



Town of Hilton Head Island  
**TOWN COUNCIL MEETING**  
**Tuesday, May 17, 2022, 2:00 PM**  
**AGENDA**

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The Town Council meeting will be held in-person at Town Hall in the Benjamin M. Racusin Council Chambers. The meeting can be viewed on the [Town's Public Meetings Facebook Page](#), the [Beaufort County Channel](#) and Spectrum Channel 1304.

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. **Pledge to the Flag**
4. **Invocation - Reverend General Hay - First Historic African Baptist Church**
5. **Roll Call**
6. **Executive Session**
  - a. Receipt of Legal Advice on Matters Covered by Attorney-Client Privilege, Related to the Town-Owned Property Use Assessment [pursuant to SC Freedom of Information Act Sec. 30-4-70(a)(2)]
7. **Approval of the Minutes**
  - a. Regular Meeting - May 3, 2022
8. **Report of the Town Manager**
  - a. Items of Interest
  - b. Update on the Beach Operations and Improvements from the last Twelve Months - Aaron Black, Facilities Manager
  - c. Quarterly Status Update on the Gullah-Geechee Task Force Work Plan - Anne Cyran, Interim Community Planning Manager
9. **Reports of the Members of the Town Council**
  - a. General Reports from Town Council
  - b. Report of the Community Services & Public Safety Committee – Councilman Harkins
  - c. Report of the Public Planning Committee – Councilman Ames
  - d. Report of the Finance & Administrative Committee – Councilman Lennox

10. **Appearance by Citizens** Citizens who wish to address Town Council may do so by contacting the Town Clerk at 843.341.4701 no later than 12:00 p.m. the day of the meeting. Citizens may also submit comments on agenda items via the eComment portal at [Town Council Meeting Information](#)
11. **Consent Agenda**
  - a. Second Reading of Proposed Ordinance 2022-09, Amending Section 4-5-20 of the Municipal Code of the Town of Hilton Head Island, Extending the Expiration Date of the Real Estate Transfer Fee from December 31, 2024 to December 31, 2044
  - b. Second Reading of Proposed Ordinance 2022-10 Amending Sections 10-9-10 and 10-9-30 of the Municipal Code for the Town of Hilton Head, South Carolina, Regarding the Billing for Ambulance Services
  - c. Second Reading of Proposed Ordinance 2022-06 Amending, Title 10 of the Municipal Code of the Town of Hilton Head Island, South Carolina, by Adding Chapter 2 Entitled "Short-Term Rentals"
12. **New Business**
  - a. [Consideration of a Resolution of Hilton Head Island, South Carolina, dedicating the fountain at the Shelter Cove Community Park in honor of Drew A. Laughlin, for his role as Mayor, in the development of Shelter Cove Community Park](#)
  - b. [First Reading of Proposed Ordinance 2022-08 Amending Sections 12-1-110 and 12-1-511 of the Municipal Code for the Town of Hilton Head Island, South Carolina with Regard to e-Bike Regulations](#)
  - c. [Consideration of a Resolution Authorizing the Town Manager to Enter into a Memorandum of Understanding with Pope Ave Hilton Head 2021, LLC, for the Installation and Maintenance of a Bicycle and Pedestrian Pathway on Pope Avenue](#)
  - d. [First Reading of Proposed Ordinance 2022-14 Authorizing the Execution and Delivery of Easements for Underground Water and Wastewater Utilities Encumbering Real Property Owned by the Town of Hilton Head Island, South Carolina in the Shelter Cove Area](#)
13. **Executive Session**
  - a. Receipt of Legal Advice on Matters Covered Under Attorney-Client Privilege [pursuant to SC Freedom of Information Act Sec. 30-4-70(a)(2)]
    - i. Town Attorney Update
14. **Potential Action by Town Council as a Result of Discussions During Executive Session**
15. **Adjournment**



# Town of Hilton Head Island TOWN COUNCIL MEETING Tuesday, May 3, 2022, 3:00 p.m. MINUTES

**Present from Town Council:** John J. McCann, *Mayor*; Bill Harkins, *Mayor Pro-Tempore*; David Ames, Tamara Becker, Alex Brown, Tom Lennox, Glenn Stanford, *Town Council Members*

**Present from Town Staff:** Marc Orlando, *Town Manager*; Josh Gruber, *Deputy Town Manager*; Angie Stone, *Assistant Town Manager*; Shawn Colin, *Assistant Town Manager-Community Development*; Brad Tadlock, *Fire Chief*; John Troyer, *Finance Director*; Erica Madhere, *Budget Analyst*; Anne Cyran, *Interim Community Planning Manager*; Krista Wiedmeyer, *Town Clerk*

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## 1. Call to Order

Mayor McCann called the meeting to order at 3:00 p.m.

2. **FOIA Compliance** Public notification of the 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. Roll Call

Attendance of Town Council was confirmed by way of a roll call.

## 4. Pledge to the Flag

## 5. Invocation – Pastor Nathan Futrell – Central Church

Pastor Futrell delivered the invocation.

## 6. Approval of the Agenda

Mr. Harkins moved to approve. Mr. Stanford seconded. The motion carried 7-0

## 7. Approval of the Minutes

- a. Regular Meeting – April 19, 2022

Mr. Harkins moved to approve the minutes. Mr. Stanford seconded. The motion carried 7-0.

## 8. Report of the Town Manager

- a. Items of Interest

Mr. Orlando reviewed various items of interest; including, the reaffirmation of the Town's Aaa status from Moody's, the start of sea turtle nesting season, and the new flag drop boxes installed by Eagle Scout candidate, Peter Rougeux.

## 9. Reports of the Town Council

- a. General Reports from Town Council

Mayor McCann reported that the Intercommunity Faith in Action with the Arts Council would be holding a benefit to support the efforts in Ukraine.

Mr. Stanford reported that he had recently attended the function at Hilton Head Middle School called Arts Meets History in a Gallery that consisted of a series of beautiful murals that were prepared by local volunteer artists and supplemented by the artwork of many of the students.

**b. Report of the Lowcountry Area Transportation Study – Councilman Stanford**

Mr. Stanford said he did not have a report.

**c. Report of the Lowcountry Council of Governments – Councilwoman Becker**

Mrs. Becker reported that at their last meeting, they received a status report on unemployment. She said it indicated that in Beaufort County there is an unemployment rate of 4% and that there were over 4,000 job openings in the County.

**d. Report of the Southern Lowcountry Regional Board – Councilman Lennox**

Mr. Lennox reported that at their last meeting, the Board received an update from Eric Greenway on the Regional Housing Trust Fund.

**e. Report of the Beaufort County Airports Board – Councilman Ames**

Mr. Ames Reported that the Airport terminal project will be advertised for bids. At this time no start date for the construction has been set. He also reported that the expansion of the apron which accommodates the planes when they're on the ground is almost complete.

**f. Report of the Community Services & Public Safety Committee – Councilman Harkins**

Mr. Harkins reported that at their next meeting the Committee will review the boards and commissions talent bank and make recommendations for interviews.

**g. Report of the Public Planning Committee – Councilman Ames**

Mr. Ames reported that the Committee approved moving forward the e-Bikes regulations on to full Town Council.

**h. Report of the Finance & Administrative Committee – Councilman Lennox**

Mr. Lennox reported that the Committee would be meeting on Tuesday, May 17<sup>th</sup> at 10:00 a.m.

**10. Appearance by Citizens**

**Judith Hillis** addressed the Mayor and Town Council on the replacement of the bridges coming onto Hilton Head Island. She pointed out a small white square beneath the new bridge was her home and was concerned about her safety and the intrusion of the new infrastructure.

**11. Consent Agenda**

- a.** Second Reading of Proposed Ordinance 2022-13 Authorizing the Sale of 0.141 Acres of Real Estate Owned by the Town of Hilton Head Island, South Carolina, Under the Authority of SC Code Ann. Sec. 5-7-40 (Supp. 2021) and Sec. 2-7-20 of the Municipal Code of the Town of Hilton Head Island, South Carolina,(1983).
- b.** Second Reading of Proposed Ordinance 2022-11 Authorizing the Town of Hilton Head Island, South Carolina to Execute a Lease of Four (4) Parcels of Land Along Beach City Road, Jointly Owned by The Town of Hilton Head Island and Beaufort County to Historic Mitchelville Freedom Park, Inc. Mr. Harkins moved to approve. Mr. Stanford seconded. With comments from both Mr. Lennox and Mr. Ames about the work of the Accommodations Tax Advisory Committee and Chamber of Commerce, the motion carried 7-0.

Mr. Harkins moved to approve the Consent Agenda. Mr. Stanford seconded. With no discussion from Town Council, the motion carried 7-0.

## 12. New Business

- a. Consideration of a Resolution Authorizing the Implementation of a Home Safety and Repair Program Including the Execution of a Memorandum of Understanding with the Lowcountry Council of Governments to Handle Income Certification

Mr. Harkins moved to approve. Mr. Stanford seconded. With no discussion from Town Council or the audience, the motion carried, 7-0.

- b. Consideration of a Resolution Authorizing the Implementation of a Sewer Connection Program Including the Execution of a Memorandum of Understanding with Deep Well, the Lowcountry Council of Governments, and the Hilton Head Public Service District

Mr. Harkins moved to approve. Mr. Stanford seconded. Mr. Brown asked if there was information on abandoned septic tanks. Mr. Colin reported that there were no requirements to fill in or modify the septic tanks. With no further discussion, the motion carried, 7-0.

- c. Consideration of a Resolution Authorizing the Town Manager to Enter into a Memorandum of Understanding with South Island Dredging Association to Provide Funding Assistance for the Dredging of Harbour Town Yacht Basin

Mr. Harkins moved to approve. Mr. Stanford seconded. Mr. Gruber provided an update on this matter, speaking to the utilization of this funding and the locations of the dredging. He showed two different aerial shots; one over the Harbour Town Yacht Basin and the other over Bradick Cove. With a little further discussion by Town Council and audience, the motion carried, 7-0.

- d. First Reading of Proposed Ordinance 2022-09, Amending Section 4-5-20 of the Municipal Code of the Town of Hilton Head Island, Extending the Expiration Date of the Real Estate Transfer Fee from December 31, 2024 to December 31, 2044

Mr. Harkins moved to approve. Mr. Stanford seconded. Mr. Lennox gave his thanks to the Hilton Head Realtors Association for their assistance and support of this matter. Other members of Town Council echoed Mr. Lennox. With no further discussion, the motion carried, 7-0.

- e. First Reading of Proposed Ordinance 2022-10 Amending Sections 10-9-10 and 9-30 of the Municipal Code for the Town of Hilton Head, South Carolina, Regarding the Billing for Ambulance Services

Mr. Harkins moved to approve. Mr. Stanford seconded. With no discussion, the motion carried, 7-0.

- f. First Reading Proposed Ordinance 2022-06 Amending, Title 10 of the Municipal Code of the Town of Hilton Head Island, South Carolina, by Adding Chapter 2 Entitled "Short-Term Rentals"

Mr. Harkins moved to approve. Mr. Stanford seconded. Ms. Cyran delivered a presentation addressing the requested updates as well as the two phases of the ordinance update. She answered questions posed to her by Town Council and citizens in the audience. With comments from the audience and some further discussion from the members of Town Council, the motion carried, 7-0.

- g. First Reading of Proposed Ordinance 2022-12 Amending the Budget for the Town of Hilton Head Island for the Fiscal Year Ending June 30, 2022 and Adopting the Budget for the Town of Hilton Head Island for the Fiscal Year ending June 30, 2023

Mr. Harkins moved to approve. Mr. Stanford seconded. Mr. Orlando delivered a presentation to the Mayor and Town Council providing a complete overview of the Fiscal Year 2023 budget. He answered questions posed to him from the members of Town Council, confirming his intentions to dive deeper into the budget at the upcoming workshop. With no discussion any members of the audience, the motion carried, 7-0.

### **13. Adjournment**

Town Council voted unanimously adjourned the meeting at 5:59 p.m.

**Approved: May 17, 2022**

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Krista M. Wiedmeyer, Town Clerk

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John J. McCann, Mayor

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# **CONSENT AGENDA**



## TOWN OF HILTON HEAD ISLAND

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### *Staff Report Memo*

**TO:** Finance and Administrative Committee  
**FROM:** Joshua A. Gruber, Deputy Town Manager  
**VIA:** Marc Orlando, Town Manager  
**DATE:** April 20, 2022  
**SUBJECT:** Consideration of Proposed Ordinance 2022-09, Amending Chapter 5 of Title 4 of the Municipal Code to Extend the Expiration Date of the Real Estate Transfer Fee from December 31, 2024 until December 31, 2044

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#### **Recommendation:**

Consider an Ordinance extending the expiration date of the Real Estate Transfer Fee (RETF) from December 31, 2024 until December 31, 2044. Recommend Adopt on second reading.

#### **Summary:**

There have been no changes since the first reading.





## TOWN OF HILTON HEAD ISLAND

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### *Staff Report Memo*

**TO:** Finance and Administrative Committee  
**FROM:** Joshua A. Gruber, Deputy Town Manager  
**VIA:** Marc Orlando, Town Manager  
**DATE:** April 20, 2022  
**SUBJECT:** Consideration of Proposed Ordinance 2022-09, Amending Chapter 5 of Title 4 of the Municipal Code to Extend the Expiration Date of the Real Estate Transfer Fee from December 31, 2024 until December 31, 2044

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#### **Recommendation:**

Consider an Ordinance extending the expiration date of the Real Estate Transfer Fee (RETF) from December 31, 2024 until December 31, 2044.

#### **Summary:**

The RETF was adopted by Town Council in 1990 to maintain the environmental quality of the Island, to acquire lands for public ownership, maintain open space and environmental protection, acquire developed land or development rights in order to convert its use to a public use, restore previously developed property to open space, or to redefine and reuse previously developed property in accordance with the Town's current comprehensive plan.

The fee is set to expire on December 31, 2024. Proposed Ordinance 2022-09 will extend the fee for 20 years, expiring on December 31, 2044. The fee will remain at its existing rate, which is 0.25 of 1% of the gross sale price of each real estate transaction within the municipal limits of the Town. The allowable uses will remain the same. In order to continue limiting undesirable growth, preserve and protect existing natural parcels on the Island and continue its efforts in strategic land acquisition, the funds from the RETF are needed for future open space opportunities and improve the Island's resiliency.

#### **Background:**

The Town has collected over \$87 million in RETF funds since 1990 and maintains the fees in a separated account. The Town has used over \$76 million in RETR since 1990 to purchase over

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1,300 acres of land in various locations throughout the Island. The RETF has been supplemented by general revenues, voter approved referenda in 1997, 1998, 2000, 2003, and 2008, grants and donations, and CIP revenues. The benefits of the RETF include the following:

- Preservation of Open Space
- Public Access and Views to our Waterways
- Provides space for Passive and Active Recreational Needs
- Preserves Wildlife Habitat
- Protects Environmentally Sensitive Lands
- Protects Culturally and Historically Significant Sites
- Provides for Island Resiliency through Stormwater protection
- Provides Space for Capital Improvement Projects
- Strengthens Demand for Property Values Island-Wide
- Reduces Demand for Other Public Facilities and Services
- Reduces future traffic

By extending the RETF for an additional twenty years, this funding source will allow the Town to continue its strategic land acquisition program. Land acquisition improves the quality of life in many ways. The Town will use the RETF to continue preserving open space along the 278 corridor and as the Town does improvements to the Island, the RETF can work with the Town's efforts roads, stormwater, water and sewer work for aesthetic purposes as well as functional. Finally, resiliency is an integral part of the Strategic Plan and land acquisition will help in risk mitigation for the Island's future.

At its April 19, 2022, meeting, the Town Council Finance & Administrative Committee unanimously voted to recommend to Town Council approval of Proposed Ordinance 2022-09.

**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND**

**ORDINANCE NO. 2022-**

**PROPOSED ORDINANCE NO. 2022-09**

**AN ORDINANCE TO AMEND CHAPTER 5 (REAL ESTATE TRANSFER FEE) OF TITLE 4 OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, TO AMEND SECTION 4-5-20, TO EXTEND THE EXPIRATION DATE OF DECEMBER 31, 2024, UNTIL DECEMBER 31, 2044; 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 4 of the Municipal Code of the Town of Hilton Head Island establishing a Real Estate Transfer Fee to maintain the environmental quality of the Island, to acquire lands for public ownership, maintain open space and environmental protection, acquire developed land or development rights in order to convert its use to a public use, restore previously developed property to open space, or to redefine and reuse previously developed property in accordance with the town's current comprehensive plan;

**WHEREAS**, Section 4-5-20 of the Municipal Code of the Town of Hilton Head Island provided that the "Real Estate Transfer Fee" established in Section 4-5-10 would expire on December 31, 2024; and

**WHEREAS**, in order to continue limiting undesirable growth, preserve and protect existing natural are on the Island, and continue its efforts in strategic land acquisition, the Town of Hilton Head Island has implemented a long-term financing plan to pay for continued real property acquisitions through the collection of the Real Estate Transfer Fee; and

**WHEREAS**, the Town Council of the Town of Hilton Head Island has determined that it is in the best interest of the Town and its citizens to extend the expiration date within Section 4-5-20 of the Municipal Code of the Town of Hilton Head Island, and to continue collections of "Real Estate Transfer Fees" until December 31, 2044.

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SC; AND IT IS ORDAINED BY SAID AUTHORITY OF 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 4-5-20 of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same hereby is amended to read as follows:

"Section 4-5-20. Real Estate Transfer Fee.

For a period of ~~twenty-four (24) years~~ **twenty (20) years**, ending on December 31, ~~2024~~ **2044**, a real estate transfer fee shall be paid by the purchaser, or any other person

by his direction, pursuant to the recording in Beaufort County of any deed, instrument or writing whereby any land, tenement, or other realty located within the corporate limits of the Town of Hilton Head Island is sold, granted, assigned, conveyed to, vested in, or otherwise transferred when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds one hundred dollars (\$100.00).

**Section 2. Severability.** If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 3. Effective Date.** This Ordinance shall be effective upon 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 \_\_\_\_\_, 2022.**

\_\_\_\_\_  
**John J. McCann, Mayor**

\_\_\_\_\_  
**Krista M. Wiedmeyer, Town Clerk**

**First Reading:** \_\_\_\_\_

**Second Reading:** \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Curtis L. Coltrane, Town Attorney**

**Introduced by Council Member:** \_\_\_\_\_



# HILTON HEAD AREA REALTORS®



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32 Office Park Road, Suite 124 • Hilton Head Island, SC 29928

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March 31, 2022

Hilton Head Island Town Council  
One Town Center Court  
Hilton Head Island, SC 29928

Dear Mayor McCann and members of Hilton Head Island Town Council,

Thank you and town staff for the multiple presentations and conversations concerning the extension of the real estate transfer fee beyond its sunset date of December 31, 2024. Through the presentations provided to our Legislative Committee, Board of Directors, and our membership, we see the value to the community in the extension of the fee at its existing rate for twenty years, and keeping the same allowed revenue uses.

We appreciate our working relationship with the Town and hope to collaborate again in the future.

Sincerely,

Kate Yachin  
2022 President



# TOWN OF HILTON HEAD ISLAND

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## Staff Report Memo

**TO:** Town Council  
**FROM:** John M. Troyer, Director of Finance  
**VIA:** Marc Orlando, ICMA-CM, Town Manager  
**CC:** April Akins, Revenue Services Manager  
**DATE:** May 4, 2022  
**SUBJECT:** Town of Hilton Head Ambulance Fee Schedule

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**Recommendation:** Town Staff recommends Town Council approve on second reading of Proposed Ordinance 2022-10, amending Chapter 9 of Title 10 (Fee Schedule for Billing Ambulance Services), Sec. 10-9-10 (General Fee Schedule) and Sec. 10-9-30 (Billing) to increase the Town of Hilton Head Island's ambulance fee schedule to meet industry standards set by the Centers for Medicare and Medicaid Services. **There have been no changes to the Proposed Ordinance since the first reading that was approved on May 3, 2022.**

**Summary:** During an annual Account Performance Review with the Town's EMS billing contractor, EMS Management & Consultants (EMS/MC), it was recommended that the Town consider a rate increase to ensure that EMS revenue collections are optimal based on the industry standards. The Centers for Medicare and Medicaid Services issued CY 2022 Medicare Physician Fee Schedule effective January 1, 2022. Based on the fee schedule, EMS/MC recommended that the Town set ambulance rates at 150% or above of the Medicare's Physician Fee Schedule. The projected revenue from the rate increase is an estimated \$125,000 annually or approximately 7% increase in net EMS revenue collections.

