



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

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

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

www.southernshores-nc.gov

**PITTS CENTER**

**Tuesday, May 07, 2024 at 5:30 PM**

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## **AGENDA**

### **Call Meeting to Order**

Pledge of Allegiance

Moment of Silence

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

#### **Consent Agenda**

1. Approval of Minutes (emailed)
2. Budget Amendment-PW Equipment Lease & Maintenance
3. Budget Amendment - Document Scanning Planning Department
4. Budget Amendment -Cemetery

### **Employee Introductions / Recognition**

5. Introduction of K-9 Arty and K-9 Handler Thomas Long

### **Staff Reports**

Deputy Town Manager/Planning Director-Monthly Permit Report & Planning Board Update

Police Chief -Monthly Report

Fire Chief-Monthly Report

Town Manager

Flat Top Tour & Earth Day Events Recap

Southern Shores Cemetery Improvements / Upgrades

Town Attorney

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

### **Old Business**

6. Consideration of Ordinance Banning Release of Balloons

### **New Business**

7. Public Hearing-ZTA-23-05 Lot Width
8. Manager's Recommended Budget FY24-25 (distributed at meeting)
  - a.) Town Manager's Recommended Budget Presented
9. Consideration of Bid Award -Skyline Rd. Sidewalk Project

[10.](#) Consideration of Memorandum of Understanding (MOU) with the North Carolina Department of Environmental Quality (DEQ) for Milfoil Treatment

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

**Council Business**

**Adjourn**

**Town of Southern Shores  
Budget Amendment Number # 26**

**Public Works  
Increases**

**Decreases**

<u>Account Number</u>	<u>Description</u>	<u>Amount</u>	<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
40-32900	<b>Revenues</b> Interest Income	\$15,000			
59-50109	<b>Expenditures</b> Equipment Lease & Maintenance	\$15,000			
	<b>TOTAL</b>			<b>TOTAL</b>	\$ -

Explanation: Several mower and tractor repairs and needed maintenance on equipment.

Recommended By:

\_\_\_\_\_  
Cliff Ogburn, Town Manager

Approved By: Town Council

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

\_\_\_\_\_  
Date

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

**Planning  
Increases**

**Decreases**

<u>Account Number</u>	<u>Description</u>	<u>Amount</u>	<u>Account Number</u>	<u>Description</u>	<u>Amount</u>
40-32900	<b>Revenues</b> Interest Income	\$28,000			
63-50120	<b>Expenditures</b> Contracted Services	\$28,000			
	<b>TOTAL</b>			<b>TOTAL</b>	\$ -

Explanation: Cost to scan all files in Planning

Recommended By:

\_\_\_\_\_  
Cliff Ogburn, Town Manager

Approved By: Town Council

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

\_\_\_\_\_  
Date



**Agenda Item Summary Sheet****Date: 5/7/24****Item #: 6****Item Title:** Consideration of Ordinance Banning Release of Balloons

**Item Summary:** The Town Council has had a discussion about the release of balloons into the air and their negative environmental impacts. A resolution was passed at the March 12, 2024, Council meeting opposing the release of balloons. Further discussion led to the Council's direction given to Town Staff to draft an ordinance banning the release of balloons to be considered at the May 7, 2024, Council meeting. Staff has asked that the other towns in Dare County that are considering such an ordinance to be as consistent with one another as possible.

**Staff Recommendation:** Staff recognizes the negative environmental impacts that balloons have on our surrounding area. Staff also recognizes the difficulty of enforcing the attached ordinance and will first seek to use the ordinance as a means to educate citizens rather than issuing citations.

