



The Town of Hilton Head Island
Public Planning Committee Special Meeting
Wednesday, May 29, 2019 – 3:00 p.m.
Benjamin M. Racusin Council Chambers

AGENDA

As a courtesy to others please turn off / silence ALL mobile devices during the meeting. Thank You.

1. Call to Order

2. FOIA Compliance - Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.

3. Approval of Minutes

- a. Regular Meeting February 28, 2019
- b. Special Meeting April 1, 2019
- c. Special Meeting April 10, 2019

4. Unfinished Business

- a. Palmetto Breeze Trolley updates on ridership figures, current marketing efforts, assessment of performance and budget request for 2020

5. New Business

- a. Discussion of proposed amendments to the Sea Turtle Lighting Ordinance – presented by Anne Cyran
- b. Discussion of Small Cell Wireless Facilities regulations – presented by Anne Cyran

6. Adjournment

Please note that a quorum of Town Council may result if four (4) or more of their members attend this meeting.

TOWN OF HILTON HEAD ISLAND
Public Planning Committee
Minutes of the February 28, 2019 – 3:00 p.m. Meeting
Benjamin M. Racusin Council Chambers

Committee Members Present: Chairman David Ames, Bill Harkins, Tom Lennox

Committee Members Absent: None

Town Council Present: Tamara Becker

Town Staff Present: Shawn Colin, Director of Community Development; Anne Cyran, Senior Planner; Brian Hulbert, Staff Attorney; Teri Lewis, Deputy Director of Community Development; Jennifer Ray, Deputy Director of Community Development; Teresa Haley, Senior Administrative Assistant

1. Call to Order

Chairman Ames called the meeting to order at 3:02 p.m.

2. Freedom of Information Act Compliance

Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

3. Approval of Agenda

The Public Planning Committee approved the agenda by general consent.

4. Approval of Minutes

- a. Regular Meeting January 24, 2019
- b. Special Meeting February 14, 2019

Mr. Lennox moved to approve the minutes of the January 24 and February 14, 2019 meetings. Mr. Harkins seconded. The motion passed with a vote of 3-0-0.

5. Unfinished Business

- a. 2019 Trolley Service Project – presented by Mary Lou Franzoni

Ms. Franzoni was not available to present at this time.

6. New Business – None

7. Committee Business – None

8. Staff Reports

- a. 2019 Trolley Service Update

Ms. Cyran presented statements regarding total service days, stops, total riders, average riders per day, service hours, proposed 2019 route, schedule improvements, and marketing data.

The Committee made comments and inquiries regarding: the marketing contract; break-down of funds; a business plan; trolley rider experience; partnerships with Sea Pines trolley, Palmetto Dunes Buggy, and hotels; marketing strategy to coordinate with the Chamber of Commerce; analysis of usage of trolley stops; and how to measure progress and accountability.

b. Sea Turtle Ordinance Update

Ms. Ray presented statements regarding the item. Staff is working with Ms. Amber Kuehn to outline the amendments. Staff will provide copies to Town Council once available and Ms. Kuehn will present the item at a future meeting of Town Council.

The Committee made comments and inquiries regarding: any regulations on sea turtle predators and other wildlife; and the general process of responding to citizens' concerns.

9. Appearance by Citizens

Public comment received related to: transportation as a critical component of the workforce, and use alternatives to define zoning criteria.

10. Adjournment

The meeting was adjourned at 3:56 p.m.

Submitted by: Teresa Haley, Senior Administrative Assistant

Approved:

David Ames, Chairman

TOWN OF HILTON HEAD ISLAND
Public Planning Committee
Minutes of the April 1, 2019 – 9:00 a.m. Special Meeting
Benjamin M. Racusin Council Chambers

Committee Members Present: Chairman David Ames, Tom Lennox, Tamara Becker (alternate)

Committee Members Absent: Bill Harkins

Town Council Present: Glenn Stanford

Town Staff Present: Shawn Colin, Director of Community Development; Anne Cyran, Senior Planner; Nicole Dixon, Development Review Administrator; Josh Gruber, Assistant Town Manager; Brian Hulbert, Staff Attorney; Taylor Ladd, Senior Planner; Teri Lewis, Deputy Director of Community Development; Jennifer Ray, Deputy Director of Community Development; Teresa Haley, Senior Administrative Assistant

1. Call to Order

Chairman Ames called the meeting to order at 9:00 a.m.

2. Freedom of Information Act Compliance

Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

3. Approval of Agenda

The Public Planning Committee approved the agenda by general consent.

4. New Business

- a.** Discussion of Town Council questions on the Hilton Head Christian Academy Rezoning request

The applicant of the rezoning request and the Committee discussed the questions and answers described on Exhibit A attached hereto and made a part of the record hereof.

Following the discussion, Chairman Ames opened the meeting to public comment. Eleven members of the public presented statements in opposition to the proposed rezoning.

The Committee presented closing remarks and noted the rezoning request is scheduled to be heard at the Town Council meeting tomorrow, April 2nd at 4:00 p.m.

5. Adjournment

The meeting was adjourned at 10:12 a.m.

Submitted by: Teresa Haley, Senior Administrative Assistant

Approved:

David Ames, Chairman

Exhibit A

Dear members of the Hilton Head Public Planning Committee,

Thank you for taking the time to submit your questions and we look forward to answering them today and working together to bring this project to fruition. We appreciate the process the Town of Hilton Head is taking in order to assure that this development fits within the needs of the broader island. We are confident it does.

As a general statement I would like to point out that many of your questions require answers that are forward looking statements and are subject to change due to possible market volatility such as construction pricing, raw material availability, labor availability & pricing, commodity pricing such as lumber, oil & gas, international tariffs and broader economic conditions which can affect the financial and lending markets. We are at the initial stages of the development process and much is still to be determined.

We have however sought to get the best and most current data with the goal as providing answers as specific as possible.

As several of the questions submitted overlap one another, we have taken the liberty, with town staff's approval, of reordering the questions as one answer may provide background for the next.

1.	<p>Q) What will the end height be?</p> <p>A) The height will be 55 ft to the TOP of the building. To be sensitive to the surrounding neighborhood, we have committed to reducing the existing approved building height from 75' to 55' and the buildings have been reduced to four stories. As a point of reference, 55 feet is lower than the existing lighting on the athletic field.</p>
2.	<p>Q) Is there flexibility with the density? Is the developer willing to do anything in between the current request?</p> <p>A) Yes, after further study we can reduce our request from 300 units to 275 units which will reduce density to 19.8 units per acre, if asked.</p>
3.	<p>Q) What is the distribution of units by dwelling size? (studio, 1-bed, 2-bed, etc...)?</p> <p>A) The unit mix gets decided at a later stage in the development process. A typical multifamily project within a similar demographic and one we are considering would have approximately:</p> <p>35% - Studio and One bedrooms units 50% - Two bedroom units and 15% - Three bedroom units</p>
4.	<p>Q) Will the building have onsite management?</p> <p>A) Yes.</p>

5.	<p>Q) Will there be rent increases tied to an index for some portion of the units?</p> <p>A) No. Rent increases or decreases are variable and adjust to market conditions.</p>
6.	<p>Q) What is the rental price point?</p> <p>A) Project pricing has variability due to construction costs and market conditions. Currently, we anticipate units starting in the range of \$1,200 for a studio unit and increasing by unit size. As a general statement, our units will be priced lower than units at the WaterWalk apartments at Shelter Cove.</p>
7.	<p>Q) Is the developer willing to dedicate 10-15% to workforce housing as described by the Town's housing consultant?</p> <p>A) The Urban Land Institute, defines workforce housing as: "housing that is affordable to households earning 60 to 120 percent of the area median income." According to the Town's Workforce Housing - Assessment of Workforce Housing Needs study-- the median household income on Hilton Head Island is \$70,249 a year, making a Work Force income range of \$42,150 to \$84,299. Assuming the average American spends 33% of their income on rent, the HHI workforce can pay \$1,170 to \$2,340/month in rent. Our plan already addresses this segment and therefore is an option to the local workforce without further mandate.</p>
8.	<p>Q) What could the town do to assist company in setting aside 20 apartments for teachers, police officers and other Town officials that otherwise could not afford to live there?</p> <p>A) Based upon traditional leasing and as described in the answer to question #7 previously, there would be no need to set aside specific units as teachers, police officers and other Town Officials will be able to live at this project on their own merit. We would be happy to reserve up to 10 units for teachers, police officers, firemen and other town officials.</p>
9.	<p>Q) Consider restricting 50% (approx. 65 units) of the density bonus as "rent controlled" units in the lowest monthly rents (\$1,200-\$1,500/month), and impose an annual rent limit tied to CPI or AMI.</p> <p>A) The LMO has no provision or methods to convert commercial or institutional density to multifamily density and therefore there is no such concept of density "bonus". Importantly however, such a restriction would preclude Spandrel from developing this project.</p>
10.	<p>Q) What are the proposed traffic implications both neighborhood and island related?</p>

