the appealing party shown on the written notice of appeal.
 - (6) The decision of the chief of police or his designee shall be final.

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- (7) If the chief of police or his designee upholds the citation or takes other action that requires the appealing party to make payment to the town, such payment must be made within 30 days of the date of the written decision of the chief of police or his designee. If the appealing party fails to make payment within that time, the town shall undertake enforcement action as appropriate.

(Code 1986, § 11-75; Ord. No. 14-966, 1-9-2015; Ord. No. [17-1058](#), § 6, 7-11-2017)

Sec. 28-168. - [Horseback riding within town limits and upon land managed by the town.]

Horseback riding may be allowed within the town limits and upon land managed by the town with the following restrictions:

- (1) Horses may be ridden within and on the sand portion of the beach of Freeman Park between October 1 and March 31 only. Horses shall not be allowed within Freeman Park from April 1 to September 30.
- (2) Horses and horseback riding shall be allowed at Freeman Park during daylight hours only and are not allowed on private property (areas with vegetation).
- (3) Any feces dropped by the horse on the beach or streets shall be removed from the beach or streets by the rider and disposed of away from the beach in an environmentally safe and appropriate manner.
- (4) The number of riders and horses together in a group shall not exceed four combinations of horse and rider on the ocean beach and on the public streets of the town.
- (5) Unloading of vehicles associated with horseback riding will be allowed between October 1 and March 31 at the north end parking lot and lifeguard substation or on private property in the vicinity of this area with the permission of the town manager. Vehicles shall obey all parking regulations. Horseback riders wishing to access the beach shall go directly from the north end parking area to the beach by way of the following access points. The following town beach access locations are designated as horse and rider access points for the purpose of going to and departing from the ocean beach while riding a horse:
 - East end of Salt Marsh Lane.
 - North end of Canal Drive/Freeman Park entrance.
- (6) Horse and riders shall access the beach only at the above locations and shall use the above town streets as access corridors to the locations.
- (7) The owner of a horse ridden in violation of these provisions, as well as, the rider shall be subject to the penalty provided herein.
- (8) At no time shall a horse be ridden on the ocean beach at a speed or in a manner likely to endanger persons or property.
- (9) No renting of horses, horseback riding tours or any commercial related horse activities will be allowed at Freeman Park.
- (10) Each violation of this section shall be a misdemeanor punishable by fines as defined by the town's annually adopted rates and fees schedule. A person(s) liable failing comply with a written order regarding any situations or conditions and not fined through the judicial process with a criminal fine for committing acts causing the situations and conditions, is subject to civil monetary charges being imposed by the official in an amount defined in the town's annually adopted rates

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and fees schedule. Said civil charges are not penal sanctions imposed for violation of criminal laws.

(Ord. No. 01-473, 2-13-01; Ord. No. 08-719, 1-8-08; Ord. No. 13-915, 6-11-13)

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ARTICLE V. - STOPPING, STANDING AND PARKING

Footnotes:

--- (6) ---

State Law reference— Purposes for which municipal service districts may be established, G.S. 160A-536; signals on starting, stopping or turning, G.S. 20-154; stopping on highway prohibited, warning signals, removal of vehicles from public highways, G.S. 20-161; unattended motor vehicles, G.S. 20-163.

Sec. 16-152. - Stopping in streets prohibited; exceptions.

No vehicle shall stop in any street except for the purpose of parking as prescribed in this article, unless the stop is made necessary by the approach of a fire apparatus, by the approach of a funeral or other procession which is given the right-of-way, by the stopping of a public conveyance, by the lowering of railway gates, by the giving of traffic signals, by the passing of some other vehicle or pedestrian, or by some emergency. In any case covered by these exceptions the vehicle shall stop so as not to obstruct any footway, pedestrian aisle, safety zone, crossing, or street intersection if it can be avoided.

(Code 1986, § 9-110; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-153. - Obstructing passage of other vehicles.

No vehicle shall so stand on any street as to interrupt or interfere with the passage of public conveyances or other vehicles.

(Code 1986, § 9-111; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-154. - Unattended vehicles.

It shall be unlawful for any person to leave the engine or motor of any motor vehicle running while it is standing parked upon the streets.

(Code 1986, § 9-112; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-155. - Parking restrictions; all times.

When signs are placed, erected, or installed giving notice thereof, or the curbing has been painted yellow in lieu of signs, no person shall park a vehicle at any time upon any street within the corporate limits. ~~of the streets designated on the official map.~~

(Code 1986, § 9-113; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-156. - Parking and standing; purposes prohibited.

No person shall stand or park a vehicle upon any street for the principal purposes of:

- (1) Displaying it for sale.
- (2) Washing, greasing, or repairing the vehicle, except for repair necessitated by an emergency.
- (3) Storage thereof by garages, dealers, or other persons when the storage is not incident to the bona fide use and operation of the automobile or other vehicles.

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- (4) Storage of any detached trailer or van when the towing unit has been disconnected or for the purpose of transferring merchandise or freight from one vehicle to another.

(Code 1986, § 9-114; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-157. - Parking and standing; certain places prohibited.

No person shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device in any of the following places:

- (1) On the sidewalk.
- (2) Within an intersection.
- (3) On or within 10 feet of a crosswalk.
- (4) Within ~~30~~ twenty-five (25) feet of any flashing beacon, stop sign, or traffic control signal located at the side of a street or roadway.
- (5) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic.
- (6) Upon any bridge or other elevated structure or within any underbase structure.
- (7) Within 15 feet in either direction of the entrance to a hotel, theater, hospital, sanatorium, or any public building.
- (8) On the roadway side of any vehicle stopped, standing, or parked at the edge of a curb or street.
- (9) At hazardous or congested areas where signs or markings have been installed prohibiting such.
- (10) Where a street includes two or more separate lanes and traffic is restricted to one direction, no person shall park or stand upon the left-hand side of such roadway unless signs are erected to allow such.

(11) Within a designated drive aisle.

12. Within the median of a divided roadway.

13. Within fifteen (15) feet in either direction of a fire hydrant, unless a greater or lesser distance is designated by action of the Council and appropriate signs or markings are displayed.

14. Town -owned or operated parking areas. It shall be unlawful in any off-street lot or area owned by the Town and provided for general public parking to park a motor vehicle, or for the registered owner of a motor vehicle to allow such vehicle to be parked, in any manner other than within properly designated parking spaces.

(Code 1986, § 9-115; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-158. - Parking restrictions; time limitations.

Where signs have been erected which display parking time limitations, no person shall park a vehicle for any length of time exceeding the time limitation so displayed. All persons parking vehicles within areas of parking time limitations and exceeding the limitation shall be in violation of this article and subject to the penalties as prescribed herein.

(Code 1986, § 9-116; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

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Sec. 16-159. - Parking parallel to curb; proper position.

(a) No person shall stop, stand or park in a roadway upon which the boundaries of individual parking spaces are marked on the pavement other than parallel with the front of the curb or edge of the roadway, headed in the direction of traffic and completely within the boundaries of the delineated parking space. When no parking space boundaries are marked on the roadway the vehicle shall be parked as above except that it may not be farther than twelve (12) inches from the curb or edge of the roadway if there is no curb.

(b) For the purposes of this section "front of the curb" shall mean the roadside of the curb that is raised above and perpendicular to the gutter.

(c) For the purposes of this section "edge of the roadway" shall mean the portion of the right-of-way where the improved area designed and ordinarily used for vehicular traffic meets the unimproved area not designed or ordinarily used for vehicular traffic.

~~Where not otherwise indicated by this article, no person shall stand or park a vehicle in a street or alley other than parallel with the edge of said street or alley, in the direction of lawful traffic movement and with the right side wheels of the vehicle within 12 inches from the curb or edge of street or alley. Unless indicated to the contrary, parking on the left side of a street or alley, opposing the direction of lawful traffic movement, is prohibited.~~

(Code 1986, § 9-117; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-160. - Angle parking.

Upon those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or street edge indicated by such signs or markings.

(Code 1986, § 9-119; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-161. - Parking within lines.

On any street or parking lot which is marked off with lines indicating the parking spaces for cars and golf carts, the cars and golf carts shall be parked between the lines.

(Code 1986, § 9-120; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-162. - Backing vehicle to curb; prohibited.

In no case shall a vehicle remain backed up to a curb, except when actually loading or unloading.

(Code 1986, § 9-121; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-163. - Lights on parked vehicles.

Whenever a vehicle is parked or stopped upon a highway, whether attended or unattended, during the period from a half-hour after sunset to a half-hour before sunrise, and at any other time when there is not sufficient light to render clearly discernible any person on the highway at a distance of 400 feet ahead, there

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shall be displayed upon such vehicle one or more lamps projecting a white or amber light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, and projecting a red light visible under like conditions from a distance of 500 feet to the rear; except that no lights need be displayed upon any such vehicle when parked in accordance with the town ordinances upon a highway where there is sufficient light to reveal any person within a distance of 200 feet upon such highway.

(Code 1986, § 9-122; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

State Law reference— Similar provisions, G.S. 20-134.

Sec. 16-164. - Moving vehicle of another into restricted area.

No person shall move a vehicle which they do not own into any prohibited area or sufficiently away from the curb as to constitute a violation of this chapter.

(Code 1986, § 9-123; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-165. - Obstructing street end water access prohibited.

- (a) It shall be unlawful to park, leave, place, or cause to be parked, left, or placed, either permanently or temporarily on any street ends or street rights-of-way between the paved or traveled portion of the street and the waters of the sounds, creeks, channels, and ocean contiguous to the shores of the town any motor vehicles, trailers of any kind, boats, or personal property of any kind unless otherwise designated by signs or markings allowing such.
- (b) **Unless otherwise designated on-site**, It shall be unlawful to launch any boats or vessels from street ends or street rights-of-ways between the paved or traveled portion of the street and the waters of the sounds, creeks, channels, and ocean contiguous to the shores of the town, by trailer or vehicle of any kind, and no vehicle or trailers shall be driven, pulled, or trailed in any way across street ends or street rights-of-ways as described hereinabove unless otherwise designated by signs or markings allowing such.
- (c) Notwithstanding the provisions of subsections (a) and (b) of this section, boats may be launched from street ends and transported to the ocean or sound at street ends by sand dolly. Sand dollies may be left at street ends during daylight hours only, and then only if they do not block or impede access of others over street ends to the water.
- (d) All sand dollies left at street ends under the provisions of subsection (c) of this section shall have the owner's name and address clearly displayed and attached thereto.