**Requested Action:** A motion to approve the attached ordinance.

**Attachments:** Draft ordinance



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TCA-24-01  
5-1-24  
Ordinance 2024-05.01

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

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

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

**WHEREAS**, pursuant to North Carolina General Statutes § 160A-174 the Town may enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town, and may define and abate nuisances; and

**WHEREAS**, in furtherance of the public’s health, safety and welfare it is necessary to regulate certain activities upon the lands, waterways, beaches, and dune areas of the Town which degrade or cause harm to these areas or the waters of the Atlantic Ocean, Currituck Sound, and tributaries of same; and

**WHEREAS**, it is further necessary to regulate certain activities to protect the well-being of the natural environment and the wildlife present in this environment;

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

**ARTICLE II. Construction.**

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

**ARTICLE III. Amendment of Town Code.**

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

**PART I.** That **Sec. 22-12. Unlawful to release balloons within the town.** Be added as follows:

**Sec. 22-12. Unlawful to release balloons within the town.**

(a) Definitions. For the purpose of this section, the following words and phrases are defined:

Balloon means a flexible, nonporous bag made from materials such as, but not limited to, rubber, latex, polychloroprene, mylar, or nylon fabric that can be inflated or filled with gas or fluid, such as helium, hydrogen, nitrous oxide, oxygen, or air, and then sealed at the neck of the bag. The town does not recognize any balloon as “biodegradable or photodegradable”.

Litter includes all waste materials resulting from the outdoor release or abandonment of a balloon.

(b) It shall be unlawful for any person, firm, nonprofit organization, school, corporation, or other business affiliation, to knowingly and intentionally release, participate in the release of, intentionally cause to be released, to litter by abandoning and not properly disposing of all waste material, any type of balloon inflated with a liquid, air, or gas within the town limits, any waters within the zoning jurisdiction of the town, or the beach and/or dune areas within the Town.

(c) Exemptions. The following are not violations of this section:

(1) Balloons released by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes.

(2) Hot air balloons that are recovered after launching.

(3) Balloons released inside a building or structure that do not make their way into the open air.

(d) Penalty.

Any person violating the provisions of this section shall be subject to a civil penalty in the amount of \$250 to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within ten days after having been cited for violation of the ordinance.

**ARTICLE IV. Severability.**

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

**ARTICLE V. Effective Date.**



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

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

ATTEST:

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

APPROVED AS TO FORM:

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

Date adopted:

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

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

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



## AGENDA ITEM SUMMARY

**MEETING DATE:** May 7, 2024

**ITEM TITLE:** Public Hearing-ZTA-23-05 Lot Width

**ITEM SUMMARY:**

On June 6, 2023, the Town Council adopted ZTA-23-03 (3-2 vote), a Zoning Text Amendment application submitted by the Town that amended the Town’s minimum lot width requirements in all residential zoning districts to make them less ambiguous, as recommended by the Planning Board. The amendments included a new definition of “lot width” in Section 36-57 which is the minimum horizontal distance between the side lot lines of a lot measured from the front lot line at right angles to the rear lot line. The amendments also included amendments to Sections 36-202(d)(2), 36-203(d)(2), 36-204(d)(2), 36-205(d)(2), and 36-206(d)(2) that established that the minimum lot width is measured from the front lot line at right angles to the rear lot line instead of from the building setback line. The Town Planning Board considered amendments to the Town’s current lot width requirements at the December 18, 2023 Planning Board meeting and suggested revisions. The Board considered the revisions at the March 18, 2024 Planning Board meeting and recommended denial.

At the April 15, 2024 Planning Board meeting, the Board considered additional revisions to amend the Town’s current minimum lot width requirements in all of the residential zoning districts and the government and institutional district by removing the definition of “building setback line” and adding the definition of “lot width line” in Section 30-2 and 36-57 which is a line established 25 feet from the front lot line, or the point where the lot is 50, 75, or 100 feet wide, whichever district requirement is applicable and whichever distance is closer to the front lot line. The proposed amendments also add the definition of “yard”, as used in Section 36-57, to Section 30-2 and establish in Section 30-124 that the proposed lot width line and proposed yards shall be shown on preliminary plats. The proposed amendments also include a new definition of “lot width” which is the width of a lot at the required lot width line. Lastly, the proposed amendments include amendments to Sections 36-202(d)(2), 36-203(d)(2), 36-204(d)(2), 36-205(d)(2), and 36-206(d)(2) that establish that the lot width line is the measuring point for lot width for lots created after June 6, 2023.

**STAFF RECOMMENDATION:**

Town Staff has determined that the proposed amendments are consistent with the Town’s currently adopted Land Use Plan and Town Staff recommends approval of the application. The Town Planning Board unanimously recommended approval (5-0) of the application at the April 15, 2024 Planning Board meeting.