In addition, since Medicare's Physician Fee Schedule is issued annually, staff recommends updating Chapter 9 of Title 10, Sec. 10-9-10 and Sec. 10-9-30, to include language that the Town's ambulance fee schedule will be set at 150% or above of the most recent Centers for Medicare and Medicaid Services (CMS) Physician Fee Schedule (PFS) and removing the ambulance fee table from the ordinance. Staff also recommends that the Town's ambulance fee schedule be published and available on the Town's website for the public.

**Background:** To ensure that the Town receives full reimbursement from insurance companies for ambulance services, the proposed amendments to Chapter 9 of Title 10, Sec. 10-9-10 and Sec. 10-9-30 should be adopted by Town Council to allow optimal EMS revenue collections.

Below is the analysis and recommendation for the Town of Hilton Head Island's ambulance fee schedule prepared by EMS/MC:

Level of Service	2022 Medicare Allowable (Urban)	TOHH Current Charge	Recommended 150% MFS	Notes
ALS Emergent	\$441.29	\$520.00	\$661.94	Round up to \$662
BLS Emergent	\$371.61	\$460.00	\$557.42	Round up to \$558
ALS 2 Emergent	\$638.71	\$1,010.00	\$1,010.00	No change
Treatment No Transport Fee	n/a	\$100.00	\$100.00	No change
Mileage Fee	\$8.02	\$7.50	\$12.03	Loss of \$.52 per mile. Round up to \$12.25
Specialty Care Transport	\$754.83	\$450.00	\$1132.25	Loss of \$304.83. Round down to \$1132.00
BLS Non-Emergent	\$232.26	\$460.00	\$460.00	No change
ALS Non-Emergent	\$278.71	\$520.00	\$520.00	No change

**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND**

**ORDINANCE NO.**

**PROPOSED ORDINANCE NO. 2022-10**

**AN ORDINANCE TO AMEND CHAPTER 9 OF TITLE 10 (FEE SCHEDULE FOR BILLING AMBULANCE SERVICES), OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, BY AMENDING SECTIONS 10-9-10 (GENERAL FEE SCHEDULE) AND 10-9-30 (BILLING); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council did previously adopt Chapter 9 of Title 10 of the Municipal Code of the Town of Hilton Head Island to provide for ambulance service fees; and

**WHEREAS**, during an annual account performance review with EMS Management & Consultants, the Town's EMS billing contractor, it was recommended that the Town of Hilton Head Island consider a rate increase at 150% or above the Centers for Medicare and Medicaid Services Physician Fee Schedule to ensure that EMS revenue collections are optimal based on industry standards; and

**WHEREAS**, the Town Council now desires to increase the Town of Hilton Head Island's ambulance service fee schedule to meet industry standards set by the Centers for Medicare and Medicaid Services and to include language in the Municipal Code of the Town of Hilton Head Island that the Town's ambulance service fees schedule is set at 150% or above the most recent Centers for Medicare and Medicaid Services Physician Fee Schedule.

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AND IT IS HEREBY ORDERED AND ORDAINED BY AND UNDER AUTHORITY OF 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: Amendment.** That Sections 10-9-10 (General Fee Schedule) and 10-9-30 (Billing) of the Municipal Code of The Town of Hilton Head Island, South Carolina, are hereby amended as follows:

**Sec. 10-9-10. General fee schedule.**

Ambulance service rates will be based on the highest level of care provided and includes the following billing categories as identified by Medicare. **The Town's ambulance fee schedule is set at**



**150% or above of the most recent Centers for Medicare and Medicaid Services (CMS) Physician Fee Schedule (PFS).**

Billing Category		Rate
BLS	(Basic Life Support)	\$460.00 plus \$7.50 mileage rate
BLS	(Basic Life Support) Emergency	\$460.00 plus \$7.50 mileage rate
ALS 1	(Advanced Life Support level 1)	\$520.00 plus \$7.50 mileage rate
ALS 1	(Advanced Life Support level 1) Emergency	\$520.00 plus \$7.50 mileage rate
ALS 2	(Advanced Life Support level 2)	\$1,010.00 plus \$7.50 mileage rate
SCT	(Specialty Care Transports)	\$450.00 plus \$6.50 mileage rate

**Sec. 10-9-20. Billing category descriptions.**

The following descriptions are provided to assist in determining the appropriate billing category for ambulance services:

- (a) BLS (non-emergency) is a response to transport a patient to various locations (to hospital from doctor's offices, homes, etc.) with BLS skills being the highest level of service provided. This includes procedures like checking vitals, oxygen administration, etc., but with no IV initiated. These calls may include a minimal use of supplies. These will be mostly non-emergency transport patients who are routinely transported via Med-Trans Ambulance Service. The town's fire and rescue department rarely handles these calls and does so only in extreme circumstances.
- (b) BLS (emergency) is an emergency response for a patient who is transported to a hospital with BLS skills being the highest level of service provided. This includes procedures like checking vitals, oxygen administration, etc., but with no IV initiated. These calls may include a minimal to moderate use of supplies. These are emergency calls and BLS will be the highest level of service provided. The town's fire and rescue department routinely handles these BLS emergency transports.
- (c) ALS 1 (non-emergency) is a response for a patient who is transported and requires an ALS assessment or ALS skills such as IV initiation, cardiac monitoring, blood draws, BGL checks, or up to two (2) drugs administered. They will require a minimal to moderate use of supplies. These are mostly non-emergency transport calls that require an ALS assessment and/or the use of ALS procedures that are above the scope of BLS care. The town's fire and rescue department occasionally handles these ALS non-emergency transports.
- (d) ALS 1 (emergency) is an emergency response for a patient who is transported to a hospital and requires an ALS assessment or ALS skills such as IV initiation, cardiac monitoring, blood draws, BGL checks, or up to two (2) drugs administered. They will require a minimal to moderate use of supplies. These are emergency calls that require an ALS assessment and/or use of ALS procedures that are above the scope of BLS care. These are primarily patients suffering from seizure, diabetic emergencies, breathing problems, auto accidents, etc. The town's fire and rescue department routinely handles these ALS emergency transports.

- (e) ALS 2 is an emergency response for a patient who is transported to a hospital and requires an ALS assessment or ALS skills plus the administration of three (3) or more drugs and/or the use of any one of the following skills:

- Manual defibrillation
- Cardio-version
- Cardiac pacing
- Endotracheal intubation
- Chest decompression
- Intraosseous line

These calls will require a maximum use of supplies and are primarily patients in cardiac or respiratory arrest, shock, or critical trauma patients. The town's fire and rescue department routinely handles these ALS 2 emergency transports.

- (f) SCT is for a patient being transported from one (1) hospital to another hospital (inter-facility) requiring a specialized nurse riding in attendance to provide specialized skills above the scope of ALS. They will require a minimal to moderate use of supplies. The town's fire and rescue department occasionally handles these SCT transports.

**Sec. 10-9-30. Billing.**

- (a) The town's EMS billing department will classify each ambulatory service call into one of the six (6) billing categories listed above and bill accordingly. Classification will be based on the highest level of service provided regardless of the supplies used for each call.
- (b) ~~A mileage rate of six dollars and fifty cents (\$6.50) per mile will be billed regardless of the billing category.~~ **The Town's mileage rate per mile is set at 150% or above of the most recent Centers for Medicare and Medicaid Services (CMS) Physician Fee Schedule (PFS).**
- (c) A standard billing charge for response to calls requiring no transport will be set at one hundred dollars (\$100.00) per incident.

**Section 2: Severability.** If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 3: Effective Date.** This ordinance shall be effective upon adopting by the Town Council of the Town of Hilton Head Island, South Carolina.

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL OF THE TOWN OF HILTON HEAD ISLAND ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.**

By: \_\_\_\_\_  
John J. McCann, Mayor

**ATTEST:**

By: \_\_\_\_\_  
Krista Wiedmeyer, Town Clerk

First Reading: \_\_\_\_\_, 2022

Second Reading: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Curtis L. Coltrane, Town Attorney

Introduced by Council Member: \_\_\_\_\_



## TOWN OF HILTON HEAD ISLAND

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### *Staff Report Memo*

TO: Marc Orlando, ICMA~CM, *Town Manager*  
FROM: Anne Cyran, AICP, *Interim Community Planning Manager*  
VIA: Shawn Colin, AICP, *Assistant Town Manager – Community Development*  
DATE: May 4, 2022  
SUBJECT: Proposed Ordinance 2022-06: Short-Term Rental Performance Standards

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At their meeting on May 3, 2022, Town Council reviewed and approved first reading of proposed Ordinance 2022-06 regarding short-term rental performance standards. At that meeting, Town Council made no changes to the proposed Ordinance.

**Attachment:**

- A. Proposed Ordinance 2022-06

**PROPOSED ORDINANCE NO. 2022-06**

**ORDINANCE NO. 2022-**

**AN ORDINANCE TO AMEND TITLE 10 OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA BY ADDING CHAPTER 2 ENTITLED “SHORT-TERM RENTALS”; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, on December 7, 2021, Town Council adopted the Town of Hilton Head Strategic Action Plan FY2021-2022 which includes an initiative to “Adopt & Implement Short-Term Rental Regulations”; and

**WHEREAS**, Town Council desires to add Chapter Two (2) Title 10 of the Municipal Code of the Town of Hilton Head Island to add short-term rental regulations; and

**WHEREAS**, under S. C. Code Ann. § 5-7-30 (Supp. 2021), the Town Council is authorized to adopted ordinances on any subject which appears to it necessary and proper for the security, general welfare, and convenience of the municipality or for preserving health, peace, order, and good government in it; and,

**WHEREAS**, the Town Council finds that the regulations set out in this Ordinance are in the best interest of and promote the health, safety and general welfare of the citizens, residents and visitors of and to the Town.

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

**Section 1 – Addition.** Section 10-2-10 of the *Municipal Code of the Town of Hilton Head Island, South Carolina* (1983), be and the same hereby added as follows:

Sec. 10-2-10. Purpose and Intent.

It is the purpose and intent of this Ordinance to establish regulations for privately owned residential property used as vacation homes and rented to transient occupants

for periods of less than thirty days in the municipal limits of The Town of Hilton Head Island, South Carolina, so as to minimize the adverse effects of Short-Term Rental uses on surrounding residential properties and neighborhoods, and to preserve the character, integrity, and stability of residential neighborhoods in which Short-Term Rental Properties are located. This Chapter is not intended to regulate hotels, motels, hospitals or Interval Occupancy uses [as defined in § 16-10-103(D)(2), *Municipal Code of The Town of Hilton Head Island, South Carolina* (1983)].

**Section 2 – Addition.** Section 10-2-20 of the *Municipal Code of the Town of Hilton Head Island, South Carolina* (1983), be and the same hereby added as follows:

Sec. 10-2-20. Definitions.

(1) In this Chapter, the following terms are defined terms and when capitalized in the text of this Chapter, mean:

(a) *Owner*: Any individual, firm, partnership, limited liability partnership, limited liability company, cooperative non-profit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, who or which owns one or more Short Term Rental Properties.

(b) *Short-Term Lessee*: Any person occupying all or any part of a Short-Term Rental Property or any other property under any lease or other form of agreement for a period of less than thirty (30) days.

(c) *Short-Term Rental*: The leasing of any Short-Term Rental Property or permitting the occupancy of any Short-Term Rental Property or any other property by a lease or any other form of agreement.

(d) *Short-Term Rental Agent*: A person authorized by an Owner to act on the Owner's behalf in connection with any Short-Term Rental Property or Short-Term Rental.

(e) *Short-Term Rental Permit*: An annual permit that an Owner must obtain from The Town of Hilton Head Island, South Carolina for each of an Owner's Short-Term Rental Properties, described in Section 10-2-20 below. It is a violation of this Chapter to offer any Short-Term Rental Property or any other residential property in the municipal limits of The Town of Hilton Head Island, South Carolina, for Short-Term Rental without first obtaining a Short-Term Rental Permit from the Town of Hilton Head Island, South Carolina for any such property.

(f) *Short-Term Rental Property*: Any residential property in the municipal limits of the Town of Hilton Head Island, South Carolina, that, in

whole or in part, is offered for lease or occupancy under a lease or any other form of agreement, for periods of less than thirty (30) days.

(2) The defined terms include the plural of any term set out in this Sec. 10-2-20.

**Section 3 - Addition.** Section 10-2-30 of the *Municipal Code of the Town of Hilton Head Island, South Carolina* (1983), be and the same hereby added as follows:

Sec. 10-2-30. Short-Term Rental Permit.

(1) Any Owner who offers any Short-Term Rental Property for Short-Term Rental must first obtain a Short-Term Rental Permit from The Town of Hilton Head Island, South Carolina.

(a) Short-Term Rental Permits shall be valid from January 1 to December 31 of any calendar year and shall only be valid for the calendar year during which the Short-Term Rental Permit is issued, irrespective of the date on which the Short-Term Rental Permit is issued.

(b) A Short-Term Rental Permit must be obtained for each Short-Term Rental Property that is offered for Short-Term Rental.

(c) Short-Term Rental Permits are non-transferrable and are only valid for the Short-Term Rental Property described in the Short-Term Rental Permit.

(d) It is the duty of the Owner to notify The Town of Hilton Head Island, South Carolina, of any changes to the contact information of the Owner and any Short-Term Rental Agent employed or engaged by the Owner for each Short-Term Rental Permit issued to the Owner.

(e) The application fee for a Short-Term Rental Permit shall be set each year by the Town Council in the annual Budget Ordinance.

(f) The application for a Short-Term Rental Permit shall be made on a form published by The Town of Hilton Head Island, South Carolina, and must be delivered with the application fee.

(i) Any application for a Short-Term Rental Permit for a single-family detached residence must include a site plan showing compliance with the requirements of Section 10-2-50(3) and 10-2-50(4).

(g) Review of an application for a Short-Term Rental Permit shall be conducted by the Town of Hilton Head Island, South Carolina, and the Short-Term Rental Permit shall be granted unless the Owner fails to meet the conditions and requirements of this Chapter, or otherwise fails to demonstrate:

- (i) compliance with this Chapter; or
- (ii) there are no outstanding citations for any activities occurring at or connected with the Short-Term Rental Property; or
- (iii) any other Town Ordinance or any relevant state or federal law regarding activities at the Short-Term Rental Property.

Any false statements or inaccurate or untrue information in the application are grounds for revocation or suspension of the Short-Term Rental Permit and/or imposition of penalties, including denial of future applications.

- (2) Every person or business entity which:
  - (a) acts as a Short-Term Rental Agent, and
  - (b) submits an application for Short Term Rental Permit on behalf of any Owner, must submit a complete application that includes all the information required in the form of the application and which has been signed by the Owner.

**Section 4 - Addition.** Section 10-2-40 of the *Municipal Code of the Town of Hilton Head Island, South Carolina (1983)*, be and the same hereby added as follows:

Sec. 10-2-40. Licenses, Permits, Payment of Fees and Taxes Fees Required.

- (1) No Owner may offer any Short-Term Rental Property for Short-Term Rental without initially and on a continuing basis:
  - (a) Obtaining a valid and current Short-Term Rental Permit from The Town of Hilton Head Island, South Carolina; and
  - (b) Obtaining a valid and current business license for Short-Term Rental of property from The Town of Hilton Head Island, South Carolina; and
  - (c) Paying all applicable fees and taxes associated with any application for a Short-Term Rental Permit or business license, and all sales or other similar taxes in connection with any Short-Term Rental, paying all *ad valorem* taxes for any Short-Term Rental Property.

**Section 5 - Addition.** Section 10-2-50 of the *Municipal Code of the Town of Hilton Head Island, South Carolina (1983)*, be and the same hereby added as follows:

Sec.10-2-50. Regulations for Short-Term Rentals and Short-Term Rental Properties.



Attachment C

(1) General Regulations: During any lease of any Short-Term Rental Property, the Owner, or the Short-Term Rental Agent:

(a) Shall be available during any Short-Term Rental Period to respond to a complaint or other matter related to the operation or behavior of any Short-Term Lessee of the Short-Term Rental Property; and

(b) Shall be available by telephone at all times during the Short-Term Rental Period and capable of being physically present at the Short-Term Rental Property, or taking other responsive action, within one (1) hour of notification of a complaint or other matter related to the Short-Term Rental Property; and

(c) Shall prominently display in the Short-Term Rental unit contact information for the Owner or Short-Term Rental Agent responsible for responding to complaints; and

(d) Shall maintain fully operable and building and fire code compliant smoke and carbon monoxide detectors in the Short-Term Rental Property as required by law; and

(e) Shall maintain at least one (1), or such other number as is required by any applicable building, fire or other applicable code, fully operable and charged fire extinguisher; and

(f) Shall maintain unobstructed escape routes from the Short-Term Rental Property in the event of fire; and

(g) Shall notify all prospective Short-Term Lessees in writing of the existence of any swimming pool or hot tub at the Short-Term Rental Property and any safety equipment related to the swimming pool or hot tub prior to making any agreement for any Short-Term Rental.

(2) Noise Regulations: During any lease of any Short-Term Rental Property, the Owner, or the Short-Term Rental Agent:

(a) Shall display the following information in a prominent location in the Short-Term Rental Property:

(i) In The Town of Hilton Head Island, South Carolina, it is unlawful to unreasonably disturb the peace and quiet of those in their homes and public places (Title 17, Chapter 4, Town Code); and

(ii) Quiet hours are between 10:00 PM and 7:00 AM, though Town noise regulations are in force twenty-four (24) hours each day

(Title 17, Chapter 4, Town Code).

(b) Shall notify all prospective Short-Term Lessees in writing of the provisions of (2)(a)(i)(ii) above to the Short-Term Lessee prior to making any agreement for any Short-Term Rental.

(3) Trash Regulations: During any lease of any Short-Term Rental Property, the Owner, or the Short-Term Rental Agent:

(a) Shall maintain a designated trash storage area for use of Short-Term Lessees at the Short-Term Rental Property.

(i) The designated trash storage area shall be fenced or screened so that trash containers are not seen from public streets and neighboring property, except during designated pick-up times; and

(ii) The Owner shall prominently display instructions for managing trash disposal, including designated pick-up times and, if applicable, relevant property owner association requirements in the Short-Term Rental Property.

(iii) The Owner shall ensure any outdoor trash containers remain secured to avoid spills and pests.

(iv) The Owner shall ensure that trash containers are not placed curbside more than twenty-four (24) hours prior to scheduled pick-up times and will be removed no more than twenty-four (24) hours after pick-up.

(4) Parking Regulations. During any lease of any Short-Term Rental Property:

(a) The Owner must designate the number of vehicles allowed to be parked on the premises during any Short-Term Rental and designate the on-site areas available for parking of vehicles. The areas for parking of vehicles must be improved with either a pervious or impervious surface. Parking areas must include a space at least nine (9) feet by eighteen (18) feet for each vehicle allowed to be parked on the premises and improved with an impermeable or semi-impermeable surface. Areas for parking must comply with all applicable requirements of Sec. 16-1-101, et seq., *Municipal Code of The Town of Hilton Head Island, South Carolina* (1983).

(b) The Owner must notify all prospective Short-Term Lessees in writing of the maximum number of vehicles permitted at the Short-Term Rental Property prior to making any agreement for any Short-Term Rental.