	<p>A) We have engaged a traffic consultant approved by Town Staff who will be conducting an analysis in accordance with the Town's requirements. Our data suggests less trips at peak traffic hours will be created by our project when compared to HHCA.</p>
11.	<p>Q) Would these be short term (90 or less days) or long term (12 months or longer)?</p> <p>A) This building will ONLY be for long term renters. We purposely restricted leases to NO SHORTER than 90 days. Should we be asked to lift to 120 days, we can accommodate.</p>
12.	<p>Q) Why 90-day short term rental?</p> <p>A) Same answer as set forth in our answer to question #11.</p>
13.	<p>Q) If long term rental, would the developer be willing to commit to keeping them long term rental for 25 years?</p> <p>A) This will be a class A, long term rental apartment project. A 25 year deed restriction creates financing issues, however if desired, we can work with the Town on such a deed restriction for an 8-10 year period from the commencement of the project.</p>
14.	<p>Q) What is the restriction on rental vs. ownership?</p> <p>A) As indicated previously, some form of deed restriction prohibiting conversion to residential condominiums for 8 - 10 years from the commencement of project construction may be acceptable.</p>
15.	<p>Q) What is the ratio between the actual footprint of the buildings and remaining property?</p> <p>A) Approximately 18% and our project will be designed to meet all of the Town site development standards. Including but not limited to pervious surface ratios, open space and storm water requirements.</p>
16.	<p>Q) What tax credit, if any, is the developer receiving for this project?</p> <p>A) We will not be applying for any tax credits for this project.</p>
17.	<p>Q) Based on the LMO, have we made considerations to other Developers that are not consistent to various Wards on the Island?</p> <p>A) We respectfully defer to Town Staff for this answer.</p>
18.	<p>Q) A timeframe was mentioned at the meeting, what is the timeframe and how firm is it?</p> <p>A) Timing is urgent for the Hilton Head Christian Academy. We cannot close on the purchase of the property without all development approvals in hand and HHCA requires the sales proceeds to complete construction of their new campus. Importantly, we are attempting to sync the purchase and development of the property with the school calendar year to minimize disturbances for the students.</p>

19.	<p>Q) If we reject this applicants request what would be the Towns option in terms of buying the property or leaving empty?</p> <p>A) We respectfully defer to town staff for this answer. We note that the property was on the market for sale for over a year before we put it under contract.</p>
20.	<p>Q) Why approve the application now without first having the report from the Town's housing consultant? Or until the Land Use Study is done?</p> <p>A) As indicated in our application and Staffs report, the project meets needs described in the Comprehensive Plan and LMO as required by law and use is appropriate for this site. Timing is important for HHCA. Town staff has recommended approval based on conformity to the LMO and we respectfully request that the Town Council approve the rezoning as requested.</p>

Thank you for your time today.

TOWN OF HILTON HEAD ISLAND
Public Planning Committee
Minutes of the April 10, 2019 – 2:00 p.m. Special Meeting
Benjamin M. Racusin Council Chambers

Committee Members Present: Chairman David Ames, Bill Harkins, Tom Lennox, Tamara Becker (alternate)

Town Council Present: Mayor McCann, Glenn Stanford

Planning Commissioners: Alex Brown, Judd Carstens, Peter Kristian, Caroline McVitty, Mike Scanlon

Town Staff Present: Marcy Benson, Senior Grants Administrator; Shawn Colin, Director of Community Development; Charles Cousins, Assistant to the Town Manager; Carolyn Grant, Communications Director; Josh Gruber, Assistant Town Manager; Brian Hulbert, Staff Attorney; Taylor Ladd, Senior Planner; Teri Lewis, Deputy Director of Community Development; Jennifer Ray, Deputy Director of Community Development; Steve Riley, Town Manager; Angie Stone, Director of Human Resources; Teresa Haley, Senior Administrative Assistant

1. Call to Order

Chairman Ames called the meeting to order at 2:00 p.m.

2. Freedom of Information Act Compliance

Public notification of this meeting has been published, posted, and distributed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

3. Approval of Agenda

The Public Planning Committee approved the agenda by general consent.

4. Workforce Housing

Presentation by Lisa Sturtevant on the Workforce Housing Strategic Plan for the Town of Hilton Head Island:

Chairman Ames presented opening remarks. Ms. Ray then introduced Lisa Sturtevant. Dr. Sturtevant presented the Workforce Housing Strategic Plan (the “Plan”) as described in the agenda package.

General Discussion and Questions:

The general discussion and questions by the Town Council members and the Planning Commissioners included: compliments to Dr. Sturtevant for her work; workforce housing definitions; resale prices based on 10-year rolling average increase in AMI; various ownership structures and financing sources; mixed income projects; regional sharing of workforce housing trust fund; provide a local housing program funded jointly by Town and private employers and give priority housing to workers on the Island; the local program would be regulated by a housing committee; prioritize available land in terms of development; hospitality tax increase; vacant fee structure; construction quality; seasonality of the workforce; workforce housing is needed across all industries; transportation is a key component; redevelopment of commercial structures; qualifications for workforce housing;

procedures and organizations to maintain rents or sale prices at appropriate levels; recommendations reflect the values and goals of the community; benefits to transferable development rights; and maintaining current stock of affordable housing.

Public Comments:

The public comments received related to: the report is available on the Town's website; land behind the gated communities should be included as part of the solution; housing inventory is an issue; Town should explore investing resources off-Island for housing; quality of life protection; private section initiatives and accomplishments; flood insurance concerns; address opportunity zones; and PUD participation is component to solving the problem.

Closing Remarks:

The Committee thanked Dr. Sturtevant for her presentation.

5. Adjournment

The meeting was adjourned at 3:45 p.m.

Submitted by: Teresa Haley, Senior Administrative Assistant

Approved:

David Ames, Chairman



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Public Planning Committee
VIA: Shawn Colin, *AICP, Director of Community Development*
VIA: Jennifer Ray, *ASLA, Deputy Director of Community Development*
FROM: Anne Cyran, *AICP, Senior Planner*
DATE: May 21, 2019
SUBJECT: The Breeze Trolley Updates

Mary Lou Franzoni, Executive Director of Palmetto Breeze, will present an update on trolley ridership and performance for the 2019 season as well as the budget request for 2020. Brian Sullivan with Lost Art Communications will present an update on marketing for the 2019 season.

Attachment

1. The Breeze Marketing Update, May 21, 2019

The Breeze Marketing Update May 21, 2019

Overview:

The 2019 season began with a revised trifold brochure and route map, emphasis on social media, updated *BreezeTrolley.com* website contents, and media promotions of the revised route, additional stops, and extended evening service hours. Social media traffic continues to be heavy and growing. We have gained hundreds of new social media followers, and website traffic and inquiries continue to increase.

Electronic Media by the Numbers:

- 37% Increase in Facebook Followers
- 21% Increase in Instagram Followers
- 22% Increase in Twitter Followers
- 10,795 web page views
- 5,899 web sessions

(since March 1, 2019)

St. Patrick's Day Parade:

The Breeze was featured in the annual St. Patrick's Day parade, including serving as transportation for parade dignitaries and VIPs at the end of the parade to the post-parade festivities at Reilly's.



Touch-A-Trolley:

We conducted our first Touch-A-Trolley event in April at Coligny Plaza where the public had the opportunity to board one of our trolleys, take pictures, and ask questions about the service. Additional Touch-A-Trolley events are being planned throughout the season.

Name-A-Trolley Contest:

We are in the process of conducting a contest, with the assistance and support of the Coastal Discovery Museum, to have the public vote on the name for the third trolley. The poll will go public in the coming days, and there will be prizes drawn randomly for participants in the poll, including a 30-day trolley pass, Museum passes, and other prizes from local business.



Large-Scale Map and Rider's Guide:

We are producing a large-scale Trolley Route Map and Rider's Guide that is scheduled for printing in early June. Distribution of the more than 10,000 copies will include on the trolleys, at resort rental offices and desks, and along the route for the remainder of the 2019 season. This map, which will be significantly larger than the currently used brochure version, includes complete details on the route, stops, times, and tips for riding, as well as advertising from businesses along the route. Ad sales have exceeded our expectations and we anticipate that the map will be very popular with passengers, residents, and the businesses along the route, especially those who have decided to invest in the advertising.



