

# TOWN OF PINE KNOLL SHORES

Planning Board

Regular Monthly Meeting

October 28, 2025 — 5:00PM



## AGENDA

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- |              |  |                          |
|--------------|--|--------------------------|
| <b>I.</b>    | <b>CALL TO ORDER AND PLEDGE OF ALLEGIANCE</b>  | <b>VICE CHAIR POWERS</b> |
| <b>II.</b>   | <b>APPROVAL OF THE AGENDA</b><br>(Motion to add or delete an item will be entertained prior to approval.)  | <b>VICE CHAIR POWERS</b> |
| <b>III.</b>  | <b>VOTE OF ABSENCES</b>  | <b>VICE CHAIR POWERS</b> |
| <b>IV.</b>   | <b>CONSENT AGENDA</b>  | <b>VICE CHAIR POWERS</b> |
|              | a. September 23, 2025, Meeting Minutes   |                          |
| <b>V.</b>    | <b>PUBLIC COMMENT</b><br>Citizens are allowed to voice Town-related concerns and opinions during this time. Before speaking, each participant must sign in on the speaker roster list at the Clerk's Desk before speaking. Speakers will be heard on a first-come, first-served basis. Each speaker will be given up to three (3) minutes. |                          |
| <b>VI.</b>   | <b>NEW BUSINESS: NO NEW BUSINESS</b>   |                          |
| <b>VII.</b>  | <b>UNFINISHED BUSINESS: NO UNFINISHED BUSINESS</b>   |                          |
| <b>VIII.</b> | <b>REPORTS</b>   |                          |
|              | a. Planning  | <b>PLANNING ADMIN</b>    |
|              | b. Inspections   | <b>PLANNING ADMIN</b>    |
|              | c. Board of Commissioners  | <b>COMMISSIONER</b>      |
| <b>IX.</b>   | <b>PLANNING BOARD ANNUAL AGENDA</b>  | <b>VICE CHAIR POWERS</b> |
|              | a. Cama Land Use Plan Sub Committee  |                          |
|              | b. Pedestrian Master Plan Sub Committee  |                          |
|              | c. UDO Sub Committee   |                          |
| <b>X.</b>    | <b>ANNOUNCEMENTS AND PLANNING BOARD MEMBERS' FORUM</b>   | <b>VICE CHAIR POWERS</b> |
| <b>XI.</b>   | <b>ADJOURNMENT</b>   | <b>VICE CHAIR POWERS</b> |

**PLANNING BOARD**  
**TOWN OF PINE KNOLL SHORES BOARD ROOM**  
**September 23, 2025**  
**MEETING MINUTES**

**Call to Order and Pledge of Allegiance**

Chair Tripplet called the September 23, 2025, meeting to order at 5:00 PM in the Betty Carr Boardroom. Members present were Michelle Powers, Jeanne Biddle (online), Ken Rozewski, Simone Pate, Tom Atz, and David Chapman (online). Also present were Planning Administrator Charles Rocci, Commissioner Durham, Commissioner Cox (online) and Town Clerk Missy Shine. Member Berry was absent.

**Approval of the Agenda**

Member Rozewski made a motion to approve the agenda as presented with a second from Member Atz and passed unanimously.

**Approval of Absences**

Member Pate made a motion to approve the absence of Member Berry with a second from Vice Chair Powers and passed unanimously.

**Consent Agenda**

- a. August 26, 2025, Meeting Minutes

Vice Chair Powers made a motion to approve the August 26, 2025, meeting minutes as amended with a second from Member Pate and passed unanimously.

**Public Comment:**

Chair Triplet asked if there was any public comment. Town Manager Julie Anderson provided an update on a previous public comment made by Sasha McClure at a Board of Commissioners meeting regarding lighting concerns. Town Manager Anderson explained that Ms. McClure had appeared before the Board of Commissioners to comment about lighting issues. During that same meeting, Police Chief, Ryan Thompson had presented on nuisance ordinances, and the town is now exploring whether lighting regulations could be addressed from a nuisance standpoint. Town Manager Anderson noted that while regulating lighting can be difficult, town attorney Neil Whitfoed is investigating options. Commissioner Barbour had suggested differentiating between recreational lighting and security lighting in any potential regulations. Vice Chair Powers commented that she believed Ms. McClure was pleased to have had the opportunity to bring up her concerns and that the board would be looking into the matter, noting it seemed like a nuisance-type issue.

**New Business:** No New Business

## **Unfinished Business**

### **a. Roosevelt Reserve Final Plat**

Planning Administrator Charlie Rocci presented the Roosevelt Reserve final plat for the Board's consideration. He provided a refresher that the project is an 8-unit subdivision on the far western end of town, subdivided from the Trinity Center property. The preliminary plat had been approved by the Planning Board in May 2024.

Planner Rocci explained that for final plat approval, all required improvements must be completed or the subdivider must provide a performance guarantee equal to 125% of the estimated cost of improvements, as required by North Carolina General Statutes. He noted that the pervious paver road was still under construction, with the base stone covering the entirety of the road but still requiring completion of the concrete ribbon and placement of pavers. If the road is not completed by the Board of Commissioners meeting, the applicant would need to submit a performance guarantee.

Graham Strother from Arendell Engineering addressed the board regarding the waterline installation and stormwater permitting. He confirmed that all waterline installation had been completed, tested, and approved by state requirements. The project has applied for a low impact development permit to maintain below 12% impervious area, with the only impervious surfaces being within the individual lots and the ribbon curb around the property.

Extensive discussion followed regarding several concerns:

**Parking and Access:** Vice Chair Powers questioned the notation on the plans that appeared to indicate parking in the central open space area. Commissioner Cox expressed ongoing concerns about limited parking, recalling that the original plan stated guest parking would either be on individual properties or across Highway 58. He questioned whether cars could park against the proposed curbs and if there was sufficient room for emergency vehicles. Mr. Strother, the engineer, confirmed that bump-outs are included in every other lot to allow fire truck access and that the state stormwater permit would require major modifications if additional parking were added to the common area.

**Open Space Protection:** Commissioner Durham asked for confirmation that the interior easement area was protected from development, specifically regarding accessory dwellings. Planner Rocci confirmed this was addressed in the preliminary plat as "passive open space." Vice Chair Powers noted concerning language on the plans referencing "utility building" in the open space area. After discussion, Planner Rocci stated he would verify in the HOA documents that no structures would be permitted in the passive open space area.

**HOA Formation:** Vice Chair Powers inquired about the HOA setup, and Planner Rocci confirmed that while the HOA is controlled by lot ownership, it would initially be controlled entirely by the developer Nathan George. It was added that the attorney has drafted HOA documents that are posted online so potential buyers are aware of the HOA requirement.

Vice Chair Powers made a motion to approve the final plat contingent upon completion of the pervious paver road prior to final plat approval by the Board of Commissioners or submission of a performance guarantee for the road installation to be accepted by the Board of Commissioners. Member Ken Rozewski seconded the motion. The motion passed unanimously.

#### **a. Planner and Inspections Report**

Planning Rocci provided the September planning department report. He informed the board that the town had submitted its CRS 2025 cycle submission and expects to maintain a Class 6 FEMA community rating. Planner Rocci and Permit Tech Kersti Worrell are implementing new online permitting software through IWorq that will allow trade and building permits to be submitted online and enable online inspection requests. Planner Rocci also reported working with PKA on a stormwater solution at Hall Haven Marina, where an engineer has reviewed plans for a swale to mitigate runoff concerns. Finally, he noted that the town attorney had provided comments on Articles 7, 11, and 19 of the UDO with only minor clarifying changes that would not require another Planning Board vote.

#### **b. Board of Commissioners**

Commissioner Cox participated in the discussion regarding the Roosevelt Reserve final plat and expressed specific concerns about the parking situation. He reiterated ongoing concerns that additional guest parking during events, like a party, could lead to challenges if guests have to park across Highway 58. He questioned the logistics of parking given the curb design and whether there was ample space for emergency vehicles to navigate through the area. When Planning Administrator Rocci confirmed that bump-outs are included every other lot to facilitate fire truck access, Commissioner Cox remained concerned about ensuring adequate space and safety measures.

Commissioner Cox also participated in the discussion surrounding the UDO subcommittee, emphasizing that Planning Board members should not overly rely on summaries from the subcommittee and should read every word of proposed changes themselves. He stressed that board members should be prepared to defend their votes and decisions beyond simply stating that the subcommittee approved something. His comments reflected a broader concern about the thoroughness with which Planning Board members review proposals and the trust placed in the subcommittee's work.

Additionally, Town Manager Julie Anderson provided feedback to clarify some of Commissioner Cox's questions regarding the role of engineering in stormwater management and the division of responsibilities between planners and engineers. Town Manager Anderson explained the attorney's position that staff, including Planners like Charlie Rocci, rely on engineering certifications for technical compliance and that planning staff should not assume responsibilities that fall within the domain of certified professionals. This offered further context to Commissioner Cox's inquiries during the meeting.

## **CAMA Land Use Plan Subcommittee**

No Report was Presented

## **Pedestrian Planning Subcommittee**

Member Rozewski reported that the subcommittee had not met since the well-attended public meeting. He noted they had fulfilled their obligation to take the pulse of the community, which is required for the pedestrian master plan and hadn't been documented in 10 years. However, he expressed mild concern that only 100 responses were received from approximately 2,300 residents, with only 7 responses from a large development at one end of town. He questioned how much change should be inspired by this limited response rate. Member Atz noted that all the tabulated data and comments are available for the full board to review and suggested this might warrant a full board discussion.

## **UDO Subcommittee**

Member Biddle (via Town Clerk) moved to dissolve the UDO subcommittee and instead address current and future issues, modifications, edits, deletions, etcetera, as an entire board. Member Tom Atz seconded the motion.