- (c) The Owner must ensure that no vehicles associated with the Short-Term Lessee will park off-site, including in adjacent rights-of-way, during the Short-Term Rental Lease.

(5) Miscellaneous Regulations: During any Short-Term Rental Lease of any Short-Term Rental Property:

- (a) The Owner shall prominently display in any Short-Term Rental Property any Town-provided outreach and awareness materials related to applicable Town requirements.

- (b) Short-Term Rental Properties must be properly maintained and regularly inspected by the Owner or Short-Term Rental Agent to ensure continued compliance with this Chapter and all other applicable zoning, building, health and life-safety code requirements.

(6) In addition to the requirements of this Chapter, any Short-Term Rental Property must also comply with all other statutes, ordinances, regulations or private covenants applicable to the Short-Term Rental Property. Nothing in this Chapter is intended to authorize waiver of or limitations on compliance with any such requirements.

**Section 6 - Addition.** Section 10-2-60 of the *Municipal Code of the Town of Hilton Head Island, South Carolina* (1983), be and the same hereby added as follows:

Sec. 10-2-60. Violations.

- (1) Violations: It shall be a violation of this Chapter to:
  - (a) Lease any Short-Term Rental Property for a Short-Term Rental without complying with the requirements of this Chapter.
  - (b) Advertise any residential property for a Short-Term Rental without first complying with the requirements of this Chapter.
  - (c) Fail to comply with any requirement of this Chapter.

(2) Violations of this Chapter are subject to the penalties and remedies available under Sec. 1-5-10 – General penalty; continuing violation, Sec. 10-1-150 – Business and professional licenses; suspension or revocation of license, Sec. 9-1-111 – Public nuisance; prohibition, *et seq.* These remedies are in addition to any other remedies available at law or in equity for a violation.

**Section 7 - Addition.** Section 10-2-60 of the *Municipal Code of the Town of Hilton*

*Head Island, South Carolina (1983)*, be and the same hereby added as follows:

Sec. 10-2-70. Suspension or Revocation of Short-Term Rental Permit.

- (1) When the Town determines:
  - (a) A Short-Term Rental Permit has been mistakenly or improperly issued or issued contrary to law; or,
  - (b) An Owner has breached any condition upon which the Short-Term Rental Permit was issued; or,
  - (c) An Owner has obtained a Short-Term Rental Permit through any fraud, misrepresentation, a false or misleading statement, or evasion or suppression of a material fact in the Short-Term Rental Permit application; or,
  - (d) An Owner is delinquent in the payment to the municipality of any tax or fee; or,
  - (e) The operation of a Short-Term Rental Property has been declared a nuisance; or,
  - (f) More than two convictions for violations of the Municipal Code of the Town of Hilton Head Island, South Carolina, arising from any activities at, or connected with, a Short-Term Rental Property occur within any twelve (12) month period.

Then the Town may give written notice to the Owner that the Short-Term Rental Permit is suspended and may be revoked, pending a single hearing before Town Council for the purpose of determining whether the suspension should be upheld and whether the Short-Term Rental Permit should be revoked.

- (2) The written notice of suspension and proposed revocation shall state the time and place at which the hearing before Town Council is to be held and shall contain a brief statement of the reasons for the suspension and proposed revocation and a copy of the applicable provisions of this Chapter. The written notice shall be delivered by personal service to the Owner or Short-Term Rental Agent, or by certified mail, return receipt requested, addressed to the Owner or Short-Term Rental Agent at the address for the Owner or Short-Term Rental Agent shown on the application for the Short-Term Rental Permit. The written notice will be deemed to have been delivered on the date of personal service of the written notice as documented on an affidavit of service, or on the date that the certified mail return receipt is signed for by, or on behalf of, the Owner or Short-Term Rental Agent.

(3) The hearing before Town Council on the suspension and proposed revocation of any Short-Term Rental Permit shall be held by Town Council within thirty (30) days after delivery of the written notice described in this Section 10-2-60. The hearing shall be held upon written notice at a regular or special meeting of Town Council. The hearing may be continued to another date by agreement of all parties. At the hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by Town Council shall govern the hearing. Following the hearing, Town Council by majority vote of its members present, shall render a written decision setting out its findings of fact and conclusions. The written decision shall constitute the final decision of Town Council. The written decision shall be delivered to the Owner unless a different person and method of delivery is requested by the Owner at the hearing.

(4) The written decision of Town Council may be appealed in the same manner as appeals are made from the decisions of other administrative bodies of The Town of Hilton Head Island, South Carolina. An appeal, in and of itself, does not stay the effect of Town Council's decision

**Section 8 - Severability.**

If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 9 - Effective Date.**

This Ordinance shall be effective on its adoption by the Town Council for the Town of Hilton Head Island, South Carolina, but the enforcement of the regulations set out in this Ordinance shall begin on January 1, 2023.

PASSED AND APPROVED BY THE TOWN COUNCIL FOR THE TOWN OF  
HILTON HEAD ISLAND, SOUTH CAROLINA, ON THIS \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 2022.

\_\_\_\_\_  
John J. McCann, Mayor

ATTEST:

\_\_\_\_\_  
Krista M. Wiedmeyer, Town Clerk

Attachment C

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Approved as to form: \_\_\_\_\_  
Curtis L. Coltrane, Town Attorney

Introduced by Council Member: \_\_\_\_\_



## TOWN OF HILTON HEAD ISLAND

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### *Staff Report Memo*

**TO:** Mayor & Town Council  
**FROM:** Krista M. Wiedmeyer, Town Clerk  
**CC:** Marc Orlando, ICMA-CM, Town Manager  
Josh Gruber, Deputy Town Manager  
**DATE:** May 11, 2022  
**SUBJECT:** Dedication of the fountain at Shelter Cove Community Park in honor of Drew A. Laughlin, Mayor (2010-2014)

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#### **Recommendation:**

Town Council consider approving a Resolution dedicating the fountain at Shelter Cove Community Park in honor of Drew A. Laughlin, in recognition of his service as Mayor of Hilton Head Island and for his leadership in the development of Shelter Cove Community Park.

#### **Background:**

For many years, the original Mall at Shelter Cove had been in decline and there was much community concern given its size and location on the Island. A plan by then-owners to “save the Mall” by adding a multi-screen moving theatre along the back side of the property received a lot of community pushback and ultimately did not move forward.

Once the property was transferred to new ownership, a plan for a conversion of the property to an open-air commercial center anchored by a grocery store, was proposed, but remained uninspired and did not achieve the Town’s goals.

Mayor Laughlin understood that the Town could achieve something much better by engaging in a conversation to exchange adjacent Town owned land with the property’s new ownership. This exchange was fundamental in allowing for the creation of a waterfront park in the heart of Shelter Cove Towne Centre. It also allowed the Town to retain an area for hosting large-scale community events and would drastically improve the quality of this public space as an amenity for the entire community.

With support from Town Council, Mayor Laughlin worked with the new owners to develop the most attractive development that could be achieved; understanding that there remained several constraints limiting how the site could ultimately be used. The initial redevelopment plan identified the need to relocate power lines that if implemented, would have resulted in the removal of several significant oak trees. Mayor Laughlin pushed hard to shift this new alignment to minimize the impact through the removal of individual limbs rather than the removal of the entire tree.

Subject: Dedication of the Fountain at Shelter Cove Community Park

Page: 2

He successfully made the public case for this trade-off to ensure that the Shelter Cove Community Park became the world-class amenity that he knew it could be.

Mayor Laughlin was a major factor in the negotiations with the developers; and as they introduced ideas to cut costs, he remained steadfast in his demand that the Town receive a quality product. As a direct result of his efforts, the Shelter Cove Community Park has become an incredible amenity for the Hilton Head Island community and as additional improvement continue to be implemented such as the extension of public access further along the waterfront, its success becomes even more apparent.

**Attachments:**

- Resolution
- Mock-up of Dedication Plaque



**A RESOLUTION OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, DEDICATING THE FOUNTAIN AT THE SHELTER COVE COMMUNITY PARK IN HONOR OF DREW A. LAUGHLIN, FOR HIS ROLE AS MAYOR, IN THE DEVELOPMENT OF SHELTER COVE COMMUNITY PARK.**

**WHEREAS**, Drew A. Laughlin served as Mayor for the Town of Hilton Head Island from 2010 to 2014; and

**WHEREAS**, for many years, the Mall at Shelter Cove had been in decline and there was much community concern given its size and prominent location on the Island; and

**WHEREAS**, under Mayor Laughlin's leadership, discussions of the redevelopment of the Mall property ultimately included the creation of the Shelter Cove Community Park as a premier waterfront park located in the heart of Shelter Cove Towne Centre; and

**WHEREAS**, Mayor Laughlin, with support of Town Council, worked tirelessly with the Mall's new owners to achieve the type of attractive development that Hilton Head Island residents and visitors would be immensely proud to see built on their Island; and

**WHEREAS**, due to Mayor Laughlin's unwavering commitment to developing a world-class community park, on April 1, 2015, the Shelter Cove Community Park officially opened to the public with much success and adoration; and

**WHEREAS**, the park has continued to be an incredible amenity for the Hilton Head Island community and as additional improvements continue to be implemented, its success becomes even more apparent; and

**WHEREAS**, dedicating the fountain at Shelter Cove Community Park in honor of his role in the development of the park is a most fitting tribute to honor Drew A. Laughlin.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA:**

1. The fountain at Shelter Cove Community Park is hereby dedicated in honor of Drew A. Laughlin.

**MOVED, APPROVED, AND ADOPTED THIS 17<sup>th</sup> DAY OF MAY 2022.**

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**John J. McCann, Mayor**

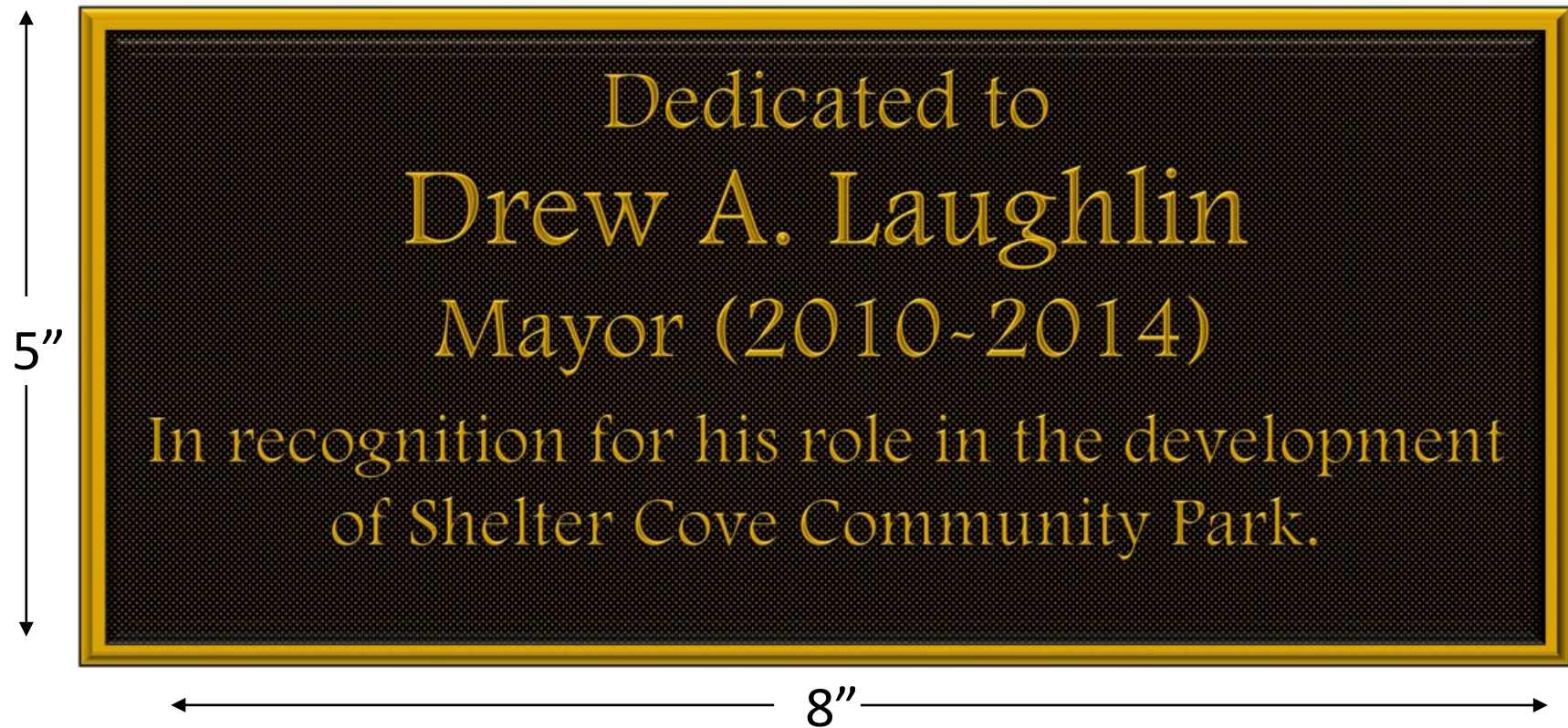
**ATTEST:**

**By:** \_\_\_\_\_  
**Krista M. Wiedmeyer, Town Clerk**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Curtis Coltrane, Town Attorney**

**Introduced by Council Member:** \_\_\_\_\_



Dedicated to  
**Drew A. Laughlin**  
Mayor (2010-2014)

In recognition for his role in the development  
of Shelter Cove Community Park.



## TOWN OF HILTON HEAD ISLAND

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### *Community Development Memo*

**TO:** Marc Orlando, ICMA~CM, *Town Manager*  
**FROM:** Missy Luick, *Principal Planner*  
**VIA:** Shawn Colin, AICP, *Assistant Town Manager – Community Development*  
**VIA:** Anne Cyran, AICP, *Interim Community Planning Manager*  
**CC:** Josh Gruber, JD, MPA, *Deputy Town Manager*  
**DATE:** May 3, 2022  
**SUBJECT:** Consideration of Proposed Ordinance 2022-08, Electric Bicycle (E-Bike) Ordinance

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**Recommendation:**

That Town Council adopt proposed Ordinance 2022-08, the Electric Bicycle (E-Bike) Ordinance.

On April 28, 2022, the Public Planning Committee voted to forward the proposed E-Bike Ordinance to Town Council with a recommendation of approval.

**Summary:**

Attachment A is a presentation including the Committee recommendation, a summary of the project background and history, a review of communication efforts and public feedback, a review of the proposed Ordinance, and ongoing considerations.

The Public Planning Committee authorized Town staff to prepare an Ordinance to allow e-bikes to be used on public pathways with reasonable regulations and education to ensure public safety. Adoption of the proposed Ordinance, Attachment B, will allow riders to use e-bikes on Town pathways, set an expected speed limit for e-bikes, and create expectations of pathway etiquette, supported by an educational handout on bike etiquette, Attachment C, to be provided at the point of sale of e-bike purchase or rental.

**Background:**

As electric bicycles (e-bikes) became increasingly popular on the Island, their use on Town-owned pathways raised concerns regarding the safety of e-bike users and other pathway users due to the high speeds at which they can operate. The Town's Municipal Code prohibits motor vehicles on publicly-owned pathways. However, South Carolina state law defines e-bikes as bicycles not motor vehicles, therefore they cannot be prohibited from Town-owned pathways without also prohibiting non-electric bicycles.

On June 16, 2021, staff provided to the Public Planning Committee a legal overview of South Carolina Laws and Code changes pertaining to e-bike definitions and regulations. From August to November 2021, staff held a series of stakeholder meetings on the topic with members of Bike Walk Hilton Head, bike rental business owners, community and Property Owners' Association managers, interested members of the public, and other community leaders.

On January 27, 2022, the Public Planning Committee authorized Town staff to prepare a draft Ordinance for their consideration regarding the use and regulations of e-bikes on Town-owned pathways. Additionally, the Committee requested that Town staff engage in communication efforts to both survey and gather responses from local bicycle-related business regarding these proposed efforts. Town staff sent survey letters to Island bike rental companies requesting input on how to best regulate the use of e-bikes and requested general feedback regarding regulating speed, enforcement, education, and bike etiquette. Attachment D includes the four responses received from the bike rental companies and interested parties.

There were two main areas of public comment: creation of pathway safety and etiquette materials and the required use of e-bike speed-limiting technology. There was wide support for the pathway etiquette and safety messaging, but some concern was expressed regarding requiring local business to distribute the materials instead of the Town. As far as limiting the speed of e-bikes there were concerns expressed regarding this recommendation. Some felt the 12 mile per hour speed limitation was too low, while some thought it was too high. Additionally, some felt the speed restriction is not necessary and places an undue burden on the business owner to make alterations to bicycles from their factory settings. One commenter stated they believe this could cause problems with their manufacturer's warranty.

In February and March 2022, the Town met with representatives from Bike Walk Hilton Head to discuss the creation of a safety, education, and etiquette message that would accompany the rental or purchase of a bike or e-bike at the point-of-sale. The etiquette document, Attachment C, is a bike safety and education message that applies to all pathway users, not just e-bikes. The etiquette guidelines were approved and endorsed by Bike Walk Hilton Head.

The proposed Ordinance amends the Municipal Code to:

- Amend Town Code to define that certain types of lower speed e-bikes are permitted on Town pathways; and
- Require that bicycle shops distribute bicycle safety/etiquette materials with each transaction; and
- Require the use of preexisting technology (governor) that would limit the speed at which an e-bike helper motor would continue to function to no greater than 12 miles per hour and that that a label indicating its horsepower and maximum assisted speed be affixed to the e-bike; and
- Establishes an enforcement mechanism for the lease or sale of e-bikes per existing Town nuisance and violation codes.

Ongoing considerations include but are not limited to possibly adding pathway signage depicting etiquette and other pertinent safety practices at critical areas and focal points of congestion along Town pathways, examining transportation related issues within the Pope Avenue Streetscape project in the FY-2022/2023 Capital Improvement Plan, further partnering with the Bike Walk Ambassador program to promote safe pathway behavior and etiquette, continue to monitor the pathway safety programs, and continue to monitor other e-equipment (i.e. e-scooters) usage within the Town.

On April 28, 2022, the Public Planning Committee voted to forward the proposed E-Bike Ordinance to Town Council with a recommendation of approval.

**Attachments:**

- A. Presentation
- B. Proposed Ordinance 2022-08
- C. Educational Handout on Bike and E-Bike Etiquette
- D. Responses from Bike Rental Companies and Interested Parties

# Electric Bicycle (E-Bike) Ordinance

TOWN OF HILTON HEAD ISLAND, SC

Town Council | May 17, 2022



# Electric Bicycle (E-Bike) Ordinance

## Presentation Overview

1. Recommendation
2. Project Background
3. Project History
4. Review of Communication Efforts
5. Review of Public Feedback
6. Review of Draft Ordinance
7. Ongoing Considerations
8. Recommendation and Questions





# Electric Bicycle (E-Bike) Ordinance

## Recommendation

- That the Town Council adopt the proposed Electric Bicycle (E-Bike) Ordinance.
- On April 28, 2022, the Public Planning Committee voted to forward the proposed E-Bike Ordinance to Town Council with a recommendation of approval.



# Electric Bicycle (E-Bike) Ordinance

## Project Background

- The presence and utilization of electric bicycles (“e-bikes”) is growing at a rapidly increasing rate.
- This technology provides many positive attributes in allowing older individuals, individuals with disabilities, commuting workers, and people who may be new to biking, the ability to ride a bicycle and enjoy the Town’s recreational pathways.
- However, the use of e-bikes has led to increased demand on the Town’s pathways and therefore presents the need for education and regulations to ensure the continued safety of all bicyclists and pathway users.



# Electric Bicycle (E-Bike) Ordinance

## Project History

June 16, 2021 – Public Planning Committee Discussion

- Overview of South Carolina Laws and Codes pertaining to E-Bike definitions and regulations.
- Municipal Association of South Carolina (MASC) General Counsel Legal Opinion confirming support for the Town Attorney's interpretation that e-bikes are considered bicycles. E-bikes cannot be prohibited from Town pathways without also prohibiting non-motorized bicycles.