Breeze Birthday Bash:

The service's first birthday will be celebrated in a public event on Tuesday, July 16th. The location is being finalized, but we are hoping to conduct this year's event at the Village at Wexford. With the assistance of the Town, Culture HHI, Coastal Discovery Museum, and Shop More Local, activities and entertainment will be planned at other major stops along the route, and there will be a dedication and official naming of the third trolley prior to the trolleys starting service that afternoon. The event will be promoted heavily in the local and regional media.



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Public Planning Committee
VIA: Shawn Colin, *AICP, Director of Community Development*
VIA: Jennifer Ray, *ASLA, Deputy Director of Community Development*
FROM: Anne Cyran, *AICP, Senior Planner*
DATE: May 21, 2019
SUBJECT: Proposed Revisions to Artificial Light Standards for Sea Turtle Protection

Recommendation

Staff recommends the Public Planning Committee provide feedback on the proposed changes to the Sea Turtle Protection ordinance. If the Committee directs Staff to move forward, Staff will review the proposed changes with the affected property owners and make any needed changes. Staff will present the revised ordinance to the Committee at an upcoming meeting with a recommendation to forward the final draft ordinance to Town Council for approval.

Summary

The most significant proposed changes are:

- The current ordinance doesn't specify that light fixtures must be downward-directed. The revised ordinance would require all new and replacement light fixtures to be completely downward-directed. It would require that existing light fixtures with movable shields be adjusted so they are completely downward-directed. It would not require property owners to replace existing light fixtures with shields that cannot be moved.
- The current ordinance doesn't specify the types of lightbulbs that must be used. The revised ordinance would require property owners to use long wavelength lightbulbs in all fixtures visible from the beach by May 1, 2020.
- The current ordinance requires tinting or solar screens to be installed on windows and glass doors only if they are located above the first floor. The revised ordinance would require property owners to install tinting or solar screens on all windows and glass doors that are visible from the beach, including those on the first floor, by May 1, 2020.
- The current ordinance requires glass and window tinting and solar screens to have a solar coefficient of 0.45, which is approximately equivalent to a 45% indoor to outdoor light transmittance value. An internationally recognized report on the subject, *Understanding, Assessing, and Resolving Light Pollution Problems on Sea Turtle Nesting Beaches*, finds that a 45% light transmittance value allows enough light transmittance to disorient nesting sea turtles and hatchlings. The report states the best option to minimize light impacts is a product with a 15% light transmittance value. However, most products with a 15% light transmittance value are also dual reflective (they have a mirror finish). Dual

reflective glass increases the frequency of bird strikes on glass. Several non-dual reflective products with a 20% light transmittance value are available. The revised ordinance would require all new windows and glass tinting materials and solar screens to have a 0.20 (20%) light transmittance value. This would not require property owners to replace existing window and glass tinting and solar screens that conform to the current standard of a 0.45 solar coefficient.

- The current ordinance doesn't require windows and doors to be closed at night during sea turtle nesting season if artificial light from the interior is visible from the beach. The revised ordinance would require that either windows and glass doors be closed between 10:00 p.m. and 6:00 a.m. during sea turtle nesting season if interior lights are visible from the beach while they are open, or, if they are left open, treatments such as curtains, drapes or blinds must be used to cover the opening. Staff recommends adding this requirement as a Town standard that can be referred to when educating non-compliant property owners and renters.
- The current ordinance doesn't address the use of flashlights and cell phones being used for navigation on the beach at night. The revised ordinance encourages those using artificial lights for navigation on the beach during sea turtle nesting season to cover the lights with amber, orange or red material to make them sea turtle friendly. The Sea Turtle Patrol has a program to educate beachgoers about the negative effects of short wavelength light on nesting sea turtles and emerging hatchlings. They also supply red stickers to beachgoers to cover their flashlights and phone screens. Adding this language to the ordinance will support their educational program by allowing them to refer to a Town standard for making artificial lights on the beach sea turtle friendly.

Staff reorganized the ordinance to make it easier to understand. The standards for existing development, proposed development, and publicly owned lighting were combined into one section and the exemption for new development was removed. The following provisions of the existing ordinance will not change:

- The proposed ordinance still prohibits unshielded floodlights.
- The proposed ordinance still requires exterior light fixtures to be shielded so they do not illuminate the beach and so that the light source (bulb) is not visible from the beach.
- The proposed ordinance includes the existing standards for temporary security lighting at construction sites.
- The proposed ordinance still requires dune walkover lighting to be turned off between 6:00 a.m. and 10:00 p.m. during sea turtle nesting season unless the lights are shielded, downward-directed, and sea turtle friendly bulbs are used.

Background

On January 24, 2019, the Public Planning Committee directed Staff to discuss with the Sea Turtle Patrol the reasons for their requested changes to the Sea Turtle Protection chapter of the Municipal Code.

The Sea Turtle Patrol explained that several factors reduced hatchling emergence success from 62.4% to 47.7% between 2014 and 2018. Those factors include: extreme weather events such as sudden, heavy rains and increased temperatures; manmade obstructions such as large holes in the sand and beach equipment left overnight; and artificial light which discourages sea turtles from

nesting and causes hatchling disorientation. The Sea Turtle Patrol is currently working to resolve the issues that they can to positively impact hatchling emergence success.

To reduce the impacts of artificial light on nesting turtles and hatchlings, the Sea Turtle Patrol worked with Staff to draft revisions to the beachfront artificial light standards. The existing ordinance, which was enacted in 1990, is outdated. The proposed revisions would use the latest scientific research and the best practices to set the Island's standards for beachfront artificial lighting.

The Florida Fish and Wildlife Conservation Commission (FWC) Sea Turtle Lighting Guidelines summarize the best practices for artificial beachfront lighting as "Low – Shielded – Long."

Low: Lights should be mounted low to the ground and use the lowest wattage bulb necessary.

Shielded: Lights should be downward-directed and the bulb should be shielded from view.

Long: Long wavelength (amber, orange or red) bulbs should be used. Sea turtles can still see long wavelength light, but it is less disruptive than short wavelength (blue or white) light.

Based on these best practices, the Sea Turtle Patrol and Staff are proposing to revise the Sea Turtle Protection Standards to reduce the amount of artificial light visible from the beach and to require that all artificial light that is visible from the beach to be long wavelength light.

Attachment

1. Proposed Ordinance

AN ORDINANCE TO AMEND CHAPTER 5 OF TITLE 8, (BEACHES, WATERWAYS, RECREATIONAL AREAS, AND ARTS), OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; TO AMEND SECTION 8-5-111, DEFINITIONS; TO AMEND SECTION 8-5-112, PURPOSE; TO DELETE SECTION 8-5-113, NEW DEVELOPMENT; TO ADD SECTION 8-5-113, STANDARDS FOR ARTIFICIAL LIGHT; TO DELETE SECTION 8-5-114, EXEMPTIONS FOR NEW DEVELOPMENT; TO DELETE SECTION 8-5-115, EXISTING DEVELOPMENT; TO DELETE SECTION 8-5-116, PUBLICLY OWNED LIGHTING; TO AMEND SECTION 8-5-117, ENFORCEMENT AND PENALTY; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Hilton Head Island did previously adopt Chapter Five (5) of Title 8 of the Municipal Code of the Town of Hilton Head Island to regulate sea turtle protection; and

WHEREAS, research on sea turtle nesting and hatchling habits has advanced considerably since the regulations were adopted in 1990; and

WHEREAS, Town Council desires to amend Chapter Five (5) Title 8 of the Municipal Code of the Town of Hilton Head Island to update and clarify sea turtle protection regulations;

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF THE SAID COUNCIL:

NOTE: Underlined and bold-face typed portions indicate additions to the Ordinance. ~~Stricken~~ portions indicate deletions to the Ordinance.

Section 1. Amendment. That Section 8-5-111 of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same hereby amended as follows:

Sec. 8-5-111. – Definitions.