(Code 1986, § 9-124; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-166. - Loading and unloading zones.

Whenever vehicle loading and unloading zones are designated and described by this chapter and when signs or markings are installed giving notice thereof, it shall be unlawful for any person to stop, stand, or park any vehicle for any purpose or period of time except in accordance with the requirements of this chapter.

(Code 1986, § 9-125; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

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Sec. 16-167. - Passenger and commercial zones.

Upon the streets, street rights-of-way, or parts thereof, designated **on-site on the official map** as unloading zones, no person shall stop, stand, or park a vehicle therein for any purpose other than the expeditious loading or unloading of passengers or commercial products, and then only for a temporary period of time.

(Code 1986, § 9-126; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-168. - Loading/unloading and passenger and commercial zones; blockage of street prohibited.

No vehicle while loading or unloading passengers or commercial goods in designated loading or unloading areas shall cause blockage of adjacent traffic or cause such situations as to render traffic movement hazardous or unsafe.

(Code 1986, § 9-127; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-169. - Operator to comply with chapter; effect of proof of ownership of vehicle.

The person actually operating or in control of the operation of the vehicle at the time the vehicle is parked, shall be charged with the duty of complying with the provisions of this article. However, proof of ownership of any vehicle found parked in violation of this chapter shall be prima facie evidence that the owner parked the vehicle.

(Code 1986, § 9-128; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-170. - Fire lanes.

Pursuant to the provisions of G.S. 20-162(b), and for the protection and safety of the lives and property of the citizens of the town, there are hereby established certain fire lanes as set forth in this section. Fire lanes may be designated on private property which constitutes a public vehicular area as that term is defined in G.S. 20-4.01(32) (or by a subsequent statute amending this statutory section) and on any highway or street as that term is defined in G.S. 20-4.01(13) (or by a subsequent statute amending this statutory section).

- (1) Fire lanes may be designated on any portion of a highway or street or public vehicular area as those terms are defined herein when the parking or placing of vehicles or obstructions in the area designated as a fire lane would interfere with the property ingress or egress of fire fighting trucks or other emergency vehicles, equipment or personnel.
- (2) Fire lanes shall be clearly marked by appropriate above ground signs, or signs and pavement markings. The person or legal entity in possession of the property on which a designation of a fire lane is made shall be responsible for installation and maintenance of the required signs or pavement markings. All signs and pavement markings utilized under the provisions of this section shall be approved by the town.
- (3) No person shall park a vehicle or permit it to stand, whether attended or unattended, or put or place any object, structure, or obstruction, in a fire lane which has been established under the provisions of this section; however, persons loading or unloading supplies or merchandise may park temporarily in a fire lane located in shopping center or mall parking lot as long as the vehicle is not left unattended. It shall be lawful for governmental vehicles or nongovernmental emergency vehicles, including rescue squad vehicles, to stop, stand, or travel within such fire lanes when required to do so in the performance of their official duties.

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(Code 1986, § 9-129; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-171. - Handicapped parking.

The town council may designate certain areas for handicapped parking and signs and/or markings shall be installed accordingly. Thereafter no person shall park or leave standing a vehicle in any parking space located on a public street or in an off-street parking facility owned or leased by the town and designated for use by the public as parking facilities and which has been appropriately designated for the handicapped when the vehicle so parked does not display the distinguishing license plate, placard or identification card as provided in G.S. 20-37.6.

(Code 1986, § 9-130; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-172. - Pay parking facilities.

- (a) All persons parking a vehicle within a municipal pay parking facility shall pay in accordance with procedures posted on-site. ~~deposit the appropriate amount of money so designated for the period of time displayed within the slot number of the pay box coinciding with the number of the parking space utilized.~~
- (b) It shall be unlawful for any person to deposit in any parking pay box or machine any slug, device, or substitute for money of the United States of America.
- (c) No person shall cause or permit any vehicle registered in his name or which vehicle is under his control to be or remain parked in any municipal pay parking facility for any period of time for which any required deposit of money shall not have been made. Any such act shall be a violation and penalty imposed.

(Code 1986, § 9-131; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-173. - Utilizing vehicle for camping or living facility, storage of vehicles or other equipment prohibited.

The use of vehicles, for camping or permanent or temporary living facility within public rights-of-way, public parking areas, or other public areas, or private property is prohibited except where such is permitted as designated by the zoning map and ordinance of the town. The storage of vehicles, boats, trailers, and/or other equipment within public rights-of-way, public parking areas, or other public areas is prohibited.

(Code 1986, § 9-132; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Sec. 16-174. – Issuance of parking ticket.

When one of the violations identified in this chapter has occurred, the law enforcement officer or other person, authorized by and whose enforcement duties are as defined by the chief of police detecting the apparent violation is authorized to take the state and registration number of the vehicle involved, and to place a parking ticket in or on the vehicle involved, or to serve the ticket if the owner or operator is present.

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- (a) A violation listed in this section shall not constitute a misdemeanor or infraction punishable under G.S. 14-4, but instead shall be subject to the civil penalties fixed by subsection (a) of this section and the civil remedies provided by G.S. 160A-175. Any properly designated town official is authorized to take legal action in the nature of a civil suit for the collection of a debt when the civil penalty, including the delinquent civil penalty, has not been paid.
- (b) The civil penalties imposed by this section and the proceeds therefrom, as collected by payment, civil action, or otherwise, shall belong to the town and shall be paid into the general fund of the town under such conditions as prescribed by the annual budget.
- (c) No person shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device in any of the following places:
- (1) Vehicles parked so as to obstruct sidewalk, private driveway, crosswalk, or bike lanes.
 - (2) Vehicles parked within an intersection or within 25 feet of an intersection.
 - (3) Within twenty-five (25) feet of any flashing beacon, stop sign, or traffic control signal located at the side of a street or roadway.
 - (5) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic.
 - (6) Upon any bridge or other elevated structure or within any underbase structure.
 - (7) Within 15 feet in either direction of the entrance to a hotel, theater, hospital, sanatorium, or any public building.
 - (8) On the roadway side of any vehicle stopped, standing, or parked at the edge of a curb or street.
 - (9) At hazardous or congested areas where signs or markings have been installed prohibiting such.
 - (10) Where a street includes two or more separate lanes and traffic is restricted to one direction, no person shall park or stand upon the left-hand side of such roadway unless signs are erected to allow such.
 - (11) Within a designated drive aisle.
 - (12) Within the median of a divided roadway.
 - (13) Within fifteen (15) feet in either direction of a fire hydrant, unless a greater or lesser distance is designated and appropriate signs or markings are displayed.
 - (14) Town-owned or operated parking areas. It shall be unlawful in any off-street lot or area owned by the Town and provided for general public parking to park a motor vehicle, or for the registered owner of a motor vehicle to allow such vehicle to be parked, in any manner other than within properly designated parking spaces.
 - (15) Expired meter parking.
 - (16) Parking over the specified time limit.
 - (17) Protrusion beyond designated parking space.
 - (18) Double parking.
 - (19) Vehicles parked unattended in commercial and passenger loading zones.

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(20) Vehicles parked in front of or within five feet in either direction of a private driveway or road.

(21) Vehicles other than buses parked in a bus stop.

(22) Oversize vehicles parked on town streets.

(23) Vehicles parked in "no parking anytime" zone.

b. Administration of penalties.

(1) When the owner of a vehicle, or his agent, makes proper payment of a parking ticket within seven (7) days following the date of issuance of the ticket, the obligation thereunto shall be discharged. If such charge has not been paid within the seven (7) day period set out above, the parking violation ticket shall be deemed to be delinquent and subject to the additional penalties set forth by the Carolina Beach Annual Budget and subject to periodic change by the town council. The parking violation shall have stated thereon that payment is due within seven (7) days from date of issue to avoid an additional penalty and court costs. If such charge has not been paid within 15 days, the delinquent parking violation ticket shall be subject to any additional penalties set forth by the Carolina Beach Annual Budget and subject to periodic change by the town council. The parking violation shall have stated thereon that payments delinquent more than 15 days after the date of issue are subject to a penalty and court costs.

(2) The Finance Director or the parking contractor may accept payments in full and final settlement of the claim or claims, rights or rights of action which the town may have to enforce such penalties, by civil action in the nature of debt. A failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of debt for the stated penalty plus additional penalties for each separate parking violation ticket, as set forth by the Carolina Beach Annual Budget and subject to periodic change by the town council.

(3) Each day a vehicle is parked in the same space following the issuance of a parking ticket shall constitute a separate violation subject to issuance of a new parking ticket and additional civil penalty to be applied to such vehicle.

(4) Computing overtime violations. The moving of a parked vehicle from one restricted space to another restricted space in the same block is deemed to be one continuous parking period for the purpose of determining overtime parking violations.

(5) Accountability for parking tickets. The chief of police or parking contractor shall cause all parking tickets to be serially numbered and shall cause the records of the issuance and disposition of parking tickets to be so maintained that they can be accounted for. The Finance Director or parking contractor shall periodically investigate the records for the purpose of determining the disposition of the parking tickets and shall report the result of the investigation to the Town Manager.

(6) Prima facie evidence. It shall be prima facie evidence in any court in the state that any motor vehicle which was parked in violation of any of the provisions listed in this section was parked and left upon such street, alley or public way or place by the person in whose name such vehicle is then registered with the State Division of Motor Vehicles.

c. Enforcement of paid parking in all town public parking spaces.

(1) The town enforces its paid parking program between March 1 and October 31 of each year. Daily parking during this time period is enforced from 8:00 a.m. to 10:00 p.m. The dates and times for parking enforcement and collection of paid parking are subject to change from time-to-time by the Town Council. All parking spaces are available for

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temporary parking only. No parking spaces can be used for commercial purposes or the sale of any vehicle.

(2) The cost for violations or parking tickets to customers that are in violation of this section are subject to change and shall be addressed in the town's annual budget fee schedule.