August to November 2021 – Stakeholder Meetings

- Members of Bike Walk Hilton Head
- Bike Rental Business Owners
- Community/POA Managers
- Interested Members of the Public
- Other Community Leaders



# Electric Bicycle (E-Bike) Ordinance

## Project History (continued)

January 27, 2022 – Public Planning Committee Discussion

- The Committee directed staff to prepare a draft Ordinance for their consideration regarding the use and regulations of e-bikes on Town-owned pathways.
- The Committee requested that staff engage in communication efforts to both survey and gather responses from local bicycle-related businesses regarding the proposed efforts.



# Electric Bicycle (E-Bike) Ordinance

## Project History (continued)

February to March 2022 – Staff Communication Efforts

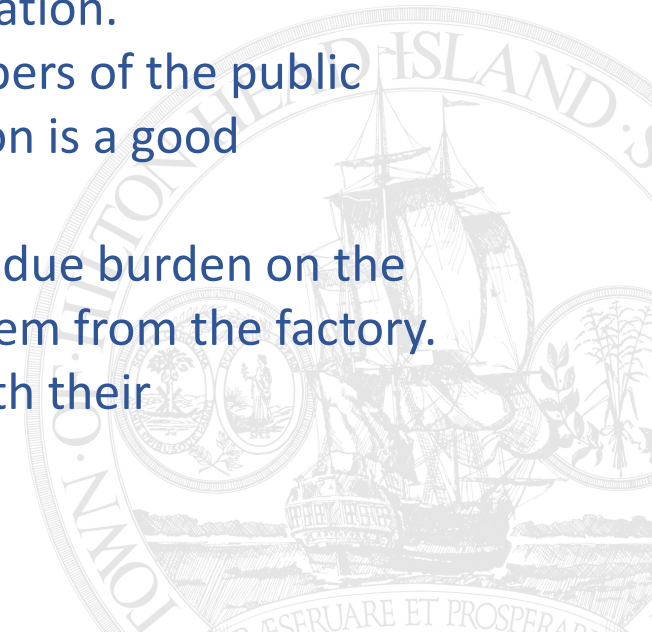
- Sent written correspondence to bicycle rental or sales business requesting input on how to best regulate the use of e-bikes (37 letters issued).
- Provided draft documents to Bike Walk Hilton Head Island.
- Bike Walk Hilton Head Island approved and endorsed Bike/E-Bike Etiquette Message.
- Received four written responses to Town survey letter. See Attachment C.



# Electric Bicycle (E-Bike) Ordinance

## Review of Public Feedback

- Two main areas of public feedback:
  1. Creation and distribution of safety/etiquette materials
    - Wide support for the creation and distribution of these materials.
    - Some concern by local businesses that the burden should remain on the Town for distribution, but otherwise many bike rental/sale businesses are on board with supplying this information.
  2. Required use of speed limiting technology
    - Several businesses have expressed concerns regarding this recommendation.
      - Some believe the speed limit to be set is too low while some members of the public think it is being set too high. Staff believes that the recommendation is a good compromise figure.
      - Some believe that this restriction is not necessary and places an undue burden on the business to make alterations to the bicycles than what comes to them from the factory. One has stated that they believe that this could cause problems with their manufactures warranty.



# Electric Bicycle (E-Bike) Ordinance

## Review of Draft Ordinance

As currently presented, the draft Ordinance would amend the Town's code to address four (4) key points.

1. Amend Town Code to define that certain types of lower speed e-bikes are permitted on Town pathways.
2. Require the distribution of bicycle safety/etiquette materials with each transaction.
  - Materials have been produced in cooperation with Bike Walk Hilton Head Island and affected business owners.
3. Require the use of preexisting technology (governor) that would limit the speed at which a helper motor would continue to function to no greater than 12 miles per hour.
4. Establish an enforcement mechanism for the lease or sale of electric-assist bicycles per existing Town nuisance and violation codes.

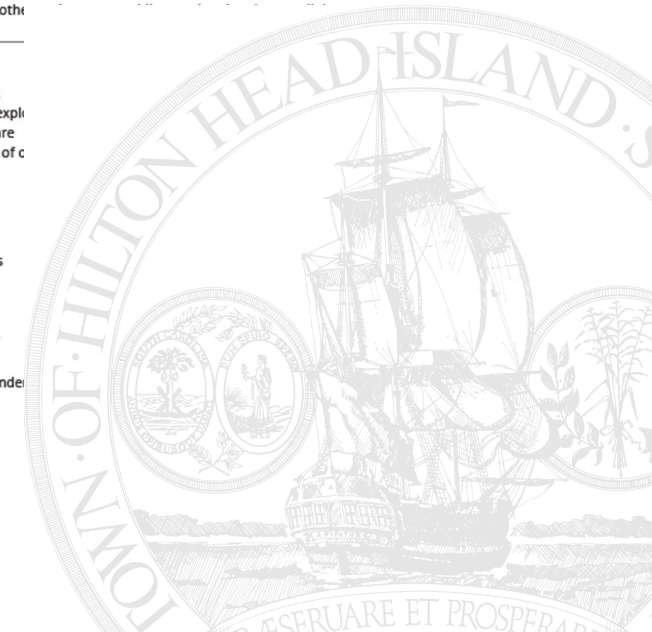


**KNOW THE LAW**  
In South Carolina, motorists have the right of way at all crosswalks, intersections and curb cut entrances.  
On pathways, pedestrians have the right of way.  
Please be courteous and respect of oth

### PATHWAY SAFETY

Pathway safety is important! All pathway users should adhere to the guidelines below as you enjoy the Island's trail experience. These guidelines are provided to ensure everyone's safe enjoyment of recreational resources.

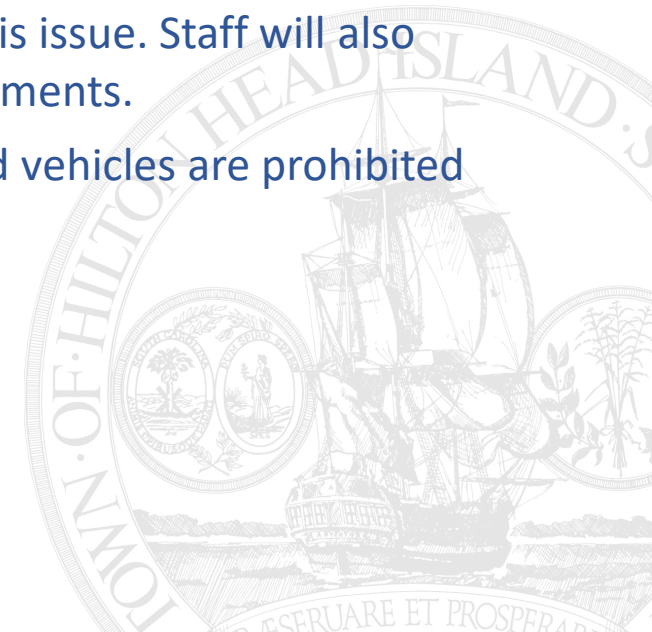
- Keep right, pass left
- Announce to pass: Use your bell or voice ("passing on your left") when passing others
- Observe a 12 MPH speed limit on pathways
- If you stop, pull off the path
- At intersections, stop, look, listen. Make eye contact with turning traffic
- Wear a helmet, especially children 12 and under
- Respect all pathway users



# Electric Bicycle (E-Bike) Ordinance

## Ongoing Considerations

1. Add pathway signage depicting etiquette and other pertinent safety practices at critical areas and focal points of congestion along Town pathways.
2. Advance Pope Avenue streetscape project in the upcoming FY-2022/2023 Capital Improvement Plan to examine transportation related issues within this area. Items of study would include but would not be limited to, increasing pathway widths to align with AASHTO standards and enhance bicycle/pedestrian capacity, adding on-street bicycle lanes or multi-purpose travel lanes, uniform striping and signage, use of technology to improve safety and congestion, and other similar aspects for this corridor.
3. Further partner with the Bike Walk Ambassador program to educate and promote safe behavior and etiquette.
4. Staff recommends that all above items be implemented as a continuing approach to this issue. Staff will also continue to monitor the pathway safety programs for any potential additional enhancements.
5. Staff is continuing to monitor other e-equipment within the Town. Currently, motorized vehicles are prohibited on Town pathways.





# Electric Bicycle (E-Bike) Ordinance

## Recommendation

- That the Town Council adopt the proposed Electric Bicycle (E-Bike) Ordinance.
- On April 28, 2022, the Public Planning Committee voted to forward the proposed E-Bike Ordinance to Town Council with a recommendation of approval.

Questions?



**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND**

**ORDINANCE NO.**

**PROPOSED ORDINANCE NO. 2022-08**

**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND TO AMEND CHAPTER 1 (OPERATION OF MOTOR VEHICLES) OF TITLE 12 (MOTOR VEHICLES AND TRAFFIC CONTROL), OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, BY AMENDING SECTION 12-1-110 OF ARTICLE 1 (MOTOR VEHICLE DEFINED), SECTION 12-1-512 OF ARTICLE 5 (MOTOR VEHICLES PROHIBITED ON PATHWAYS), AND ADDING ARTICLE 6 (ELECTRIC-ASSIST BICYCLES); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council originally adopted Chapter 1 of Title 12 on February 6, 1984 and subsequently amended Chapter 1 of Title 12 on May 20, 1985, July 6, 1987, September 17, 1990, June 6, 1995, and July 3, 2001; and

**WHEREAS**, electric-assist bicycles have gained popularity across the United States and have increased significantly in number on the publicly-owned pathways within the Town of Hilton Head Island; and

**WHEREAS**, the South Carolina General Assembly adopted Act No. 114 in 2020 amending the South Carolina Code of Laws Section 56-1-10 by adding a definition of “electric-assist bicycles”; and

**WHEREAS**, through research, public input and feedback, Town Council finds that certain electric-assist bicycles should be allowed for use on publicly-owned pathways with safety regulations; and

**WHEREAS**, to protect the general health, safety and welfare of the citizens and visitors of and to the Town of Hilton Head Island, Town Council desires to establish reasonable regulations for electric-assist bicycles to include the issuance of mandatory educational/safety training materials in connection with the rental and sale of electric-assist bicycles and to require the utilization of technology on electric-assist bicycles to limit the maximum speed at which a helper motor will continue to supply power for any electric-assist bicycle allowed to be used on a publicly-owned pathway; and

**WHEREAS**, Town Council now desires to amend Chapter 1 (Operation of Motor Vehicles) of Title 12 (Motor Vehicles and Traffic Control) to allow the use of electric-assist bicycles on publicly-owned pathways. .

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AND**

**IT IS HEREBY ORDERED AND ORDAINED BY AND UNDER AUTHORITY OF SAID TOWN COUNCIL, AS FOLLOWS:**

**Section 1: Amendment.** That the amendments to Chapter 1 of Title 12 are adopted and the Municipal Code of the Town of Hilton Head Island is amended as shown on Exhibit "A" to this Ordinance. Newly added language is illustrated with **underlined and bolded portions.**

**Section 2: Severability.** If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 3: Effective Date.** This ordinance shall be effective upon adopting by the Town Council of the Town of Hilton Head Island, South Carolina.

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL OF THE TOWN OF HILTON HEAD ISLAND ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.**

By: \_\_\_\_\_  
John J. McCann, Mayor

**ATTEST:**

By: Krista M. Wiedmeyer, Town Clerk

First Reading: \_\_\_\_\_, 2022

Second Reading: \_\_\_\_\_, 2022

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Curtis L. Coltrane, Town Attorney

Introduced by Council Member: \_\_\_\_\_

# Attachment B

## EXHIBIT "A"

### TITLE 12 MOTOR VEHICLES AND TRAFFIC CONTROL<sup>1</sup>

#### Chapter 1 OPERATION OF MOTOR VEHICLES

##### **ARTICLE 1. GENERAL PROVISIONS**

###### **Sec. 12-1-110. Motor vehicle defined.**

For the purpose of this chapter, the term "motor vehicle" shall mean every device by which a person or property may be transported or drawn upon a highway by mechanical means, including, but not limited to, automobiles, trucks, buses, motor homes, motorized campers, boats, airplanes, motorcycles, motor scooters or tractors. **The term motor vehicle does not include "electric-assist bicycles," as defined by S. C. Code Ann. § 56-1-10(29).**

##### **ARTICLE 5. PATHWAYS**

###### **Sec. 12-1-511. Motor vehicles prohibited on pathways.**

Any publicly owned pathway or lane designed for pedestrians or bicycles shall not be traversed or utilized in any way by any of the following:

- (1) Cars, trucks, tractors, or any other motorized vehicles, with the exception of emergency vehicles, authorized maintenance vehicles, or electric-powered wheelchairs for the handicapped.
- (2) Motorcycles, motor-assisted bicycles such as mopeds, motor scooters, golf carts, lawn mowers, all-terrain vehicles, go-carts, or any other similar, small motorized vehicles.
- (3) Horses or any other large animals, except for small pets such as dogs and cats on a leash.
- (4) Surreys and other types of carriages.

###### **Sec. 12-1-512. Electric-assist Bicycles or Bicycles with Helper Motors.**

**"Electric-assist bicycles" or "bicycles with helper motors," as defined by S.C. Code Ann. § 56-1-10(2), and Sec. 12-1-610 of this Code may traverse and utilize any publicly owned pathway designed for pedestrians or bicycles. Bicycles with electric motors that exceed the limitations for an "Electric-assist bicycle" or a "bicycle with helper motor" set out in S. C. Code Ann. § 56-1-10, are prohibited on publicly-owned pathways.**

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<sup>1</sup>**Cross reference(s)**—Vehicles on beaches, § 8-1-211; traffic flow design standards, § 16-5-501 et seq. **State law reference(s)**—Obedience to traffic laws, generally, S.C. Code 1976, § 56-5-730; obedience to authorized person directing traffic, § 56-5-740.

**ARTICLE 6. ELECTRIC-ASSIST BICYCLES**

**Sec. 12-1-610. Purpose.**

**The purpose of this article is to maintain public safety on publicly-owned pathways designed for pedestrians and bicycles.**

**Sec. 12-1-611. Electric-assist bicycle defined.**

**For the purpose of this chapter, the term "electric-assist bicycle" is as defined in S. C. Code Ann. South Carolina Code of Laws § 56-1-10(29).<sup>2</sup> The term includes "bicycles with helper motors".**

**Sec. 12-1-612. Public Safety Provisions.**

- (1) Any business engaged in renting or selling "electric-assist bicycles," as well as all other electric bicycles that exceed the speed or motor power of "electric-assist bicycles," must provide a Town-issued safety and etiquette pamphlet upon each transaction to consumers.**
- (2) An "electric-assist bicycle," operated on publicly-owned pathways and roads in the Town of Hilton Head shall have a label permanently affixed to the device indicating its wattage or horsepower and maximum electrically assisted speed, as required by S.C. Code Ann. § 56-1-10(29). To the extent that such "electric-assist bicycle" possesses the technological capability to have the maximum speed limit at which an electrically assisted motor will disengage, such technological capability shall be utilized to set the maximum speed at which an electrically assisted motor will disengage when the electric-assist bicycle reaches a speed of twelve (12) miles per hour.**

Sec. 12-1-613. Violations and Penalties.

- (1) Violations. It shall be a Violation of this Chapter to:
  - (a) Fail to comply with any requirement of the Chapter.
- (2) Violations of this Chapter are subject to the penalties and remedies available under Sec. 1-5-10, Sec. 10-1-150, Sec. 9-1-111, *et seq.* These remedies are in addition to any other remedies available at law or in equity for a Violation.

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<sup>2</sup> "

S. C. Code Ann. § 56-1-10(29) "Electric-assist bicycles" and "bicycles with helper motors" means low-speed electrically assisted bicycles with two or three wheels, each having fully operable pedals and an electric motor of no more than 750 watts, or one horsepower, and a top motor-powered speed of less than twenty miles an hour when operated by a rider weighing one hundred seventy pounds on a paved level surface, that meet the requirements of the Federal Consumer Product Code provided in 16 C.F.R., Part 1512, and that operate in a manner such that the electric motor disengages or ceases to function when their brakes are applied or the rider stops pedaling. Manufacturers and distributors of electric-assist bicycles shall apply a label that is affixed permanently, in a prominent location, to each electric-assist bicycle, indicating its wattage and maximum electrically assisted speed. The owner or user of an electric-assist bicycle shall not remove or tamper with the label. If a user tampers with or modifies an electric-assist bicycle, changing the speed capability, he must replace the label indicating the vehicle's wattage or horsepower. Electric-assist bicycles and bicycles with helper motors are not mopeds.

(3) Any business or individual engaged in the leasing or sale of electric-assist bicycles that is the subject of three or more convictions of violations of this Chapter in any twelve-month period shall be declared a nuisance under Sec. 9-1-111, *et seq.*, and the violator shall be subject to all remedies available to the Town under Sec. 1-5-10, and 10-1-150.

# WE'RE A BIKE FRIENDLY COMMUNITY!



Town of Hilton Head Island

## BIKE/E-BIKE ETIQUETTE



### KNOW THE LAW

In South Carolina, motorists have the right of way at all crosswalks, intersections and curb cut entrances.

On pathways, pedestrians have the right of way.

Please be courteous and respect of other pathway users, bikes, and pedestrians at all times.

### PATHWAY SAFETY

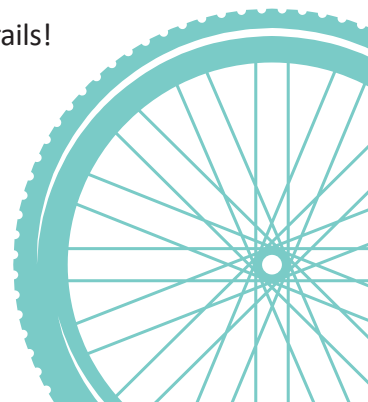
Pathway safety is important! All pathway users should adhere to the guidelines below as you explore the Island's trail experience. These guidelines are provided to ensure everyone's safe enjoyment of our recreational resources.

- ⦿ Keep right, pass left
- ⦿ Announce to pass: Use your bell or voice ("passing on your left") when passing others
- ⦿ Observe a 12 MPH speed limit on pathways
- ⦿ If you stop, pull off the path
- ⦿ At intersections, stop, look, listen. Make eye contact with turning traffic
- ⦿ Wear a helmet, especially children 12 and under
- ⦿ Respect all pathway users

### E-BIKE ETIQUETTE

These safety and etiquette guidelines apply to all bike riders including e-Bike riders while on Island pathways. Before you ride, it is important to understand an e-Bike is different from other bicycles. It can be faster, heavier, handles differently, needs longer stopping distances, and requires some practice to operate. Practice mounting, dismounting, stopping, and starting your e-Bike in a safe location prior to your first ride.

Have fun, stay alert and happy trails!