For the purpose of this chapter, the following terms shall have the meanings set forth in this section:

- (a) ~~Artificial light: Any source of light emanating from a manmade device, including but not limited to incandescent mercury vapor, metal halide, or sodium lamps, flashlights, spotlights, street lights, vehicular lights, construction or security lights.~~
- (a) **Artificial light: Any source of light emanating from a manmade device, including but not limited to compact fluorescent (CFL), diode, fluorescent, halogen, incandescent, light emitting diode (LED), mercury and sodium lamps or bulbs; candlelight; construction lights; digital displays; entryway lights; firelight; flashlights; light from handheld digital devices; landscape lights; parking or garage lights; pathway or walkway lights; projector light; rope and string lights; security lights; spotlights; street lights; light from televisions; temporary lights; torch light; underwater lights; vehicular lights; and water feature lights.**

- (b) *Beach*: That area of unconsolidated material that extends landward from the mean low water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation (usually the effective limit of storm waves).
- (c) **Fixture: Artificial light housing.**
- (d) **Fixture, Existing: A fixture that is installed at the time the ordinance is enacted.**
- (e) **Fixture, New: A fixture installed in a location where a fixture was not previously installed.**
- (f) **Fixture, Replacement: A fixture installed to replace an existing fixture.**
- (e) ~~(g)~~ **Floodlight**: Reflector-type **exterior** light fixture which is attached directly to a building **or pole** and which is unshielded.
- (d) ~~(h)~~ **Low profile luminaire**: Light fixture set on a base which raises the source of the light no higher than forty-eight (48) inches off the ground, and designed in such a way that light is directed downward from a hooded **shielded** light source.
- (i) Illumination (illuminate): The lighting of any area of the beach by any artificial light source.**
- ~~(e) *New development*: Shall include new construction and remodeling of existing structures when such remodeling includes alteration of exterior lighting.~~
- ~~(f) *Person*: Any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, group, or unit or federal, state, county or municipal government.~~
- ~~(g) *Pole lighting*: Light fixture set on a base or pole which raises the source of the light higher than forty eight (48) inches off the ground.~~
- ~~(h) *Solar screen*: Screens which are fixed installations and permanently project shade over the entire glass area of the window. The screens must be installed outside of the glass and must:~~
- ~~(1) Have a shading coefficient of .45 or less; and~~
 - ~~(2) Carry a minimum five year warranty; and~~
 - ~~(3) Must have performance claims supported by approved testing procedures and documentation.~~
- ~~(i) *Tinted or filmed glass*: Window glass which has been covered with window tint or film such that the material has:~~
- ~~(1) A shading coefficient of .45 or less; and~~
 - ~~(2) A minimum five year warranty; and~~
 - ~~(3) Adhesive as an integral part; and~~
 - ~~(4) Performance claims which are supported by approved testing procedures and documentation.~~

- (j) Shading coefficient: A coefficient expressing that percentage of the incident radiation which passes through the window as heat.
- (i) Sea turtle nesting season: The period from May 1 through October 31 each year.
- (k) Security light: An exterior light fixture that illuminates a portion of a structure or property that is intended to deter or detect intrusions or other criminal activity and for the safety of property owners and guests.
- (l) Shield: An opaque material covering the bulb, lamp or glowing lens of an exterior light fixture such that the bulb, lamp or glowing lens is not visible except when viewed from underneath the shield.
- (h) (m) Solar screen: Solar screens that are permanently installed on the exterior of the structure and cover the entire glass area of a window or glass door. New solar screens and replacement solar screens must:
 - (1) Have a manufacturer verified inside-to-outside light transmittance value of 0.20 (20 percent) or less; and
 - (2) Carry a minimum five-year manufacturer warranty; and
 - (3) Be repaired or replaced as necessary to maintain a light transmittance value of 0.20 or less.
- (n) Tinted or filmed glass: Glass treated to reduce light transmittance. New tinted or filmed glass and replacement tinted or filmed glass must:
 - (1) Have a manufacturer verified inside-to-outside light transmittance value of 0.20 (20 percent) or less; and
 - (2) Not be dual-reflective (i.e. mirror finish); and
 - (3) Carry a minimum five-year manufacturer warranty; and
 - (4) Be repaired or replaced as necessary to maintain a light transmittance value of 0.20 or less.
- (o) Transmittance value: A measurement of the percentage of visible light that leaves the interior of a structure through glass windows or doors. This measurement is related to the absorbance of the applied material, rated by the manufacturer.

(Ord. No. 90-13, § 1, 5-7-90)

Section 2. Amendment. That Section 8-5-112 of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same hereby amended as follows:

Sec. 8-5-112. – Purpose.

The purpose of this chapter is to protect the threatened and endangered sea turtles which nest along the beaches of Hilton Head Island, by safeguarding nesting females and the hatchlings from sources of artificial light which can causes disorientation and subsequent death.

(Ord. No. 90-13, § 1, 5-7-90)

Section 3. Deletion. That Section 8-5-113 of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same hereby deleted as follows:

~~Sec. 8-5-113. — New development.~~

~~It is the policy of the Town of Hilton Head Island that no artificial light shall illuminate any area of the beaches of Hilton Head Island. To meet this intent, building and electrical plans for construction of single-family or multifamily dwellings, commercial or other structures, including electrical plans associated with parking lots, dune walkovers or other outdoor lighting if such lighting can be seen from the beach, shall be in compliance with the following:~~

- ~~(a) Floodlights shall be prohibited. Wallmounted light fixtures shall be fitted with hoods so that no light illuminates the beach.~~
- ~~(b) Pole lighting shall be shielded in such a way that light will be contained within an arc of three (3) to seventy three (73) degrees on the seaward side of the pole. Outdoor lighting shall be held to the minimum necessary for security and convenience.~~
- ~~(c) Low profile luminaires shall be used in parking lights and such lighting shall be positioned so that no light illuminates the beach.~~
- ~~(d) Dune walkovers shall utilize low profile shielded luminaires.~~
- ~~(e) Lights on balconies shall be fitted with hoods so that lights will not illuminate the beach.~~
- ~~(f) Tinted or filmed glass shall be used in windows above the first floor of on multistory structures. Shade screens can be substituted for this requirement.~~
- ~~(g) Temporary security lights at construction sites shall not be mounted more than fifteen (15) feet above the ground. Illumination from the lights shall not spread beyond the boundary of the property being developed and in no case shall those lights illuminate the beach.~~

~~(Ord. No. 90-13, § 1, 5-7-90)~~

Section 4. Addition. That Section 8-5-113 of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same hereby added as follows:

Sec. 8-5-113. — Standards for artificial light.

It is the policy of the Town of Hilton Head Island that no artificial light shall illuminate any area of the beaches of Hilton Head Island. To meet this intent, all new and replacement exterior artificial light fixtures that are visible from the beach shall be in compliance with the standards set forth in this section. Existing exterior artificial light fixtures that are visible from the beach shall be in compliance with this section as of May 1, 2020.

- (a) Floodlights shall be shielded, completely downward-directed, and shall not illuminate the beach. Unshielded floodlights shall be prohibited.
- (b) New and replacement exterior light fixtures shall be completely downward-directed.
- (c) For existing exterior light fixtures with movable shields, the shields shall be moved to direct the light downward.
- (d) All exterior light fixtures shall be shielded. Exterior light fixtures with non-opaque shields that adequately distort artificial light from the bulb, lamp or glowing lens so the light source is not visible from the beach may be exempt from this requirement.
- (e) All exterior light fixtures shall use lamps or bulbs that produce only long wavelength light (560 nanometers (NM) or greater), which is amber, orange or red light.
- (f) Floodlights serving as temporary security lighting at construction sites shall not be mounted more than fifteen (15) feet above the ground. Illumination from the lights shall not spread beyond the boundary of the property being developed and in no case shall those lights illuminate the beach.
- (g) Security lighting shall be permitted throughout the night so long as low profile luminaires are used and screened in such a way that those lights do not illuminate the beach and the light source is not visible from the beach.
- (h) Tinted or filmed glass that meets the standards in Sec. 8-5-111 shall be used on all glass windows, doors and walls that are visible from the beach. Permanently installed exterior solar screens meeting the standards in Sec. 8-5-111 may be substituted for this requirement.
- (i) Windows and glass doors that are visible from the beach shall be closed, or if they are left open the area they occupy when closed shall be covered by treatments such as curtains, drapes or blinds, between 10:00 p.m. and 6:00 a.m. during sea turtle nesting season if artificial light from the interior of the structure is visible from the beach while they are open. This requirement does not prohibit doors from being open while being used for ingress or egress.
- (j) Light fixtures illuminating areas of dune walkovers on the beach shall be turned off between 10:00 p.m. and 6:00 a.m. during sea turtle nesting season. Light fixtures that are shielded, downward-directed and that produce long wavelength light (560 nanometers (NM) or greater), which is amber, orange or red light, are exempt from this requirement.