**REQUESTED ACTION:**

Motion to approve ZTA-23-05.

## STAFF REPORT

**To:** Southern Shores Town Council  
**Date:** May 7, 2024  
**Case:** ZTA-23-05  
**Prepared By:** Wes Haskett, Deputy Town Manager/Planning Director

### GENERAL INFORMATION

**Applicant:** Town of Southern Shores  
**Requested Action:** Amendment of the Town Code by amending Town Code Sections 30-2, 30-124, 36-57, 36-202(d)(2), 36-203(d)(2), 36-204(d)(2), 36-205(d)(2), and 36-206(d)(2) to amend the Town’s current lot width requirements.

### ANALYSIS

On June 6, 2023, the Town Council adopted ZTA-23-03 (3-2 vote), a Zoning Text Amendment application submitted by the Town that amended the Town’s minimum lot width requirements in all residential zoning districts to make them less ambiguous, as recommended by the Planning Board. The amendments included a new definition of “lot width” in Section 36-57 which is the minimum horizontal distance between the side lot lines of a lot measured from the front lot line at right angles to the rear lot line. The amendments also included amendments to Sections 36-202(d)(2), 36-203(d)(2), 36-204(d)(2), 36-205(d)(2), and 36-206(d)(2) that established that the minimum lot width is measured from the front lot line at right angles to the rear lot line instead of from the building setback line. The Town Planning Board considered amendments to the Town’s current lot width requirements at the December 18, 2023 Planning Board meeting and suggested revisions. The Board considered the revisions at the March 18, 2024 Planning Board meeting and recommended denial.

At the April 15, 2024 Planning Board meeting, the Board considered additional revisions to amend the Town’s current minimum lot width requirements in all of the residential zoning districts and the government and institutional district by removing the definition of “building setback line” and adding the definition of “lot width line” in Section 30-2 and 36-57 which is a line established 25 feet from the front lot line, or the point where the lot is 50, 75, or 100 feet wide, whichever district requirement is applicable and whichever distance is closer to the front lot line. The proposed amendments also add the definition of “yard”, as used in Section 36-57, to Section 30-2 and establish in Section 30-124 that the proposed lot width line and proposed yards shall be shown on preliminary plats. The proposed amendments also include a new definition of “lot width” which is the width of a lot at the required lot width line. Lastly, the proposed amendments include amendments to Sections 36-202(d)(2), 36-203(d)(2), 36-204(d)(2), 36-205(d)(2), and 36-206(d)(2) that establish that the lot width line is the measuring point for lot width for lots created after June 6, 2023.

The Town’s currently adopted Land Use Plan contains the following Policy that is applicable to the proposed ZTA:

- **Policy 2:** The community values and the Town will continue to comply with the founder’s original vision for Southern Shores: a low-density residential community

comprised of single-family dwellings on large lots served by a small commercial district for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

**RECOMMENDATION**

Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan and Town Staff recommends approval of the application. The Town Planning Board unanimously recommended approval (5-0) of the application at the April 15, 2024 Planning Board meeting.



# Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949  
Phone 252-261-2394 / Fax 252-255-0876  
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## PLANNING BOARD GENERAL APPLICATION FORM TOWN OF SOUTHERN SHORES, NC 27949

**Date:** 8/18/23      **Filing Fee:** \$200      **Receipt No.** N/A      **Application No.** ZTA-23-05

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

Please check the applicable Chapter/Article:

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

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

### Applicant

Name Town of Southern Shores

Address: 5375 N. Virginia Dare Trl.  
Southern Shores, NC 27949

Phone (252) 261-2394 Email whaskett@southernshores-nc.gov

### Applicant's Representative (if any)

Name \_\_\_\_\_

Agent, Contractor, Other (Circle one)

Address \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

**Property Involved:** \_\_\_ Southern Shores \_\_\_ Martin's Point (Commercial only)

Address: \_\_\_\_\_ Zoning district \_\_\_\_\_

Section \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_ Lot size (sq.ft.) \_\_\_\_\_

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

**Change To:** \_\_\_ Zoning Map **X** \_\_\_ Zoning Ordinance

W. H. H. H.  
Signature

8-18-23  
Date

\* Attach supporting documentation.