**Luick, Missy**

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**From:** Frank Babel <[REDACTED]>  
**Sent:** Tuesday, January 25, 2022 4:22 PM  
**To:** Gruber, Josh  
**Cc:** Luick, Missy; Steve Alfred; Jim Hall; Frank Babel  
**Subject:** Comments of potentail e-bike regulations from Bike Walk HHI

**THIS MESSAGE ORIGINATED OUTSIDE YOUR ORGANIZATION**

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Josh

Steve Alfred, Jim Hall and I from Bike Walk HHI have reviewed the materials you forwarded in connection with the e-bike regulation presentation at Thursday's upcoming meeting of the Public Planning Committee of Town Council. The e-bike matter is something we have been involved in for an extensive period of time. We appreciate your reaching out to us. Here is our input for your consideration:

1. Post Speed Limit Signs. We are proponents for reasonable speed limits on the pathways and beach. But we have concerns about the limit of rental controllers eliminating pathways safety concerns from e-bikes. We have found from long experience that a "point of sale" approach is the most effective means of reaching cyclists and pedestrians; that is, the information should be placed at the location where it is to be applied. Therefore, we believe the most effective way to reach cyclists is to start with a phased in approach and post speed limit signs on our most heavily traveled bike pathways including Pope Ave., North and South Forest Beach, Cordell Pkwy. and some stretches of the Wm. Hilton Pkwy. Even if enforcement of posted speed limits is not practical, at least cyclists will be aware of what the appropriate conduct is or should be. That alone should have some benefit and provide guidance if coupled with other planned bike-ped courtesy/etiquette efforts being contemplated by the Town and Bike Walk HHI in the not too distant future. Moreover, limiting efforts to HHI bike shops omits a very sizable number of e-bikes that are in private hands here or brought onto the Island and not rented or purchased through our local bike shops. We believe that the number of e-bikes in private hands now exceeds the number in the rental fleet and are increasing rapidly in number. Therefore, with the number of private bikes destined to greatly outnumber rental e-bikes, the approach we are suggesting would not place an undue burden on rental companies limiting their controllers.

2. Suggested Speed Limits. We are generally of the opinion that safe speed limits on highly-traveled pathways range from 8 mph in tight or visibility limited conditions to 12 mph on our busiest pathways. We suggest that this be verified by local speed studies observing and measuring cyclists behavior with potentially different limits based upon conditions. The speed governor on e-bikes is an entirely separate matter, unrelated to this regulatory effort. Those limits cannot exceed 20 mph under existing laws although some of our local bike shops may favor a lower number, such as 16 mph for general safety reasons. The reason that the speed limit set on the governor should be separate is that those e-bikes can be ridden elsewhere than on HHI pathways, in situations where it is entirely appropriate to ride at a speed faster than 12 mph. An example would be the Pope Ave. bike lanes once they are up fitted.



3. The Beach. Guidance should also be developed for riding e-bikes on the beach. This past spring, there was an incident of a half-dozen or so teenagers with locally-rented e-bikes racing them on the beach, where toddlers walk back and forth between their blankets and the ocean. We recommend that Beach Services employees in vehicles be tasked to approach faster riding e-bike on the beaches and issue a warning. If speeding and reckless behavior persists over the summer, a more aggressive approach may be warranted. But we would recommend reliance on safety and courtesy information being read and required as a basis of an e-bike rental, as has been recommended.

We strongly agree with the suggestions regarding bicycle safety courtesy/etiquette materials required to be read and signed for as a condition of e-bike rentals along with a public education program specifically targeted to educate pathways users- both cyclists and pedestrians. We believe such programs are long overdue on our island given current demands on our pathways system, technology changes and anticipated growth.

Thank you for your consideration.

Steve Alfred, Jim Hall, Frank Babel  
Bike Walk HHI

**Luick, Missy**

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**From:** Jason Bullock [REDACTED]  
**Sent:** Sunday, January 23, 2022 2:14 PM  
**To:** Luick, Missy  
**Cc:** Cindy Bullock; Lewis Teri; Farrar, Shea; Busch, Diane  
**Subject:** E-Bike Letter

**THIS MESSAGE ORIGINATED OUTSIDE YOUR ORGANIZATION**

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Missy,

I received your letter dated January 20, 2022 today regarding E-Bikes. I'm sorry that I did not know about the December 16th meeting, I would like to have attended. How do I get on the distribution list of the meeting notices again? We once received information, but it appears we were removed. I know there are some in the industry that would prefer we not be a part of those discussions, but as those with the largest bike inventory on the island, our regular and direct input can be useful. We would like to be a part of the January 27th, February 24th and all future meetings. With regard to our answer below, I request the entirety of my email be made a part of the public record.

While we agree E-Bikes are here to stay and personal riders should be allowed to ride as they see fit, we disagree with the concept of renting electric bikes. However, we recently came to the conclusion the Town will either take no action or not enact a ban on renting them and have begun increasing our inventory and will continue to do so through 2022. We were sold out over the holidays and actually needed to assemble all of the electric bikes in our retail inventory to accommodate the rental demand. The consumers have spoken and they want the assistance of electric motors. The only problem is they have the same lack of care for electric bikes as they do for our other products. We find they abuse and don't lock \$1,500 bikes the same way they do \$250 bikes and are unfortunately now experiencing theft of the E-Bikes, which the customer begrudgingly is responsible for repayment. This is a great example of how we can communicate in 3 different methods (orally, email, and text) during 5 different events the importance of locking a bike and they still don't do so. I say this because if the renters can't understand after all that communication to use a lock, they are not going to comprehend anything we say about E-Bike rules and regulations.

With regard to the specific questions raised in your letter our answers are as follows:

Speed:

- Speed limits are going to be more trouble than they are worth. The Town is ineffectual in their enforcement of current rules and requirements. What makes the Town think it can enforce speed limits on pathways? Having a rule that is unenforced or inconsistently enforced is worse than no rule at all.
- If you do make the mistake of instituting a speed limit, having them be different in different places will be even more difficult to enforce.

Enforcement:

- If there is safety material distributed it should be produced by the Town and provided to each of the bike shop operators. That way there is one, consistent message given to all riders and does not allow for us to use the information for marketing differentiation.

## Attachment D

- Signs are a waste of resources. How many times have each of us almost run over a bike rider at an intersection? Riders don't pay attention to the stop and yield signs on the path, why would they pay attention to detailed rules?
- Bike Ambassadors are nice and can give people info, but I don't think they will affect behavior.
- We can give the consumer information, but as above we can't be responsible for their actions. Once the products are in their hands there is nothing we can do. Just as we can't make them lock the bike or stop at an intersection, we can't control how they ride the bike.
- It is illegal for us to modify a bicycle. The bikes are built to a specification - Federal standard and Manufacturer's. A retailer modifying the product transfers liability from the manufacturer to themselves. The Town requiring us to improperly modify a bike would then make the Town a party to that liability. We can ask that the consumer adjust the max speed themselves, but can not force it on them or do it for them.
- Again, we can hand out Town produced information.
- People have free will. Just as Hertz is not going to take a car back from you if you get multiple parking tickets, we can't take a bike back for multiple path and/or beach rule infractions. If the Town is going to institute rules, then it is up to the Town to enforce them. The Town can not enact a rule and then put enforcement to the private sector.
- Business Licensing should be done consistently with what is promulgated in the LMO. I'm guessing this question is written specifically about me. I've played by the LMO rules as they are written, made very specific business decisions, and spent considerable sums of money based on those rules. For others to be able to benefit from not following the LMO requirements and then the Town not enforcing the LMO as written means the Town is providing a competitive advantage to those who break the rules. That competitive advantage means the Town is allowing the rule breakers to be more profitable than those that follow the LMO. To then consider changing the rules because one or two people figured out how the LMO can benefit them further puts the Town in a position of picking winners and losers. Leave the LMO as written and enforce what is written.
  - I do believe the Town should have specific requirements for the minimum level of General Liability, Workers Compensation, and Automobile Insurance for bike operators and make them part of our Business License. This ensures the consumer is dealing with a reputable, professional company and should there be a problem, has the resources to be able to properly cover issues. The large operators have something to lose and are most likely well covered as we are. Those with smaller operations or limited assets are less likely to spend the considerable amount for proper insurance. This will also limit the chance for a bike operator to make illegal cash payroll payment to employees. These cash payments unfairly penalize the worker in the long run with lower Social Security wages, while providing the employer with improper gain.

### Pathway Traffic Control:

- These are all great courtesy rules, but we know that people rarely follow rules like these. How many of us drink alcohol out of a red solo cup on the beach, speed on 278, or let our dog run on the beach without a leash? We all know these things are against the law, but still consciously decide to not follow the rule and risk penalty. When the pain of that penalty is low - such as bikes path rules and regulations - the chances of noncompliance increase. The Town can ask people to do these things, but unfortunately many people don't see the need to have common courtesy anymore.

The next important question the Town needs to grapple with is what is an "E-Bike" and do you attempt to enforce regulations for electric things on the beach and path. For example, which of these two wheeled things are an E-Bike:











If the definition of something that achieves 20 mph max speed is applied then they are all E-Bikes except for the thing that looks like a traditional bicycle with pedals - it is a Class 3 E-Bike. How will an enforcement officer be able to determine what is and is not allowed on the paths? Why should only a pedaled E-Bike be able to be ridden on the path or beach? There is an older woman I regularly see riding the path near Palmetto Dunes on something similar to the above white scooter with the seat and rear basket. She is traveling in the 15ish mph range, on the right, and wearing a helmet. Will she still be able to ride this style of 2 wheeled thing on the path or will the new regulations only allow Class 1 & 2 E-Bikes with pedals?

In the end, there is really nothing the Town can do for personal use of electric things on the beach and path. There are many residents with One Wheels, E Bikes of all kinds, electric scooters, etc. Those riders are not the problem because there are not enough of them to be disruptive. The problem comes when you get hundreds or thousands of visitors renting electric things combined with the fun and carefree nature of being on vacation. They are paying the extra money over a traditional bike for the fun of it - faster than they can pedal and something different than they have at home. They want to go fast, that is part of the thrill. They want it to be different - the cooler the better. They do not want to be told what they can and can't do and where they can and can't do it.



So, for one last time I offer to dispose of my rental E Bike inventory in support of the Town enacting a ban on renting electric bikes. If residents have electric things or a tourist brings them from home, let them have fun since there are not enough to matter. Eliminating rental electric bikes is the simplest and only way to really provide safer use of the beach and path.

Thank you for taking the time to read my thought and answers. We look forward to being a larger part of these discussions.

Jason

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C. Jason Bullock

C/

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January 25, 2022

Ms. Missy Luick  
Senior Planner  
Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928

Dear Ms. Luick,

I received your survey letter today and appreciate that the Town is soliciting input from stakeholders including the bike shops. As background, my wife and I purchased HHBC in May, 2020, and moved to the Island full time. We had been visitors for over 20 years and always loved biking on the Island so having a bike shop is a dream come true for us. After purchasing the shop, we brought on ebikes as part of our rental fleet and we are also one of the leading shops selling ebikes on the Island. Over the last two years we have learned a lot about how ebikes are being used and our experience has been extremely positive and the feedback from customers has also been excellent.

We also collect data from our customers that includes birth dates. Each customer signs a waiver whether they are renting or taking a bike for a test ride. Of interest is the median age of our rider is 54, meaning that half of the riders are older than that, and the average age is 50. About 8% of our riders are 21 or younger and almost all of them were part of rental groups with their parents. In short, our experience validates that the vast majority of riders are:

- Older
- Many have orthopedic issues
- A large portion are people getting back on bikes after years of non-riding
- Having a lot of fun

Our experience has been fortunate so far as we have had zero complaints about our renter's behavior, nor have we had any accidents involving our bikes. Our ebikes are easily identified and clearly display our company name and phone number. While many people have expressed concerns and anecdotes about ebikes being used on the Island, our extensive experience demonstrates these situations are not as frequent as some people believe. So I begin by asking just how serious this problem is or are a few anecdotes driving the negative discussion?

Here are my thoughts on your survey questions:

#### SPEED

I currently ride my regular bike at 12-15 mph on many of our paths. I support posting speed limits which should vary based on density and path conditions. There are plenty of places where more than 12mph is safe and areas where due to congestion 12mph is not safe. If any committee member would like to ride an ebike and see what 8mph is like, they can come to our shop and we will happily let you take a bike. A person running 7.5 minute miles would pass someone on an ebike at that speed, and it is actually a little difficult to ride our bikes at speeds lower

## Attachment D

than 8mph while using pedal assist. Our staff here at the shop includes experience cyclists, and as a team we would support speed limits of 10-12 MPH in congested areas and 18MPH in non-congested areas. Areas around Coligny and where paths have tight turns and blind spots would be the lower while paths on 278 with long straightaways, Marshland, and Mid Island could support higher limits.

As for the beach, common sense is the primary issue- you just can't ride through crowds at higher speeds, and that behavior should be stopped. One anecdote that is often cited is a group of teenagers that were reported with high speed on the beach. What is important to know is that the people citing this story were not there and reports of 35mph were circulated. Standing still it is very difficult to actually recognize speed and the bikes cannot do that speed. More importantly, this one incident was reported to me and while they were not our bikes I knew who had rented them. I called the owner of that rental company and he personally went to the home of the renters, notified them about the complaint and turned the maximum speed of the bikes down. I do not doubt that there are valid concerns, however the vast majority of people riding ebikes do so responsibly.

Anecdotes that don't get the same attention include a recent customer of our shop who is legally blind and now uses his ebike to commute to his job at Publix. In fact, there are several of our ebikes parked at Publix everyday and are used by workers there. For another customer who had braces on both legs, we customized his bike to allow him to carry his crutches. My point is there is way more good happening with the use of ebikes and that is why sales continue to grow.

### Enforcement-

I agree with:

- Providing safety materials
- Signs encourage courtesy and etiquette
- Expanding Bike Ambassador program although not in any enforcement role
- Bike shops can be a resource and play an active role in education and safety and can have policies to revoke rentals for reported poor behavior on bikes.
- Bike shops should provide education on safety and etiquette
- Safety and etiquette should be coordinated with a campaign from the Town.

I do not agree that:

- Shops should be required to govern bikes below what is allowed by state law.
  - Bikes can and will be ridden on streets and need to keep pace with traffic
  - Many people are using ebikes to commute, reducing the speed of the bike will discourage this
  - The vast majority of riders bike responsibly, and adding regulations are not the best way to change bad behavior by a small group of people.
  - There are plenty of places where riding at 18-20mph is fun and can safely be done.
  - Not all bikes have the ability to govern speed. Some of the bikes we have that can be governed are only changed in pedal assist mode, but can still go up to 20 MPH using the throttle.
  - Governing speed does not stop someone from pedaling the bike faster than 12 MPH.
  - Anybody with access to Google can figure out how to reprogram the controllers as they are not password protected.
  - There are plenty of bikes that do not have controller enabled governing, so this requirement is easily circumvented.

### Business Licensing-

## Attachment D

I have strong concerns about this based on what has happened over the last two years. The bike shop community is currently dealing with targeted enforcement of ordinances. One bike shop successfully lobbied the Town to enforce existing ordinances against competitors. At times, this has resulted in bike shops having to hire lawyers and at least one bike shop closing. In several other cases it resulted in thousands of dollars in wasted expense only to have the Town ultimately agree with the shop regarding compliance and/or with business licenses. I am not in favor of giving the Town more authority when it is then used by competitors to push the Town toward enforcement. When shops are forced to spend time and money to defend themselves, and ultimately the Town agrees with the defense, there is no consequence to the competitor that started the investigation. I am speaking from personal experience as well as from discussions with close to 10 other shops who had to, or are still, dealing with problems from this. Giving the town the ability to revoke business licenses when shops are providing product that are legal under state and federal law will further polarize the Town and the Bike Shop community.

More importantly, I don't believe this will have much of an impact. For every bike in my rental fleet we have sold 15. And that number grows every day. Add bikes purchased online or brought by visitors and the rental fleets are becoming a smaller percentage of the ebike population every day. I have strong doubts about what the impact of this will be on the actual experience on the paths.

### Recommendation-

Realizing that there has yet to be a solution that balances all the concerns, and a wish to take action, I would recommend starting with making the program voluntary.

There are several areas of common agreement that would be a good place to start. The first would be no Class III bikes in our rental fleets. The vast majority of class III bikes can be turned into Class II bikes with no expense meaning that existing fleets can still be used. Secondly, promoting safety and education, as well as etiquette rules is something most bike shops will support and coordinating this in conjunction with the Town would be a positive event. Doing this on a voluntary basis and complying would allow the shop to display and market that the shop supports "Bike Safety on Hilton Head". Of course the name of the program is TBD, and it could also come with a badge for display on the website and a window sticker. Compliance could be managed via Bike Walk Hilton Head Island by an annual interview with the shop.

While this is going on, the Town can then study what the actual speeds are on the paths at peak times this summer and determine what the limits should be. More importantly, working with the bike shop community may have unexpected positive results compared to what is happening right now.

Please reach out if I can answer any questions, and I look forward to working with the Town towards a positive solution for all stakeholders.

Sincerely,

A handwritten signature in blue ink that reads "James E. Hall". The signature is written in a cursive style and is positioned above a light blue rectangular stamp.

James E. Hall  
Owner

**Luick, Missy**

---

**From:** Steve Maleh <[REDACTED]>  
**Sent:** Thursday, February 3, 2022 3:48 PM  
**To:** Luick, Missy  
**Subject:** e equipment

**THIS MESSAGE ORIGINATED OUTSIDE YOUR ORGANIZATION**

---

Hello Missy and thank you for your email

I appreciate your call today, and thank you. In discussing this letter and e equipment in general, I wanted to have my point of view understood and heard with this matter.

Over the past several years my son, who enjoys electronic equipment, has brought with him to Hilton head every summer his electronic toys.

Those include  
an e hover board  
a razor e scooter  
a mepo e skateboard  
and this year he is eyeing and speaking to his grandparents for his birthday a single wheel e hoverboard.

I mention these items, because each year we bring with us to Hilton head one of these electronic items, and each year he is pulled over by a local police officer, and or officer in a gated community saying that he is not allowed to ride the particular item that he is riding on.

One day last summer, I got a call from a beaufort county sheriff's officer, asking me to come pick up the e scooter that my son was riding. An 11 year old boy, stopped by local police, warned and thought the worst, all because of him riding his scooter. Neither fair, nor right.

I do appreciate the town for bringing up this issue with respect to E bikes. However, E bikes does not encompass these other items that I mentioned above. It does not make sense to me that with dozens of E items out there that just e bikes can be discussed.

If the town is already going to go through the process of incorporating rules, speed limits, ambassadors, and point of sale rules and regulations, then they should include all e items as well. I would argue that there are probably 10 times more electronic items like scooters, skateboards, hoverboards, and many others owned by private individuals that vacation on our island like myself and my son. E bikes are much more expensive than the other items families buy for their children. If you are going to only limit this discussion and change to E bikes, you will probably eliminate 90% of all electronic equipment that families bring to the island.

Thus after any rules or regulations made, and all the time spent on this, will all be a waste for everyone else and their E equipment.

I ask and implore the town committee to not only incorporate E bikes to the proposed changes, but to allow and encompass other E equipment so that families like myself with small children do not get in trouble with local law enforcement, and are given safe policies to adhere to when they are vacationing on Hilton head Island

Blessings and Light

Steve Maleh





## TOWN OF HILTON HEAD ISLAND

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### *Staff Report Memo*

**TO:** Marc Orlando, *ICMA-CM, Town Manager*  
**VIA:** Shawn Colin, *AICP, Assistant Town Manager - Community Development*  
**FROM:** Jeff Buckalew, *PE, Town Engineer*  
**COPY:** Josh Gruber, *JD, MPA, Deputy Town Manager*  
Curtis Coltrane, *Town Attorney*  
**DATE:** April 26, 2022  
**SUBJECT:** Consideration of a Resolution to authorize execution of a Memorandum of Understanding for the private construction and maintenance of a proposed pathway connection to the new Starbucks at 16 Pope Avenue within the SCDOT right of way

---

#### **Recommendation:**

That Town Council adopt a Resolution, Attachment A, to authorize execution a Memorandum of Understanding (MOU), Attachment B, that facilitates the conditional permitting of the Starbucks redevelopment at 16 Pope Avenue and obligates the property owner of 16 Pope Avenue to install and maintain the proposed pathway connection within the South Carolina Department of Transportation (SCDOT) right of way.

#### **Summary**

At its April 25, 2022, meeting, the Community Services and Public Safety Committee unanimously voted to recommend Town Council authorize the Town Manager to enter into the Memorandum of Understanding as presented with Pope Avenue Hilton Head 2021, LLC for the installation and maintenance of a bicycle and pedestrian pathway connection on Pope Avenue.