Motion detector controls are encouraged for construction and security lights. To the greatest extent practicable, flashlights, electronic screens and any other artificial light used for safety or navigation on the beach shall emit amber, orange or red light or the light

source shall be covered with amber, orange, or red material between 10:00 p.m. and 6:00 a.m. during sea turtle nesting season.

Section 5. Deletion. That Section 8-5-114 of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same hereby deleted as follows:

~~Sec. 8-5-114. — Exemptions for new development.~~

~~The provisions of section 8-5-113 of this chapter shall not apply to any structure for which a building permit has been issued by the Town of Hilton Head Island, prior to the effective date of this chapter.~~

~~(Ord. No. 90-13, § 1, 5-7-90)~~

Section 6. Deletion. That Section 8-5-115 of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same hereby deleted as follows:

~~Sec. 8-5-115. — Existing development.~~

~~It is the policy of the Town of Hilton Head Island that no artificial light shall illuminate any area of the beaches of Hilton Head Island, South Carolina. To meet this intent, lighting of existing structures which can be seen from the beach shall be in compliance with the following within six (6) months of the effective date of this chapter.~~

- ~~(a) Lights illuminating buildings or associated structures and grounds for decorative or recreational purposes shall be shielded or screened such that they are not visible from the beach, or turned off after 10:00 p.m. during the period of May 1 to October 31 of each year.~~
- ~~(b) Lights illuminating dune walkovers of any areas oceanward of the dune line shall be turned off after 10:00 p.m. during the period of May 1 to October 31 of each year.~~
- ~~(c) Security lighting shall be permitted throughout the night so long as low profile luminaires are used and screened in such a way that those lights do not illuminate the beach.~~
- ~~(d) Window treatments in windows facing the ocean above the first floor of multistory structures are required so that interior lights do not illuminate the beach. The use of black-out draperies or shade screens are preferred. The addition of tint or film to windows or awnings is also encouraged, as is turning off unnecessary lights if the light illuminates the beach.~~

~~(Ord. No. 90-13, § 1, 5-7-90)~~

Section 7. Deletion. That Section 8-5-116 of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same hereby deleted as follows:

~~Sec. 8-5-116. — Publicly owned lighting.~~

~~Streetlights and lighting at parks and other publicly owned beach access areas shall be subject to, as well as the following:~~

- ~~(a) Whenever possible, streetlights shall be located so that the bulk of their illumination will travel away from the beach. These lights shall be equipped with shades or shields that will prevent backlighting and render them not visible from the beach.~~
- ~~(b) Lights at parks or other public beach access points shall be shielded or shaded or shall not be utilized during the period May 1 to October 31 of each year.~~

~~(Ord. No. 90-13, § 1, 5-7-90)~~

Section 8. Amendment. That Section 8-5-117 of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same hereby amended as follows:

Sec. 8-5-1174. - Enforcement and penalty.

This chapter shall be enforced in accordance with the provisions of this chapter, with penalties set forth in section 1-5-10 of this Code.

(Ord. No. 90-13, § 1, 5-7-90)



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Public Planning Committee
VIA: Shawn Colin, *AICP, Director of Community Development*
VIA: Jennifer Ray, *ASLA, Deputy Director of Community Development*
FROM: Anne Cyran, *AICP, Senior Planner*
DATE: May 21, 2019
SUBJECT: Update on Small Wireless Facilities

Recommendation

Staff recommends the Public Planning Committee provide feedback on the proposed ordinance regulating Small Wireless Facilities (SWFs). If the Committee directs Staff to move forward, a final draft ordinance will be presented to the Committee at the next meeting with a recommendation to forward the ordinance to Town Council for approval.

Summary

The proposed ordinance would add a section to the Land Management Ordinance regulating SWFs. Based on the Municipal Association of South Carolina (MASC) model ordinance, the proposed ordinance permits SWFs in all zoning districts subject to conditions related to height, location, materials and color.

Small Wireless Facilities consist of antennas and related equipment attached to a structure, such as a building, a utility pole (such as a traffic signal mast arm), or a pole built specifically for the SWF. Since the Island's dense tree canopy and low buildings would limit the effectiveness of SWFs installed on buildings, most SWFs will be located on existing or new utility poles. Most SWFs located on utility poles are installed in public rights-of-way because the permitting is simpler and costs are lower than private property.

The proposed ordinance limits their heights to between 35 and 50 feet, depending on their location. Depending on the size and location of the SWF, some of the equipment can be concealed within the pole, or it can be attached to the exterior of a pole or installed on the ground.

The ordinance specifies that the Town's Corridor Overlay District is a Special Design District, which allows aesthetic review of SWFs by the Design Review Board (DRB). Staff is working with the Design Review Board to pre-approve several Small Wireless Facility designs that meet the Town's Design Guide standards so applicants will be able to select a pre-approved SWF design or apply for DRB review.

Background

In April, the State House approved H 4262, known as the South Carolina Small Wireless Facilities Deployment Act. The regular session ended before the bill reached the Senate. It was carried over to the next session, which begins in January of 2020. As it is written, the bill would invalidate any municipal regulations that don't comply with its provisions. However, the provisions in the MASC model ordinance and the proposed ordinance are similar to those in H 4262.

Attachment

1. Proposed Ordinance

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO. 2019-

PROPOSED ORDINANCE NO. 2019-__

AN ORDINANCE TO AMEND TITLE 16, “THE LAND MANAGEMENT ORDINANCE,” OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, BY AMENDING TABLE 16-4-103.D.2 (ACCESSORY USE/STRUCTURE TABLE), BY ADDING SECTION 16-4-103.E.10 (SMALL WIRELESS FACILITIES), AND BY AMENDING AND ADDING DEFINITIONS TO SECTION 16-10-105 (GENERAL DEFINITIONS); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Town of Hilton Head Island (“Town”) encourages wireless infrastructure investment and wishes to provide a fair and predictable process for the deployment of small wireless facilities while managing rights-of-way in a manner than promotes the interests of the public health, safety and welfare; and

WHEREAS, the Town recognizes that small wireless facilities including facilities commonly referred to as small cell and distributed antenna systems are critical to delivering wireless access to advanced technology, broadband, and 9-1-1 services to residences, businesses, and schools within the Town; and

WHEREAS, the Town recognizes that small wireless facilities together with high capacity transport medium such as fiber optic cabling may be effectively deployed in rights-of-way; and

WHEREAS, this Ordinance is intended to grant municipal consent to use of rights-of-way and establish a standard application process to streamline the issuance of necessary permits in a manner that is not a barrier to competition, and does not unnecessarily delay the implementation and installation of small wireless facilities.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF THE SAID TOWN COUNCIL, AS FOLLOWS:

NOTE: Underlined and bold-face typed portions indicate additions to the Municipal Code. ~~Stricken~~ portions indicate deletions to the Municipal Code.

Section 1. Amendments. Title 16 of the Town Code is hereby amended to add Small Wireless Facilities to Table 16-4-103.D.2 (Accessory Use/Structure Table) to read as follows:

Accessory Use/Structure	Special Districts		Residential Districts								Mixed-Use and Business Districts										Use-Specific Conditions		
	C O N	P R	R S F 3	R S F 5	R S F 6	R M 4	R M 8	R M 1	R M 2	C R	S P C	C C	M S	W M U	S	M F	M V	N C	L C	R D		M E D	I L
Telecommunications Facility, Collocated	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	Sec. 16-4-103.E.9
<u>Small Wireless Facilities</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>P C</u>	<u>Sec. 16-4-103.E.10</u>

Title 16 of the Town Code is hereby amended to add Section 16-4-103.E.10, Small Wireless Facilities, to read as follows:

CHAPTER 4. Use Standards

Sec. 16-4-103.E.10. - Small Wireless Facilities

a. Purpose

The purpose of this section is to provide policies and procedures for the placement of small wireless facilities in covered areas within the jurisdiction of the Town. It is the intent of this section to establish uniform standards including, but not limited to:

- i. Prevention of interference with the use of streets, sidewalks, alleys, parkways, traffic light poles or other light poles, and other public ways and places;**
- ii. Prevention of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;**
- iii. Prevention of interference with other facilities and operations of facilities lawfully located in covered areas or public property;**
- iv. Preservation of the character of neighborhoods where facilities are installed;**
- v. Preservation of the character of historic structures, or historic neighborhoods, including but not limited to such structures or neighborhoods listed on the National Register of Historic Places or locally designated Historic Districts; and**
- vi. Facilitation of the rapid deployment of small wireless facilities to provide the citizens with the benefits of advanced wireless services.**

b. Definitions.