(3) Parking spaces and parking lots are for temporary paid parking. The commercial use of spaces, the selling of automobiles, and parking in multiple spaces without payment for all spaces is prohibited. Public parking lots shall not be utilized for residential overflow.

Sec 175 Parking permits.

(1) The town sells parking permits to residents, non-residents and business employees in the Central Business District in order to make parking more convenient. Parking permits allow vehicles to be temporarily parked in ~~a~~ designated parking lots or spaces without paying for the service provided.

(2) Resident parking passes can be purchased by owners of property in the town or individuals renting or leasing property in town. **Resident parking permits are valid in all of the in designated public paid parking areas. to include metered spaces and parking lots.** Vehicles that have a parking permit displayed can use the two-hour parking spaces but the permit does not allow any special privileges with regard to the two-hour maximum per space per block. Resident parking pass rates are set forth by the Carolina Beach Annual Budget and subject to periodic change by the Town Council.

(3) Non-resident parking passes can be purchased by individuals who do not own property in the town. Non-resident parking permits are valid in designated all of the paid public parking areas. **to include metered spaces and parking lots.** Vehicles that have a parking permit displayed can use the two-hour parking spaces but the permit does not allow any special privileges with regard to the two-hour maximum per space per block. Non-resident parking pass rates are set forth by the Carolina Beach Annual Budget and subject to periodic change by the Town Council.

(4) Business employee parking passes can be purchased by businesses complying with the Business Registration Program and that are located in the Central Business District. Business employee parking passes may be purchased by businesses which are located in the Central Business District and to businesses that do not have dedicated parking for their employees. Business employee parking passes are only valid in designed public paid parking areas. town owned (Mack Lot) at 104 Charlotte Avenue Business employee parking pass rates are set forth by the Carolina Beach Annual Budget and subject to periodic change by the Town Council.

Sec 176 Paid parking program and other forms of parking.

(a) Designated Parking Except for those that may qualify for residential exceptions based on written criteria established by the Town Manager, time limited public parking areas for marked, on-street spaces are designated as follows:

(1) *Two-hour metered parking.* The town has two-hour metered parking spaces in various locations throughout the town. The two-hour maximum parking per space per block is implemented to encourage turnover of these spaces. These locations are identified on the Official Carolina Beach Parking Map which is adopted and amended by the Town Council from time to time. Resident and non-resident parking passes are valid at two-hour parking locations and owners of parking permits must follow the two-hour time limitation per space per block.

(2) *Unlimited metered parking spaces.* The town has installed parking meters in various locations throughout the town. Unlimited metered spaces require that payment be made at all times when the vehicle is occupying a space except for those times outside of enforcement periods. These metered locations are identified on the Carolina Beach Parking Map which is adopted and

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amended by the town council from time to time. Attached are other regulations for metered parking spaces:

- (i) Time must be on the meter during enforcement time periods to be valid.
- (ii) Resident and non-resident parking permits are allowed in metered parking spaces without having to pay for the meter.
- (iii) Parking for time periods greater than 24 continuous hours in duration is prohibited.

(b) *Public parking lots.*

1. The town owns or leases numerous parking lots throughout the town. These parking lots are typically equipped with pay stations, meters or signage with payment instructions. ~~honor boxes~~. Motorists that park in these lots must pay for the privilege of parking during times and dates of enforcement. ~~Paid parking lot locations are located on the adopted Carolina Beach Parking Map.~~ Fees for paid parking lots are set forth by the Carolina Beach Annual Budget and subject to periodic change by the town council
2. Resident, non-resident and business employee parking passes are valid in ~~all~~ designated public parking lot locations. Parking passes (decals) will be valid for not more than 24 consecutive hours in public parking lots. Pay by the day vehicles must be removed by 8:00 a.m. the next morning. Lots are subject to the following provisions:
 - (i) Time must be on the space during enforcement time periods to be valid.
 - (ii) Parking passes are allowed in parking spaces without having to pay for the meter.
 - (iii) Parking for time periods greater than 24 continuous hours in duration is prohibited (i.e. no residential overflow).

(c) *Free parking, unlimited.*

1. ~~Public parking spaces located west of Canal Drive on street ends at sound access areas. The lot and spaces must be marked and signed as designated parking areas.~~
2. All parking areas marked handicapped parking located on public streets and within public parking lots whether metered or paid parking lots throughout the town.

(d) *Resident on-street parking.* The special residential exception is primarily intended to assist owner-occupied, single-family residents where existing development on nonconforming lots or uses create parking hardships. It is not intended to alleviate parking requirements for poorly planned rental property nor to serve as guest parking in residential areas.

1. Reasonable consideration for special residential exceptions to allow parking in no parking or time limited parking areas will be given by the Town Manager when the following criteria can be met:
 - (i) Applicant is a year-round resident in a nonconforming single-family dwelling or multi-unit rental structure established before 1980 and continuously in use for those purposes since established, provided subsection (9)e.1.(i) through (iv) of this section are also met.
 - (ii) No off-street parking option is available on the applicant's property or by private arrangement within 500 feet of the property. (Documentation of private efforts to otherwise accommodate parking needs is required.)

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- (iii) Chief of Police and Fire Chief verifies that on-street parking will not pose substantial safety problems for emergency vehicles.
 - (iv) Parking requests for more than one vehicle per adult year round resident otherwise meeting the above criteria will not qualify for exceptions.
- (e) *Taxi only parking area.* The designation and location of such locations shall be approved by the Town Manager.
- (f) *Police parking areas.* The designation and such locations shall be approved by the Police Chief.
- (g) *Handicapped parking areas.* Handicap parking spaces shall be provided to reasonably accommodate those with disabilities.
- (h) *Loading/unloading areas.*
1. The town may establish and sign certain parking spaces within the town for loading/unloading. Loading/unloading spaces can be identified by the Town Manager. Spaces are to only be used for temporary purposes of loading and unloading and only for durations less than 20 minutes. Loading/unloading spaces are enforced year round and 24 hours a day.
 2. The space located on the Westside of Canal Drive and Carl Winner Avenue adjacent to the Marina can be used for extended periods greater than 20 minutes but are still to be only used for temporary parking related to the use of the marina.
- (i) *Parking on the beach.* Parking of any vehicle on the municipal beach strand, unless otherwise approved by the town council or Town Manager, shall be prohibited. Vehicles performing a public duty as authorized by the Town Manager shall be exempt. The parking of vehicles is allowed in designated areas of Freeman Park, provided that all other provisions of this Code are being met.
- (j) *Prohibited turns.* It shall be unlawful to make a left turn from the north bound lanes of U.S. Highway 421 (N. Lake Park Boulevard) in the area beginning at the northern road right-of-way line of Carl Winner Avenue at the intersection with U.S. Highway 421 (N. Lake Park Boulevard) and proceeding North along U.S. Highway 421 to a point 50 feet therefrom.

Sec 16-177 Immobilization of vehicles.

- (a) The Town Manager or his designee may immobilize by the use of wheel locks and tow any vehicle which is illegally parked in violation of this chapter. Ability for immobilization will occur upon issuance of the third citation with the first two being unpaid for at least 7 days, and for which there are three or more outstanding, unpaid, and overdue parking tickets issued on at least three separate days. For the purpose of determining whether an illegally parked vehicle has had issued against it three or more **outstanding**, unpaid **and overdue** parking tickets issued on at least three separate days, it shall be sufficient if the license plate number of the illegally parked vehicle and the license plate number of the vehicle having received the tickets are the same.
- (b) If a wheel lock is attached to a vehicle, a notice shall be affixed to the windshield or other part of the vehicle so as to be readily visible. The notice shall include the following:
1. A warning that the vehicle has been immobilized and that any attempt to move the vehicle may result in damage to the vehicle. The town shall not be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move the vehicle.
 2. An immobilization fee and any additional parking fees pursuant to the town's annually adopted rate and fee schedule shall be charged for the removal of the wheel lock. ~~The notice shall also state the total amount of civil penalties due to parking tickets, which are overdue and unpaid and~~

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~~attributable to such vehicle, and the immobilization fee to be charged. The civil penalties and the immobilization fee shall be paid to have the wheel lock removed.~~

3. The address and telephone number to be contacted to pay such charges to have the wheel lock removed ~~shall also be listed on the notice.~~
- (c) If civil penalties due and the immobilization fee as herein provided are not paid, or satisfactory arrangements in lieu of payment are not made, within 24 hours of the attachment of the wheel lock, such vehicle may be towed to any public or private impoundment lot which complies with the provisions of article VII of this chapter. If a private contractor tows and stores the vehicle he may impose against the vehicle his customary fees and charges for such services. Once a vehicle has been towed, the Town Manager or his designee shall mail or cause to have mailed, a notice of towing to the registered owner and lien holders, if any are known, at the address or addresses reported to the town by the state department of motor vehicles.
- (d) Upon payment of all civil penalties and overdue and unpaid parking tickets issued for the vehicle and of all other charges authorized by this section, including immobilization, towing, and storage fees, the vehicle shall be released to the owner or any other person legally entitled to claim possession of the vehicle.
- (e) All towing and storage charges incurred in connection with impounded vehicles shall constitute a lien upon such vehicles as provided in G.S. 44A-2.
- (f) The owner or other person entitled to possession of the vehicle which has been immobilized pursuant to this section may submit a request for hearing to the Police Chief or his designee by certified mail or personal delivery within seven (7) days from the receipt of the notice provided for in subsection (c) of this section; if a request for a hearing is not made within the allotted time, the right to a hearing shall have been waived. If a hearing is requested, a statement shall be sent to the requesting party to inform him of the time and place of the hearing, of the basis of the vehicle's immobilization and towing, of the rules governing conduct of the hearing, of the right to present evidence as to why the vehicle should not have been immobilized and towed, and of the right to be represented by counsel. The Police Chief or his designee shall serve as the hearing officer, shall conduct a hearing and shall prepare a written report of his findings within three days of the hearing. The report shall state his conclusion as to whether the vehicle was properly immobilized and towed and the reasons underlying his conclusion. If it is concluded that the vehicle was improperly immobilized and towed then any improper charges shall be canceled, or if paid, rebated.
- (g) It shall be unlawful for any person, firm or corporation to remove from a vehicle a wheel lock thereon pursuant to this section or to remove from impoundment any vehicle placed therein pursuant to this section without all civil penalties, immobilization fees and other applicable charges ([i.e. parking citation and damage to wheels locks](#)) having first been paid or an approved payment plan having been made.
- (h) The Town Manager is authorized to establish guidelines to adjust the amount of civil penalties imposed pursuant to this section to promote the resolution of any claim against persons with ten or more outstanding delinquent parking tickets.