Significant debate followed. Planner Rocci defended the subcommittee process, stating it had aided in streamlining reviews and getting early input on revisions. Town Manager Anderson explained how subcommittees function across the town government as informal work sessions that allow detailed discussion before formal board consideration.

Multiple concerns were raised about the recent UDO amendment process:

Member Atz expressed frustration that the board received extensive UDO changes on the Friday before the Tuesday meeting where they were expected to vote. He stated that if he had known the changes were so extensive, he would have attended every subcommittee meeting. He also noted that his previous conditional vote of approval was based on getting specific answers from the town attorney, which he felt were not adequately addressed. He requested that the minutes reflect his change of position from his previous conditional yes vote to a no vote based on unmet conditions.

Vice Chair Powers expressed discomfort with passing items to Commissioners without full information, noting she would have felt more comfortable knowing what the attorney said sooner. She recalled that past subcommittees had provided detailed reports back to the full board with explanations for their recommendations.

Member Rozewski attempted to find middle ground, suggesting the Board acknowledge the opportunity for improvement and monitor the situation over the next three months. He also noted communication issues, recalling a previous meeting where the Board had questions but was later told it was inappropriate to ask them.

Vice Chair Powers suggested that when the UDO subcommittee meets, the entire Planning Board should be notified and invited to attend, as all subcommittee meetings are open to the public.

The motion to dissolve the UDO subcommittee failed with 2 votes in favor (Member Biddle and Member Atz) and 4 votes opposed.

### **Announcements and Planning Board Members' Forum**

Chair Triplett stated he had no announcements. No other board members offered announcements or forum comments.

### **Adjournment**

A motion to adjourn the meeting was made by Member Rozewksi with second by Member Pate and passed unanimously.

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Missy B. Shine, Town Clerk

Minutes created by Town Clerk Missy Shine with the use of HeyGov ClerkMinutes

# TOWN OF PINE KNOLL SHORES

Board of Commissioners



## Department Activity for the Month of October 2025

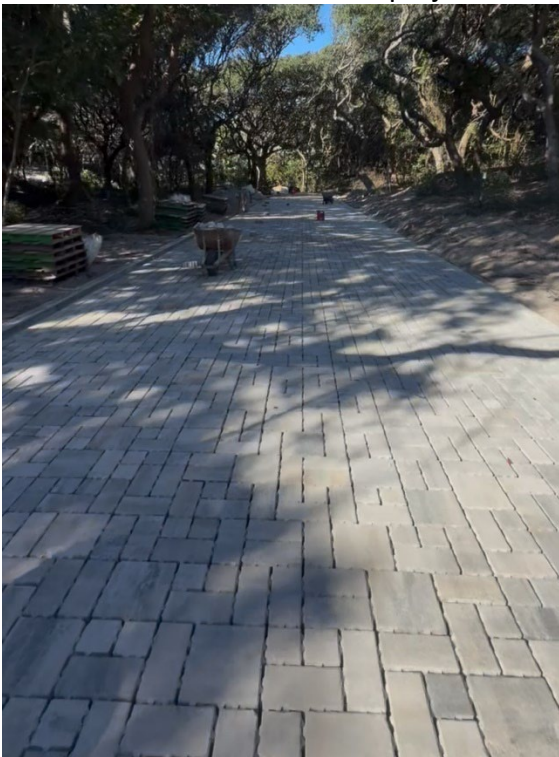
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### ORIGINATING DEPARTMENT/INDIVIDUAL:

Planning and Inspections/Charles W. Rocci

### PLANNING TOPICS:

- Our CRS review came back with one error on an elevation certificate. The town is offered three opportunities to address EC errors, and we have since submitted the revision waiting for second review.
- I will participate in the NCTERMS Floodplain Management Training Course in Concord from November 16<sup>th</sup> to November 20<sup>th</sup>.
- Kersti and I are working together to implement a new online permitting portal through iWorq, allowing residents and contractors to easily submit and request inspections for trade permits.
- UDO changes to Articles 7, 11, and 19 were adopted by the Board of Commissioners at their October 8<sup>th</sup> meeting. The revisions from Neil following Planning Board approval will be presented at their October meeting.
- Roosevelt Reserve final plat was approved by the Board of Commissioners at their October 8<sup>th</sup> meeting contingent to a 125% performance guarantee which has since been submitted to the town valued at \$53,750.00.
- A demolition permit has been submitted for a derelict dock at 186 Oakleaf Drive.
- Pine Knoll Association project to mitigate flooding at Hall Haven Marina is underway.



# TOWN OF PINE KNOLL SHORES

Board of Commissioners



## Department Activity for the Month of October 2025

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### **BUILDING INSPECTOR REPORT AUGUST 2025:**

20 Building Permits	\$2,677,541
6 Electrical Permits	\$9,000
10 Mechanical Permits	\$87,978
0 Plumbing Permit	\$0
20 Tree Removal Permits	\$0
56 Total Permits	\$2,784,219

Jim Taylor performed 142 Inspections.

# TOWN OF PINE KNOLL SHORES

Chairman Triplett and members of the Planning Board



## October 8th, 2025 UDO Amendments Presentation to Planning Board

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### ORIGINATING DEPARTMENT/INDIVIDUAL:

Planning and Inspections/Charles W. Rocci

### Background:

The Town adopted the Unified Development Ordinance (UDO) in December 2024 following years of collaboration with a consultant and legal counsel. At the time of adoption, the UDO was recognized as a living document that would require periodic updates to address practical challenges and clarify inconsistencies.

During review of a major landscape permit in March, staff identified conflicting language in Articles 7, 11, and 19 regarding permit review procedures. These inconsistencies created uncertainty over which boards were required to review specific permits and what authority each board held. Staff also took this opportunity to address policy issues with landscape permits by adding a requirement for Appearance Commission review for modifications and introduced changes to tree removal violations to allow surveys to be used for issuing penalties.

### Overview of Changes:

Generally, the changes to articles 7, 11, and 19 respectively can be summarized below with specific section citations in parentheses:

- **Clarification of Review Procedures**
  - To avoid confusion, Site Development Plans have been removed from reference in the ordinance (7.5-1), but in 7.7-3, *Site Construction Plans* are required for major Subdivisions and any development requiring the dedication of a public right of way or utility easement (7.5-1)
  - Stormwater Permits, Landscape Permits, and Tree Permits are all defined in Article 7 instead of each of their own articles. (7.7(c))
  - A new **Table 7-1** has been added to clearly show which board is responsible for reviewing each type of permit. (7.7)
- **Landscape Permit Updates**
  - Moved landscape plan review procedures to Article 7. (Includes Section 11.9 defining landscape permits, and 11.9(H) major landscape permit review procedures)
  - Modified critical root zone requirements to allow collaboration with Appearance Commission for tree root management 11.9(J)
  - Require Appearance Commission review for modification of tree plan (11.9-12)
  - Tree surveys may now be used when issuing civil penalties. (11.16(1-3)).
  - The Appearance Commission is required to review any modifications to approved tree plans.(11.9-14)
- **Stormwater Management Updates**
  - Strengthened the definition of work exempted from a Stormwater Management Permit. (19.4)

# TOWN OF PINE KNOLL SHORES

Chairman Triplett and members of the Planning Board



## October 8th, 2025 UDO Amendments Presentation to Planning Board

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- Allow the Planning Administrator to accept stormwater plans in illustrative or narrative format as needed. (19.7.2)
- Condensed Stormwater Design Standards and Stormwater Performance Standards into a single section. This removes responsibility from town staff for reviewing for compliance with these standards already in place under NCDEQ for Stormwater Management Best Practices. Town will maintain requirement above stormwater best practices for two-inch retention and grade change not impacting adjacent properties. (19.8)
- Removed different stormwater standards for single family homes, minor landscape permits, and subdivisions. All development, unless exempt, will meet the same stormwater standards of the Stormwater Design section. (19.11)(19.12)
- Moved Stormwater Plan review procedures to Article 7. (19.17)

### **Legal Review:**

Following approval by the Planning Board at their August 26<sup>th</sup> meeting, these text revisions were sent to Neil Whitford for legal review. Neil states that his changes are editorial and not substantive and will still fall under the original approval of the Planning Board. The amendments may go for Public Hearing and a vote at the October 8<sup>th</sup> Board of Commissioners meeting.

The draft articles show both mine and the attorney's revisions to articles 7, 11, and 19. The most meaningful revisions by Neil Whitford were in Article 7. His changes included making terms of landscape site plans consistent throughout, the inclusion of 7.5-2 emphasizing the reliance on licensed professionals for the site plan review process, and moving language specific to landscape plan applications from Article 7 to Article 11. Neil Whitford's changes in Article 19 also emphasize the importance of licensed professionals' credentials in plan development and certification.

### **Next Steps:**

The Planning Board approved the draft text amendments at its August 26 meeting contingent to the Town Attorney reviewing them and recommending the Board of Commissioners vote on them. The Board of Commissioners adopted the UDO changes at their October 8<sup>th</sup> Board of Commissioners meeting following a public hearing. The commissioners request that the updates, including the town attorney's revisions be presented back to the planning board at their October 28<sup>th</sup> meeting.

### **Strategic Plan Reference:**

"Strategic Plan: Managing Growth - Objective 3, Emphasize the uniqueness of PKS in development, redevelopment, and regional government forums."

"Strategic Plan: Managing Growth - Objective 4, Implement and enforce the town's Unified Development Ordinance by ensuring adequate fiscal and personnel resources."

# TOWN OF PINE KNOLL SHORES

Chairman Triplett and members of the Planning Board



## October 8th, 2025 UDO Amendments Presentation to Planning Board

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"Strategic Plan: Sense of Community - Objective 5: Improve the awareness of the community's uniqueness and opportunities for engagement and volunteerism.