The following shall apply to Sec. 16-4-103.E.10.

i. Antenna

Communication equipment that transmits or receives electromagnetic radio frequency signals used in the provision of *wireless services* or similar equipment used for the transmission or reception of surface waves.

ii. Applicable Codes

Uniform building, energy, electrical, plumbing, mechanical, gas, and fire codes in Title 6, Chapter 9 of the South Carolina Code of Laws, local amendments to those codes authorized by state law, and local codes or ordinances which impose requirements defined in Section 16-4-103 of this Ordinance including objective design and concealment standards to regulate location, context, material, color, stealth and concealment standards on a uniform and nondiscriminatory basis.

iii. Applicant

Any person who submits an *application* to the Town and is a *wireless services provider* or a *wireless infrastructure provider*.

iv. Application

A request submitted by an *applicant* for a permit to (i) *collocate small wireless facilities*; or, (ii) construct, install, maintain, operate, replace or modify a *utility pole* or *wireless support structure*.

v. Cable, Communications, Fiber or Electric Easement

An easement, granted to a cable or video service provider, a communications service provider (including without limitation a telephone utility), a fiber optics cable services provider, or an electric services provider created or authorized by state law to provide such services, that runs parallel to and abuts or within a *rights-of-way* and is occupied by existing *utility poles* or *wireless support structures* carrying electric distribution lines, wires, cable, conduit, fiber optic cable for telecommunications, cable or electric service or supporting municipal street lights, or security lights. The term *cable, communications, fiber or electric easement* excludes easements for service drops or lines connecting the customer's premises to the cable, communications, fiber or electrical provider.

- vi. Collocate or Collocation
To install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to an existing wireless support structure or utility pole located in covered areas within the jurisdiction of the Town.
- vii. Covered Areas
The surface of, and the space above and below, any rights-of-way, ROW, Town rights-of-way, public rights-of-way and/or cable, communications, fiber or electric easement as those terms are defined herein.
- viii. Day
Calendar day unless the last day for the Town or an applicant to take action under this Ordinance ends on a weekend, holiday, or time when all but Town emergency services are closed due to weather or some unforeseen situation.
- ix. Decorative Pole
A utility pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or a temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal practices.
- x. Design District
An area that is zoned, or otherwise designated by municipal ordinance, and for which the Town maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis. See Appendix A for Existing Supplemental Review Districts.
- xi. Fee
A one-time charge per application.
- xii. Historic District
An area that is zoned or otherwise designated as a Historic District under municipal, state or federal law and for which the Town maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis. See Appendix A for Existing Supplemental Review Districts.

- xiii. Micro Wireless Facility
A small wireless facility that meets the following qualifications: (i) is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height; and, (ii) any exterior antenna is no longer than 11 inches.
- xiv. Person
An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the Town.
- xv. Rate
A recurring charge such as, but not limited to, monthly, quarterly, or annually.
- xvi. Rights-of-Way or ROW or Town Rights-of-Way or Public Rights-of-Way
An area on, below, or above a roadway, highway, street, sidewalk, pathway, or alley, located in the Town and dedicated to, managed or controlled by the Town, Beaufort County or the State of South Carolina.
- xvii. Small Wireless Facility
A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six (6) cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of not more than six (6) cubic feet; and (ii) all other wireless equipment associated with the facility is cumulatively no more than twenty-eight (28) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.
- xviii. Supplemental Review District
An Underground District, Historic District, Design District or other district subject to design and aesthetic requirements and review processes specified in this Ordinance.
- xix. Town-Owned Pole

A utility pole owned or operated by the Town in covered areas, including a utility pole that provides lighting or traffic control functions, or other law enforcement functions, including light poles, traffic signals, and structures for signage; and a pole or similar structure owned or operated by the Town in a covered area that supports only wireless facilities. The term does not include a utility pole owned or operated by and accounted for as an asset of a municipal electric utility.

xx. Transmission Pole

A pole or similar structure that is used in whole or in part to carry electric transmission (as opposed to distribution) lines.

xxi. Underground District

An area that is designated by ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing above ground structures in a covered area and for which the Town maintains and enforces standards on a uniform and nondiscriminatory basis.

xxii. Utility Pole

A pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control devices, traffic control or directional signage, or a similar function regardless of ownership, including Town-owned poles. Such term shall not include structures supporting only wireless facilities, nor shall it include wireless support structures.

xxiii. Wireless Facility

Equipment at a fixed location that enables wireless services between user equipment and a communications network, including: (i) equipment associated with wireless communications; (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include the structure or improvements on, under, or within which the equipment is collocated, wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or

coaxial or fiber optic cable that is otherwise not immediately adjacent to, or directly associated with, an antenna.

xxiv. Wireless Infrastructure Provider

Any person including a person authorized to provide telecommunications service in the State, that builds, installs or maintains utility poles, wireless communication transmission equipment, wireless facilities or wireless support structures.

xxv. Wireless Services

Any services provided using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, delivered to the public using wireless facilities.

xxvi. Wireless Services Provider

A person who provides wireless services.

xxvii. Wireless Support Structure

A freestanding structure, such as a monopole or, other existing or proposed structure designed to support or capable of supporting wireless facilities. Such term shall not include a utility pole.

c. Permitted Use, Application Process, and Fees

i. Permitted Use and Consent

Collocation of a small wireless facility on an existing utility pole or wireless support structure, or a new or modified utility pole or wireless support structure installed in a covered area shall be a permitted use, except in Supplemental Review Districts where such facilities are a conditional use, subject to administrative review, conditions and other requirements in Section 16-4-103. In accord with Article VIII, Section 15 of the State Constitution and related municipal code and ordinance provisions, the Town consents to the use of rights-of-way by authorized permit holders acting in compliance with this section.

ii. Permit Required

No person shall place a small wireless facility in a covered area without first filing a small wireless facility application and obtaining a permit, except as otherwise provided in this section.

iii. Permit Applications

All small wireless facility applications filed pursuant to this section shall be on a form, paper or electronic, as required by the Town. The applicant may designate portions of its application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each page of such materials accordingly, and the Town shall endeavor to protect materials so designated from public disclosure to the fullest extent permitted by local, state, and federal law.

iv. Application Requirements

The small wireless facility permit application shall be made by the applicant, or its duly authorized representative as noted in a notarized statement from a person with the applicant with authority to make such an authorization, and shall contain the following:

- (a) The applicant’s name, address, telephone number and e-mail address;
- (b) The facility owner’s name, address, telephone number and e-mail address, if different from applicant;
- (c) The names, addresses, telephone numbers and e-mail addresses of all consultants, if any, acting on behalf of the applicant;
- (d) A general description of the proposed work and the purposes and intent of the proposed facility, including whether it will be owner-operated or owner-leased. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected by the physical work proposed;
- (e) Detailed construction drawings of the proposed facility and the related construction work and improvements in the right-of-way;
- (f) To the extent the proposed facility involves collocation on a pole, decorative pole, or support structure, a structural report performed by a duly licensed engineer evidencing that the pole, decorative pole, or support structure will structurally support the collocation, or that the pole, decorative pole, or

support structure may and will be modified to meet structural requirements, in accordance with applicable codes;

- (g) For any new aboveground facilities, visual depictions or representations of the proposed facilities, to scale, with materials and colors of each element specified;
- (h) A site plan or aerial photo indicating the horizontal and approximate vertical location of the *facility* relative to the boundary of the *right-of-way* and vertical structures within 30 feet of the location identified;
- (i) Verification from an appropriate representative of the *applicant* that the *small wireless facility* shall comply with all *applicable codes*;
- (j) Verification of payment of the annual municipal consent or administrative *fee* for telecommunications companies to use *rights-of-ways* pursuant to Section 58-9-2230;
- (k) Verification of local business license, if applicable;
- (l) Evidence the *applicant* is duly authorized to do business in South Carolina;
- (m) Evidence the *applicant* has received any necessary certificate of public convenience and necessity or other required authority from the South Carolina Public Service Commission or the Federal Communications Commission or evidence that it is not required;
- (n) A copy of an approved South Carolina Department of Transportation encroachment permit and all documents required by SCDOT as part of the encroachment permit *application*, if the proposed location is within an SCDOT *right-of-way*;
- (o) A copy of an approved Beaufort County encroachment permit and all documents required by Beaufort County as part of the encroachment permit *application*, if the proposed location is within a Beaufort County *right-of-way*;
- (p) A copy of a Town of Hilton Head Island encroachment permit *application* and all documents required by the Town of Hilton Head Island as part of the encroachment permit *application*, if the proposed location is within a Town of Hilton Head Island *right-of-way*; and