(Code 1986, § 9-133; Ord. No. 03-545, 8-12-2003)

Sec 16-178 APPEAL OF PARKING VIOLATIONS.

[\(a\) Any person charged with a violation of the town's parking ordinances shall have the right to appeal such violation by filing written notice of appeal within 7 days after issuance of the citation giving notice of such violation. Notice of appeal must be completed on the appeal website, hand delivered or mailed, or emailed so as to arrive within the 7 day timeframe specified. herein at the](#)

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office of the Manager of the Carolina Beach parking program located at 1708 Canal Drive, Carolina Beach, N.C. 28428.

(b) The manager of the Carolina Beach parking program designated under the provisions of the Carolina Beach parking program shall render a decision on such appeal within ten business days of the date of filing of the appeal. Notice of appeal decision will be emailed to the appealing party.

(c) The decision of the independent hearing officer as described in division (B) above shall be final.

(d) As a matter of policy, the town will not accept the following as legitimate grounds for dismissal of parking violations:

- (1) Lack of knowledge of the town's parking regulations;
- (2) Conflicts or tardiness going to or returning from appointments;
- (3) Inability to find a valid parking space; and
- (4) Failure to have appropriate or sufficient money to deposit in meters or pay stations.

Sec. 16-179~~5~~. - Amendments by town council.

Any portion of this article amended by action of town council shall not nullify the remaining portion of the article.

(Code 1986, § 9-139; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

Secs. 16-180~~6~~—16-203. - Reserved.

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ARTICLE VI. - SCHEDULES

Sec. 16-204. - Schedule A, speed limits.

(1) The town shall set 25 miles per hour as the town wide speed limit, ~~with the exception of the following streets being set at 35 miles per hour:~~

- (1) ~~Ocean Boulevard from Lake Park Boulevard to Croaker Lane;~~
- (2) Any street that is controlled by the state department of transportation, ~~and~~ shall be marked with the state's designated speed limit sign.

(Code 1986, art. VI, sched. A; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998; Ord. No. 98-432, 9-8-1998; Ord. No. 02-498, 3-12-2002; Ord. No. 02-502, 5-14-2002; Ord. No. 02-519, 9-17-2002; Ord. No. 06-624, 2-14-2006; Ord. No. 08-737, 5-13-2008; Ord. No. 09-798, 7-14-2009; Ord. No. 10-829, 4-13-2010; Ord. No. 10-830, 4-13-2010; Ord. No. 14-952, 10-14-2014; Ord. No. [18-1072](#), 1-9-2018; Ord. No. [18-1092](#), 9-25-2018)

Sec. 16-205. - Schedule B, stop intersections.

The following schedule, shall establish the stop intersections throughout the corporate limits of the town, except for those identified in section 16-10(a):

Designation	Location
Four-Way Stop	
	Intersection of Georgia Avenue and Delaware Avenue.
	Intersection of 3rd and Wilson Avenue.
	Intersection of 4th and Wilson Avenue.
	Intersection of 3rd and Lumberton Avenue.
	Intersection of 6th and Hamlet Avenue.
	Intersection of 4th and Atlanta Avenue.
	Intersection of 5th and Atlanta Avenue.
	Intersection of 7th and Atlanta Avenue.
	Intersection of 5th and Clarendon Avenue.
	Intersection of 6th and Clarendon Avenue.

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	Intersection of 8th and Clarendon Avenue.
	Intersection of 5th and Birmingham Avenue.
	Intersection of 4th and Spartanburg Avenue.
	Intersection of 5th and Spartanburg Avenue.
	Intersection of 6th and Spartanburg Avenue.
	Intersection of Searay Lane and Texas Avenue.
	Intersection of Searay Lane and South Carolina Avenue.
	Intersection of Pinfish Lane and Texas Avenue.
	Intersection of Pinfish Lane and South Carolina Avenue.
	Intersection of Pinfish Lane and North Carolina Avenue.
	Intersection of Mackerel Lane and Texas Avenue.
	Intersection of Mackerel Lane and South Carolina Avenue.
	Intersection of Mackerel Lane and North Carolina Avenue.
	Intersection of Bonito Lane and Texas Avenue.
	Intersection of Bonito Lane and South Carolina Avenue.
	Intersection of Bonito Lane and North Carolina Avenue.
	Intersection of Swordfish Lane and South Carolina Avenue.
	Intersection of Swordfish Lane and North Carolina Avenue.
	Intersection of Snapper Lane and South Carolina Avenue.
	Intersection of Snapper Lane and North Carolina Avenue.
	Intersection of Bowfin Lane and Texas Avenue.

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	Intersection of Bowfin Lane and South Carolina Avenue.
	Intersection of Bowfin Lane and North Carolina Avenue.
	Intersection of Tennessee Avenue and Bowfin Lane.
	Intersection of Tennessee Avenue and Snapper Lane.
	Intersection of Tennessee Avenue and Swordfish Lane.
	Intersection of Tennessee Avenue and Bonito Lane.
	Intersection of Tennessee Avenue and Mackerel Lane.
	Intersection of Texas Avenue and Snapper Lane.
Three-Way Stop	
	Intersection of Spencer Farlow Drive and Access Road.
	Intersection of 4th Street and Clarendon Avenue.
	Intersection of 5th Street and Greenville Avenue.
	Intersection of Carolina Sands Drive and Seafarer Lane and 6th Street.
	Intersection of Seafarer Lane and Coastwalk Lane.
	Intersection of Seafarer Lane and Riptide Lane.
	Intersection of Seafarer Lane and Whitecaps Lane.
	Intersection of Carolina Sands Drive and Searidge Lane.
	Intersection of Carolina Sands Drive and Riptide Lane.
	Intersection of Carolina Sands Drive and Whitecaps Lane.
	Intersection of Carolina Sands Drive and Seafarer Lane.

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	Intersection of Texas Avenue and Swordfish Lane.
Individual Stop	
	Otter Road shall stop at the intersection with Teakwood Drive.
	Old Dow Road shall stop at the intersection with Bridge Barrier Road and State Park Road.
	Hiram Avenue shall stop at the intersections with Old Dow Road and Blanche Avenue.
	Bertram Drive shall stop at the intersection with Jarrett Bay Drive.
	Mainship Court shall stop at the intersection with Bertram Drive.
	Donzi Court shall stop at the intersection with Bertram Drive.
	Cabo Court shall stop at the intersection with Bertram Drive.
	Moorefield Drive shall stop at the intersections with Risley Road and Houch Avenue.
	Annie Drive shall stop at the intersection with Risso Lane.
	Risso Lane <u>Island Marina Drive</u> shall stop at the intersection with Spencer Farlow Drive.
	Blanche Drive shall stop at the intersection with Elton Avenue.
	Kenneth Avenue shall stop at the intersections with Elton Avenue and Glen Avenue.
	Glen Avenue shall stop at the intersection with Blanche Avenue.
	Hidden Hills Drive shall stop at the intersection with Oak Outlook Way.
	Olde Mariners Way shall stop at the intersection with Olde Mariners Way.
	Colonial Circle shall stop at the intersection with Bennet Lane.
	Island Mimosa Drive shall stop at the intersection with Bennet Lane.
	Birch Court shall stop at the intersection with Bay Court.

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	Beech Court shall stop at the intersection with Bay Court.
	Fern Creek Lane shall stop at the intersection with Goldsboro Avenue.
	Green Court shall stop at the intersection with Fern Creek Lane.
	Bay Court shall stop at the intersection with Fern Creek Lane.
	Florence Avenue shall stop at the intersections with 3rd Street.
	Myrtle Avenue shall stop at the intersections with Harper Avenue and Carl Winner Avenue.
	2nd Street shall stop at the intersection with Greenville Avenue.
	Carolina Sands Drive shall stop at the intersections of Seafarer Drive.
	Seafarer Drive shall stop at the intersections with Carolina Sands Drive.
	Searidge Lane shall stop at the intersections with Seafarer Drive.
	Coastwalk Lane shall stop at the intersections with Carolina Sands Drive.
	Saltwater Lane shall stop at the intersections with Carolina Sands Drive and Seafarer Drive.
	Tidewater Lane shall stop at the intersections with Carolina Sands Drive and Seafarer Drive.
	Oceanward Lane shall stop at intersections with Carolina Sands Drive and Seafarer Drive.
	Atlanta Avenue shall stop at intersections with Woody Hewett Avenue.
	Fayetteville Avenue shall stop at intersections with Woody Hewett Avenue.
	Woody Hewett Avenue shall stop at intersection with Hamlet Avenue.
	Florida Avenue shall stop at intersection with Georgia Avenue.

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(Code 1986, art. VI, sched. B; Ord. No. 97-403, 8-12-1997; Ord. No. 98-432, 9-8-1998; Ord. No. 04-568, 10-12-2004; Ord. No. 05-596, 7-12-2005; Ord. No. 08-754, 8-12-2008; Ord. No. 10-849, 9-14-2010; Ord. No. 13-914, 4-9-2013; Ord. No. [16-1019](#), 8-9-2016; Ord. No. 19-1101, 1-8-2019)

Sec. 16-206. - Schedule C, no parking, limited public parking, metered parking, police parking, handicapped parking, loading/unloading areas, public parking lots.

The following schedule, ~~in conjunction with the official parking map as adopted by the town council~~, shall establish the areas throughout the corporate limits of the town, where such activities shall or shall not take place. No full-time or extended duration parking shall be allowed in public parking areas or within any designated drivable corridor on public beaches except as may be noted elsewhere in this schedule.