### **Attachments:**

Draft text amendments to Articles 7, 11, and 19  
CAMA Land Use Plan and

## ARTICLE 7

### PERMITS AND PROCEDURES

#### 7.1 Permits and Procedures for New and/or Expanded Use(s) and/or Development

##### 7.1-1 Permit Approval Required.

- (A) No person shall undertake any land use and/or development activity subject to this Ordinance without first obtaining approval from the Town. Upon approval by the Town, **one or more permits a permit** shall be issued for the approved land use and/or development activity. Certain permits associated with land use and/or development are issued by agencies other than the Town of Pine Knoll Shores, as noted below.
- (B.) In any case where an application is made to operate more than one (1) use on a property, the *Planning Administrator* shall determine either which use or uses shall be the principal use or uses, or if there are multiple principal uses, and the type of Zoning Compliance Permit (zoning permit) that is required for the categories of use(s) appearing in Table 8.1 located in Article 8 of this Ordinance: ***Listed Use, Special Use Permit, or Use Listed with Additional Standards.*** Upon determination of the use(s) and the type of zoning permit(s) required shall indicate such decision to the applicant.
- (C.) In accordance with G.S. 160D-108(b) “**Permit Choice**”, if a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

The permits and/or approvals listed below are required, depending upon the type(s) of development proposed:

- (A.) ***Zoning Compliance Permits*** (also known as *Zoning Permits*) are issued by the Town of Pine Knoll Shores for all new or expanded use of property. Zoning compliance permits include the permits listed in Section 7.5 and as required throughout this Ordinance. A *Zoning Compliance Permit* may also

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be obtained as part of a *Development Agreement* in accordance with Section 7.14 of this Article.

- (B.) ***Building Permits*** –Building Inspector issues *Building Permits* following issuance of a *Zoning Permit* by the Planning Administrator.
- (C.) ***Certificate of Occupancy*** – The Building Inspector issues upon final building inspections and site plan compliance approval by the Town.
- (D.) ***Environmental Impact and Infrastructure*** – The State of North Carolina and various agencies of the United States require specific permits for the impact of natural resources and/or areas deemed sensitive and/or protected. In addition, the State of North Carolina requires specific permits for the expansion of public infrastructure including streets, potable water, wastewater, and storm water. Professional engineers licensed to perform services in the State of North Carolina shall be consulted by applicants for assistance in preparation of plans and studies required before impacting natural resources and expanding public infrastructure.

7.1-2 Fees. The Town Board of Commissioners shall establish a Schedule of Fees, Charges and Expenses, and a collection procedure, for zoning permits and plan approvals issued by the Town. No approval, permit, certificate, variance, etc. shall be processed and/or issued unless or until such charges have been paid in full.

## 7.2 Periodic Inspections

The *Planning Administrator*, or his designee, shall have the right, upon presentation of proper credentials to enter on any premises within the Town's jurisdiction at any reasonable hour for the purposes of inspection, determination of plan compliance, or other enforcement action as directly related to this Development Ordinance.

## 7.3 Permit Expiration

7.3-1 Expiration of Zoning Permits and Approvals. Permits and approvals, other than those identified in section 7.3-2 below, shall run with the land and expire as set forth in the process for each permit and/or approval based upon permit and approval type detailed in Sections 7.5 through 7.11 of this Article.

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7.3-2 Building Permit Expiration. The Building Inspector may void a building permit for a project within the Town jurisdiction if the authorized work has not begun within six months after issuance of the permit, or work was commenced but was discontinued for a period of 12 months per G.S. 160D-1111.

#### 7.4 Certificates of Occupancy

The Building Inspector issues certificates of occupancy, temporary certificates of occupancy, and certificates of floor elevation/flood proofing upon completion or partial completion of a building project.

#### 7.5 Zoning Compliance Permits ~~and Expedited Procedure for Small Projects~~

7.5-1 Zoning Compliance Permit. A *Zoning Compliance Permit (zoning permit)* is required for the construction, development, or establishment of any new use within ~~the planning and regulation jurisdiction of~~ the Town ~~of Pine Knoll Shores~~. In addition to new uses, a *zoning permit* shall also be required for expansions of existing uses, as well as for changes of use. The types of zoning compliance Permits below apply based upon the characteristics of the development proposed:

- (A.) *Special Events/Temporary Structures* – See Section 7.6 of this Article.
- (B.) *Landscaping Permits* – ~~See Article 11.~~ [See Section 7.7 of this Article for procedure and Article 11 for application details.](#)
- ~~(C.) - *Site Development and Construction Plan Approval(s)* for development requiring a zoning compliance permit and building permit. See Section 7.7 of this Article for required information and procedures.~~
- ~~(D.)~~(C.) *Special Use Approvals* – See Section 7.8 of this Article for required information and procedures.
- ~~(E.)~~(D.) *Uses Listed with Additional Standards* – See Section 7.9 of this Article for required information and procedures.
- ~~(F.)~~(E.) *Sign Permits* – See ~~Section 7.10 of this Article~~[Article 17 of this Ordinance](#) for required information and procedures.
- ~~(G.)~~(F.) *Subdivision Plat Approval* – See Section 7.10 of this Article for required information and procedures for both Minor and Major Subdivisions.

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Additional details for the subdivision of land appear in Article 16 of this Ordinance.

~~(H.)~~(G.) ***Floodplain Development and Certification Permit*** – See Article 18 of this Ordinance, as referenced by Section 7.11 of this Article.

~~(+)~~(H.) ***Stormwater Management Permits*** – See Article 19 of this Ordinance, as referenced by Section 7.7 of this Article.

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**7.5-2 Reliance on Licensed Professional's Certification.** In this and other Articles

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where an applicant for a zoning or other land use permit is required to submit a plan prepared by a design professional (i.e. engineer, surveyor, architect, landscape architect) to support an application, such design professional must be licensed by a board or agency of the State of North Carolina and such design professional is required to certify to the Town, using the professional's seal, that the plan meets the standards in this Development Ordinance for which the plan is required. The *Planning Administrator* will accept such certification as satisfying the standards unless contrary evidence is presented to the Planning Administrator establishing to a certainty such certification contains material error. The recipient of a Town land use permit remains at all times liable to the Town for enforcement action and to third parties for damages that result from error in his design professional's certifications.

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**7.6 Special Events/Temporary Structures Zoning Permit**

7.6-1 Purpose. To insure that proposed special events and temporary structures comply with the requirements of Article 15 and any other applicable standards and specifications of this Ordinance, no use that is classified as a special event requiring a permit, and/or no structure that is classified as a temporary structure and permitted as such in the zoning district in which it is located shall be placed or established on the property without first receiving a special event/temporary structure *zoning permit* from the *Planning Administrator*.

7.6-2 Plan submittal.

A. Filing of application. An application for a special event/temporary structure *zoning permit* may be filed by the landowner, a lessee or person holding an

option or contract to purchase or lease land, or by an authorized agent of the landowner. Where an agent, files the application, the agent shall provide the *Planning Administrator* with documentation that the owner of the property has authorized the filing of the application. The application for a special event/temporary structure *zoning permit* shall be filed with the *Planning Administrator* on a form he provides.

- B. Information required. Each application for special event/temporary structure *zoning permit* shall contain the information required on the application form. The application shall be accompanied by a *Sketch Plan* showing the boundaries of the property, the use of adjacent properties, the location of the special event or structure on the property, access and parking provisions, restroom facilities, and other information sufficient to show that the special event or structure complies with the standards set forth in Article 15 and any other applicable standards and specifications of this Ordinance. Persons seeking issuance of a special event/temporary structure *zoning permit* for an event shall file an application with a minimum of five (5) days prior to the proposed event date, unless this time frame is reduced in writing by the *Planning Administrator*.

7.6-3 Staff review. The *Planning Administrator* shall review the application and determine whether it provides the information required. The *Planning Administrator* shall issue a special event/temporary structure *zoning permit* only upon finding that the proposed special event or temporary structure satisfies the requirements set forth in Article 15 and any other applicable standards and specifications of this Ordinance.

7.6-4 Permit validity. The special event/temporary structure *zoning permit* shall run with the land and be valid only for the date(s) stated on the permit.

7.6-5 Public emergencies. In the event of a natural disaster, catastrophic event or public emergency the *Planning Administrator* or their designee may waive any special event/temporary structure permit procedures and authorize the placement of temporary structures and other facilities that are deemed necessary or desirable in conjunction with the management of the emergency.

7.7 ~~Site Development and Construction Plan Approval(s)~~ Landscape Permit Applications

7.7-1 ~~Site Development and Construction Plans~~ Site Plans for Landscape Permits and Review.

A. ~~Requirement and Purpose.~~ Landscape Plans, and Landscape Permits based thereon, unless exempted, are required. ~~The site development and construction plan review process is required for development~~ Site plans are required for ~~all~~ development projects located within the Town of Pine Knoll Shores requiring a landscape permit in order to promote compliance with the standards in this Development Ordinance. ~~In order to prepare for expected impacts upon public services and facilities.~~ ~~The~~ This review process ~~established herein enables the Town to assess and prepare for any impacts upon public services and facilities, is established to~~ assures that adequate services and facilities can be provided. ~~for these developments and reduces or eliminates any negative, to assure that they do not negatively impacts in~~ the area in which they are proposed to be located or the Town as a whole. ~~Proposed developments involving new construction, additions, renovations, and changes of use which fall into one or more of the following categories are subject to the Site Development Plan~~ Landscape Site Plan review process:

- ~~1. New construction and changes of use.~~
- ~~2. Improvements to existing parcels which increase or alter the built upon area on the property.~~

B. Exemptions. ~~Development Projects~~ within the Town of Pine Knoll Shores involving minor landscaping alterations with no land disturbance and no removal of regulated trees, may be exempted from this Section 7.7. by the Planning Administrator.

C. ~~Permits~~ Defined.

1. Major Landscape Permit. A Major Landscape Permit ~~is shall be required for: any project involving:~~

- a. A major subdivision or minor subdivision, as defined in Article 3, ~~or amendments thereto;~~

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- b. Commercial development; or
- c. A change of use.