#### **Background:**

Starbucks applied for a Town development review permit to redevelop the property at 16 Pope Avenue, to build a standalone Starbucks coffee shop with a drive-thru window. The plans include a proposed pathway connecting to the existing pathway within SCDOT right of way for safe pedestrian and bicycle ingress and egress from the public pathway. The SCDOT would not permit this private entity to connect its proposed pathway to the existing pathway the Town previously installed in the SCDOT right of way, and instead required the local government to assume maintenance responsibilities before a permit would be issued. To provide for this pathway connection, the Town will apply for the SCDOT encroachment permit and then have the MOU

executed with the owner of 16 Pope Avenue. This MOU provides for the Town accepting maintenance responsibilities from the SCDOT and then conveying those responsibilities in perpetuity to the property owner at 16 Pope Avenue. The pathway connection within the SCDOT right of way will be concrete, 8-foot wide, and 14-foot in length and shall be built to SCDOT standards.

**Attachments**

- A. Resolution
- B. Memorandum of Understanding



RESOLUTION 2022-\_\_\_\_\_

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, TO AUTHORIZE THE TOWN MANAGER TO APPLY FOR AND OBTAIN A RIGHT OF WAY ENCROACHMENT PERMIT FROM THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR A PROPOSED SEGMENT OF PATHWAY WITHIN SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY CONNECTING TO THE PROPERTY AT 16 POPE AVENUE FOR PEDESTRIAN INGRESS AND EGRESS, AND EXECUTE AN AGREEMENT WITH THE OWNER OF 16 POPE AVENUE TO INSTALL AND PERPETUALLY MAINTAIN THE SEGMENT OF PROPOSED PATHWAY

WHEREAS, POPE AVE HILTON HEAD 2021, LLC (“Owner”), as owner of the real property located at 16 Pope Avenue, Beaufort County tax parcel identification number R552-015-000-0150-0000, as more fully described on Exhibit A attached hereto and made a part hereof (the "Premises"), desires to operate a Starbucks store thereon; and

WHEREAS, Owner desires to install a new segment of pathway connecting to the existing pathway within the South Carolina Department of Transportation (“SCDOT”) Pope Avenue right of way, to allow for direct ingress and egress onto and from the Premises, an excerpt of the site plan demonstrating these planned improvements described on Exhibit B is attached hereto and made a part hereof; and

WHEREAS, SCDOT has required that the Town obtain the right of way encroachment permit in order to install the requested pathway; and

WHEREAS, while the Town is amenable to obtaining said SCDOT encroachment permit for the pathway connection being installed by Owner in the above-described location, the Town expressly requires via a Memorandum of Understanding (MOU) as described in Exhibit C, that Owner will be solely and exclusively responsible for all costs associated with the installation and maintenance of said pathway and that Owner will solely and exclusively be responsible for any and all corresponding liability related thereto

or arising therefrom; and

WHEREAS, at a meeting held on April 25, 2022, the Community Services and Public Safety Committee met and voted to forward the recommendations for action to Town Council that are set out in this Resolution.

NOW, THEREFORE, BE IT RESOLVED, AND IT HEREBY IS RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, THAT:

1. The Town Manager is directed to apply for an SCDOT encroachment permit to install a new segment of pathway at 16 Pope Avenue connecting to the existing pathway within the South Carolina Department of Transportation (“SCDOT”) Pope Avenue right of way, and have executed and recorded the Memorandum of Understanding with the owner of 16 Pope Avenue to install and perpetually maintain this segment of proposed pathway as described in Exhibit C.

MOVED, APPROVED, AND ADOPTED ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
John J. McCann, Mayor

**ATTEST:**

\_\_\_\_\_  
Krista M. Wiedmeyer, Town Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Curtis L. Coltrane, Town Attorney

Introduced by Council Member: \_\_\_\_\_

# DRAFT

Prepared by and after recording return to:

Town of Hilton Head Island  
1 Town Center Court  
Hilton Head Island, South Carolina

<b>STATE OF SOUTH CAROLINA</b>	)	<b>PATHWAY INSTALLATION</b>
	)	<b>AND MAINTENANCE</b>
	)	<b>MEMORANDUM OF UNDERSTANDING</b>
<b>TOWN OF HILTON HEAD ISLAND</b>	)	<b>(16 POPE AVENUE)</b>

**THIS PATHWAY INSTALLATION AND MAINTENANCE MEMORANDUM OF UNDERSTANDING** (the “Agreement”) is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2022, by and between the TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, a body politic and corporate and political subdivision of the State of South Carolina (the “Town”), and POPE AVE HILTON HEAD 2021, LLC, a limited liability company in good standing and duly authorized to do business in South Carolina (“Owner”), concerning the installation, care, and maintenance of certain pathway improvements contemplated in that certain application to the South Carolina Department of Transportation (“SCDOT”) for the installation and maintenance of a pathway connection at 16 Pope Avenue in front of the newly constructed Starbucks located on Hilton Head Island, South Carolina, as more particularly described below.

## RECITALS

**WHEREAS**, POPE AVE HILTON HEAD 2021, LLC, as owner of the real property located at 16 Pope Avenue (Beaufort County tax parcel identification number R552-015-000-0150-0000), as more fully described on **Exhibit A** attached hereto and made a part hereof (the "Premises"), desires to operate a Starbucks store, known as Owner, thereon; and

**WHEREAS**, Owner desires to install a new segment of pathway connecting to the existing pathway within the SCDOT Pope Avenue right of way, to allow for direct ingress and egress onto and from the Premises, an excerpt of the site plan demonstrating these planned improvements described on **Exhibit B** is attached hereto and made a part hereof; and

**WHEREAS**, SCDOT has required that the Town obtain an encroachment permit in order to install the requested pathway; and

**WHEREAS**, while the Town is amenable to a pathway connection being installed by Owner in the above-described location, the Town expressly conditions its encroachment permit application to the SCDOT on the premise that Owner will be solely and exclusively responsible for all costs associated with the installation and maintenance of said pathway and that Owner will solely and exclusively be responsible for any and all corresponding liability related thereto or arising therefrom; and

**WHEREAS**, the Parties are entering this Agreement in order to facilitate the installation of said pathway; however, the execution of this Agreement shall not be deemed, construed, or

# DRAFT

interpreted in any way as an acceptance by the Town of any obligation, right, or liability with regards to this matter; and

**WHEREAS**, the Town and Owner desire to enter into this Agreement regarding the matters set forth herein.

**NOW, THEREFORE**, in consideration of the mutual benefits, promises and obligations set forth herein, the sufficiency of which are hereby acknowledged and accepted by each, the Town and Starbuck's hereby agree as follows:

The above recitals are incorporated into this Agreement in their entirety and made a part hereto of this Agreement.

1. **Town Obligations.** Town shall acknowledge to SCDOT that it shall accept for the means of the encroachment permit requirements, the maintenance responsibilities of the new segment of connecting pathway within the SCDOT right of way, located directly in front of the Premises at 16 Pope Avenue, and then convey those maintenance responsibilities in perpetuity to Owner. Town shall coordinate with Owner and the SCDOT at the time the necessary permit is secured and provide documentation to Owner for the authorization of the installation of the pathway. For so long as this Agreement is in effect, including any renewals or amendments thereof, Owner and its successors and assigns, and their respective employees, agents and contractors, shall have a non-revocable license over and across the pathway to conduct and perform the installation and maintenance of the pathway pursuant to the requirements of the SCDOT permit, including but not limited to all of SCDOT policies and procedures for performance of work in public right of ways. Furthermore, Town shall cause this Agreement to be filed with the Beaufort County Register of Deeds and be responsible for all associated filing fees. Additionally, Town shall take any and all additional steps and actions necessary to enable Owner to perform its obligations hereunder in compliance with any laws, regulations, and other requirements. In the event Owner (or its successors or assigns) is, at any time, prohibited by applicable law, rule or regulation from performing any of its obligations hereunder, it shall be excused from such performance until such time as the prohibition has been resolved to allow Starbuck's to continue its performance hereunder.
2. **Owner Obligations.** Owner shall apply to SCDOT for an encroachment permit and be the permittee for the installation and ultimate maintenance of new segment of connecting pathway within the SCDOT right of way, located directly in front of the Premises at 16 Pope Avenue. Owner acknowledges and agrees that, at no cost to the Town, Owner shall provide for the installation of the pathway as approved by SCDOT and contemplated in the encroachment permit, and the maintenance of the pathway with such obligation running with the land and becoming the affirmative obligation of any future successor or assigns. Owner shall carry appropriate amounts of insurance for any claims that may arise from the installation or maintenance of the pathway. This Agreement shall be enforceable against Owner and any successor-in-interest of Owner and shall survive the purchase, merger, or other succession of Owner. Owner is obligated to disclose the terms of this Agreement to any potential purchaser, assignee or successor of Owner.

# DRAFT

3. **Maintenance Standards.** Maintenance standards shall be those standards established by the SCDOT pursuant to SCDOT Guidelines as may be changed, modified or amended from time to time. Owner is hereby authorized to continuously enter the encroachment permit area, subject to the SCDOT encroachment permit conditions for the purpose of performing such maintenance.
4. **Mutual Cooperation & Notice.** Notwithstanding anything contained herein, the Town and Owner each agree to cooperatively pursue their obligations set forth herein in good faith. All notices to be provided hereunder shall be provided in writing and delivered by U.S. Mail or by email to the following:

If to Town, To: Hilton Head Island Town Manager  
1 Town Center Court  
Hilton Head Island, South Carolina  
Phone: 843-341-4705

With Copy to: Hilton Head Island Town Attorney  
1 Town Center Court  
Hilton Head Island, South Carolina  
843-785-5551

If to Owner, To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With Copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. **Modifications.** This Agreement cannot be changed orally, and no executory agreement shall be effective to waive, change modify or discharge it in whole or in part unless such executory agreement is in writing and is signed by both parties hereto.
6. **Entire Agreement.** This Agreement contains the entire agreement between the parties pertaining to the subject matter contained herein and fully supersedes all prior written or oral agreements and understanding between the parties pertaining to such subject matter.

# DRAFT

7. **Default.** In the event of a default by either party, the non-defaulting party may seek any available remedy in equity or at law as a result of such failure to perform, including but not limited to any action for specific performance of obligations recited in this Agreement.
8. **Cost of Enforcement/Attorney Fees.** In the event of a default, failure to perform or other breach of this Agreement, the defaulting party shall reimburse the non-defaulting party or parties for all costs and expenses reasonably incurred by the non-defaulting party in connection with the enforcement of this Agreement, including reasonable attorney's fees for pursuing court action.
9. **Indemnification.** Owner agrees to hold harmless, defend and indemnify Town and SCDOT as required pursuant to the SCDOT encroachment permit, for any liability, claims, or damages made against the Town and/or SCDOT, as applicable, arising from Starbucks' performance of the installation or maintenance of the pathway contemplated herein, during the term of this Agreement including any renewals or amendments thereof. In the event Starbucks' contracts with a third party for the installation and/or maintenance of the landscaped median, such contract shall include a hold harmless and indemnification for the Town and SCDOT.
10. **Independent Agreement.** This Agreement, in no way, shall expand, broaden, limit, negate, change, alter or amend any prior understandings or agreements between Owner and the Town, except as expressly provided herein.
11. **Counterparts.** This Agreement may be executed in multiple counterparts, and all such executed counterparts shall constitute the same agreement. The parties agree that this Agreement may be communicated by use of a fax or other electronic means, such as electronic mail and the internet, and that the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed valid and binding upon the parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents.
12. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.
13. **Disclaimer of Relationship.** Nothing contained in this Agreement, nor any act of the Town and/or Starbucks' shall be deemed or construed by any of the parties or by any third person, to create any joint venture or partnership between the parties.
14. **Applicable Law.** This Agreement is enforceable in the State of South Carolina and shall in all respects be governed by, and constructed in accordance with, the substantive Federal laws of the United States and the laws of the State of South Carolina. Any claims for default, non-performance or other breach shall be filed in Beaufort Town, South Carolina.

# DRAFT

15. **Captions.** The section headings appearing in this Agreement are for convenience of reference only and are not intended to any extent for the purpose, to limit or define the test of any section or any subsection hereof.
16. **Construction.** The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.
17. **Further Assurances.** Each party hereto shall execute and cause to be delivered to each other such instruments and other documents, and shall take such other actions, as such other party may reasonably request to carry out any of the terms of this Agreement.
18. **Successors and Assigns.** All provisions of this Agreement shall run with the land and bind and inure to the benefit of each party and each party's respective heirs, executors, legal representatives, successors, successors in title and assigns. The words "Starbuck's" and "Town" shall include their heirs, executors, administrators, successors, and assigns, as the case may be.

[Signatures on Following Pages]



# DRAFT

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed, by their hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

WITNESSES:

As to Town:

\_\_\_\_\_  
Witness (non-notary)

\_\_\_\_\_  
Print Name: Marc Orlando

\_\_\_\_\_  
Witness (notary)

Its: Town Manager

State of South Carolina )

)

Acknowledgment

Town of Hilton Head Island )

I, \_\_\_\_\_, do hereby certify that Marc Orlando, in his capacity as Hilton Head Island Town Manager, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public of South Carolina

My commission expires:

# DRAFT

WITNESSES:

As to Starbuck's:

\_\_\_\_\_  
Witness 1 (non-notary)

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

Print Name:

\_\_\_\_\_  
Witness 2 (notary)

Its:

STATE OF SOUTH CAROLINA )

)

ACKNOWLEDGMENT

TOWN OF HILTON HEAD ISLAND )

I \_\_\_\_\_, a Notary Public for the state and Town aforesaid, do hereby certify that \_\_\_\_\_, acting in his capacity as \_\_\_\_\_ of \_\_\_\_\_ (the "Company"), personally appeared before me this day and acknowledged before me the due execution of the foregoing instrument as the act and deed of the Company for the purposes stated in the instrument and he is personally known to me.

Witness my hand and official seal

this \_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_

Printed Name: \_\_\_\_\_

Notary Public for \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

[SEAL]

# DRAFT

## EXHIBIT A

### LEGAL DESCRIPTION OF PREMISES

ALL that certain piece, parcel or tract of land, with all improvements thereon, situate, lying and being in Sea Pines Plantation, Hilton Head Island, Beaufort County, South Carolina, and being more particularly shown and described on a plat of a 0.826 acre portion of Sea Pines Plantation, Area "E", Hilton Head Island, Beaufort County, South Carolina, prepared by Nathan Conerly Bowers, R.L.S., dated January 17, 1973, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 20 at Page 207. Said tract of land herein described commences at a concrete monument at its easternmost corner where it joins the intersection of Pope Avenue and a fifty (50') foot right-of-way, which lies in a northwesterly direction 1,730 feet from the northwestern corner of Pope Avenue and Cordillo Parkway, and runs from said concrete monument at the point of beginning South 54°20' West, a distance of 300.00 feet to a concrete monument; thence North 35°40' West, a distance of 120.00 feet to a concrete monument; thence North 54°20' East, a distance of 300.00 feet, to a concrete monument; thence South 35°40' East, a distance of 120.00 feet to the concrete monument at the point of beginning, all of which will more fully appear by reference to the hereinabove referred plat of record.

AND ALSO, all of Grantor's right, title or interest in that certain non-exclusive commercial easement as set forth in the Amended Easement Confirmation Agreement recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 3922 at Page 801.

This conveyance is made by Grantor and accepted by Grantee subject to all applicable Covenants, Restrictions and Easements of record in the Office of the Register of Deeds for Beaufort County, South Carolina; including but not limited to those certain Restrictive Covenants for Commercial Lands of Sea Pines Plantation Company, dated December 9, 1971, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Deed Book 193 at Page 1652.

This being the same property conveyed to the within Grantor by Deed of Pope Avenue Partners, a SC General Partnership, dated July 1, 2003, recorded in the Office of the Register of Deed for Beaufort County, South Carolina in Book 1813 at Page 1341, on August 6, 2003; and by Quit Claim Deed from The Harvey Family Partnership recorded in Book 1813 at Page 1348, and by Quit Claim Deed from the Shepard Family Partnership recorded in Book 1813 at Page 1351, and by Quit Claim Deed from Gloria S. Taggart, Leroy E. Harvey, Jr., The Estate of Leroy E. Harvey, III, Ronald E. Harvey, Yvonne H. Beach, Randall G. Harvey, Cynthia H. Sosa, Glenn Eric Shepard and Michael R. Shepard recorded in Book 1896 at Page 1455.

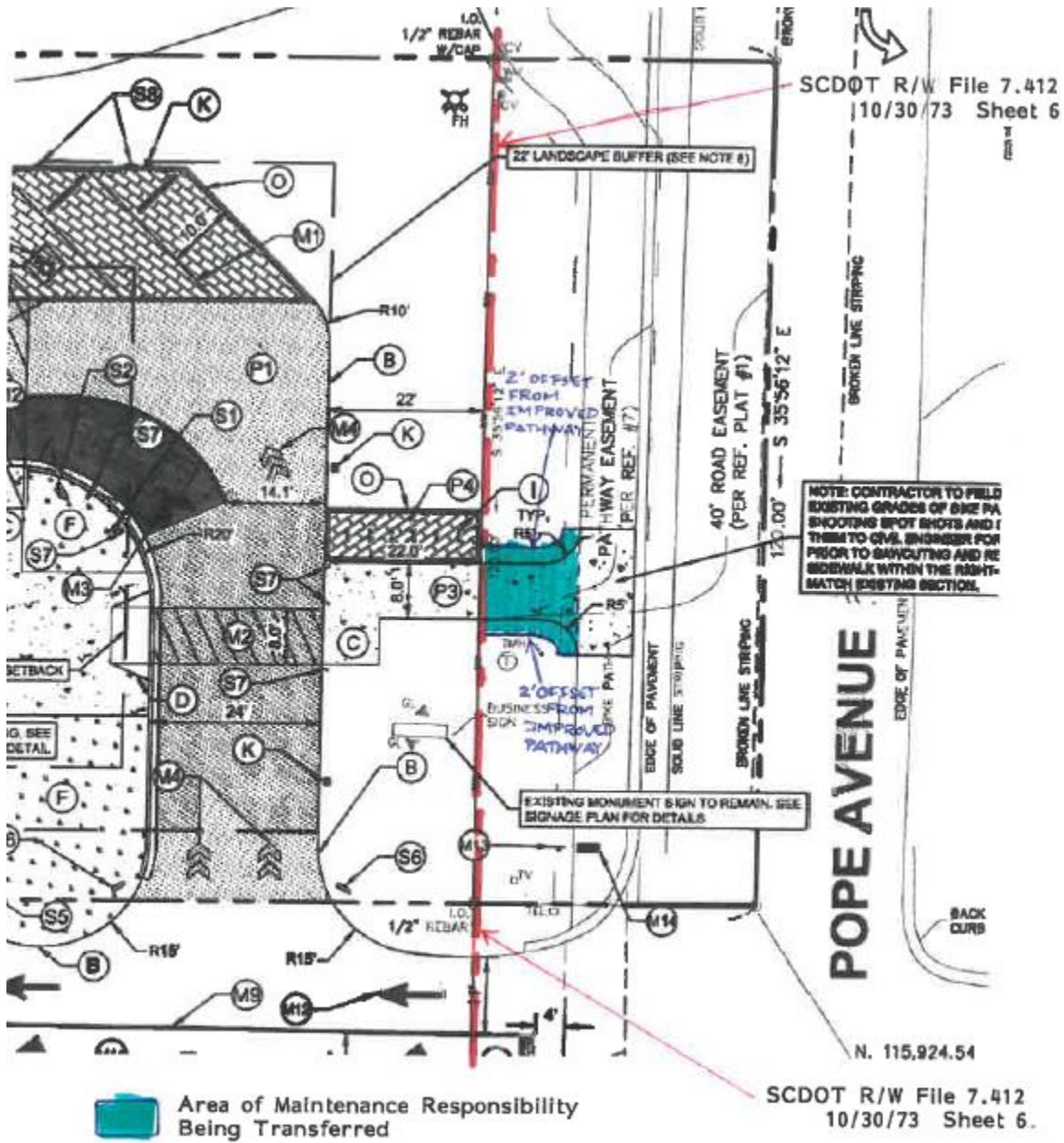
This Deed was prepared in the Law Office of Jones, Simpson & Newton, PA, Post Office Box 1938, Bluffton, SC 29910.