- (1) *Designated no parking areas.* Except as may qualify for residential exceptions, based on written criteria established by the [this code](#) ~~Director of Planning and Development~~, no parking shall be allowed [where designated no parking signs are located, and](#) on the following streets:

Alabama Avenue, Texas Avenue, South Carolina Avenue, Ocean Boulevard, North Carolina—West of U.S. Highway 421 (S. Lake Park Boulevard) to Bowfin Lane unless otherwise designated.
Annie Drive—From Spencer Farlow Drive to the intersection with Island Marina Drive Risso Lane.
Bridge Barrier Road—From the intersection with Dow Road north to the intersection with Spencer Farlow Drive.
Canal Drive North from the intersection with Carl Winner Avenue to termination (with the exception of designated limited loading/unloading areas adjacent to the town marina).
Carolina Beach Avenue North—North from the intersection of Canal Drive (with the exception of metered, on-street spaces located between Sandfiddler Lane and Sea Oats Lane).
Carolina Beach Avenue South—South from the intersection of Hamlet Avenue to the intersection with U.S. Highway 421 (S. Lake Park Boulevard).
Carolina Sands Drive—(North/south of the road) from S. Lake Park Boulevard west to the corner of Seafarer Drive.
Dow Road—From the intersection with U.S. Highway 421 (N. Lake Park Boulevard) south to the corporate limits.

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Pelican Lane, Dolphin Lane, Scallop Lane, Sea Gull Lane, Sailfish Lane, Oystershell Lane, Sandpiper Lane, Seahorse Lane, Scotch Bonnet Lane, Starfish Lane, Sand Dollar Lane, Clam Shell Lane, Periwinkle Lane, Sand Fiddler Lane, Sea Oats Lane and Salt Marsh Lane—Between Canal Drive and Carolina Beach Avenue North.

Raleigh Avenue—From the intersection with U.S. Highway 421 (N. Lake Park Boulevard) to the intersection with Canal Drive (with the exception of areas designated for limited loading/unloading areas located on the northern side of said street).

Spencer-Farlow Drive from the intersection of Risso Lane extending west 150 feet and located on the southern side of Spencer-Farlow Drive.

U.S. Highway 421 (Lake Park Boulevard)—From Snow's Cut Bridge to the corporate limits with the exception of areas designated for public on-street parking ~~on the official map).~~

Wilson Avenue—Between N. Lake Park Boulevard to N. Third Street.

Woody Hewett Avenue—From the intersection with Harper Avenue south to the intersection with U.S. Highway 421 (S. Lake Park Boulevard).

In public beach areas beyond the northern terminus of Canal Drive and West of the designated drivable corridor from Canal Drive to the corporate limits.

In public beach areas beyond the northern terminus of Canal Drive and east of the drivable corridor for a distance of 300 feet.

Other areas as may be described by the Carolina Beach Town Code or as established by the Town Manager or Police Chief.

~~(2)—*Issuance of parking ticket.* When one of the violations identified in this section has occurred, the law enforcement officer or other person, authorized by and whose enforcement duties are as defined by the chief of police detecting the apparent violation is authorized to take the state and registration number of the vehicle involved, and to place a parking ticket in or on the vehicle involved, or to serve the ticket if the owner or operator is present.~~

~~(3)—*Civil penalty.*~~

~~a.—For each violation as set forth below, there shall be a fixed civil penalty charge as established by the Town Council and displayed in the town's budget for unlawful parking, said violations being set forth as follows:~~

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- ~~1. Expired meter parking.~~
- ~~2. Parking over the specified time limit.~~
- ~~3. Protrusion beyond designated parking space.~~
- ~~4. Double parking.~~
- ~~5. Parking in a controlled residential parking area without a valid residential parking permit.~~
- ~~6. Vehicles parked so as to obstruct sidewalk, private driveway, crosswalk, or bike lanes.~~
- ~~7. Vehicles parked unattended in commercial and passenger loading zones.~~
- ~~8. Vehicles parked in front of or within five feet in either direction of a private driveway or road.~~
- ~~9. Vehicles other than buses parked in a bus stop.~~
- ~~10. Vehicles parked within 25 feet of an intersection.~~
- ~~11. Oversize vehicles parked on town streets.~~
- ~~12. Vehicles parked on medians.~~
- ~~13. Vehicles parked in "no parking anytime" zone.~~

~~When the owner of a vehicle, or his agent, makes proper payment of a parking ticket within seven days following the date of issuance of the ticket, the obligation thereunto shall be discharged. If such charge has not been paid within the seven day period set out above, the parking violation ticket shall be deemed to be delinquent and subject to the additional penalties set forth by the Carolina Beach Annual Budget and subject to periodic change by the town council. The parking violation shall have stated thereon that payment is due within seven days from date of issue to avoid an additional penalty and court costs. If such charge has not been paid within 15 days, the delinquent parking violation ticket shall be subject to any additional penalties set forth by the Carolina Beach Annual Budget and subject to periodic change by the town council. The parking violation shall have stated thereon that payments delinquent more than 15 days after the date of issue are subject to a penalty and court costs.~~

- ~~b. The Finance Director may accept payments in full and final settlement of the claim or claims, rights or rights of action which the town may have to enforce such penalties, by civil action in the nature of debt. A failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of debt for the stated penalty plus additional penalties for each separate parking violation ticket, as set forth by the Carolina Beach Annual Budget and subject to periodic change by the town council.~~
- ~~c. A violation listed in this section shall not constitute a misdemeanor or infraction punishable under G.S. 14-4, but instead shall be subject to the civil penalties fixed by subsection (a) of this section and the civil remedies provided by G.S. 160A-175. Any properly designated town official is authorized to take legal action in the nature of a civil suit for the collection of a debt when the civil penalty, including the delinquent civil penalty, has not been paid.~~
- ~~d. The civil penalties imposed by this section and the proceeds therefrom, as collected by payment, civil action, or otherwise, shall belong to the town and shall be paid into the general fund of the town under such conditions as prescribed by the annual budget.~~

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- ~~e. Each hour a vehicle is parked in the same space following the issuance of a parking ticket shall constitute a separate violation subject to issuance of a new parking ticket and additional civil penalty to be applied to such vehicle.~~
- ~~(4) *Computing overtime violations.* The moving of a parked vehicle from one restricted space to another restricted space in the same block is deemed to be one continuous parking period for the purpose of determining overtime parking violations.~~
- ~~(5) *Accountability for parking tickets.* The chief of police or parking contractor shall cause all parking tickets to be serially numbered, and shall cause the records of the issuance and disposition of parking tickets to be so maintained that they can be accounted for. The Finance Director or parking contractor shall periodically investigate the records for the purpose of determining the disposition of the parking tickets and shall report the result of the investigation to the Town Manager.~~
- ~~(6) *Prima facie evidence.* It shall be prima facie evidence in any court in the state that any motor vehicle which was parked in violation of any of the provisions listed in this section was parked and left upon such street, alley or public way or place by the person in whose name such vehicle is then registered with the State Division of Motor Vehicles.~~
- ~~(7) *Enforcement of paid parking in all town public parking spaces.*~~
- ~~a. The town enforces its paid parking program between March 1 and October 31 of each year. Daily parking during this time period is enforced from 8:00 a.m. to 10:00 p.m. The dates and times for parking enforcement and collection of paid parking are subject to change from time to time by the Town Council. All parking spaces are available for temporary parking only. No parking spaces can be used for commercial purposes or the sale of any vehicle.~~
- ~~b. The cost for violations or parking tickets to customers that are in violation of this section are subject to change and shall be addressed in the town's annual budget fee schedule.~~
- ~~c. Parking spaces and parking lots are for temporary paid parking. The commercial use of spaces, the selling of automobiles, and parking in multiple spaces without payment for all spaces is prohibited.~~
- ~~(8) *Parking permits.*~~
- ~~a. The town sells parking permits to residents, non-residents and business employees in the Central Business District in order to make parking more convenient. Parking permits allow vehicles to be parked in a designated parking lots or space without paying for the service provided.~~
- ~~b. Resident parking passes can be purchased by owners of property in the town or individuals renting or leasing property in town. Resident parking permits are valid in all of the paid parking areas to include metered spaces and parking lots. Vehicles that have a parking permit displayed can use the two-hour parking spaces but the permit does not allow any special privileges with regard to the two-hour maximum per space per block. Resident parking pass rates are set forth by the Carolina Beach Annual Budget and subject to periodic change by the Town Council.~~
- ~~c. Non-resident parking passes can be purchased by individuals who do not own property in the town. Non-resident parking permits are valid in all of the paid parking areas to include metered spaces and parking lots. Vehicles that have a parking permit displayed can use the two-hour parking spaces but the permit does not allow any special privileges with regard to the two-hour maximum per space per block. Non-~~

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~~resident parking pass rates are set forth by the Carolina Beach Annual Budget and subject to periodic change by the Town Council.~~

~~d. Business employee parking passes can be purchased by businesses complying with the Business Registration Program and that are located in the Central Business District. Business employee parking passes may be purchased by businesses which are located in the Central Business District and to businesses that do not have dedicated parking for their employees. Business employee parking passes are only valid in town owned (Mack Lot) at 104 Charlotte Avenue. Business employee parking pass rates are set forth by the Carolina Beach Annual Budget and subject to periodic change by the Town Council.~~

~~(9) Paid parking program and other forms of parking. Except for those that may qualify for residential exceptions based on written criteria established by the Town Manager, time limited public parking areas for marked, on-street spaces are designated as follows:~~

~~a. Two-hour metered parking. The town has two-hour metered parking spaces in various locations throughout the town. The two-hour maximum parking per space per block is implemented to encourage turnover of these spaces. These locations are identified on the Official Carolina Beach Parking Map which is adopted and amended by the Town Council from time to time. Resident and non-resident parking passes are valid at two-hour parking locations and owners of parking permits must follow the two-hour time limitation per space per block.~~

~~b. Unlimited metered parking spaces. The town has installed parking meters in various locations throughout the town. Unlimited metered spaces require that payment be made at all times when the vehicle is occupying a space except for those times outside of enforcement periods. These metered locations are identified on the Carolina Beach Parking Map which is adopted and amended by the town council from time to time. Attached are other regulations for metered parking spaces:~~