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2. Single-Family Landscape Permit. A Single-Family Landscape Permit shall be required for:

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- a. New single-family residential construction; or
- b. Redevelopment of a single-family residential lot following the issuance of a demolition permit.

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3. Minor Landscape Permit. A Minor Landscape Permit is shall be required for any project not subject to the requirements of a Major Landscape Permit or a Single-Family Landscape Permit, including but not limited to:

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- a. Landscaping improvements involving tree removal or land-disturbing activities; and
- b. Building additions or pools requiring a building permit.

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4. Tree Removal and Oceanfront Pruning Permit (TRP)

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a. Tree Removal/Oceanfront Pruning Permit (TRP). The Tree Removal and Oceanfront Pruning Permit shall be required for the removal of any regulated tree identified as 3" or greater at thirty six (36) inches above adjacent grade within Town Pine Knoll Shores that is not identified in a separate landscape permit application. This permit shall also apply to the trimming/pruning of oceanfront vegetation on the oceanward side of a structure on an oceanfront parcel and on the entirety of an oceanfront parcel that does not have a structure.

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C. Pre-application procedure. All applicants for Site Development Plan for Major Landscape Permits -and/or -Single-Family Landscape Permits Plan review are required to schedule a predevelopment conference with the Planning Administrator prior to the submittal preparation of the permit applications development plans. This conference allows the applicant and Planning Administrator an opportunity to discuss the review process, the requirements for completing the review schedule, contact persons for

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services and permits, and information regarding *Site Development Plans* *Landscape Site Plan* and development requirements.

D. *Site Development Landscape Site Plan* submittal.

1. Application required. All applications for Landscape Permits must contain all information required of this Development Ordinance and must be accompanied by a compliant *Landscape Plan* as described in Article 11. An *Landscape* application shall be required for all *Site Development Landscape Site Plan* review requests. This application shall contain pertinent information regarding the proposed project and shall be accompanied by a *Landscape Site Development Plan*. The *Site Development Plan Landscape Site Plan* shall

contain the following unless waived by the *Planning Administrator*:

- (a.) Dimensioned footprint and setbacks of the existing and proposed structures with gross floor area indicated
- (b.) Dimensions of existing and proposed impervious surfaces
- (c.) Location and number of parking spaces
- (d.) Location and size of buffer and landscape areas
- (e.) Location of existing and proposed driveways and/or streets
- (f.) Location of all flood zones
- (g.) Location of adjoining properties and both the existing zoning designation and use of these properties
- (h.) Names and addresses of adjoining property owners
- (i.) Number of stories and overall height of all existing and proposed structures
- (j.) Location of proposed stormwater facilities and infiltration calculations
- (k.) A grading plan showing existing and proposed contours demonstrating both positive drainage characteristics and smooth grade transitions. Grading plan must also show limits of disturbance where erosion control measures will be installed.
- (l.) Tree survey depicting all trees over three (3) inches in Diameter at 36" above grade as defined in Article 11.

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- (m.) ~~Septic permit authorization if applicable~~
- (n.) ~~Other information determined by the Planning Administrator as necessary to evaluate the request.~~

2. ~~Preparation by professional. Site Development Landscape Site Plans for developments requiring Site Development Plan Landscape Site Plan review shall be prepared by a registered professional including landscape architect, architect, engineer, or land surveyor licensed in the State of North Carolina for the work in which they are trained and licensed to perform.~~

3. Notice to Adjacent Property Owners. The Planning Administrator must shall notify the adjacent property owners by first class mail at least fourteen days prior to the commencement of construction of development requiring Major Landscape or Single Family Landscape permits.

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E. ~~Staff review.~~

- 1. ~~Submittal of plans to Planning Administrator. Plans for development requiring Site Development Plan review shall be submitted to the Planning Administrator. Site Development Plans shall demonstrate compliance with all relevant ordinances prior to approval.~~
- 2. ~~Planning Department staff review.~~

~~The Planning Administrator reviews the Site Development Plans for compliance with the applicable requirements of this Ordinance, other applicable Ordinances and laws, and the Technical Standards & Specifications Manual. This review shall be made by the Planning Administrator and by any other agencies or officials as requested by the Planning Administrator.~~

E. Plan Permit Review.

~~(J.)~~ The Planning Administrator must shall review all Landscape permit applications including the required Landscape Site Plans for compliance with the applicable requirements of this Ordinance, other applicable ordinances and laws, and submit the plan to other agencies for review as required by state law or this Ordinance. Permit review shall follow the

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procedures outlined in Table 7(1) below. All Planning Board and Appearance Commission reviews are nonbinding recommendations to either the Planning Administrator or Board of Commissioners for final permit approval.

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~~(K-)~~ Table 7-1 PERMIT REVIEW PROCESS (Plus Planning Administrator compliance review.)

PERMIT APPLICATION <i>(including applicable stormwater plans and plats):</i>	REVIEWING BOARDS/COMMISSIONS:			RIGHT TO APPEAL TO:
	Appearance Commission	Planning Board	Board of Commissioners	
Special Use	✓		✓	Carteret County Superior Court
Major Landscape – Change of Use	✓	✓	✓	Board of Adjustment <sup>2</sup>
Major Landscape – Commercial	✓	✓	✓	
Major Landscape – Major Subdivision	✓	✓	✓	
Major Landscape – Minor Subdivision <sup>1</sup>	✓	✓		
Single Family	✓			
Minor Landscape	Upon Request			
Tree/Oceanfront Pruning	✓			
Special Event/ Temporary Structures				
Uses w/ Additional Standards				
Signs				

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Floodplain				
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**Note 1:** Minor subdivisions of land less than 2 acres or being divided into not more than 3 lots where construction or development are not immediately occurring are approved **only** by the Planning Administrator.

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**Note 2:** Appeals from decisions and orders of the Board of Adjustment are to Carteret County Superior Court in the nature of certiorari pursuant to N.C.G.S. § 160D-1402.

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**F.** Permit validity. Approval of ~~Site Development Plans-Landscape Permits~~ ~~Site Plans~~ and zoning permits authorized by G.S. 160D-403 for developments requiring ~~Site Development-Landscape~~ ~~Site Plan~~ review **by the Town** shall run with the land and constitute approval of a site-specific vesting plan in accordance with G.S 160D-108(d) and be valid for two (2) years from the date of approval unless a greater timeframe is authorized by G.S. 160D-108. Failure to submit construction plans, initiate construction, or otherwise begin the permitted use, within this time shall render the ~~Site Development-Landscape Permit~~ ~~Site Plan approval~~ void. The Planning Administrator may grant a single extension of this time period of up to three (3) years upon submittal by the applicant of sufficient justification for the extension. Multi-phased development containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).

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**7.7-2F.** Stormwater Management Plan

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1. Stormwater Management Plan required. A complete and comprehensive stormwater management plan is required for **all applications for Major Landscape Permits and Single Family Landscape Permits-Applications.**

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**Further, unless exempted in Article 19 of this ordinance, the Planning Administrator may also require a stormwater management plan to accompany a minor landscape permit application upon a finding that the application raises a question about the impact of drainage on adjacent property including streets unless exempted in Article 19 of this ordinance.**

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2. Stormwater Management Plans are reviewed in conjunction with

Landscape ~~Site~~ Plans and considered part of the Landscape Permit Application for plan approval.

7.7-3GG.

Site Construction Plans.

1. Site Construction Plan required. A complete and comprehensive set of Site Construction Plans, as described in Section shall be required for ~~all Site Development~~Landscape Permit ~~Site Plan~~ applications for the following types of *development*:

- a. Major Subdivisions and additions to, or modifications of, Major Subdivisions, and
- b. Any development requiring the dedication of a public right of way or utility easement.

~~review requests which require the dedication of a public right of way or utility easement. This submittal shall contain pertinent information regarding the proposed project and shall be accompanied by the approved Site Development~~Landscape Site Plan per Subsection 7.7-1 herein above illustrating any and all deviations from the approved ~~Site Development~~Landscape Site Plan. The *Site Construction Plan* shall contain the following:

- a. Property boundaries with dimensions
- b. Location of adjacent streets/roads including existing right-of-way and/or easement(s)
- c. Location and design of proposed streets including cross-sections in accordance with the Pine Knoll Shores Technical Standards & Specifications Manual, centerline profile(s), and the proposed right-of-way
- d. Location of existing and proposed utilities, including easements associated with both
- e. A grading plan showing existing and proposed contours demonstrating both positive drainage characteristics and smooth grade transitions to avoid abrupt “v” ditches, swales and other disruptions to the landscape, particularly between buildings where

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open space enhancements for use by persons actively utilizing the landscape and/or yard area. The use of crawl-space construction techniques in detached residential structures and professional landscape design is required to meet this characteristic of site development.

- f. Location of existing and proposed stormwater detention, retention, collection, and conveyance facilities, including design calculations
- g. Dimensions of existing and proposed impervious surfaces
- h. Location of existing structures and either proposed structures or proposed building envelopes
- i. Location and number of existing and proposed parking spaces, including loading spaces, maneuvering areas, and fire lane(s)
- j. Location and size of buffer and landscape areas
- k. Location of existing and proposed driveways and/or streets
- l. Location of all flood zones
- m. Location of adjoining properties and both the current zoning designation and use of these properties
- n. Names and addresses of adjoining property owners
- o. Number of stories and overall height of all existing and proposed structures from average grade as defined in Article 3.
- p. Other information determined by the *Planning Administrator* as necessary to evaluate the request.

- 2. Preparation by professional. Site Construction Plans for developments requiring Site DevelopmentLandscape Site Plan review shall be prepared by a registered landscape architect, architect, engineer, or land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform.