(q) If the proposed location is outside of a SCDOT *right-of-way*, a statement that the *applicant* has a lease, attachment agreement or other authorization from the owner of the *utility pole* or structure proposed for *collocation*.

v. Routine Maintenance and Replacement

An *application* shall not be required for:

- (a) Routine maintenance; or
- (b) The replacement of a *small wireless facility* with another *small wireless facility* that is substantially similar or smaller in size, weight, and height; and
- (c) The replacement of a *small wireless facility* with another *small wireless facility* that is substantially similar in color and design; or
- (d) The installation, placement, maintenance, operation, or replacement of *micro wireless facilities* that are strung on cables between existing *utility poles* and/or *wireless support structures* in compliance with the National Electrical Safety Code by a *wireless services provider* or a *wireless infrastructure provider* that is authorized to occupy the *rights-of-way* and that is remitting a consent, franchise, or administrative *fee* pursuant to S.C. Code Ann. § 58-9-2230.

vi. Information Updates

Any amendment to information contained in a permit *application* shall be submitted in writing to the Town within ten (10) business *days* after the change necessitating the amendment.

vii. Consolidated Application

An *applicant* seeking to *collocate* multiple *small wireless facilities* may, at the *applicant's* discretion, file a consolidated *application* and receive a single permit for up to twenty (20) *small wireless facilities*. Provided, however, the Town's denial of any site or sites within a single *application* shall not affect other sites submitted in the same *application*. The Town shall grant a permit for any and all sites in a single *application* that it does not deny subject to the requirements of this section.

viii. Application Fees

Unless otherwise provided by law, and except as to telecommunication companies exempted pursuant to S.C. Code § 58-9-2230, all applications for permits pursuant to this section shall be accompanied by a fee of \$100.00 for each small wireless facility, except that the fee for small wireless facilities addressed in a consolidated application shall be \$100.00 each for the first five small wireless facilities and \$50.00 for each additional small wireless facility up to a maximum of twenty (20) small wireless facilities. For clarity, any applicant that pays either a franchise, consent fee, or administrative fee pursuant to the requirements of S.C. Code § 58-9-2230 shall not be required to pay any building permit fee, zoning permit fee, encroachment fee, degradation fee, or any other fee assessed on a telecommunications provider for its occupation of or work within the right-of-way.

ix. Interference with Public Safety Equipment

A small wireless facility shall be operated and maintained in a manner that does not interfere with public safety (police, traffic control, fire and emergency services) equipment.

d. Action on Permit Application

i. Review of Small Wireless Facility Applications

The Town shall review the application for a small wireless facility permit for conformity with applicable requirements of this section, and shall issue a permit on nondiscriminatory terms and conditions subject to the following requirements:

- (a) Within ten (10) days of receiving an application, the Town must determine and notify the applicant whether the application is complete; or if an application is incomplete, the Town must specifically identify the missing information.
- (b) Make its final decision to approve or deny the application within sixty (60) days of submission of a completed application.
- (c) Notify the applicant in writing of its final decision, and if the application is denied, specify the basis for a denial, including citations to federal, state or local code provisions and/or statutes on which the denial was based.

(d) Notwithstanding an initial denial, the applicant may cure the deficiencies identified by the Town and resubmit the application within thirty (30) days of the denial, and the Town shall approve or deny the revised application within thirty (30) days of receipt of it. The subsequent review by the Town shall be limited to the deficiencies cited in the original denial.

ii. Review Deadline

If the Town fails to act on an application within the sixty (60) day review period (or within the thirty (30) day review period for an amended application), the applicant may provide notice that the time period for acting has lapsed and the application is then deemed approved.

iii. Review of Eligible Facilities Requests

Notwithstanding any other provisions of this section, the Town shall approve and may not deny applications that constitute eligible facilities requests for modification of an eligible support structure that does not substantially change the physical dimensions of such structure as provided in 47 CFR 1.40001, within sixty (60) days according to the procedures established under 47 CFR 1.40001(c).

iv. Compensation

Subject to the limitations set forth herein, every permit shall include as a condition the applicant's agreement to pay such lawful franchise fees, business license taxes, administrative fees and consent fees as are permitted under applicable South Carolina and federal law. The applicant shall also pay all applicable ad valorem taxes, service fees, sales taxes, or other taxes and fees as may now or hereafter be lawfully imposed on other businesses within the Town.

e. Requirements for Small Wireless Facilities in Covered Areas

i. Administrative Review

The Town shall perform an administrative review of permit applications including the location or installation of new, modified, or replacement utility poles and/or wireless support structures and the attachment of wireless facilities and equipment on utility poles or wireless support structures. Review factors, in addition to location, shall include the size, shape, color, texture, and materials of the structures and attachments.

- (a) The Town may require a proposed *wireless facility* be designed to not be significantly more readily apparent or plainly visible (to a reasonable *person of ordinary sensibilities*) from *covered areas* than existing utility structures, poles and equipment located within five hundred (500) linear feet on the same *covered area* as the subject *utility pole* or *wireless support structure*.
 - (b) Where *small wireless facilities* are determined to be appropriate, the use of reasonable stealth and concealment treatments, low profile equipment and control boxes, and screening may be required to avoid significant negative impacts on the character and visual aesthetics of the area. However, such requirements may be waived by the Town upon a showing that the particular location of a *small wireless facility* does not warrant stealth or concealment treatments or imposes an excessive expense. The waiver shall be granted or denied within forty-five (45) days after the date of the request.
 - (c) Supplemental Review Districts identified in Section 16-4-103 and listed in Appendix A may be subject to a higher level of review.
- ii. Maximum Size of Permitted Use
- (a) The height of an *antenna* of a *collocated small wireless facility* shall be limited to the greater of ten (10) feet above (i) the height of an existing or modified *utility pole* or *wireless support structure*; or (ii) the height of a new *utility pole* or *wireless support structure* as provided in (b) below.
 - (b) The height of a new or modified *utility pole*, or *wireless support structure* is limited to the greater of (i) the tallest *utility pole*, excluding *transmission poles*, or *wireless support structure* located in the same *covered area*, measured from grade, in place within five hundred (500) linear feet on the same *covered area* as the subject *utility pole* or *wireless support structure* as of the effective date of this Ordinance; or (ii) in the absence of any such *utility pole* or *wireless support structure*, either (i) forty (40) feet in any area zoned exclusively for single family residential use, unless a waiver is granted for good cause shown, or (ii) fifty (50) feet in any other area.

(c) Collocation is not allowed on a decorative pole less than twenty (20) feet in height.

iii. Supplemental Review Districts

Collocated small wireless facilities and new or modified utility poles or wireless support structures located in supplemental review districts shall be a conditional use and subject to the design and aesthetic requirements and review processes for structures specified in this Ordinance establishing the supplemental review district(s) in addition to the requirement of this Ordinance, provided that the Town will work in good faith with the applicant to accommodate the installation of collocated small wireless facilities and new or modified utility poles or wireless support structures in supplemental review districts to the fullest extent practicable. The Town reserves its right to maintain and implement the following types of supplemental review districts.

(a) Underground Districts

A wireless services provider or a wireless infrastructure provider shall comply with nondiscriminatory requirements that prohibit electric utilities, telecommunications or cable providers from installing above-ground structures in the covered area in these districts. Nothing in this section shall prohibit the use or replacement of existing utility poles or wireless support structures in underground districts for the collocation of small wireless facilities subject to administrative review by the zoning administrator, appropriate design and concealment and a finding that such use does not increase the height by more than three (3) feet.

(b) Historic and Design Districts

As a condition for approval of new small wireless facilities or new wireless support structure in a Historic District or a Design District, the Town may require that a wireless services provider or a wireless infrastructure provider comply with the design and aesthetic standards of the Historic District or Design District to minimize the impact to the aesthetics in a Historic District or on a Design District's decorative poles. If design and concealment treatments are determined on review by the Town to be insufficient to

mitigate harm to the *Historic District* or *Design District*, the application may be denied.