**Town of Southern Shores**

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ZTA-23-05

4-15-24

Ordinance 2023-XX-XX

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

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

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

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

**ARTICLE II. Construction.**

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

**ARTICLE III. Amendment of Subdivision Ordinance and Zoning Ordinance.**

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

**PART I.** That **Sec. 30-2 Definitions.** Be amended as follows:

...

~~Building setback line means the line within a property defining the required minimum distance between any building and the adjacent right-of-way or lot.~~

1 ...

2

3 Lot width line means a line established 25 feet from the front lot line, or the point  
4 where the lot is 50, 75, or 100 feet wide, whichever district requirement is applicable and  
5 whichever distance is closer to the front lot line.

6

7 ...

8

9 Yard means a required open space, other than a court, unoccupied and unobstructed  
10 by any structure or portion of a structure, from 30 inches above the ground level of the  
11 graded lot upward, provided, however, that eaves, fences, walls, poles, posts, ocean dune  
12 platforms, walks, accessible ramps, steps and other customary yard accessories,  
13 ornaments, and furniture may be permitted in any yard subject to height limitations and  
14 requirements limiting obstruction of visibility or any other requirements of this chapter.

15 (1) Yard, front. A yard extending between side lot lines across the front of a lot  
16 adjoining the public street. Depth of required front yard shall be measured at  
17 right angles to a straight line joining the foremost points of the side lot lines.  
18 The foremost point of the side lot line, in the case of rounded property corners  
19 at street intersections, shall be assumed to be the point at which the side and  
20 front lot lines would have met without such rounding. Front and rear yard lines  
21 shall be essentially parallel.

22 (2) Yard, rear. A yard extending across the rear of the lot between side lot lines.  
23 Depth of a required rear yard shall be measured in such a manner that the yard  
24 established is a strip of the minimum width required by district regulations with  
25 its inner edge parallel with the rear lot line.

26 (3) Yard, side. A yard extending from the rear line of the required front yard to the  
27 rear yard. Width of a required side yard shall be measured in such a manner  
28 that the yard established is a strip of the minimum width required by district  
29 regulations with its inner edge parallel with the side lot line.

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31 **PART II.** That **Sec. 30-124 Preliminary Plat.** Be amended as follows:

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33 ...

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35 (10) Proposed ~~minimum building setback lines~~ lot width line.

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37 ...

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39 (15) Proposed yards.

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1 PART III. That Sec. 36-57 Definition of specific terms and words. Be amended as  
2 follows:

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4 Sec. 36-57. Definition of specific terms and words.

5

6 ...

7

8 ~~Building setback line means a line parallel to or concentric with the street right-of-~~  
9 ~~way establishing the minimum allowable distance between such right-of-way and the~~  
10 ~~nearest portion of any building, excluding the outermost three feet of any uncovered~~  
11 ~~porehes, steps, gutters and similar fixtures.~~

12

13 ~~Lot width means the width of a lot at the required lot width line minimum horizontal~~  
14 ~~distance between the side lot lines of a lot measured from the front lot line at right angles~~  
15 ~~to the rear lot line.~~

16

17 Lot width line means a line established 25 feet from the front lot line, or the point  
18 where the lot is 50, 75, or 100 feet wide, whichever district requirement is applicable and  
19 whichever distance is closer to the front lot line.

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21 ...

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23 PART IV. That Sec. 36-202. RS-1 single-family residential district. Be amended as  
24 follows:

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26 Sec. 36-202. RS-1 single-family residential district.

27

28 ...

29

30 (d) Dimensional requirements.

31 (1) Minimum lot size: 20,000 square feet.

32 (2) Minimum lot width for lots created after June 6, 2023: 100 feet (measured at  
33 the lot width line from the front lot line at right angles to the rear lot line).

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35 ...

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37 PART V. That Sec. 36-203. RS-8 multifamily residential district. Be amended as  
38 follows:

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40 Sec. 36-203. RS-8 multifamily residential district.

41



1 ...

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3 (d) *Dimensional requirements.*

4

5 ...