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## 7.8 Special Use Approvals

- 7.8-1 Purpose. Special uses are established to provide for the location of those uses which are generally compatible with other land uses permitted in a zoning district but

which, because of their unique characteristics or potential impacts on the surrounding *Neighborhood* and the Town of Pine Knoll Shores as a whole, require individual consideration of their location, design, configuration, and/or operation at the particular location proposed. Such individual consideration may also identify cause(s) for the imposition of individualized conditions in order to ensure that the use is appropriate at a particular location and to ensure protection of the public health, safety, and welfare. Any use identified in Article 10 of this Ordinance as a special use in a zoning district shall not be permitted without the approval of the *Board of Commissioners* in accordance with the requirements and procedures set forth in this Section 7.8.

7-8.2 Pre-application conference procedure. Every applicant for a special use *zoning permit* is required to meet with the *Planning Administrator* in a pre-application conference prior to the submittal of a request for approval of a special use. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application

7-8.3 Plan submittal.

A. Filing of application. An application for a special use *zoning permit* may be filed by the landowner, a lessee or person holding an option or contract to purchase or lease land, or by an authorized agent of the landowner. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the application. The application for a special use *zoning permit* shall be filed with the *Planning Administrator* on a form provided by him.

B. Information required. Each application for a special use *zoning permit* must shall contain all information consistent with this Development Ordinance identified as required by the *Planning Administrator*. The application shall be accompanied by an electronic file copy plus at least two paper copies of a Site Development/Landscape Site Plan containing all information required by Section 7.7 of this Ordinance for filing(s) on the subject property.

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7-8-4 Staff review.

A. Submittal of plans to Planning Administrator. Following submittal of the

application and ~~Site-Development-Landscape~~ ~~Site~~-Plans for the special use, they ~~will shall~~ be reviewed by the *Planning Administrator* for compliance with the requirements of this Ordinance.

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B. Review.

This review ~~will shall~~ be made by the *Planning Administrator* and by any other agencies or officials as requested by the *Planning Administrator*. The *Planning Administrator* ~~will shall~~ review the ~~Site-Development-Landscape~~ ~~Site~~-Plans for compliance with the applicable requirements of this Ordinance and other applicable Ordinances and laws, to which their respective departmental role applies.

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7.8-5 Formal review.

A. Evidentiary hearing. Upon receipt of a notice from the *Planning Administrator* of the applicant requesting an evidentiary hearing on the application and ~~Site-Development-Landscape~~ ~~Site~~-Plan for a special use *zoning permit*, an evidentiary hearing shall be scheduled. An evidentiary hearing before the *Pine Knoll Shores Board of Commissioners* ~~will shall~~ be held for all special use *zoning permit* applications.

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B. Action by the Pine Knoll Shores Board of Commissioners.

1. The Pine Knoll Shores *Board of Commissioners* shall consider the request within 35 days of receiving information regarding the special use *zoning permit* application from the *Planning Administrator* unless the mayor determines exigent circumstances prevent such consideration within the time period.
2. The Pine Knoll Shores *Board of Commissioners*, after conducting the quasi-judicial evidentiary hearing, may: (1) deny approval; (2) continue the application pending submittal of additional information; or (3) approve the proposed special use *zoning permit*.
3. The decision on the special use *zoning permit* application shall be by a simple majority vote of those members of the Pine Knoll Shores *Board of Commissioners* present at the meeting at which the action is taken.

4. The minutes of the Pine Knoll Shores *Board of Commissioners* shall state if the proposed special use meets or does not meet each of the conditions set forth in Subsection 7.8-5.C, the standards set forth in Article 10 of this Ordinance for the proposed special use, and all other requirements set forth by this Ordinance for the proposed special use.

C. Findings and Conditions. In granting the *zoning permit*, the *Board of Commissioners* ~~must shall~~ find there to be competent, material, and substantial evidence in the record to support these conclusions and the *Board of Commissioners* must find that all the below listed facts exist or the application shall be denied.

1. That the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. That the use or development complies with all required regulations and standards of this Ordinance and with all other applicable regulations;
3. That the use or development is located, designed, and proposed to be operated so as not to substantially injure the value of adjoining or abutting property, or that the use or development is a public necessity;
4. That the use or development will be in harmony with the area in which it is to be located and conforms to the general plans for the land use and development of Town of Pine Knoll Shores and its environs.
5. That the use or development will not produce stormwater runoff that is adverse to adjacent or other properties, to include streets in town.
6. That the use or development will not cause the removal or destruction of trees or vegetation in excess of the standards of this Development Ordinance chapter; and

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7. That the use or development meets all requirements and standards of this Ordinance for single family homes and development on lots for the zoning district in which the property is located.
- D. Additional Conditions. In granting the special use *zoning permit*, the *Board of Commissioners* may designate only those conditions, in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located, with the spirit of this Ordinance and clearly in keeping with the public welfare. All such additional conditions shall be entered into the minutes of the meeting, at which the special use *zoning permit* is granted, on the special use *zoning permit* itself, and on the approved plans. All specific conditions shall run with the land and shall be binding on the original applicants, their heirs, successors, and assigns. The special use *zoning permit*, as approved, shall be recorded by the *Planning Administrator* with the Register of Deeds of Carteret County the same as a deed restriction. The *zoning permit* recipient shall be responsible for paying the recording fee. No *building permit* shall be issued for the subject property until the recording is made.
- 7.8-6 Transfer of approval. A special use approval is not transferable from one property to another but is transferred to a subsequent owner of the property to which applied.
- 7.8-7 Resubmission of denied applications. No application for approval of a special use shall be filed with, or accepted by, the *Planning Administrator* that is identical or substantially similar to an application that has been denied by the Pine Knoll Shores *Board of Commissioners* within one year of the final action by the *Board of Commissioners* denying the request. This waiting period may be waived in an individual case, for good cause shown, by the affirmative vote of a majority of the members of *Board of Commissioners*.
- 7.8-8 Notice of hearing. Notice of evidentiary hearings required under this section for special use approvals shall be provided in accordance with the requirements established by G.S. 160D-406 for evidentiary hearing notification.
- 7.8-9 Project phasing. If a project approved as a special use is to be developed in phases,

a master plan for the entire development site must be approved by the Pine Knoll Shores *Board of Commissioners* at the same time and in the same manner the special use *zoning permit* application is considered.

A. Final plans for phases of the special use may be submitted in stages and shall be approved by the *Planning Administrator* provided that the following requirements are met:

1. All stages shall be shown with precise boundaries on the master plan and shall be numbered in the expected order of development.
2. Each phase must be able to exist independently of subsequent phases by meeting all applicable laws and regulations as if the phase were a separate project.
3. All the data required for the project as a whole shall be given for each stage shown on the plan.
4. A proportionate share of the open space, common facilities, amenities, play areas, etc. shall be included in each stage of the development, except that centralized common facilities shall be guaranteed by bond or other irrevocable financial instrument valid for the duration of the project implementation period.
5. The phasing shall be consistent with the traffic circulation, drainage, and utilities plan for the entire master plan for the special use.
6. Each phase of the special use must comply with any and all conditions attached to the approval of the special use *zoning permit* by the Pine Knoll Shores *Board of Commissioners*.

7.8-10 Appeals. An appeal from the decision of the Pine Knoll Shores *Board of Board of Commissioners* regarding a special use application and *Site DevelopmentLandscape Site-Plan* may be made by an aggrieved party and shall be made to the Carteret County Superior Court in the nature of certiorari. Any such petition to the Superior Court shall be filed with the court no later than 30 days after a written copy of the decision of the *Board of Commissioners* is received by the applicant.

7.8-11 Permit validity. Approval(s) of a special use *zoning permit* application and *Site*

~~Development/Landscape~~ ~~Site~~ ~~Plan~~ shall run with the land and constitute approval of a site-specific vesting plan in accordance with G.S. 160D-108(d) and be valid for a minimum of not less than two (2) years from the date of approval by the Pine Knoll Shores *Board of Commissioners*. Failure to initiate construction, or otherwise begin the permitted use, within this time shall render the special use approval null and void. Multi-phased development of a special use project containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).

7.8-12 Failure to Comply with Plans or Conditions. In the event of failure to comply with the plans approved by the *Board of Commissioners* or with any other conditions imposed upon the special use *zoning permit*, the *zoning permit* shall thereupon immediately become void and of no effect. The Planning Administrator is vested with the authority to determine whether there is material non-compliance with the provisions of a special use permit. Upon such determination, he shall issue a Notice of Violation and may issue a stop work order. No building permit for further construction or certificates of occupancy under this special use *zoning permit* shall be issued. If a failure to comply with conditions in a special use *zoning permit* occurs after occupancy, the owner, lessee, or other responsible person shall be notified in writing of the violation. The decision of the Planning Administrator is an administrative decision appealable to the Board of Adjustment.

7.8-13 Minor modifications. Minor modifications to the approved special use permit may be approved by the *Planning Administrator* per authorization under G.S. 160D-705(c). The minor modifications authorized herein are intended to provide relief where conditions established by the special use permit create a hardship based upon a unique physical attribute of the property itself or some other factor unique to the property which was not known at the time of special use permit approval and which has subsequently rendered the property difficult or impossible to use due to the condition(s) imposed by the special use permit. The special use permit holder shall bear the burden of proof to secure the modification(s). Such modifications shall be limited to the following:

1. A deviation of up to ten percent or 24 inches, whichever is greater, from the approved setback, provided that the conditions for approving a deviation from the required setback established by Article 14 (Flexible Development Standards) of this Ordinance are met.
2. Any other minor modification in accordance with the limitations and procedures prescribed in this Ordinance, unless restricted by G.S. 16D-703(b), or the special use permit adopted pursuant to this section specifies otherwise.

Any other modifications must be approved by the *Board of Commissioners* as an amendment to the special use permit and may be referred to the Planning Board or *Planning Administrator* as appropriate. The *Planning Administrator* shall in every case have the discretion to decline to exercise the power to approve or deny modifications as provided for herein, and may require the applicant to seek an amendment to the Special Use Permit.