**TMP: R552 015 000 0150 0000**

DRAFT

EXHIBIT B

SITE PLAN EXCERPT SHOWING PROPOSED PATHWAY IMPROVEMENTS





# TOWN OF HILTON HEAD ISLAND

## Staff Report Memo

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**TO:** Marc Orlando, *ICMA-CM, Town Manager*

**VIA:** Shawn Colin, *AICP, Assistant Town Manager - Community Development*

**FROM:** Jeff Buckalew, *PE, Town Engineer*

**COPY:** Josh Gruber, *JD, MPA, Deputy Town Manager*  
Curtis Coltrane, *Town Attorney*  
Arnold Ellison, *General Manager Broad Creek PSD*

**DATE:** April 26, 2022

**SUBJECT:** Consideration of an Ordinance granting permanent utility easements to the Broad Creek Public Service District (PSD) for the access and maintenance of a water main across Town land (Parcel R520 012 00C 0002 0000 near 59 Shelter Cove Lane)

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### **Recommendation:**

That Town Council adopt an Ordinance authorizing two permanent utility easements, for access and maintenance rights to the Broad Creek PSD, for the water mains across Town land (Parcel R520 012 00C 0002 0000 within Shelter Cove Community Park and Veteran's Memorial Park near 59 Shelter Cove Lane).

### **Summary**

Attachment A is a vicinity map depicting the location. At its April 25, 2022 meeting, the Community Services and Public Safety Committee unanimously voted to recommend Town Council approve execution of those easements as submitted for underground water and wastewater utilities in the Shelter Cove area.

### **Background:**

When the Town made the agreement with the developer of the Shelter Cove Mall to exchange land for what is now the Shelter Cove Community Park, one of the terms in the agreement obligated the Town to grant easements to Broad Creek Public Service District for future underground water lines. Both the developer and Broad Creek Public Service District are now ready for this conveyance of easements to occur. The easements described in the attached Ordinance, Attachment B, are 20-foot wide and encompass a buried water main and are depicted in Ordinance Exhibits A and B (Attachment C). The total amount of Town land to be encumbered by these easements is 0.596 acres. Staff has no objections to granting of the easements as shown.

### **Attachments:**

- A. Vicinity Map
  - B. Ordinance
  - C. Ordinance Exhibits A and B
-



1 inch = 226 feet



EAST # 2  
EASEMENT AREA  
EXHIBIT B

EAST # 1  
EASEMENT AREA  
EXHIBIT A

SHELTER COVE LANE

WILLIAM HILTON PARKWAY

YARD ARM

**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND**

**ORDINANCE NO. 2022-\_\_ PROPOSED ORDINANCE NO. 2022-14  
AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH  
CAROLINA TO AUTHORIZE THE EXECUTION AND DELIVERY OF  
EASEMENTS FOR UNDERGROUND WATER AND WASTEWATER  
UTILITIES ENCUMBERING REAL PROPERTY OWNED BY THE TOWN OF  
HILTON HEAD ISLAND, SOUTH CAROLINA IN THE SHELTER COVE AREA  
AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

WHEREAS, on or about October 16, 2012, The Town of Hilton Head Island, South Carolina and Shelter Cove Towne Centre, LLC, executed a “Development Agreement” governing the exchange of real property and the development of other property in the area of the Shelter Cove Mall and Broad Creek;

WHEREAS, among other things, the October 16, 2012, Development Agreement requires that The Town of Hilton Head Island, South Carolina, use its best efforts to assist Broad Creek Public Service District in obtaining easements for underground water and waste water infrastructure;

WHEREAS, The Town of Hilton Head Island, South Carolina, owns property described as:

All that certain piece, parcel or tract of land located within the Town of Hilton Head Island, Beaufort County, South Carolina consisting of a total of approximately 4.45 acres, more or less, and all improvements thereon, if any, shown and designated as “Remainder of Revised Multi-Family Parcel” on that certain Plat entitled “Boundary Reconfiguration of 4.45 Acre New Multi-Family Parcel # 2 & 26.29 Acre Revised Town of Hilton Head Island parcel, totaling 30.74 acres, Shelter Cove Lane, a Portion of Shelter Cove Community Park, Hilton Head Island, Beaufort County, South Carolina,” sheet 2 of 2, prepared by Surveying Consultants, dated March 16, 2016 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book 143 at Page 122 (herein, the “Town Property”).

WHEREAS, Broad Creek Public Service District now seeks easements

encumbering the Town Property for the installation, maintenance and use of underground water and wastewater infrastructure; and,

WHEREAS, the Town Council for The Town of Hilton Head Island, South Carolina, has determined that it is in the best interests of The Town of Hilton Head Island, South Carolina, to grant the requested easements, and,

WHEREAS, § 2-7-20, *Municipal Code of The Town of Hilton Head Island, South Carolina* (1983), states that an ordinance is required in order to convey interests in real property owned by The Town of Hilton Head Island, South Carolina.

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

**Section 1, Authorization to Grant Easement.**

(a) The Mayor and Town Manager are authorized to execute and deliver the two easements allowing Broad Creek Public Service District to install, maintain and use underground water and wastewater infrastructure over part of the Town Property as described in the written easements. The easements shall be in a form and substance as the documents attached to this Ordinance as Exhibit “A” and Exhibit “B.”

(b) The Mayor and Town Manager are authorized to take any further actions they deem necessary or advisable to complete the execution and delivery of the easements authorized in Article 1(a) above.

**Section 2 Severability.** If any section, phrase, sentence or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and



independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 3. Effective Date.** This Ordinance shall be effective upon adoption by the Town Council of the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, ON THIS \_\_\_\_ DAY OF MARCH, 2021.

\_\_\_\_\_  
John D. McCann, Mayor

ATTEST:

By: \_\_\_\_\_  
Krista M. Wiedmeyer, Town Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Curtis Coltrane, Town Attorney

Introduced by Council Member: \_\_\_\_\_

Attachment C

EXHIBIT A TO ORDINANCE 2022-\_\_\_\_

This instrument prepared by:

**BURR : FORMAN MCNAIR**

(CSG:sp)

Post Office Drawer 3

Hilton Head Island SC 29938-0003

STATE OF SOUTH CAROLINA     )  
  )  
COUNTY OF BEAUFORT         )

**GRANT OF UTILITY EASEMENT  
(EAST #1)**

**THIS GRANT OF UTILITY EASEMENT (EAST #1) ("Agreement")** is made by and between **THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA ("Town")**, **SHELTER COVE II, LLC**, c/o Southeastern Real Estate Group, 2743 Perimeter Parkway Building 100, Augusta, GA 30909 ("**SCII**") and **BROAD CREEK PUBLIC SERVICE DISTRICT**, a special purpose District duly chartered and existing under the laws of the State of South Carolina, Post Office Box 5878, Hilton Head Island, South Carolina 29938 ("**District**").

**WHEREAS**, SCII is the owner of certain real property within the Broad Creek Public Service District known as Parcel East #1, having 4.97± acres with an address of 47 Shelter Cove Lane, a Beaufort County TMS#R520-012-00C-0007-0000 (the "**Parcel**") and improved with a 136 unit apartment building together with ancillary improvements include parking garage, recreational facilities, and a single story "leasing/office" building, known as East #1, upon which SCII has constructed water and sewer infrastructure and facilities, including a main water line around the Parcel to be used both for potable water and for fire protection services; and

**WHEREAS**, the Town is the owner of certain real property located in Shelter Cove and identified at the address of 59 Shelter Cove Lane, TMS#R520-012-00C-0002-0000, a portion of which property is contiguous to the aforementioned Parcel owned by SCII and such Town property having been used for the installation of the water line described herein; and

**WHEREAS**, the District owns and operates a water supply and sewage collection, disposal and treatment system pursuant to the authority granted in its Enabling Legislation; and

**WHEREAS**, SCII will convey ownership of the water main and related infrastructure to the District, but also requires an easement from the Town for the portions of the water main locations crossing the Town property, and the District likewise requires access to the aforementioned water line in the same area for the purposes set forth herein.

**NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS**, that **TOWN** for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) to it in hand paid and before the sealing of these presents, by SCII and by the **DISTRICT**, in the State aforesaid, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained and released and by these presents does grant, bargain and release unto SCII and the District, their respective successors and assigns forever, the following:

1. **Easement.** A non-exclusive perpetual easement for access, ingress and egress in, to, over, and across a portion of the Town's parcel at 59 Shelter Cove Lane, TMS#R520-012-00C-0002-0000 in Shelter Cove, Hilton Head Island, Beaufort County, South Carolina and which is shown and depicted as Easements B (0.031 acres), E (0.394 acres) and G (0.033 acres) on the Plat prepared by Surveying Consultants, Inc. entitled "**Proposed 20' Waterline Easement**", dated January 21, 2020

and recorded on \_\_\_\_, 2020 in Plat Book \_\_\_\_ at Page \_\_\_\_, Beaufort County Records (“Plat”). These easements shall burden and be binding upon the easement property described herein and shall be appurtenant to and run with the land and shall be applicable to and for the use and benefit of the SCII and the District for the purposes set forth herein.

The easements intended to be conveyed herein are a portion of the property conveyed to the within Town by deed from Shelter Cove II, LLC and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Deed Book 3477 at Page 2573 on April 22, 2016.

2. Terms and Conditions.

- (a) The parties confirm that the water line and related infrastructure have been constructed and installed by SCII. Town accepts no responsibility for such construction and/or installations.
- (b) The water line installed within the easement area is intended for use not only to service the apartment units and other facilities, but also to provide fire protection services, and as such, it will be necessary for District, as well as the Town Fire Department to have access to, and use of, said water line.
- (c) This Easement is one of three Easements related to the subject water around the Parcel. The other two easements are from the landowners, Shelter Cove Company as it relates to Easement A and Easement H and SCII as it pertains to Easement C, Easement D and Easement F.
- (d) Any use of the easement area by Town, or its successors-in-title, shall be subject to the express condition that such use not interfere with the use of the easement area by the District in the operation of its water system.
- (e) This Easement Agreement may only be modified, extinguished or terminated in a document expressly executed by all parties and recorded in the Land Records for Beaufort County.
- (f) This Easement Agreement is binding upon, and shall benefit, the parties hereto and their successors and assigns. This Easement Agreement shall run with the land.
- (g) This Easement Agreement is subject to all applicable restrictions, covenants, easements, etc. applicable to the subject Property and of record in the Land Records for Beaufort County, South Carolina.
- (h) The Easements B, E and G are more fully described by detailed courses and distances, metes and bounds on the above-referenced Plat. In the event of any discrepancy between the description herein and the Plat, the Plat shall be controlling.

**TOGETHER** with all and singular, the rights, members, hereditaments and appurtenances to the above property belonging to or in anyway incident or appertaining to the above-described property.

TO HAVE AND TO HOLD, all and singular, the rights, privileges and easements aforesaid unto SHELTER COVE II, LLC and to BROAD CREEK PUBLIC SERVICE DISTRICT, their respective successors and assigns forever.

IN WITNESS WHEREOF, TOWN, as Grantor, has caused these presents to be executed in its name and its corporate seal affixed hereto in Hilton Head Island, South Carolina on the \_\_\_\_ day of \_\_\_\_\_, 2020.

SIGNED, SEALED AND  
DELIVERED IN THE PRESENCE OF:

TOWN:  
THE TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA

\_\_\_\_\_  
Witness #1

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Witness #2/Notary

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF BEAUFORT            )

**ACKNOWLEDGMENT**

I, the undersigned Notary Public, do hereby certify that \_\_\_\_\_, as \_\_\_\_\_ of THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA,, personally appeared before me this day on behalf of the corporation and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
(SEAL)  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_

**INSTRUCTIONS FOR EXECUTION**

(PLEASE FOLLOW CAREFULLY - MUST USE BLUE INK ONLY)

- A. Grantor signs on line numbered (1)
- B. Two (2) disinterested Witnesses sign on lines numbered (2) and (3)  
Notary may be one of the Witnesses
- C. Notary Public signs on line numbered (4) and affixes seal and expiration date

IN WITNESS WHEREOF, SCII has caused these presents to be executed in its name and its corporate seal affixed hereto in \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2020.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

\_\_\_\_\_

Witness #1

\_\_\_\_\_

Witness #2/Notary

SCII: SHELTER COVE II, LLC

By: MPR Consultants, Inc.  
a Georgia corporation  
Title: Managing Member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

ACKNOWLEDGMENT

I, the undersigned Notary Public, do hereby certify that \_\_\_\_\_ of MPR Consultants, Inc., Managing Member of SCII, personally appeared before me this day on behalf of the corporation and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_ (SEAL)  
Notary Public for  
My Commission Expires: \_\_\_\_\_

IN WITNESS WHEREOF, DISTRICT, acknowledges its acceptance of the easement described herein in accordance with the terms and conditions set forth above, this \_\_\_\_ of \_\_\_\_\_, 2020.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

DISTRICT: BROAD CREEK PUBLIC SERVICE DISTRICT

\_\_\_\_\_  
Witness #1

By: \_\_\_\_\_  
Name: Mike Allen  
Title: General Manager

\_\_\_\_\_  
Witness #2/Notary

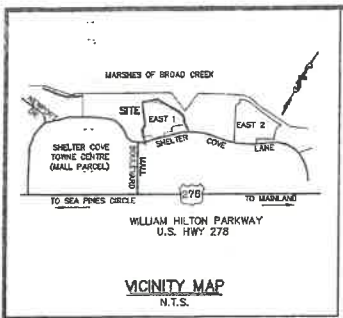
STATE OF SOUTH CAROLINA     )  
   )  
COUNTY OF BEAUFORT             )

ACKNOWLEDGMENT

I, the undersigned Notary Public, do hereby certify that \_\_\_\_\_, as \_\_\_\_\_ of the District, **BROAD CREEK PUBLIC SERVICE DISTRICT**, personally appeared before me this day on behalf of the public service district and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_



TOWN OF HILTON HEAD ISLAND  
SECTION 18-3-1002 DISCLOSURE STATEMENT

Some or all areas on this plan are flood hazard areas and have been identified as being at least a one percent chance of being flooded in any given year by using flood hazard data associated with possible hurricanes. Flood regulations require that certain flood hazard protective measures be incorporated in the design and construction of structures in these designated areas. Reference shall be made to the development comments and restrictions of this development and requirements of the Town Building Ordinance. In addition, federal law requires mandatory purchase of flood insurance or a pre-approval to federally insured mortgages financing in these designated flood hazard areas.

LEGEND:

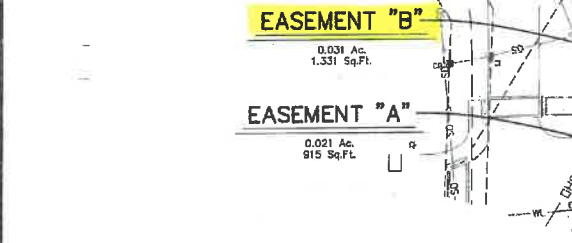
CONC. O	CONCRETE MONUMENT, OLD (FOUND)
IRON	IRON PIPE, OLD (FOUND)
AC	AIR CONDITIONER
ADA	AMERICAN WITH DISABILITIES ACT
BOL	BOLLARD
CATV	CABLE TELEVISION JUNCTION BOX
CB	CATCH BASIN
CO	CLEANOUT
DHEC	DEPARTMENT OF HEALTH & ENVIRONMENTAL CONTROL
EM	ELECTRIC METER
FPE	FINISHED FLOOR ELEVATION
FDC	FIRE DEPARTMENT CONNECTION
PH	FIRE HYDRANT
GV	GAZE VALVE
GI	GROUND INLET
GL	GROUND LIGHT
GW	GUY WIRE
ICV	INVERT ELEVATION
IRV	IRRIGATION CONTROL VALVE
LP	LAMP POST
N/S	NOT TO SCALE
N/F	NOW OR FORMERLY
OCRM	OCEAN & COASTAL RESOURCE MANAGEMENT
PB	POWER JUNCTION BOX
PV	POST INDICATOR VALVE
PP	POWER POLE
R/W	RIGHT OF WAY
SSM	SANITARY SEWER MANHOLE
SN	SIGN
SDMH	STORM DRAIN MANHOLE
TEL	TELEPHONE JUNCTION BOX
TMH	TELEPHONE MANHOLE
TRNF	ELECTRIC TRANSFORMER
UP	UNDERGROUND PROPANE TANK
WM	WATER METER
WI	WATER VALVE
YI	YARD INLET
HDPE	HIGH DENSITY POLYETHYLENE
PVC	POLYVINYL CHLORIDE
RCP	REINFORCED CONCRETE PIPE
FENCE LINE	FENCE LINE
WATER LINE	WATER LINE
BRICK PAVEMENT	BRICK PAVEMENT TYPE PAVEMENT
CONCRETE & DECORATIVE BRICK SURFACE	CONCRETE & DECORATIVE BRICK SURFACE

TITLE SOURCE

\*TAX PARCEL I.D. NO. R520-012-00B-0030-0000  
DEED BOOK: 3361, PAGE: 469  
DEED BOOK: 3294, PAGE: 89  
DEED BOOK: 780, PAGE: 669  
PLAT BOOK: 136, PAGE: 1

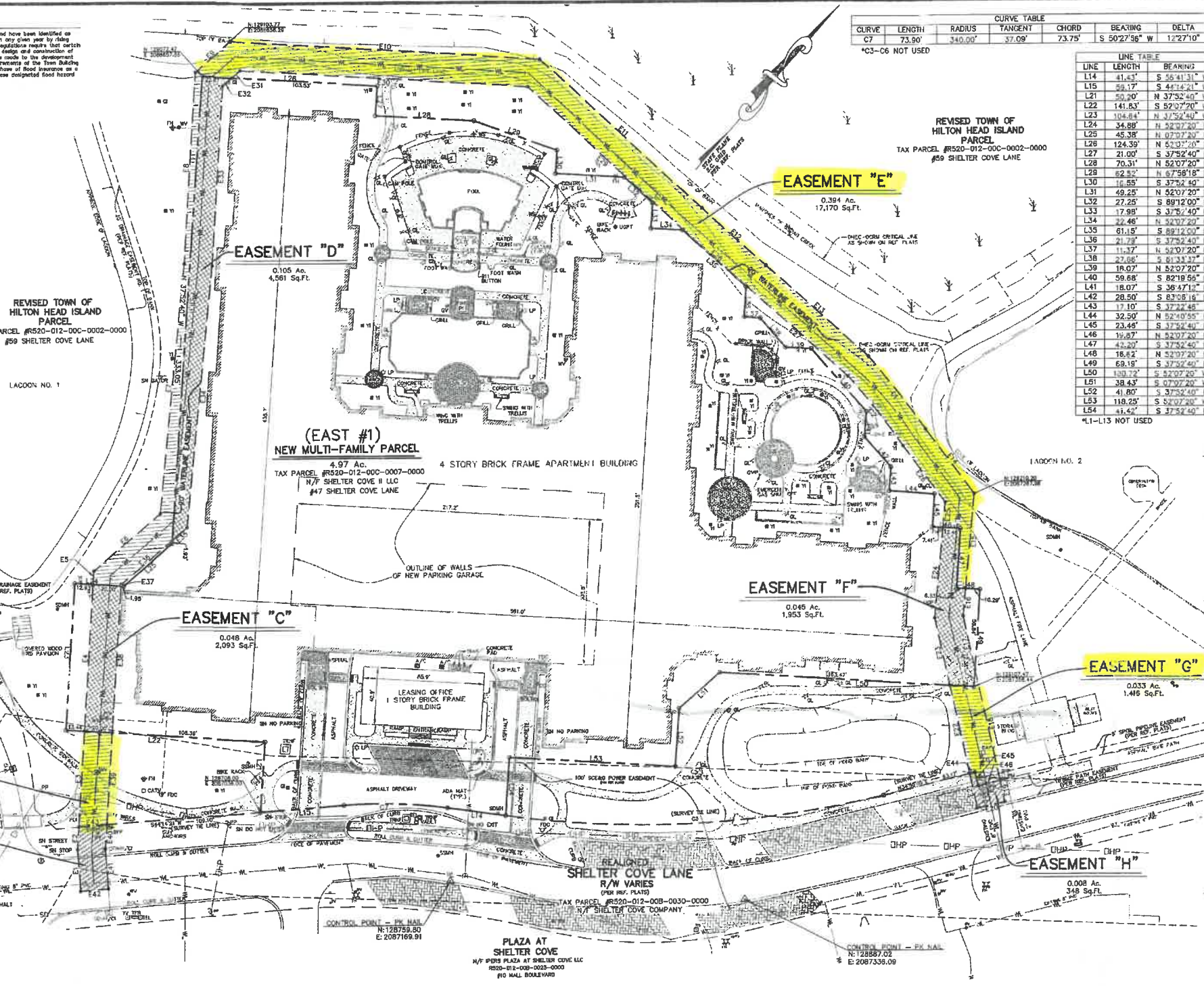
\*TAX PARCEL I.D. NO. R520-012-00C-0007-0000  
DEED BOOK: 3407, PAGE: 770  
PLAT BOOK: 141, PAGE: 25

\*TAX PARCEL I.D. NO. R520-012-00C-0002-0000  
DEED BOOK: 3477, PAGE: 2573  
PLAT BOOK: 143, PAGE: 122-123



PROPOSED 20' WATERLINE EASEMENT AREA TABLE

TAX PARCEL I.D. NO. R520-012-00B-0030-0000 N/F SHELTER COVE COMPANY.	
EASEMENT "A".....0.021 Ac.	
EASEMENT "H".....0.008 Ac.	
TOTAL.....0.029 Ac.	
TAX PARCEL I.D. NO. R520-012-00C-0007-0000 N/F SHELTER COVE II LLC	
EASEMENT "C".....0.048 Ac.	
EASEMENT "D".....0.105 Ac.	
EASEMENT "F".....0.045 Ac.	
TOTAL.....0.198 Ac.	
TAX PARCEL I.D. NO. R520-012-00C-0002-0000 N/F TOWN OF HILTON HEAD ISLAND	
EASEMENT "B".....0.031 Ac.	
EASEMENT "E".....0.394 Ac.	
EASEMENT "G".....0.033 Ac.	
TOTAL.....0.458 Ac.	
TOTAL AREA OF PROPOSED WATERLINE EASEMENTS.....0.685 Ac.	