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7 (2) Minimum lot width for lots created after June 6, 2023: 75 feet (measured at the  
8 lot width line ~~from the front lot line at right angles to the rear lot line~~).

9 ...

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12 **PART VI.** That **Sec. 36-204. RS-10 residential district.** Be amended as follows:

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14 **Sec. 36-204. RS-10 residential district.**

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16 ...

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18 (d) *Dimensional requirements.*

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20 ...

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22 (2) Minimum lot width for lots created after June 6, 2023: 75 feet (measured at the  
23 lot width line ~~from the front lot line at right angles to the rear lot line~~).

24

25 ...

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27 **PART VII.** That **Sec. 36-205. R-1 low-density residential district.** Be amended as  
28 follows:

29

30 **Sec. 36-205. R-1 low-density residential district.**

31

32 ...

33

34 (d) *Dimensional requirements.*

35

36 ...

37

38 (2) Minimum lot width for lots created after June 6, 2023: 100 feet (measured at  
39 the lot width line ~~from the front lot line at right angles to the rear lot line~~).

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1 **PART VIII.** That **Sec. 36-206. Government and institutional district.** Be amended as  
2 follows:

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4 **Sec. 36-206. Government and institutional district.**

5  
6 ...

7  
8 (d) *Dimensional requirements.*

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10 ...

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12 (2) Minimum lot width for lots created after June 6, 2023: 50 feet (measured at the  
13 lot width line ~~from the front lot line at right angles to the rear lot line~~).

14  
15 ...

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

19  
20 The Town’s adoption of this ordinance amendment is consistent with the Town’s adopted  
21 comprehensive zoning ordinance, land use plan and any other officially adopted plan that  
22 is applicable. For all of the above-stated reasons and any additional reasons supporting the  
23 Town’s adoption of this ordinance amendment, the Town considers the adoption of this  
24 ordinance amendment to be reasonable and in the public interest.

25  
26 **ARTICLE V. Severability.**

27  
28 All Town ordinances or parts of ordinances in conflict with this ordinance amendment are  
29 hereby repealed. Should a court of competent jurisdiction declare this ordinance  
30 amendment or any part thereof to be invalid, such decision shall not affect the remaining  
31 provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the  
32 Town of Southern Shores, North Carolina which shall remain in full force and effect.

33  
34 **ARTICLE VI. Effective Date.**

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

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

41 ATTEST:

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43 \_\_\_\_\_  
44 Town Clerk  
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APPROVED AS TO FORM:

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

Date adopted:

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

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

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



## **Agenda Item Summary Sheet**

**Date:** 5/7/24

**Item #: 9**

**Item Title:** Consideration of bid award for sidewalk project

**Item Summary:** After receiving public input regarding future considerations for the construction of new pedestrian paths, staff was given direction to plan for the construction of a sidewalk on the north side of Skyline Rd from Ocean Blvd. to the path connecting Skyline Rd. to Spindrift Trl.

Plans were designed by an engineer and the informal bidding process was used to solicit bids for this project. Three bids were received; however, one was rejected for non-responsiveness. For construction projects within the informal bidding range, the record of bids and bid documents become open for public inspection when the contract is awarded.

Staff believes that the low bid is a reasonable and fair price which is below the engineering cost estimate.

**Staff Recommendation and Requested Action:** Awarding of a contract to the low bid for the construction of the Skyline Rd. sidewalk.

**Attachments:** Aerial Map of sidewalk under consideration.







## **Agenda Item Summary Sheet**

**Date: 5/7/24**

**Item #: 10**

**Item Title:** Consideration of Memorandum of Understanding (MOU) with the North Carolina Department of Environmental Quality (DEQ) for Milfoil Treatment

**Item Summary:** There has been a long history of treatment of Eurasian Milfoil in the Southern Shores canals dating back to at least 1971. Milfoil is an invasive plant that is recognized by the North Carolina Department of Environmental Quality as a noxious aquatic weed which qualifies for assistance from their treatment program. DEQ's Aquatic Weed Program has information pertaining to milfoil on their website which is linked to the Town's website. Information posted on the NCDEQ website states that Eurasian watermilfoil is now considered one of the worst aquatic weeds, occurring in nearly every state.