7.8-14 Special Use Permit recorded. Special Use Permits shall be recorded by the holder of the permit with the Carteret County Register of Deeds within 60 days of approval. Modifications to Special Use Permits shall be recorded in the same manner in which the original permit was recorded.

## **7.9 Uses Listed with Additional Standards**

7.9-1 Purpose. Uses listed with additional standards are uses permitted by right, provided that the additional standards set forth in Article 10 of this Ordinance are met. The additional standards are intended to ensure that the uses fit the intent of the zoning districts within which they are permitted, and that the uses are compatible with other development permitted within the zoning districts. Review and approval of these uses are the authority of the Planning Administrator, who has no discretion to modify the additional standards.

7.9-2 Permit validity. Upon the approval of a zoning permit for a use with additional standards authorized by G.S. 160D-403 the applicant shall have one year to obtain the required building permit(s) if any, unless a greater timeframe is authorized by G.S. 160D-108. Failure to obtain requisite building permit(s) within this time shall render the zoning permit void. Upon issuance of a building permit(s), a zoning permit for

improvements shall run with the land and remain valid as long as a valid building permit exists for the project.

## 7.10 Subdivision Plat Approval

### 7.10.1 Major Subdivisions.

- A. Purpose. The *Major Subdivision* review process is required for those divisions of land meeting the definition of “*Subdivision, Major*” appearing in Article 3 of this Ordinance. Review and approval of the *Preliminary Plat* by the *Planning Administrator* following ~~input by the Planning Board is required under~~ the *Major Subdivision* review process, ~~with review and approval of the Final Plat made by the Planning Administrator outlined in~~ Table 7-1. Major Subdivisions proposing the development of new municipal street infrastructure are required to enter into a *Development Agreement* in accordance with Section 7.14 of this Article.
- B. Pre-application procedure.
1. Conference. It is required that every applicant for a *Major Subdivision* meet with the *Planning Administrator* in a conference prior to the submittal of a *Subdivision Plat*. The purpose of this conference is to provide clarification and assistance in the preparation and submission of *Plats* for approval.
  2. Sketch Plan. A *Sketch Plan* shall be submitted to the *Planning Administrator* prior to or at the pre-application conference. Upon submittal of the *Sketch Plan*, the *Planning Administrator* shall conduct an initial review to determine whether the proposed *Subdivision* is a *Major Subdivision*.
- C. Application and Preliminary Plat/~~Site Development~~Landscape Site Plan submittal.
1. Preliminary Plat(s) required. A *Preliminary Plat* and Site Development~~Landscape~~ Site Plan for a proposed *Major Subdivision* must shall be prepared by a registered architect, engineer, landscape architect, and/or land surveyor licensed in the State of North

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Carolina for the work in which the professional is trained and licensed to perform; and shall be prepared in accordance with the standards set forth by the *Planning Department* and applicable state standards.

2. Filing of application. A complete application containing all information as required by the Town of Pine Knoll Shores shall be submitted, along with applicable fees, to the *Planning Administrator*.

D. Preliminary Plat/~~Site Development~~Landscape ~~Site~~ Plan for Major Subdivisions submittal requirements.

1. Application required. An application shall be required for all Preliminary Plat/~~Site Development~~Landscape ~~Site~~ Plan for Major Subdivisions approval ~~review requests~~. This application shall contain pertinent information regarding the proposed project and shall be accompanied by a Preliminary Plat/ Landscape ~~Site~~ ~~Site Development~~ Plan for Major Subdivisions and Site Construction Plans. The Preliminary Plat/~~Site Development~~Landscape ~~Site~~ Plan for Major Subdivisions shall contain the following:

- a. Property boundaries with dimensions
- b. PIN for property
- c. Location of adjacent streets, right of ways, and utility easements
- d. Dimensioned footprint and setbacks of the existing structures
- e. Location and size of buffer and landscape areas
- f. Location of existing and proposed streets
- g. Location of all flood zones
- h. Location of adjoining properties and both the existing zoning designation and use of these properties
- i. Names and addresses of adjoining property owners
- j. Location of proposed stormwater facilities

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- k. Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc., and
- l. Other information determined by the *Planning Administrator* as necessary to evaluate the request.

2. Site Construction Plan. The Site Construction Plan submitted with the application for *Preliminary Plat/ Landscape Plan for Major Subdivisions* must be compliant with Section 7.7-3 above.

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3. Landscape Plan. The application for *Preliminary Plat/ Landscape Plan for Major Subdivisions* must also include a plan in the format and containing all information required by Section 11.5 of Article 11 of this Development Ordinance.

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E. Staff review and Planning Board input Preliminary Plat Review Process.

1. *Planning Department* staff review. Applications and plans for *Preliminary Plat/Site Development Landscape Site Plan for Major Subdivisions* and the *Site Construction Plan* review shall be reviewed by the *Planning Administrator* for compliance with the requirements of this Article.

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2. Submittal of plans to Planning Administrator. This review shall be made by the *Planning Administrator* and by any other agencies or officials set forth in G.S. 160D-803(b) as requested by the *Planning Administrator*. The *Planning Administrator* shall review the application and supporting plans and other documents *Preliminary Plat/ Landscape Site Site Development Plan for Major Subdivisions* for compliance with the applicable requirements of this Ordinance and other applicable Ordinances and laws, to which their respective departmental role applies.

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3. ~~Submittal of plans to Planning Board~~Board review. This review shall be made by the *Planning Board* as requested by the *Planning Administrator*. ~~The Planning Board shall review the Preliminary Plat/Site Development Plan for Major Subdivisions only in accordance with the applicable requirements of this Ordinance.~~Further reviews for Major Subdivision Preliminary Plat Approval shall follow the procedure shown in Table 7-1.
- F. Permit validity. Approval of the *Preliminary Plat Landscape Site* ~~/Site Development Plan~~ for Major Subdivisions authorized by G.S. 160D-403 for developments requiring *Landscape Site* ~~Site Development~~ Plan review shall run with the land and constitute approval of a site-specific vesting plan in accordance with G.S. 160D-108(d) and be valid for two (2) years from the date of approval unless a greater timeframe is authorized by G.S. 160D-108. The *Planning Administrator* may grant a single extension of this time period of up to three (3) years upon submittal by the applicant of sufficient justification for the extension. The *Final Plat* for the *Major Subdivision* shall be presented for approval prior to the end of the two-year period. Failure to submit construction plans, initiate construction, or otherwise begin the permitted use, within this time shall render the *Preliminary Plat Landscape Site* ~~/Site Development Plan~~ approval void. Multi-phased development of subdivisions containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).

G. Site Construction Plans:

- ~~1. Site Construction Plan required. A complete and comprehensive set of Site Construction Plans shall be required for all Preliminary Plat Landscape Site /Site Development Plan for Major Subdivisions review requests. This submittal shall contain pertinent information regarding the proposed project listed below and shall be accompanied by the approved~~

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~~Preliminary Plat/ Landscape Site Site Development Plan for Major Subdivisions~~ per 7.10.1(D.) herein above illustrating any and all deviations from the approved ~~Preliminary Plat/ Landscape Site Site Development Plan for Major Subdivisions~~. The ~~Site Construction Plans~~ shall contain the following:

- a. ~~Property boundaries with dimensions~~
- b. ~~Location of adjacent streets/roads including existing right-of-way and/or easement(s)~~
- c. ~~Location and design of proposed streets including cross sections in accordance with the Pine Knoll Shores Technical Standards & Specifications Manual, centerline profile(s), and the proposed right of way~~
- d. ~~Location of existing and proposed utilities, including easements associated with both~~
- e. ~~A grading plan showing existing and proposed contours demonstrating both positive drainage characteristics and smooth grade transitions to avoid abrupt "v" ditches, swales and other disruptions to the landscape, particularly between dwellings. The use of crawl space construction techniques in detached residential structures and professional landscape design is required to meet this characteristic of site development.~~
- f. ~~Location of existing and proposed stormwater detention, retention, collection, and conveyance facilities, including design calculations~~
- g. ~~Dimensions of existing and proposed impervious surfaces~~
- h. ~~Location of existing structures and either proposed structures or proposed building envelopes~~
- i. ~~Location and number of existing and proposed parking spaces, including loading spaces, maneuvering areas, and fire lane(s)~~
- j. ~~Location and size of buffer and landscape areas~~
- k. ~~Location of existing and proposed driveways and/or streets~~
- l. ~~Location of all flood zones~~

- ~~m. Location of adjoining properties and both the current zoning designation and use of these properties~~
- ~~n. Names and addresses of adjoining property owners~~
- ~~o. Number of stories and overall height of all existing and proposed structures~~
- ~~p. Location of existing and proposed dumpster and recycling container area(s) if applicable~~
- ~~q. Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc., and~~
- ~~r. Other information determined by the Planning Administrator as necessary to evaluate the request.~~

~~2. Preparation by professional. Construction Plans for developments requiring Landscape Site Site Development Plan review shall be prepared by a registered landscape architect, architect, engineer, or land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform; and shall be prepared in accordance with the standards set forth by the Planning Department and applicable state standards.~~

- H. Final Plat. Final Plats for recording *Major Subdivisions* shall be prepared by a professional land surveyor in accordance with the standards set forth by the applicable state standards and in accordance with the standards and specifications of this Ordinance. The *Final Plat* of a *Major Subdivision* shall be reviewed by the *Planning Administrator* for compliance with the requirements of this Ordinance and for conformity with the approved *Preliminary Plat*. Substantial changes from the *Preliminary Plat*, as determined by the *Planning Administrator*, shall require an additional review by the *Planning Administrator*, to ensure compliance. No *Final Plat* shall be approved by the *Planning Administrator* until all improvements are installed, fees paid in lieu, or their execution guaranteed as permitted by this Ordinance and all certificates required for final *Plats* by this Ordinance or

approvals by state law have been properly completed and signed. Provided the *Final Plat* is complete, and no further review is determined to be required, the *Planning Administrator* shall act on the *Final Plat* of *Major Subdivisions* within ten (10) working days of receipt of the Mylar *Plat*. ~~The *Planning Administrator* is authorized to approve the *Final Plat* for recording and to present the *Final Plat* to the Town Board of Commissioners to grant approval and acceptance of dedications by resolution.~~ Approval of the *Final Plat* shall follow the procedures of Table 7-1 prior to recordation with the Carteret County Register of Deeds office. Following *Final Plat* approval, the applicant shall record the *Plat* for a *Major Subdivision* in accordance with this subsection.