- ~~1. Time must be on the meter during enforcement time periods to be valid.~~
- ~~2. Resident and non-resident parking permits are allowed in metered parking spaces without having to pay for the meter.~~
- ~~3. Parking for time periods greater than 24 continuous hours in duration is prohibited.~~

~~c. Public parking lots.~~

~~1. The town owns or leases numerous parking lots throughout the town. These parking lots are typically equipped with pay stations, meters or honor boxes. Motorists that park in these lots must pay for the privilege of parking during times and dates of enforcement. Paid parking lot locations are located on the adopted Carolina Beach Parking Map. Fees for paid parking lots are set forth by the Carolina Beach Annual Budget and subject to periodic change by the town council~~

~~2. Resident, non-resident and business employee parking passes are valid in all public parking lot locations. Parking passes (decals) will be valid for not more than 24 consecutive hours in public parking lots. Pay by the day vehicles must be removed by 8:00 a.m. the next morning. Lots are subject to the following provisions:~~

- ~~(i) Time must be on the space during enforcement time periods to be valid.~~
- ~~(ii) Parking passes are allowed in parking spaces without having to pay for the meter.~~
- ~~(iii) Parking for time periods greater than 24 continuous hours in duration is prohibited.~~

Ordinance 20-

Town of Carolina Beach
Town Council

~~d.— Free parking, unlimited.~~

- ~~1.— Public parking spaces located west of Canal Drive on street ends at sound access areas. The lot and spaces must be marked and signed as designated parking areas.~~
- ~~2.— All parking areas marked handicapped parking located on public streets and within public parking lots whether metered or paid parking lots throughout the town.~~

~~e.— Resident on-street parking. The special residential exception is primarily intended to assist owner-occupied, single-family residents where existing development on nonconforming lots or uses create parking hardships. It is not intended to alleviate parking requirements for poorly planned rental property nor to serve as guest parking in residential areas.~~

- ~~1.— Reasonable consideration for special residential exceptions to allow parking in no parking or time limited parking areas will be given by the Town Manager when the following criteria can be met:~~

~~(i)— Applicant is a year-round resident in a nonconforming single-family dwelling or multi-unit rental structure established before 1980 and continuously in use for those purposes since established, provided subsection (9)e.1.(i) through (iv) of this section are also met.~~

~~(ii)— No off-street parking option is available on the applicant's property or by private arrangement within 500 feet of the property. (Documentation of private efforts to otherwise accommodate parking needs is required.)~~

~~(iii)— Chief of Police and Fire Chief verifies that on-street parking will not pose substantial safety problems for emergency vehicles.~~

~~(iv)— Parking requests for more than one vehicle per adult year-round resident otherwise meeting the above criteria will not qualify for exceptions.~~

~~f.— Taxi only parking area. The designation and location of such locations shall be approved by the Town Manager.~~

~~g.— Police parking areas. The designation and such locations shall be approved by the Police Chief.~~

~~h.— Handicapped parking areas. Handicap parking spaces shall be provided to reasonably accommodate those with disabilities.~~

~~i.— Loading/unloading areas.~~

- ~~1.— The town may establish and sign certain parking spaces within the town for loading/unloading. Loading/unloading spaces can be identified by the Town Manager. Spaces are to only be used for temporary purposes of loading and unloading and only for durations less than 20 minutes. Loading/unloading spaces are enforced year-round and 24 hours a day.~~
- ~~2.— The space located on the Westside of Canal Drive and Carl Winner Avenue adjacent to the Marina can be used for extended periods greater than 20 minutes but are still to be only used for temporary parking related to the use of the marina.~~

Ordinance 20-

Town of Carolina Beach
Town Council

- ~~(10) **Parking on the beach.** Parking of any vehicle on the municipal beach strand, unless otherwise approved by the town council or Town Manager, shall be prohibited. Vehicles performing a public duty as authorized by the Town Manager shall be exempt. The parking of vehicles is allowed in designated areas of Freeman Park, provided that all other provisions of this Code are being met.~~
- ~~(11) **Prohibited turns.** It shall be unlawful to make a left turn from the north bound lanes of U.S. Highway 421 (N. Lake Park Boulevard) in the area beginning at the northern road right-of-way line of Carl Winner Avenue at the intersection with U.S. Highway 421 (N. Lake Park Boulevard) and proceeding North along U.S. Highway 421 to a point 50 feet therefrom.~~

(Code 1986, art. VI, sched. C; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998; Ord. No. 00-451, 2-8-2000; Ord. No. 01-475, 3-13-2001; Ord. No. 01-477, 4-10-2001; Ord. No. 02-511, 8-13-2002; Ord. No. 03-527, 2-11-2003; Ord. No. 03-541, 6-10-2003; Ord. No. 03-546, 8-12-2003; Ord. No. 04-554, 6-7-2004; Ord. No. 04-566, 9-14-2004; Ord. No. 06-646, 7-11-2006; Ord. No. 08-744, 6-10-2008; Ord. No. 10-817, 2-17-2010; Ord. No. 13-910, 4-9-2013; [Ord. No. 15-992, 1-12-2016](#); Ord. No. [16-1036](#), 11-1-2016; [Mins. of 6-12-2018](#); [Ord. No. 20-1135](#), 3-10-2020)

Sec. 16-207. - Schedule D, through truck/large vehicle streets.

Trucks and other large vehicle through traffic shall be limited to the following streets. Through traffic of said vehicles on all other streets within the corporate limits of the town shall be prohibited.

Dow Road. ¹
U.S. Highway 421 (Lake Park Boulevard). ¹
Harper Avenue.
Cape Fear Boulevard.
Spartanburg Avenue.
Raleigh Avenue from U.S. Highway 421 (Lake Park Boulevard east to Woody Hewett Avenue).
Woody Hewett Avenue from Harper Avenue south to U.S. Highway 421 (Lake Park Boulevard).

¹ **Note**—Under the control of the state department of transportation.

(Code 1986, art. VI, sched. D; Ord. No. 97-403, 8-12-1997; Ord. No. 98-416, 1-13-1998)

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[Sec. 16-208. - Schedule F, traffic patterns on specified streets.](#)

The following schedule designates traffic patterns on specific streets:

Carolina Beach Avenue North is designated as a two-way street with 9½-foot drive lanes and a pedestrian/bike lane provided along the east side of the street (widths will vary), and including three-way stops at appropriate intersections.

Canal Drive is designated as a two-way street with 9½-foot drive lanes and a pedestrian/bike lane provided on the west side of the street (widths will vary).

All streets located between Canal Drive and Carolina Beach Avenue North from Pelican to Salt Marsh shall be designated as two-way.

The 300 block of Texas Avenue is a one-way street running west to east to permit traffic to travel towards the beach. It will be accessed from a three-way stop at the intersection of Texas Avenue and Swordfish Lane. The end of the 300 block will connect with a four-way stop at Texas Avenue and Snapper Lane.

Wilson Avenue shall be two-way on the 200 block for local traffic up to the intersection of Lake Park Blvd. The intersection of Wilson Avenue on Lake Park Blvd. shall be one-way running east to west to eliminate vision clearance issues that would be created from exiting Wilson Avenue onto Lake Park Blvd.

(Code 1986, art. VI, sched. F; Ord. No. 03-527, 2-11-2003; [Ord. No. 15-992, 1-12-2016](#); Ord. No. 19-1101, 1-8-2019; Ord. No. [19-1118](#), 9-13-2019)

Secs. 16-209—16-238. - Reserved.

Duly adopted this 10TH day of November, 2020.

LeAnn Pierce, Mayor

ATTEST:

Kimberlee Ward, Town Clerk

Ordinance 20-

Town of Carolina Beach
Town Council



AGENDA ITEM COVERSHEET

PREPARED BY: Miles Murphy, Senior Planner

DEPARTMENT: Planning

MEETING: Town Council Workshop – 27 OCT 2020

SUBJECT: A briefing on an upcoming Text Amendment related to changes to Chapter 40 – Zoning related to 160D requirements regarding Conditional Zoning, Special Use Permits, and the Table of Permissible Uses

Applicant: Town of Carolina Beach

BACKGROUND:

Staff is currently updating many aspects of the zoning ordinance related to the required 160D update in the State Statutes. Part of this involves a change of conditional use permits to conditional zoning. Staff has also been directed to review all uses and determine whether they should remain a conditional zoning use or if they are not intensive enough a use to merit the conditional zoning process. Staff updated Chapter 40 to represent the shift from Conditional use to special use/conditional zoning and reviewed the table. Staff specifically conferred over what uses they believe had overly intense requirements and have compiled the recommendations.

One of the big focuses of this update is the drastically reduce the need for cumbersome quasi-judicial procedures while still providing sufficient review and control over potentially deleterious uses. Staff has been directed that conditional zoning is the recommended approval process and supported in the 160D updates for North Carolina.

ACTION REQUESTED:

Learn about ordinance changes



Text Amendment:
Chapter 40 – Zoning:
Conditional Zoning, CUP/SUP, and Table of Permissible Uses

October 8th, 2020
Miles Murphy – Senior Planner

Background

- *State Statute changes from 153/160A to 160D for Zoning*
- *Many, many changes required in local ordinances*
- *Conditional Use Permits are no longer permitted*
- *Transitioning to Conditional Zoning on Attorney's Recommendation*
- *Reviewing Table of Permissible Uses at TC direction to reassess which uses really need additional scrutiny and where uses are permitted*
- *Many more 160D changes coming...*

CUP to SUP

- All references and procedures related to Conditional Use Permits are changed to Special Use Permits
- Procedures remain largely unchanged
- No uses are required to be handled by SUP unless TC wishes they be handled that way
- Quasi Judicial procedures are still used

Legislative (Conditional Zoning) vs QJ (CUP/SUP)

	Legislative	QJ
Notice of Hearings	Both newspaper notice and mailed notice to owners and neighbors are required.	Only notice to parties to the matter is required unless ordinance mandates otherwise.
Speakers at Hearings	Number of speakers, time for speakers can be reasonably limited.	Witnesses presenting testimony can be limited to relevant evidence that is not repetitious.
Evidence	None is required; members are free to discuss issue outside hearing.	Substantial, competent, material evidence must be put in the record; witnesses are under oath, subject to cross-examination; no discussion of the case outside the hearing is allowed
Findings	None are required	Written findings of fact are required.
Records	Regular minutes are satisfactory	Detailed record of testimony is required; clerk should retain all exhibits during period of potential appeal.