Eurasian watermilfoil is a submerged invasive aquatic plant native to Asia, Europe and Africa in the Haloragaceae family. It typically grows in water 3.2 to 13 feet deep, tolerates cold waters and low light conditions, and has spread to nearly every state in the USA and much of Canada. It was likely first brought to North America in ship ballasts or as an ornamental plant for aquariums or water gardens. Once introduced to an aquatic system, it spreads prolifically by stem fragments caused by either natural or mechanical causes. Each plant produces around 100 seeds but the main propagation method for this plant is stem fragments.

This plant interferes with the recreational uses of waterways, obstructs commercial navigation, exacerbates flooding, clogs hydropower turbines and alters ecosystems by crowding out native plants and affecting animal diversity. It will also hybridize with native watermilfoil species making control more difficult.

The stems of this plant can grow up to 20 feet long with feathery whorled leaves around the stem. The plant has separate male and female flowers in summer. A 2-6 inch spike is produced with inconspicuous small reddish or pinkish 4-petaled flowers and is held above the water. until flowering is complete, then becomes parallel with the water.

The DEQ Secretary, after consultation with the Director of the North Carolina Agricultural Extension Service, the Wildlife Resources Commission, and the Marine Fisheries Commission, and with the concurrence of the Commissioner of Agriculture, may designate as a noxious aquatic weed any plant organism which:

- (1) Grows in or is closely associated with the aquatic environment, whether floating, emersed, submersed, or ditch-bank species, and including terrestrial phases of any such plant organism;
- (2) Exhibits characteristics of obstructive nature and either massive productivity or choking density; and
- (3) Is or may become a threat to public health or safety or to existing or new beneficial uses of the waters of the State.

The purpose of the Aquatic Weed Control Program is to provide units of local government and residents of North Carolina with resources that will promote the prevention and management of noxious aquatic weed infestations. The philosophy is that by offering assistance and developing partnerships, aquatic weeds will be more efficiently managed across the state.

The program's two primary objectives are:

- 1- Respond to localized infestations to mitigate the long-term economic and environmental impacts that noxious aquatic weeds impose.
- 2- Reduce the frequency of aquatic weed introductions through education and public awareness.

Damage - This aquatic weed is tolerant to cold temperatures and begins to grow early in spring, sooner than native submersed plants. It forms a dense canopy along the surface and shades out the vegetation below. It is considered to have less value as a food source for waterfowl compared to native plants. Water quality is degraded by the senescence of watermilfoil. Recreational activities are hindered. Water intake gets obstructed, and decaying mats can foul lakeside beaches.

Spread - Eurasian watermilfoil reproduces by fragmentation and also by seed. Human activities can spread this invasive weed if caution is not taken to remove fragments from boats, trailers, and equipment extracted from infested waters. NC Department of Agriculture & Consumer Services has listed this species as a Class B noxious weed. It is illegal to sell or transport *Myriophyllum spicatum* in North Carolina.

Control - Both biological and chemical control are used to prevent the further spread of watermilfoil infestations. Bio-control work began as early as the 1960s. Research continues the effort to find better control agents. Herbicides are moderately effective.



The Town has been meeting with State Aquatic Weed Specialists to seek State support to treat the milfoil. Representatives from the Southern Shores Civic Association and Martin's Point Homeowners Association participated in these meetings.

DEQ performed a survey of the canals and creek last fall. The information received during the survey helped to develop a potential treatment program in the spring of 2024. Attached is the treatment map that was used to put together the budget consists of roughly 32 acres. Treatment would occur in late June.

**Staff Recommendation:** Staff recommends that the Town Council enter into the attached MOU and use the results of the survey after treatment to evaluate and consider future treatment. Subsequent treatment is anticipated to come at a much lower cost.

**Requested Action:** A motion to authorize the Town Manager to sign the MOU with the NCDEQ for the treatment of Eurasian Milfoil and approve the associated budget amendment to fund it's share of the cost.