I. Signatures and recordation.

1. Signatures. Upon approval of a *Final Plat* for *Major Subdivisions*, the *Plat* shall be signed in the appropriate place by the *Planning Administrator* and by the owner(s). Additionally, approval shall be shown by a Certificate of Approval; Certificate of Review Officer; Certificate of Professional Land Surveyor; and Certificate of Ownership for recording. For *Major Subdivisions* installing new public infrastructure the following certificates shall also be shown where applicable: Certificate of Dedication; Certificate of Approval for Street and Road Maintenance; Certificate of Streets and Other Public Infrastructure Improvements; and Certificate of Water and Sewer System Approval. The language for these certificates appears at the end of Article 7 of this Ordinance.
2. Recordation. A *Final Plat* for *Major Subdivisions* shall be recorded in the office of the Register of Deeds for Carteret County in compliance with North Carolina General Statutes within 60 days following approval by the Town of Pine Knoll Shores. No *Subdivision Plat* shall be considered finally approved until the *Plat* has been recorded. If the *Final Plat* of all or part of the area shown on an approved *Preliminary Plat* for a *Major Subdivision* is not

recorded in the office of the register of deeds within two years of the approval by the Town of the *Preliminary Plat*, the *Preliminary Plat* shall be resubmitted to the *Planning Administrator* for consideration following the process set forth in this Article. *Final Plats* for *Subdivisions* developed in phases shall be recorded in accordance with the schedule presented by the applicant during the *Preliminary Plat* approval and approved as part of the *Preliminary Plat* approval process. If the *Final Plat* of all or part of the area shown on an approved *Preliminary Plat* for a *Major Subdivision* to be developed in phases is not recorded in the office of the register of deeds within the schedule approved by the Town, the *Preliminary Plat* shall be resubmitted to the *Planning Administrator* for consideration following the process set forth in this Article. No lots in a *Subdivision* shall be sold prior to approval by the *Planning Administrator* and recording of a *Plat* for the *Subdivision*.

7.10-2 Minor Subdivisions.

- A. Purpose. The *Minor Subdivision* review process is required for those divisions of land meeting the definition of “*Subdivision, Minor*” appearing in Article 3 of this Ordinance. Review and approval of the preliminary and *Final Plat* by the staff permits a speedy review in accordance with G.S.160D-802(b) while ensuring that the proposed *Subdivision* meets all requirements established by the Town of Pine Knoll Shores.
- B. Pre-application conference. It is required that every *Subdivision* applicant meet with the *Planning Administrator* prior to the submittal of a *Minor Subdivision Plat*. The purpose of this conference is to provide clarification and assistance in the preparation and submission of *Plats* for approval.
- C. Plat submittal.
  1. Plat required. *Plats* for *Minor Subdivisions* shall be prepared by a professional land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform; and shall be prepared in accordance with the standards set

forth by the *Planning Department* and applicable state standards.

2. Filing of application. A complete application containing all information as required by the Town of Pine Knoll Shores shall be submitted, along with applicable fees, to the *Planning, Zoning & Subdivision Administrator*.

D. Staff review~~Review Process.~~

1. Planning Department staff review. Plans for development not requiring Landscape ~~Site~~ Site Development Plan review shall be reviewed by the *Planning Administrator* for compliance with the requirements of this Article.

2. Minor subdivision plans which require the approval of a Landscape Plan must follow the procedures referenced in 7.7-1 (EF)(1.a) and Table 7-1.

E. Final Plat approval.

1. Recordation and signatures.
  - a. Signatures. Upon approval of a *Plat* for *Minor Subdivisions*, said *Plat* shall be signed in the appropriate place by the *Planning Administrator* and by the owner(s). Additionally, approval shall be shown by a Certificate of Approval; Certificate of Review Officer; Certificate of Professional Land Surveyor; and Certificate of Ownership for recording. The language for these certificates appears at the end of this Article.
  - b. Recordation. A *Plat* for *Minor Subdivisions* shall be recorded by the developer of the subdivision of Pine Knoll Shores in the office of the Register of Deeds for Carteret County within 60 days following approval by the *Planning, Zoning & Subdivision Administrator* or it becomes invalid. No *Plat* shall be considered finally approved until the *Plat* has been recorded. No lots in a *Subdivision* shall be sold nor will the Subdivision Plat be recorded prior to approval by the *Planning Administrator*. Plans that require

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~~the approval of a Landscape Site Plan must follow the procedures referenced in 7.7-1(F)(1.a) and Table 7-1, and recording of a Plat for the Subdivision.~~

~~F. Permit validity. Minor Subdivision Plats which have been granted approval shall be recorded as set forth in section 7.10-2(E)(1)(b) above within 60 days following approval or the approval becomes invalid.~~

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### 7.11 Floodplain Development and Certification Permit

Permitting procedures and requirements for Floodplains appear in Article 18 of this Ordinance.

### 7.12 Zoning Vested Rights

Vested rights and permit choice are inherent rights established by G.S. 160D and applied herein accordingly. Each approval procedure stipulated in this Article establishes criteria in accordance with G.S. 160D-108 and G.S. 160D-108.1 for ensuring due process in the vesting of rights to develop, use and enjoy real property in accordance with applicable standards & specifications.

### 7.13 Notices and Hearings

#### 7.13-1 General notice requirements.

- A. Except for notice of zoning action posted on or adjacent to the property, all notices which this Article requires for hearings or public meetings shall identify the date, time and place of the hearing/public meeting and the nature and character of the proposed action. Where the action being taken concerns a particular property or properties, the notice shall also identify the location of the subject property.
- B. Where specific notice requirements are set forth in the North Carolina General Statutes for a particular type of hearing, the requirements set forth in the North Carolina General Statutes shall be followed. Where these requirements conflict with procedures as stipulated in this subsection or elsewhere in this Article, the requirements contained in the North Carolina General Statutes will control. Evidentiary hearing notices appear in G.S. 160D-406(b) and legislative hearing notices appear in G.S. 160D-602.

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7.13-2 Notice procedure. The following guidelines detail the notification procedure to be

followed for hearings required by this Article unless otherwise set forth in this Article. Failure to follow procedures set forth in this section, other than those required by the North Carolina General Statutes, shall not affect the validity of any action taken at a hearing or public meeting. See G.S. 160D-406 (applicable to quasi-judicial procedures), 160D-602 (applicable to legislative actions).

7.13-3 Special notice requirements for telecommunications towers/structures. For any evidentiary hearing for special use applications for telecommunication towers as required by Article 10, additional notice and evidentiary hearing requirements shall be provided as set forth in Article 10 of this Ordinance.

#### **7.14 Development Agreements**

##### 7.14-1 Authorization and Applicability

- A. The North Carolina General Statutes authorize the use of Development Agreements for the development of land in accordance with the criteria and procedures established in sections G.S. 160D-1001 through G.S. 160D-1012.
- B. In addition to any *Development Agreement* proposed for an eligible project, a *Development Agreement*, established pursuant to Subsection 7.14-3 of this Ordinance, shall be required as part of all applications for *Major Subdivisions* in any district where new municipal street infrastructure will be developed.

##### 7.14-2 Content of Development Agreement

- A. The development agreement shall establish the period of time for completion of the development and construction of the project subject to the agreement.
- B. The development agreement shall establish the property to which the agreement shall apply by metes and bounds description attached to the agreement as "Exhibit A".

- C. The development agreement shall cite all terms and conditions applicable to the development of the land subject to the agreement including standards and/or specifications that differ from the provisions of this Ordinance.
- D. The development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development.

7.14-3 Procedures for Entering into Development Agreements

- A. The development agreement shall be drafted in a format as directed by the Planning, Zoning & Subdivision Administrator. The development agreement shall then be presented to the *Planning Board* for a formal recommendation at a regularly scheduled meeting. Said meeting shall be held prior to notification for a legislative hearing by the Town Board of Commissioners.
- B. The development agreement and the *Planning Board* recommendation shall be published for public inspection and notification shall be made in accordance with the provisions of G.S. 160D-601.
- C. The notice for the legislative hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.
- D. The development agreement shall be presented at a legislative hearing allowing an opportunity for the public to comment on the proposed development agreement. The information presented at the legislative hearing shall be considered by the Town Board of Commissioners in formulating its decision on the approval of an ordinance authorizing approval of said agreement.
- E. Upon finding that said agreement is in the best interest of the Town of Pine Knoll Shores, the Town Board of Commissioners may by adoption of an ordinance adopting the development agreement and authorizing its execution by the Mayor, approve such agreement to be administered in full force and effect by the *Planning, Zoning & Subdivision Administrator*.

- F. The development agreement shall be recorded in the office of the Register of Deeds of Carteret County within fourteen (14) days of execution and prior to the issuance of any development permits authorizing development activities to commence.