- Flexibility

Conditional Zoning

PURPOSE

- A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project.
- Some land uses have significant impacts on both the surrounding area and on the entire community which cannot always be predetermined and controlled by general district standards.
- A general district designation allowing such a use by right would not be appropriate.
- Provides accommodation by a reclassification of property into a conditional zoning district, subject to specific conditions which ensure compatibility of the use with neighboring properties.
- A conditional zoning district is generally not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved district or area plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period.
- A conditional zoning and a zoning map amendment are occurring simultaneously in a conditional zoning hearing.

Conditional Zoning

- PUBLIC INPUT MEETING
- Prior to scheduling a public hearing on the rezoning application, the applicant shall conduct one (1) public input meeting and file a report of the results with the Zoning Administrator.
- The report for the public hearing will include a summary of the public input meeting.
- The applicant shall mail a notice for the public input meeting to the owners of all properties located within 500 feet of the perimeter of the project bounds not less than 10 days prior to the scheduled meeting.
- The notice shall include the time, date, and location of the meeting as well as a description of the proposal.
- The applicant's report of the meeting shall include:
 - A copy of the letter announcing the meeting
 - A list of adjoining property owners contacted
 - Attendance rosters
 - A summary of the issues discussed
 - The results of the meeting including changes to the project's proposal, if any.

Conditional Zoning

CONDITIONS TO APPROVAL OF PETITION

- Any such conditions should relate to the relationship of the proposed use to the impact on the following details:
 - Town services
 - Surrounding property
 - Proposed support facilities such as parking areas and driveways
 - Pedestrian and vehicular circulation systems
 - Screening and buffer areas
 - Timing of development
 - Street and right-of-way improvements
 - Infrastructure improvements (i.e. water)
 - Provision of open space
 - Other matters that the participants in the public input meeting, staff, Planning & Zoning Commission, and Town Council find appropriate or the petitioner may propose
 - May include right-of-way dedication, easements for streets, water, sewer, or other public utilities necessary for development
- The petitioner shall consider and respond to any such conditions after the Planning & Zoning Commission
- If the applicant does not agree with the Planning & Zoning Commission or staff's recommendations of additional conditions, the Town Council shall have the authority to accept none, any, or all of the conditions forwarded from the review process.
- If any condition required at approval is later found to be illegal, the petition shall be returned to Town Council to reevaluate and adjust any conditions accordingly.

Conditional Zoning

EFFECT OF APPROVAL

- An approved petition shall be governed by the predetermined ordinance requirements applicable to the district's classification, the approved site plan for the district, and any additional approved rules, regulations, and conditions
 - Shall constitute the zoning regulations for the approved district and are binding on the property
- Subject property shall be identified on the zoning maps by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CZ" (for example "CBD-CZ").
- No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and applicable site plan, subdivision plat, and/or permit for the district.
- Any violation of the approved regulations and conditions for the district shall be treated the same as any other violation of this ordinance and shall be subject to the same remedies and penalties as any such violation.

New Language

Item 3.

ARTICLE III. – Zoning District Regulations Sec. 40-72. – Table of permissible uses.

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Residential Uses														
Multifamily dwellings (See section 40-260) <u>Units <= 4</u>							P	EP				EP	EP	
<u>Multifamily dwellings (See section 40-260) Units > 4</u>							C	C				C	C	
Planned unit development, residential (See article XII of this chapter) <u>Units <= 4</u>	EP		EP			EP	EP	EP			EP	EP	EP	
<u>Planned unit development, residential (See article XII of this chapter) Units > 4</u>	C		C			C	C	C			C	C	C	
Accessory Uses														
Swimming pools, public (See sections 40-261, 40-548)	EP	EP	EP	EP	EP	EP	EP	EP	EP	EP	EP	EP	EP	EP
Nonresidential Uses														
Animal care facility									P	P	P	P	P	P
Animal care facility with outdoor area (See section 40-261)											EP			
Arcades, rides, games in enclosed buildings									P		EP			
Art galleries (See section 40-548)								P	P	P	P	P	P	P

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Automobile repair garages, including engine overhauls, body and paint shops and similar operations in enclosed buildings (See sections 40-261, 40-548)										CP	P			P
Bakeries, retail, off-premises sales									<u>P</u>	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>
Bakeries, retail, on-premises sales only									P	P	P	<u>P</u>	<u>P</u>	<u>P</u>
Banks/financial institutions									P	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>
Barber shops									P	P	P	<u>P</u>	<u>P</u>	<u>P</u>
Bars and taverns (See section 40-261)									C		C	C	C	C
Body Piercing Facility											CP			
Cafeteria or dining room for employees of permitted uses														CP
Contractors offices, no outdoor storage									P	<u>P</u>	P	<u>P</u>	<u>P</u>	P
Day nurseries, day care centers and preschools (See sections 40-261, 40-548)	C	C	C	C		C	CP	CP	CP	CP	CP	P	P	P

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Distillery									P		P			P
Drop-in child care providers (See sections 40-261, 40-548)	CP	CP	CP	CP		CP	P	P	P	P	P	P	P	P
Exhibition buildings									CP	P	P	P	P	P
Exterminator service business offices, no outdoor storage of materials or equipment									P		P			P
Fire stations, emergency services, nonprofit	C	C	C	C		C	C	CP	CP		CP			CP
Furniture stores									P	P	P	P	P	P
Gardens, arboretums and greenhouses, items for sale									P	P	P	P	P	P
General retail sales								P	P	P	P	P	P	P
Ice-cream stores								P	P	P	P	P	P	P
Laundries and dry cleaning, delivered by customers									P	P	P	P	P	P

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Laundromats, self-service									P	P	P	<u>P</u>	<u>P</u>	<u>P</u>
Libraries	<u>C</u>		<u>C</u>	<u>C</u>				P	P	P	P	<u>P</u>	<u>P</u>	<u>P</u>
Live entertainment complexes in enclosed buildings									<u>CP</u>	<u>P</u>	<u>CP</u>	<u>P</u>	<u>P</u>	<u>P</u>
Manufacturing incidental to retail business, sold on premises only, maximum of five manufacturing operators								<u>C</u>	P	<u>P</u>	P	<u>P</u>	<u>P</u>	P
Meeting facilities	C	C	C	C		C	C	<u>CP</u>	P		P			P
Motels and hotels								C	C		C	<u>C</u>	C	C
Motels and hotels, operated with a marina												C		
Parking and loading areas serving uses in the same zoning district, on non-contiguous lot (See article V of this chapter)	C	C	C	C	C	C	C	<u>CP</u>	P	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>
Planned unit development, business (See article XII of this chapter)									<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	

New Language Item 3.

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Schools, public	C	C	C	C		C	C	C	CP	<u>P</u>	CP	<u>P</u>	<u>P</u>	CP
Schools, private, general instruction	C	C	C	C		C	C	C	CP	<u>P</u>	CP	<u>P</u>	<u>P</u>	CP
Seafood production and/or processing and/or dockage, wholesale and retail												CP		CP
Spa health club									P	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>
Studios, artist, designers, gymnasts, musicians, sculptures								CP	P	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>
Tailor shops								P	P	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>
Tattoo studios (See sections 40-261, 40-548)											CP			
Tennis courts, commercial (See section 40-261)								<u>P</u>	CP	<u>P</u>	CP	<u>P</u>	<u>P</u>	<u>P</u>
Tennis courts, private (See section 40-261)	CP	CP	CP	CP		CP	CP	CP	CP		CP	CP	CP	CP
Theaters, in enclosed structure								<u>P</u>	P	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>
Theaters, open air drama					<u>P</u>				CP		CP			CP

USES OF LAND	R-1	R-1B	R-2	R-3	C	MH	MF	MX	CBD	NB	HB	MB-1	T-1	I-1
Utilities, private (See section 40-261)	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	<u>CP</u>	P	P	P	P	P	P
Water oriented businesses									<u>CP</u>			<u>CP</u>		
Wine and beer shops (<u>Retail/Off-Premise</u>)								<u>P</u>	P	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>

Recommendation

- Planning and Zoning approved the text amendment as presented with 3 changes:
 - Keep Day Care facilities as a Conditional Zoning Use in strictly residential zones (R1-R3 and MH)
 - Keep Drop-In Day Care facilities as a Conditional Zoning Use in strictly residential zones (R1-R3 and MH)
 - Keep Library facilities as a Conditional Zoning Use in strictly residential zones (R1-R3 and MH)



AGENDA ITEM COVERSHEET

PREPARED BY: Jeremy Hardison, Planning Director **DEPARTMENT:** Planning

MEETING: Town Council Workshop – 27 OCT 2020

SUBJECT: CAMA Oceanfront Setbacks Discussion - Development Line vs Static Line Exception

Applicant: Town of Carolina Beach

BACKGROUND:

The Division of Coastal Management notified the Town on October 2nd that the Coastal Resource Commission held a virtual meeting in September and declared that if a community has been granted a Static Line Exception and a Development Line, **only one may be applied within the bounds of the community's beach nourishment project (see attached letter)**. A community will not be permitted to have both a Development Line and a Static Line Exception when issuing permits pursuant to the Coastal Areas Management Act of 1974 ("CAMA"). They are requiring the Town to decide which setback rule we would like to use.

History of Ocean Front Setbacks.

1925 - 1962

There was not a specific established method for placement of ocean front structures that took erosion and beach dynamics into consideration. There was no dune or vegetation in place during this time. Two major events happened that impacted the coastline in the 1950's. 1) Carolina Beach Inlet was artificially opened by local interests in September 1952. Prior to its opening, the beach was continuous from Carolina Beach north to Masonboro Inlet with shoreline changes along the entire area relatively moderate. Immediately following the opening of the inlet, the shoreline south of the inlet began to erode at an accelerated rate. 2) Hurricane Hazel in 1954, a Category Four event that brought significant damage and recognition of the need to manage storm risk in Carolina Beach. As a result of the sporadic placement of structures to the ocean many started to become threatened by beach attrition and repetitive flooding by 1962.