**Attachments:** Draft Memorandum of Understanding  
Treatment Map



**MOU NO. 0025**  
**Aquatic Weed Control Grant for 2024**

**MEMORANDUM OF UNDERSTANDING**  
**between the**  
**North Carolina Department of Environmental Quality**  
**and the**  
**Town of Southern Shores**

This Memorandum of Understanding (MOU) is hereby made and entered into by and between the **NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY** ("NCDEQ") and the **TOWN OF SOUTHERN SHORES**, (referred to as the "COOPERATOR"). "NCDEQ" and the "COOPERATOR" together are referred to as the "PARTIES".

**1.0 MOU Background.**

- 1.1 The North Carolina Aquatic Weed Control Program ("Program") is housed within the NCDEQ. The Program provides grant funds to units of local, state, and federal governments, academic institutions, and public utilities for the purpose of aquatic weed management and/or research (per Aquatic Weed Control Act of 1991, NC General Statutes, Article 15 of Chapter 113).
- 1.2 The COOPERATOR has requested assistance from the Program and/or applied for an Aquatic Weed Control grant.
- 1.3 The North Carolina Aquatic Weed Council has adopted a work plan for the 2024 weed season and the work plan includes one or more projects associated with the COOPERATOR.
- 1.4 This MOU establishes a cost-share arrangement for the purpose of pursuing one or more aquatic weed control projects.

**2.0 MOU Period.** This MOU shall be effective from the date upon which all PARTIES have signed to **December 31, 2024**, inclusive of those dates.

**3.0 Performance Obligations and Duties.** The PARTIES agree that the NCDEQ shall perform the services required herein set forth; provided that the NCDEQ is not and will not by virtue of this MOU acquire the status of an employee of the COOPERATOR:

- 3.1 **Herbicide Applications:** Program staff will conduct herbicide applications, except that a 3<sup>rd</sup> party vendor(s) may be contracted to assist with herbicide applications. All personnel, equipment, and materials will be provided by NCDEQ and/or 3<sup>rd</sup> party vendor(s).
- 3.2 **Herbicide efficacy:** The NCDEQ will conduct post-application site visit(s) and determine efficacy of herbicide treatments. The NCDEQ may collect water samples from treatment areas and send them to an analytical lab to determine herbicide concentrations.
- 3.3 **Contract oversight:** In the case that a 3<sup>rd</sup> party vendor is retained, Program staff will be responsible for contract oversight to ensure that services provided by 3<sup>rd</sup> party vendor(s) meet contract specifications.
- 3.4 **Aquatic Vegetation Survey:** The NCDEQ will conduct an aquatic vegetation survey in Jean Guite Creek and the Town of Southern Shores canals. The survey will be conducted at the end of the 2024 weed season. The survey will identify what species of aquatic plants are present and approximate the number of acres occupied by each species. A final report will be provided to the COOPERATOR.

**4.0 Time of Essence.** Time is of the essence in performing all activities regarding this MOU.



**MOU NO. 0025  
Aquatic Weed Control Grant for 2024**

**5.0 Compensation.** Per G.S. 143-215.73F (c) (3) “The cost-share for an aquatic weed control project shall be at least one non-State dollar for every dollar from the fund”. To meet the cost-share requirement the COOPERATOR agrees to reimburse NCDEQ by paying the amount on invoices net thirty (30) days. The table below itemizes the project(s) and estimated cost(s):

Item	Cost	NCDEQ Share	COOPERATOR Share
Herbicide Applications	\$39,000	\$19,500	\$19,500
Aquatic Vegetation Survey	\$1,000	\$500	\$500
<b>Total</b>	<b>\$40,000</b>	<b>\$20,000</b>	<b>\$20,000</b>

All costs incurred by providing these services require a 1:1 non-state dollar match. To meet the cost-share requirement the Division of Water Resources will invoice for 50% of the actual costs incurred. Invoicing will occur at the end of the weed season, except by special request.

COOPERATOR agrees to a 50/50 cost-share arrangement with the State of North Carolina. COOPERATOR will be invoiced by the Division of Water Resources for 50% of incurred costs, not to exceed \$20,000.00.