This section may not be construed to limit a municipality's authority to enforce historic preservation zoning regulations consistent with the preservation of local zoning authority under 47 U.S.C. Section 332(c)(7), the requirements for facility modifications under 47 U.S.C. Section 1455(a), or the National Historic Preservation Act of 1966 (54 U.S.C. Section 300101 et seq.), and the regulations adopted to implement those laws.

iv. Appeals, Special Exceptions and Variance Requirements

Appeals of administrative decisions and requests for special exceptions and variances from the provisions of this section, when strict application would result in an unnecessary hardship or in the inability to deploy needed *small wireless facilities*, shall be heard and decided by the Board of Zoning Appeals or equivalent board for architectural, design or historical district reviews. An applicant seeking a Special Exception to construct a new *decorative pole, utility pole* or other *wireless support structure* to *collocate* a *small wireless facility* in an *Underground District* shall demonstrate, including certification through an engineer, that it has diligently attempted to locate the proposed *decorative pole, utility pole, wireless support structure, or small wireless facility* outside of the *Underground District* and that placement of the *decorative pole, utility pole, wireless support structure, or small wireless facility* within the *Underground District* is necessary to provide the needed wireless coverage or capacity, and one or more of the following conditions exist supporting a Special Exception:

(a) No existing *utility pole* or *wireless support structure* is located within the location search radius or to the extent a *utility pole* or *wireless support structure* is located within the search radius, such *utility pole* or *wireless support structure*:

(i) Is not available for *collocation* under commercially reasonable rates, terms, and conditions;

- (ii) Cannot accommodate the *collocation* of the *small wireless facility* and meet the technical requirements necessary to deliver adequate wireless service coverage or capacity; or
 - (iii) Would require modifications exceeding the three (3) feet height limitation imposed in Section 16-4-103.
- (b) The only available option to deliver adequate wireless service coverage or capacity in the search radius requires modifications to an existing *utility pole* or *wireless support structure* exceeding the three (3) feet height limitation imposed in Section 16-4-103 or the installation of a new *utility pole* or *wireless support structure* for *collocation* of a *small wireless facility*,
or
- (c) The *applicant* has demonstrated other circumstances that, in the reasonable discretion of the Board of Zoning Appeals, warrant a special exception or variance.

The *applicant* shall abide by the design, stealth and concealment treatments imposed as conditions of the special exception.

v. Existing Supplemental Review Districts

Supplemental Review Districts approved by the Town as of the effective date of this Ordinance are listed in Appendix A. The Code provisions authorizing the district, applicable design guidelines or manual, review authority and appeal jurisdiction are specified in Appendix A. Nothing in this Ordinance shall prohibit or otherwise limit the Town from establishing additional supplemental review districts, provided however, that facilities and structures for which a permit was approved or deemed approved pursuant to this Ordinance prior to the establishment of the additional supplemental review district remain subject to the provisions of this Ordinance, including routine maintenance and replacement of those facilities and structures as set out in Section 16-4-103 of this Ordinance, and not to any provisions otherwise applicable to the additional supplemental review district. If a *wireless services provider* or a *wireless infrastructure provider* voluntarily replaces such facilities in a manner that does not comply with Section 16-4-103 of this Ordinance, or if a *wireless services*

provider or a wireless infrastructure provider voluntarily relocates such facilities, such replacement or relocation is subject to the then-existing provisions and requirements of the additional supplemental review district.

(f) Repair of Damage

A wireless services provider or a wireless infrastructure provider shall repair all damage to a Town right-of-way directly caused by the activities of the wireless services provider or the wireless infrastructure provider, while occupying, installing, repairing, or maintaining wireless facilities, wireless support structures, Town utility poles, or utility poles and to return the right-of-way to its functional equivalence before the damage. If the wireless services provider or the wireless infrastructure provider fails to make the repairs required by the Town within forty-five (45) days after written notice, unless the Town and the wireless services provider or the wireless infrastructure provider agree in writing to a longer time period, the Town may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The Town may maintain an action to recover the costs of the repairs.

f. Effect of Permit

i. Authority Granted: No Property Right or Other Interest Created

A permit from the Town authorizes an applicant to undertake only certain activities in accordance with the Ordinance, and does not create a property right or grant any authority whatsoever to the applicant to impinge upon the rights of others who may already have an interest in the covered area.

ii. Duration

Unless construction has actually begun and is diligently pursued to completion at that point, no permit for construction issued under this Ordinance shall be valid for a period longer than twelve (12) months unless both Town and applicant agree to a reasonable extension and all required Fees are paid for the term regardless of construction. The inability of the applicant to obtain electrical power or backhaul transport services to serve the wireless facility such that it is operational within the twelve (12) months due to the action or inaction of third-party utility providers shall not result in the invalidity of the permit.

g. Removal, Relocation, or Modification of a Small Wireless Facility in the Right-of-Way.

i. Notice

Within ninety (90) days following written notice from the Town, a wireless services provider or a wireless infrastructure provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any wireless facilities or wireless support structures within the rights-of-way whenever the Town, in its reasonable discretion, has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any Town improvement in or upon, or the operations of the Town in or upon, the rights-of-way.

ii. Emergency Removal or Relocation of Facilities

The Town retains the right to cut or move any wireless facility or wireless support structure located within its rights-of-way as the Town, in its reasonable discretion, may determine to be necessary, appropriate, or useful in response to any public health or safety emergency. If circumstances permit, the Town shall notify the wireless services provider or the wireless infrastructure provider and provide opportunity to move its own wireless facilities or wireless support structure prior to the Town cutting or removing a wireless facility or wireless support structure and the Town shall notify the wireless services provider or the wireless infrastructure provider after cutting or removing a wireless facility.

iii. Abandonment of Facilities

Upon abandonment of a wireless facility or wireless support structure within the Town rights-of-way, the wireless services provider or the wireless infrastructure provider shall notify the Town within ninety (90) days of such abandonment. Following receipt of such notice the Town may direct the wireless services provider or the wireless infrastructure provider to remove all or any portion of the wireless facility or wireless support structure if the Town, in its sole discretion, determines that such removal will be in the best interests of the public health, safety, and welfare.

iv. Abandonment by Inaction

At any point when a wireless services provider or the wireless infrastructure provider fails to pay any required fee, or annual payment to the Town, and fails to respond within sixty (60) days to a written inquiry from the Town as to whether the wireless services provider or the wireless infrastructure provider intends to continue to operate a wireless facility or wireless support structure, for whatever reason, the wireless facility shall be deemed abandoned and the Town may, at its sole option, remove all or any portion of the wireless facility or wireless support structure, or take other action as authorized by law, including recovery of actual costs incurred in removing the wireless facility or wireless support structure.

h. Attachment to Town-Owned Utility Poles in the Covered Areas

i. Annual Rate

The rate to place a small wireless facility on a Town-owned pole in covered areas shall be fifty (\$50.00) dollars per year per wooden pole or two hundred (\$200.00) dollars per year for all other Town-owned poles. This rate is in addition to reimbursement to the Town for any expenses for make-ready work. The Town reserves the right to require a pole attachment agreement to further define the terms and conditions of attachments to Town-owned poles. The rates specified in this section shall not apply to poles owned, or operated and accounted for as an asset of, a municipal electric utility.

ii. Cease Payment

A wireless services provider or the wireless infrastructure provider is authorized to remove its facilities at any time from a Town-owned pole in covered areas and cease paying the annual rate to the Town as of the next due date for payment following the removal.

iii. Make-Ready

For Town-owned utility poles in covered areas, the applicant shall reimburse the Town for expenses for any reasonable make-ready work. The Town shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested small wireless facility, including pole replacement if

necessary, within sixty (60) days after receipt of a completed request. Make-ready work including any pole replacement shall be completed within sixty (60) days of written acceptance of the good faith estimate by the wireless services provider or the wireless infrastructure provider.

iv. Municipal Utilities Excluded

Nothing in this section shall be construed to affect the authority of a municipal electric utility to deny, limit, restrict, or determine the rates, fees, terms, and conditions for the use of or attachment to a utility pole owned, or operated and accounted for as an asset of, a municipal electric utility.

Section 4. Severability.

In the event any title, subtitle, section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase, or work of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of the Ordinance which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance.

Section 5. Effective Date.

This Ordinance shall take become effective (_____) days after adoption by the Town Council of the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS _____ DAY OF _____, 2019.

THE TOWN OF HILTON HEAD
ISLAND, SOUTH CAROLINA

John J. McCann, Mayor

ATTEST:

Krista M. Wiedmeyer, Town Clerk

Public Hearing:
First Reading:
Second Reading:

APPROVED AS TO FORM:

Curtis L. Coltrane, Town Attorney

Introduced by Council Member: _____

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APPENDIX A

Existing Supplemental Review Districts:

1. Corridor Overlay (COR) District (Sec. 16-3-106.F)

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