CURVE TABLE

CURVE	LENGTH	RADIUS	TANGENT	CHORD	BEARING	DELTA
C7	73.90'	340.00'	37.09'	73.75'	S 50°27'36" W	122°17'10"

\*C3-C6 NOT USED

LINE TABLE

LINE	LENGTH	BEARING
L14	41.63'	S 55°41'31" W
L15	58.17'	S 44°14'21" W
L21	50.70'	N 37°32'40" W
L22	141.83'	S 52°07'20" W
L23	104.84'	N 37°52'44" W
L24	34.88'	N 52°07'20" E
L25	45.38'	N 07°07'20" E
L26	124.39'	N 52°07'20" E
L27	21.00'	S 37°32'40" E
L28	70.31'	N 52°07'20" E
L29	82.83'	N 37°58'18" E
L30	16.55'	S 37°32'40" E
L31	49.25'	N 52°07'20" E
L32	27.25'	S 89°12'00" E
L33	17.98'	S 37°32'40" E
L34	24.46'	N 52°07'20" E
L35	61.15'	S 89°12'00" E
L36	21.73'	S 37°32'40" E
L37	11.37'	N 52°07'20" E
L38	27.66'	S 81°33'37" E
L39	18.07'	N 52°07'20" E
L40	59.88'	S 82°19'55" E
L41	18.07'	S 39°17'17" E
L42	28.50'	S 63°08'18" E
L43	17.10'	S 37°32'40" E
L44	32.50'	N 52°07'20" E
L45	23.45'	S 37°32'40" E
L46	19.57'	N 52°07'20" E
L47	43.20'	S 37°32'40" E
L48	18.63'	N 52°07'20" E
L49	69.18'	S 37°32'40" E
L50	109.72'	S 52°07'20" W
L51	38.43'	S 07°07'20" W
L52	41.80'	S 37°32'40" E
L53	118.25'	S 52°07'20" W
L54	43.45'	S 37°32'40" E

\*L1-L3 NOT USED

CURVE TABLE

CURVE	LENGTH	RADIUS	TANGENT	CHORD	CHORD BEARING	DELTA
C1	66.09'	643.95'	33.08'	66.06'	N79°34'22" W	005°02'50"
C2	63.16'	623.95'	31.61'	63.13'	N79°30'17" W	005°47'59"
C3	269.82'	710.00'	136.55'	268.20'	N45°45'15" E	021°45'26"

LINE TABLE

LINE	LENGTH	BEARING
E1	28.63'	N45°55'07" W
E2	16.16'	N36°08'20" W
E3	67.93'	N36°09'25" W
E4	104.84'	N39°09'25" W
E5	9.41'	N35°09'25" W
E6	61.88'	N07°59'04" E
E7	178.88'	N35°05'22" W
E8	136.11'	N36°19'29" W
E9	32.93'	N07°08'33" E
E10	220.35'	N52°08'33" E
E11	157.29'	S06°49'50" E
E12	61.21'	S89°12'05" E
E13	97.79'	S89°19'34" E
E14	57.65'	S78°21'48" E
E15	67.47'	S36°13'19" E
E16	18.37'	S36°13'19" E
E17	39.02'	S54°01'35" E
E18	61.46'	S54°01'35" E
E19	15.60'	S64°01'35" E
E20	20.00'	S35°58'25" W
E21	25.23'	N54°01'35" W
E22	64.76'	N54°01'35" W
E23	49.22'	N54°01'35" W
E24	64.14'	N36°13'19" W
E25	18.13'	N36°13'19" W
E26	50.25'	N78°21'48" W
E27	96.61'	N89°19'34" W
E28	61.30'	N89°12'05" W
E29	150.27'	N88°49'50" W
E30	204.99'	S82°08'33" W
E31	7.84'	S07°08'33" W
E32	8.42'	S07°08'33" W
E33	128.12'	S38°19'29" E
E34	187.37'	S36°05'22" E
E35	14.02'	S07°59'04" W
E36	47.44'	S07°59'04" W
E37	0.99'	S38°09'25" E
E38	104.64'	S36°09'25" E
E39	65.16'	S36°09'25" E
E40	17.57'	S38°09'25" E
E41	28.17'	S45°55'07" E
E42	20.00'	S44°03'53" W
E43	20.18'	N44°14'21" E
E44	3.90'	N34°55'06" E
E45	10.03'	S54°48'06" E
E46	15.97'	N34°48'06" E

NOTES

- I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO OBVIOUS, APPARENT OR VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.
- THE PURPOSE OF THIS PLAN IS TO CREATE NEW 20' WATERLINE EASEMENTS "A" & "B" & "C" & "D" & "E" & "F" & "G" & "H" ACROSS SUBJECT PROPERTIES, THE INTENT OF THE 20' EASEMENT IS TO BE APPROXIMATELY CENTERED ON THE EXISTING WATERLINE.
- IMPROVEMENTS SHOWN WERE TAKEN FROM REFERENCE PLAT #4 BY THIS FIRM AND WERE NOT UPDATED AT THIS TIME.
- UNDERGROUND UTILITIES TAKEN FROM VARIOUS REFERENCE PLATS AND ARE APPROXIMATE. SURVEYING CONSULTANTS DOES NOT CERTIFY TO ANY UNDERGROUND UTILITIES.
- AS OF THE DATE OF THIS SURVEY THIS PROPERTY IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D. PANEL 140, FLOOD HAZARD ZONE AND BASE ELEVATION WERE VERIFIED BY RICHARD SPRUCE, PLANS REVIEW ADMINISTRATOR, TOWN OF HILTON HEAD ISLAND ON 4/18/2012.

PROPOSED 20' WATERLINE EASEMENT  
OF  
EASEMENT "A" & EASEMENT "H"  
ACROSS  
SHELTER COVE LANE  
(SHELTER COVE COMPANY)  
TAX PARCEL I.D. NO.  
R520-012-00B-0030-0000  
AND  
EASEMENT "C" & EASEMENT "D"  
& EASEMENT "F"  
ACROSS  
EAST #1, NEW MULTI-FAMILY PARCEL  
TAX PARCEL I.D. NO.  
R520-012-00C-0007-0000  
AND  
EASEMENT "B" & EASEMENT "E"  
& EASEMENT "G"  
ACROSS  
REVISED TOWN OF HILTON  
HEAD ISLAND PARCEL  
TAX PARCEL I.D. NO.  
R520-012-00C-0002-0000

I the undersigned, as the Owner of Record of parcel R520-012-00B-0030-0000, agree to the recording of this plat.

*Shelley Davis III* 8/13/20  
SIGNATURE DATE  
SHELTER COVE COMPANY

I the undersigned, as the Owner of Record of parcel R520-012-00C-0007-0000, agree to the recording of this plat.

*C. M. K. Sam* 7/16/20  
SIGNATURE DATE  
SHELTER COVE II LLC

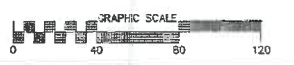
I the undersigned, as the Owner of Record of parcel R520-012-00C-0002-0000, agree to the recording of this plat.

\_\_\_\_\_  
SIGNATURE DATE  
TOWN OF HILTON HEAD ISLAND SOUTH CAROLINA

REFERENCE PLATS

- BOUNDARY RECONSTRUCTION PLAN OF 4.97 ACRES MULTI-FAMILY PARCEL # 28.29 ACRES TOWN OF HILTON HEAD ISLAND PARCEL, TOTALING 31.26 ACRES, A PORTION OF SHELTER COVE LANE, SHELTER COVE COMPANY PARK, DATED: 09/01/2015, BY: TERRY G. HATCHELL, S.C.R.L.S. NO. 11059, RECORDED: PB. 141 Pgs. 23-28, 08/18/2015.
- BOUNDARY RECONSTRUCTION OF 4.18 ACRES NEW MULTI-FAMILY PARCEL #2 & 5.29 ACRES REVISED TOWN OF HILTON HEAD ISLAND PARCEL, TOTALING 9.47 ACRES, A PORTION OF SHELTER COVE LANE, SHELTER COVE COMPANY PARK, DATED: 03/19/2015, BY: TERRY G. HATCHELL, S.C.R.L.S. NO. 11059, RECORDED: PB. 143, Pgs. 122-123, 04/22/2015.
- SITE DEVELOPMENT PLANS FOR SHELTER COVE MULTI-FAMILY SITE #1, PARKING & GRASSY PLAZA, PREPARED FOR: SHELTER COVE II LLC, PROJECT NUMBER 110220, HILTON HEAD ISLAND, SOUTH CAROLINA, DATED: 05/17/2014, REVISED: 06/16/2014, BY: WILLIAM C. PORRELL, S.C.P.E. NO. 32124, RAND EDWARDS ENGINEERING.
- ASBLT SURVEY OF EAST BUILDING SITE #1, SHELTER COVE TOWN CENTER APARTMENTS, LOCATED AT #47 SHELTER COVE LANE, DATED: 11/29/2014, LAST REVISED: 2/11/2014, BY: TERRY G. HATCHELL, S.C.R.L.S. NO. 11059, SURVEYING CONSULTANTS.

PREPARED FOR: SHELTER COVE II LLC, SHELTER COVE COMPANY & TOWN OF HILTON HEAD ISLAND  
ADDRESS: #47 & #59 SHELTER COVE LANE  
TAX PARCEL I.D. NO. R520-012-00C-0007-0000 & R520-012-00C-0002-0000 & R520-012-00B-0030-0000



TOWN OF HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA  
SCALE: 1" = 40' DATE: 01/21/2020 JOB NO: SC110040T.34A

**SG SURVEYING CONSULTANTS**  
17 Sheraton Drive, Suite C, Hilton Head, SC 29910  
SC Telephone: (843) 815-3300 FAX: (843) 815-3305  
GA Telephone: (813) 658-9776  
www.SurveyingConsultants.com  
Email: SC@SurveyingConsultants.com



EXHIBIT B TO ORDINANCE 2022-\_\_\_\_

This instrument prepared by:

**BURR · · · FORMAN M · ENAIR**

(CSG:sp)

Post Office Drawer 3

Hilton Head Island SC 29938-0003

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

**GRANT OF UTILITY EASEMENT  
(EAST #2)**

**THIS GRANT OF UTILITY EASEMENT (EAST #2) ("Agreement") is made by and between THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA ("Town"), SHELTER COVE II, LLC, c/o Southeastern Real Estate Group, 2743 Perimeter Parkway Building 100, Augusta, GA 30909 ("SCII") and BROAD CREEK PUBLIC SERVICE DISTRICT, a special purpose District duly chartered and existing under the laws of the State of South Carolina, Post Office Box 5878, Hilton Head Island, South Carolina 29938 ("District").**

**WHEREAS, SCII is the owner of certain real property within the Broad Creek Public Service District known as Parcel East #2, having 4.45± acres with an address of 65 Shelter Cove Lane, a Beaufort County TMS#R520-012-00C-0007-0000 (the "Parcel") and improved with a 104 unit apartment building together with ancillary improvements include parking garage and recreational facilities, known as East #2, upon which SCII has constructed water and sewer infrastructure and facilities, including a main water line around the Parcel to be used both for potable water and for fire protection services; and**

**WHEREAS, the Town is the owner of certain real property located in Shelter Cove and identified at the address of 59 Shelter Cove Lane, TMS#R520-012-00C-0002-0000, a portion of which property is contiguous to the aforementioned Parcel owned by SCII and such Town property having been used for the installation of the water line described herein; and**

**WHEREAS, the District owns and operates a water supply and sewage collection, disposal and treatment system pursuant to the authority granted in its Enabling Legislation; and**

**WHEREAS, SCII will convey ownership of the water main and related infrastructure to the District, but also requires an easement from the Town for the portions of the water main locations crossing the Town property, and the District likewise requires access to the aforementioned water line in the same area for the purposes set forth herein.**

**NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that TOWN for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) to it in hand paid and before the sealing of these presents, by SCII and by the DISTRICT, in the State aforesaid, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained and released and by these presents docs grant, bargain and release unto SCII and the District, their respective successors and assigns forever, the following:**

1. **Easement. A non-exclusive perpetual easement for access, ingress and egress in, to, over, and across a portion of the Town's parcel at 59 Shelter Cove Lane, TMS#R520-012-00C-0002-0000 in Shelter Cove, Hilton Head Island, Beaufort County, South Carolina and which is shown and depicted as Easements B (0.116 acres) and D (0.022 acres) on the Plat prepared by Surveying Consultants, Inc. entitled "Proposed 20' Waterline Easement", dated November 26, 2019 and**

recorded on \_\_\_\_, 2020 in Plat Book \_\_\_\_ at Page \_\_\_\_, Beaufort County Records ("Plat"). These easements shall burden and be binding upon the easement property described herein and shall be appurtenant to and run with the land and shall be applicable to and for the use and benefit of the SCII and the District for the purposes set forth herein.

The easements intended to be conveyed herein are a portion of the property conveyed to the within Town by deed from Shelter Cove II, LLC and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Deed Book 3477 at Page 2573 on April 22, 2016.

2. Terms and Conditions.

- (a) The parties confirm that the water line and related infrastructure have been constructed and installed by SCII. Town accepts no responsibility for such construction and/or installations.
- (b) The water line installed within the easement area is intended for use not only to service the apartment units and other facilities, but also to provide fire protection services, and as such, it will be necessary for District, as well as the Town Fire Department to have access to, and use of, said water line.
- (c) This Easement is one of three Easements related to the subject water around the Parcel. The other two easements are from the landowners, Shelter Cove Company as it relates to Easement A and on E and SCII as it pertains to Easement C.
- (d) Any use of the easement area by Town, or its successors-in-title, shall be subject to the express condition that such use not interfere with the use of the easement area by the District in the operation of its water system.
- (e) This Easement Agreement may only be modified, extinguished or terminated in a document expressly executed by all parties and recorded in the Land Records for Beaufort County.
- (f) This Easement Agreement is binding upon, and shall benefit, the parties hereto and their successors and assigns. This Easement Agreement shall run with the land.
- (g) This Easement Agreement is subject to all applicable restrictions, covenants, easements, etc. applicable to the subject Property and of record in the Land Records for Beaufort County, South Carolina.
- (h) The Easements B and D are more fully described by detailed courses and distances, metes and bounds on the above-referenced Plat. In the event of any discrepancy between the description herein and the Plat, the Plat shall be controlling.

**TOGETHER** with all and singular, the rights, members, hereditaments and appurtenances to the above property belonging to or in anyway incident or appertaining to the above-described property.

TO HAVE AND TO HOLD, all and singular, the rights, privileges and easements aforesaid unto SHELTER COVE II, LLC and to BROAD CREEK PUBLIC SERVICE DISTRICT, their respective successors and assigns forever.

IN WITNESS WHEREOF, TOWN, as Grantor, has caused these presents to be executed in its name and its corporate seal affixed hereto in Hilton Head Island, South Carolina on the \_\_\_\_ day of \_\_\_\_\_, 2020.

SIGNED, SEALED AND  
DELIVERED IN THE PRESENCE OF:

TOWN:  
THE TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA

\_\_\_\_\_  
Witness #1

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Witness #2/Notary

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

**ACKNOWLEDGMENT**

I, the undersigned Notary Public, do hereby certify that \_\_\_\_\_, as \_\_\_\_\_ of THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA,, personally appeared before me this day on behalf of the corporation and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
(SEAL)  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_

**INSTRUCTIONS FOR EXECUTION**

(PLEASE FOLLOW CAREFULLY - MUST USE **BLUE** INK ONLY)

- A. Grantor signs on line numbered (1)
- B. Two (2) disinterested Witnesses sign on lines numbered (2) and (3)  
Notary may be one of the Witnesses
- C. Notary Public signs on line numbered (4) and affixes seal and expiration date

IN WITNESS WHEREOF, SCII has caused these presents to be executed in its name and its corporate seal affixed hereto in \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2020.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

SCII: SHELTER COVE II, LLC

\_\_\_\_\_  
Witness #1

By: MPR Consultants, Inc.  
a Georgia corporation  
Title: Managing Member

\_\_\_\_\_  
Witness #2/Notary

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

ACKNOWLEDGMENT

I, the undersigned Notary Public, do hereby certify that \_\_\_\_\_ of MPR Consultants, Inc., Managing Member of SCII, personally appeared before me this day on behalf of the corporation and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public for  
My Commission Expires: \_\_\_\_\_

IN WITNESS WHEREOF, DISTRICT, acknowledges its acceptance of the easement described herein in accordance with the terms and conditions set forth above, this \_\_\_\_ of \_\_\_\_\_, 2020.

SIGNED, SEALED AND  
DELIVERED IN THE PRESENCE OF:

DISTRICT:  
BROAD CREEK PUBLIC SERVICE DISTRICT

\_\_\_\_\_  
Witness #1

By: \_\_\_\_\_  
Name: Mike Allen  
Title: General Manager

\_\_\_\_\_  
Witness #2/Notary

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

ACKNOWLEDGMENT

I, the undersigned Notary Public, do hereby certify that \_\_\_\_\_ as \_\_\_\_\_ of the District, BROAD CREEK PUBLIC SERVICE DISTRICT, personally appeared before me this day on behalf of the public service district and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public for South Carolina (SEAL)  
My Commission Expires: \_\_\_\_\_