**6.0 Payment Provisions.** Payment under this MOU will be made upon receipt of an invoice with supporting documentation from the NCDEQ setting forth the amount due and payable pursuant to Section 5.0 Compensation. All services must be performed to the satisfaction of COOPERATOR prior to any payment being made. Payment terms are not later than thirty (30) calendar days after receipt of a correct invoice(s). Invoices shall be submitted to:

6.1 Town of Southern Shores  
Attn: Cliff Ogburn  
5375 N. Virginia Dare Trail  
Southern Shores, NC 27949

**7.0 Availability of Funds.** The PARTIES understand and agree that payment of the sums specified herein shall be subject to, and contingent upon, the allocation and appropriation of funds to NCDEQ for the purposes described in this MOU.

**8.0 Contract Administrator.** Rob Emens, Aquatic Weed Program Manager is hereby designated as the contract administrator for the Department under this Agreement. The contract administrator is responsible for monitoring the Vendor's performance, approving payment to the Vendor, and for providing evaluation of the Vendor.

Rob Emens Aquatic Weed Program Manager	919-707-9012	rob.emens@deq.nc.gov
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**MOU NO. 0025  
Aquatic Weed Control Grant for 2024**

**9.0 Point of Contact.** All matters regarding this MOU and all official and binding communications shall be with the designated Point of Contact who is an authorized agent of their respective organization.

Cooperator	Point of contact	Phone number	Email address
Town of Southern Shores	Cliff Ogburn	252-216-8146	<a href="mailto:cogburn@southernshores-nc.gov">cogburn@southernshores-nc.gov</a>

**10.0 Amendments.** This MOU shall not be amended orally, or by performance, but only by written amendments duly executed by all PARTIES.

**11.0 Order of Precedence.** In cases of conflict between specific provisions in this MOU or Amendments that may come to pass, the order of precedence shall be (high to low) (1) Amendments; (2) MOU.

**12.0 Compliance with Laws.** All PARTIES shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements applicable to its performance hereunder and/or the conduct of its business generally, including those of Federal, State, and local agencies having jurisdiction and/or authority.

**13.0 Termination.** This MOU may be terminated by the COOPERATOR at any time with thirty (30) days' notice in writing and duly executed by an authorized representative of the COOPERATOR to NCDEQ. In that event, NCDEQ shall pay for services satisfactorily completed by third party vendor(s), and the COOPERATOR will be invoiced their cost-share through the effective termination.

**14.0 Acts and Omissions.** Neither party shall be responsible for, or bear any liability associated with, the acts or omissions of the other party. Rather, each party shall be responsible for, and bear the liability associated with, its own acts and omissions. Moreover, nothing in this MOU is intended or shall be construed as a waiver by the parties of any claims or defenses in any legal action, or of any other rights or remedies available under applicable law. In particular, nothing herein is intended or shall be construed as waiving any claim or defense based on the principle of sovereign immunity if such claim or defense would otherwise be available under applicable law.

**15.0 Force Majeure.** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as the result of events or circumstances beyond its reasonable control. Such events or circumstances include, without limitation, war, hostile foreign action, acts of terrorism, blockades, embargoes, trade restrictions, riots, civil insurrection, power failures, nuclear explosions, floods, fires, earthquakes, hurricanes, tornados, and any other event or circumstance beyond the reasonable control of such party.

**16.0 Choice of Law.** This MOU is governed by the laws of North Carolina and the Parties agree that the courts of North Carolina have exclusive jurisdiction and that Wake County is the exclusive venue for any legal dispute or proceedings relating to this MOU.

**17.0 Signature Warranty.** The undersigned represent and warrant that they are authorized to bind their respective entities to the terms of this MOU and/or applicable law.



**MOU NO. 0025  
Aquatic Weed Control Grant for 2024**

IN WITNESS WHEREOF the PARTIES execute this MOU by their duly authorized representatives on the day and year below.





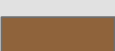
**NC DEPARTMENT OF ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
Signature    Printed Name and Title    Date

**TOWN OF SOUTHERN SHORES**

\_\_\_\_\_  
Signature    Printed Name and Title    Date

### Legend

	SS_01 - 10 acres
	SS_02 - 3 acres
	SS_03 - 4 acres
	SS_04 - 12 acres
	SS_05 - 3 acres