1963- 1978

In response to the cumulative effects of the inlet related and storm induced shoreline retreats congress passed the flood control act of 1962 which lead the way to fund and authorized federal storm damage reduction project (beach nourishment). One of the conditions for federal participation in the project was the assurance the beach would remain open to the public for the life of the project. Prior to project construction, the Town of Carolina Beach established a Building Line. Authority to establish the Building Line was provided by a special act of the NC Legislature in 1963. All lands located seaward of the Building Line are in public ownership. The Carolina Beach Building Line would become the build to line

for ocean front development and no structures could be authorized to go past it other than beach crossovers and piers.

The federal storm damage reduction project was constructed seaward of the Town Building Line with the Building Line serving as the approximate landward toe of the dune. Carolina Beach was the first nourishment project in North Carolina that took place in 1964 that consisted of a 25-foot wide vegetated dune fronted by a 50-foot wide storm berm.

1979- 2008

The Coastal Area Management Act (CAMA) of 1974 was passed by NC General Assembly for guiding development for NC coastal communities and created the Coastal Resource Commission (CRC) who were responsible for creating policies. In 1979 Ocean front setbacks were introduced statewide. CAMA used the first line of stable natural vegetation to measure setbacks. There were two setback factors utilized are based off annual erosion rates.

- 1) Small structure setback – structures less than 5,000 sq. ft., setback 60’ from the stable natural vegetation.
- 2) Large structure setback – structures 5,000 sq. ft. or more, setback 120’ from the stable natural vegetation.

Carolina Beach has had a healthy coastal storm damage reduction project since 1980. Through local beach management the dune vegetation has expanded oceanward over the years, but the CAMA measurement line for setbacks were still based off where the vegetation line was at the inception of CAMA known as the Static CAMA Vegetation line. The CAMA Static CAMA Vegetation Line was codified in 1996 in part based on three factors.

- 1) Engineered beaches erode at least as fast as, If not faster than, pre-project beach;
- 2) There is no assurance of future funding (or beach-compatible sand) for project maintenance; and
- 3) Development tied to a vegetation line in artificially forced systems could be located so as to be more vulnerable (closer to the shoreline) to natural hazards along the oceanfront.

2009 Static Line Exception

In 2009 CAMA adopted new rules for ocean front setback with the introduction of graduated setbacks based off the size of structures measured from the static vegetation line. The following setbacks would apply.

Structure Size	Setback From the Static Vegetation Line
< 5,000 sq ft	60'
≥ 5,000 sq ft	120'
≥ 10,000 sq ft	130'
≥ 20,000 sq ft	140'
≥ 40,000 sq ft	150'
≥ 60,000 sq ft	160'
≥ 80,000 sq ft	170'
≥ 100,000 sq ft	180'

CAMA did want to recognize local government efforts and long-term commitments to managing oceanfront erosion by creating the Static Vegetation Line Exception rules, which would exempt oceanfront communities from the graduated setbacks. To be eligible for this exception, a community must petition the Coastal Resource Commission by providing a beach management plan that describes the project area and design; identify sediment sources; identify funding sources to maintain the initial large-scale project; and, provide an update on project effectiveness and how it will continue to be maintained. The plan must be updated and presented to the CRC every five years for reauthorization.

The Town was granted a static line exception in 2009 after presenting the Beach Plan Report. The reason the town applied for the exception was not to allow for development to move more seaward, rather the concern that the rule establishing graduated setback requirements for structures based on size could render many oceanfront structures non-conforming based on the present location of the static line and not be able to rebuild following major damage resulting from a weather related event. The Town wanted to prevent more structures becoming non-conforming with the new rule. The existing non-conforming structures were 64 buildings and over 800 units.

The approval of the static line exception did allow some development to be measured from the natural vegetation line rather than the static line under the following conditions.

- Development meet the minimum setback of 60 feet or 30 times the erosion rate, whichever is greater, as measured from the vegetation line;
- Development setbacks are calculated from the shoreline erosion rate in place at the time of permit issuance;
- Total floor area of a building is no greater than 2,500 sq. ft.
- No portion of a building or structure, including roof overhangs and elevated portions that cantilevered, knee braced or otherwise extended beyond the support of pilings or footings extends oceanward of the landward-most adjacent building or structure; and
- Swimming pools are not allowed oceanward of the static vegetation line.

Since the town was granted the 2009 static line exception the CRC has reauthorized the town in 2015 and 2020 after staff provided the following;

- Design changes to the initial large-scale beach fill project
- Design changes to the location and volume of compatible sediment necessary to construct and maintain the large-scale beach fill project.
- Changes in the financial resources or funding sources necessary to fund the large-scale beach fill project.

2016 Development Line

Prior to 2016 Staff was notified by the real estate industry that many “non-conforming” units were not able to secure financing because of new lending procedures. The town met with lenders and real-estate professionals with CAMA discussing the state and local non-conforming regulations. The town’s non-conforming regulations allow a building to be rebuilt in the same footprint if it is destroyed by fire, wind, flood or other catastrophic event. The CAMA regulations were more restrictive, if a structure is destroyed more than 50% then it shall meet current setbacks regardless of how it was destroyed. This is problematic for many non-conforming structures since the setback places them near or completely in the street. In these cases, if the setback were measured from the current vegetation line rather than the

static vegetation line then it could be rebuilt in the same footprint. The issue was brought to the Coastal Resource Commission. Commission found that some communities had demonstrated a long-term commitment to beach nourishment and maintenance of their nourished beaches. Due to this long-term commitment, the vegetation had become stable and migrated oceanward of the static line. To recognize local government efforts to address erosion through long-term beach nourishment and offer relief from the Static Vegetation Line requirements, the CRC adopted the “Development Line” option. A development line is an established line adopted by the local government that represents where structures can build up to, as long as the structure meets the setbacks utilizing the vegetation line when measuring oceanfront setbacks.

The Town was approved for a development line by the CRC, which utilized the 1963 Building Line as the Development line. This abled the majority of the oceanfront buildings to be rebuilt in its current footprint. The only area that does not benefit from the rules are the nonconforming homes located along the rock revetment because of the limited vegetation.

2016 Amended Non-conforming Regulations

CAMA amended the non-conforming regulations that allowed structures to be rebuilt that are below 10,000 sq. ft. if they meet the 60’ setback from the natural stable vegetation line or the middle of the rocks where the rock revetment is located. There several structures that are adjacent to the rocks that would still not be able to be rebuilt.

2016 Amended the Static Line Exception Rule

Removed the condition that limited development to 2,500 sq. ft. in order to utilize the exception.

2020 Static Line Exception or Development Line.

The town must decide which line it wants to utilize for ocean front setbacks according to the CRC, although the CRC did grant the town the Static Line Exception in 2009 and the Development Line in 2016.

2020 version of the Static Line Exception vs Development Line

Both the Static Line Exception and the Development Line can now measure from the existing natural stable vegetation line, but the graduated setbacks still would apply to the building line, but not the Static Vegetation Line Exception. With the Static Vegetation Line Exception however you cannot go oceanward of the adjacent structures and must provide an updated beach management plan every 5 years, demonstrating a financial plan, sand resource and a committed storm reduction plan. With the flexibility of not having graduated setbacks and being able to develop to the Development Line there are only 6 non-conforming buildings. If the town decides to go with the Static Vegetation Line Exception then 27 structures would not be able to build in the same footprint on the lot, because they sit further out from the adjacent structure. If the town decided to go with the Development Line, then 18 structures would be non-conforming because of their size with the graduated setbacks.

<u>Condition</u>	<u>Static Vegetation Line Exception</u>	<u>Building Line</u>
<u>Measure from existing Vegetation Line</u>	✓	✓
<u>Graduated Setbacks apply</u>		✓
<u>New structures cannot go past the adjacent Structures</u>	✓	
<u>Beach Plan Report With commitment to renourishment</u>	✓	
<u>Number of Non- conforming Structures</u>	27	18

ACTION REQUESTED:

Per the Coastal Resource Commission the town must decided which method it would like to utilize when measuring oceanfront Setbacks.

RECOMMENDED MOTION:

Approval – Make a motion to approve either the Static Line Exception or the Development Line when determining oceanfront setbacks.

JOSH STEIN
ATTORNEY GENERAL



REPLY TO:
 MARY L. LUCASSE
 (919) 716-6962
 MLUCASSE@NCDOJ.GOV

October 1, 2020

Via Email

Braxton C. Davis, Director
 Division of Coastal Management
 400 Commerce Ave.
 Morehead City, NC 28557

RE: Guidance from the Commission on setbacks on the oceanfront.

Dear Director Davis:

During the past year, the North Carolina Coastal Resources Commission (“Commission”) has been working on revisions to its rules establishing building setbacks in the Ocean Hazard Areas. On more than one occasion, the Commission has indicated that it wants to avoid any unintended consequence of changes to its rules that might allow future development to be permitted waterward of the existing setbacks. Given its concern over the implementation of its rules, the Commission is providing this guidance to the Division of Coastal Management (“DCM”) on how to apply the existing rules. Specifically, during its September 2020 meeting, by motion the Commission unanimously declared that if a community has a Static Line Exception approved in accordance with 15A NCAC 07J 1200 and a Development Line approved in accordance with 15A NCAC 07j .1300, only one may be applied within the bounds of the community’s beach nourishment project. A community will not be permitted to switch between a Development Line and a Static Line Exception when reviewing individual applications for permits issued pursuant to the Coastal Areas Management Act of 1974 (“CAMA”). The Commission also stated that it was not endorsing one or the other setback line.

Please distribute this letter to DCM staff and the CAMA Local Permit Officers who are responsible for reviewing CAMA permit application. Upon receipt of this letter, the communities are required to inform DCM, by written confirmation to Director Braxton Davis, which setback line will be used by that community. Let me know if you have any questions regarding this information.

Sincerely,

Mary L. Lucasse

cc: M. Renee Cahoon, Chair NC Coastal Resources Commission, electronically



AGENDA ITEM COVERSHEET

PREPARED BY: Bruce Oakley, Town Manager

DEPARTMENT: Executive

MEETING: Town Council – October 27, 2020

SUBJECT: Manager’s Update

BACKGROUND:

Town Manager Bruce Oakley will update Council on current and future projects.