7.14-4 Administration of Development Agreements and Termination for Material Breach

- A. The development agreement shall run with the land obligating the parties to the agreement to any and all stipulations therein and may only be amended in accordance with the laws of North Carolina governing such agreements as stipulated in section 7.14-1 herein.
- B. The *Planning Administrator* shall conduct a periodic review at least every 12 months, at which time the developer is required to demonstrate good faith compliance with the terms of the development agreement. If, as a result of a periodic review, the *Planning Administrator* finds and determines that the developer has committed a material breach of the terms or conditions of the agreement, the *Planning Administrator* shall serve notice in writing, within a reasonable time after the periodic review, upon the developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the developer a reasonable time in which to cure the material breach.
- C. If the developer fails to cure the material breach within the time given, then the Town of Pine Knoll Shores may unilaterally terminate or modify the development agreement. In accordance with G.S. 160D-1008(c) the notice of termination or modification may be appealed to the Board of Adjustment in the manner provided by G.S. 160D-405.
- D. A development agreement adopted pursuant to this Section shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of this Ordinance.

## ARTICLE 11

### LANDSCAPE REQUIREMENTS, DUNE PROTECTION AND TREE PROTECTION

#### 11.5 Purpose

The regulations set forth in this Article are intended to regulate development and redevelopment within the Town to ensure compatibility with the environmentally sensitive nature of the unique coastal vegetation and landforms contained within the community. The Town of Pine Knoll Shores maintains its tree regulation through enabling legislation in House Bill 2317 of the North Carolina General Statutes. Development and redevelopment of property shall be regulated by the underlying zoning designation already in place as well as the regulations contained herein in order to achieve the following:

1. Natural Features and Attractiveness. Preserve the natural features and visual attractiveness of the area. Such features include ocean frontal dunes, naturally vegetated areas, interior dune topography, maritime forest areas, and estuarine buffer areas.
2. Soil Stabilization. Preserve vegetation acting as sand and soil stabilizers, and that provide wind or salt mist intrusion protection value, including the dune ridge plants and naturally vegetated forested areas, and that absorb storm water runoff and reduce flooding concerns.
3. Natural Topography. Preserve to the greatest extent practical the existing and natural topography of the Town.
4. Rights of Property Owners. Balance the rights of property owners to develop and use their property while understanding the impact of development on the natural environment.

These regulations will thereby enhance tree canopy and implement urban forest management improvements through requirements for tree protection, tree preservation, the planting of trees and the maintenance of existing and newly planted trees within the Town of Pine Knoll Shores. Additionally, this Article will establish minimum standards for landscape design to improve the community aesthetically, economically, and environmentally. The requirements are further intended to enhance the quality of life through sustainable urban forest practices and increase the benefits trees provide, including, but not limited to the following:

1. Absorption of carbon dioxide and returning oxygen
2. Reduction of soil erosion and increase in rainwater infiltration
3. Provision of shade for cooling
4. Screening of noise, dust, glare, and visual intrusions

5. Reduction of storm-water runoff
6. Reduction of risk for both wildfires and structure fires
7. Maintenance and improvement of Town appearance and aesthetics
8. Provision of habitat for wildlife
9. Preservation, protection and enhancement of the natural environment

#### **11.6 Administration**

The following personnel have responsibility for administering and enforcing the provisions of this section:

- (A.) The *Planning Administrator* shall have responsibility for overseeing the administration of this article.
- (B.) The *Public Works Administrator* shall have responsibility and control over all trees and shrubbery planted or growing upon Town property including public street right-of-way.
- (C.) The *Planning Administrator* shall have the authority to enforce the standards of this Article in the event of compliance failure. The *Planning Administrator* or upon designation by the *Planning Administrator*, the *Appearance Commission* shall also have responsibility and control over all regulated, unsafe, and diseased trees located on public and private property.

#### **11.7 Applicability and Permit Required**

Regulated vegetation shall not be removed, destroyed, altered, and/or disturbed without obtaining a *Tree Removal/Oceanfront Pruning Permit (TRP)* per Section 11.7 of this Ordinance.

The provisions of this Article shall apply to the following:

- 11.7-1 All residential and non-residential development(s), including both existing lots of record, recombination of lots, and proposed new lots within the Town. The provisions also apply to all previously developed lots of record within the Town, except for those projects listed under Section 11.4 Exemptions appearing below.
- 11.7-2 Vehicular use areas shall be subject to the landscape requirements as outlined under the Article 12, as follows:
  - (A.) Any new parking lot with two (2) or more spaces.
  - (B.) The expanded portions of existing parking lots shall landscape the area included in and around the expansion.

- (C.) Expansions exceeding 50 percent of the paved area must bring the entire vehicular use area into compliance with the Parking Lot Landscape Requirements.
- (D.) Existing unpaved parking lots which are paved or existing paved lots which are demolished and repaved must bring the entire vehicular use area into compliance with the Parking Lot Landscape Requirements.

11.7-3 Any land disturbing activities or tree removal shall require a *Tree Removal/Oceanfront Pruning Permit (TRP)* as per section 11.7 of this Article.

#### **11.8 Exemptions:**

Exemptions described below are limited to the activity described and shall not be construed to allow the destruction of any frontal or interior dune, and/or allow alteration of the natural topography without first obtaining a *Tree Removal/Oceanfront Pruning Permit (TRP)* as prescribed in this Ordinance. Any such actions creating and/or causing such destruction and/or alteration shall constitute a violation of this Ordinance.

The provisions of this Article shall not apply to the activities listed below, provided such activity is conducted in accordance with the requirements hereof:

- (A.) Removal of sand, seashells, or similar small materials in such amounts as may be carried easily upon one adult.
- (B.) The normal maintenance of existing non-native landscape plantings upon any lot or parcel including, but not limited to, lawn maintenance; the relocation, removal, and/or replacement of non-native shrubs; and the cutting and/or removal of non-native nuisance vegetation.
- (C.) The removal of trees with a caliper less than three (3) inches at a height of thirty-six (36) inches above adjacent grade on non-oceanfront property
- (D.) Pruning of vegetation with a caliper greater than three (3) inches at a height of thirty-six (36) inches on non-oceanfront property, provided that such pruning shall not be designed to result in the eventual death of the tree or other vegetation.
- (E.) The cutting of brush or vegetation with a caliper less than three (3) inches at a height of thirty-six (36) inches above adjacent grade by a registered land surveyor or engineer for the purpose of completing survey work on a parcel of property.
- (F.) The cutting of brush, or vegetation and/or trees with a caliper of less than three (3) inches at a height of thirty-six (36) inches above adjacent grade to allow for the evaluation of a parcel for on-site septic wastewater system purposes.

- (G.) Property covered by an active forestry management plan prepared by a North Carolina Registered Forester, provided that documentation has been furnished to the *Planning Administrator*.
- (H.) Routine trimming by utility companies within easement areas for the preservation of utility services.

### **11.9—Landscape Permits**

~~11.9.1 Landscape Plan Approval Required. A landscape permit must be obtained prior to new development and building additions. There are four types of landscape permits depending on the type of development proposed.~~

~~(A.) Single Family Landscape Permit. The single family landscape permit is required when there is activity on a lot zoned for detached single family residential use, when there is a significant change in topography of a lot that may affect off site drainage and/or vistas of adjacent properties when tree removal is proposed. This will include new single family residential construction and may also apply to substantial additions to existing single family residential homes and a new swimming pool.~~

~~(B.) Minor Landscape Permit. The minor landscape permit applies when development activity takes place having little or no land disturbance, no adverse drainage impact on adjacent properties, little or no tree removal, nor other adverse impact on adjacent property. This permit is usually used for minor property improvements as determined by the Planning Administrator.~~

~~(C.) Major Landscape Permit. The major landscape permit applies for all development activity other than single family residential use, when there is a significant change in topography of a parcel lot that may affect off site drainage and/or vistas of adjacent properties, or when tree removal is proposed. Examples of this permit include new commercial construction, multi family construction and subdivision development.~~

~~(D.) Tree Removal/Oceanfront Pruning Permit (TRP). The Tree Removal and Oceanfront Pruning Permit shall be required for the removal of any regulated tree identified as 3" or greater at thirty six (36) inches above adjacent grade within Pine Knoll Shores that is not identified in a separate landscape permit application. This permit shall also apply to the trimming/pruning of oceanfront vegetation on the oceanward side of a structure on an oceanfront parcel and on the entirety of an oceanfront parcel that does not have a structure.~~

~~Landscape permits may be issued with the appropriate building permit. The Planning Administrator, after reviewing the proposed project and its impact on the site and adjacent properties, will determine which permit is required to approve the development activity. For development requiring a building permit, no landscape permit shall be issued until the applicant has obtained the corresponding building permit.~~

#### 11.1011.9 Landscape Plan

(A.) All applications for Major Landscape Permits and Single-Family Landscape Permits shall contain a landscape plan ~~site plan~~ for the property drawn to a scale of one inch = 20 feet for all parcels and shall include the following:

1. Dimensioned footprint and setbacks of the existing and proposed structures with gross floor area indicated.
2. Dimensions of existing and proposed impervious surfaces with impervious surface calculations.
3. Location and number of parking spaces.
4. Location and size of buffer and landscape areas.
5. Location of existing and proposed driveways and/or streets.
6. Location of all flood zones.
7. Location of adjoining properties and both the existing zoning designation and use of these properties.
8. Names and addresses of adjoining property owners.
9. Number of stories and overall height of all existing and proposed structures.
10. Location of proposed stormwater facilities and infiltration calculations.
1. ~~Existing and proposed topography, clearly representing the extent of any proposed grading, excavation, and fill;~~
11. A grading plan showing existing and proposed topography contours and clearly representing the extent of any proposed grading, excavation, and fill. The grading plan must demonstrate both positive drainage characteristics and smooth grade transitions. The grading plan must also show limits of disturbance where erosion control measures will be installed.
- ~~(17.)~~12. A tree survey inventory of existing trees having trunks with diameters of three inches or greater, measured at 36 inches above adjacent grade.
- ~~(18.)~~(13.) Existing regulated trees proposed to be removed.

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~~(19.)~~(14.) Trees and other native plants proposed to be retained and methods to be utilized for the purpose of protecting existing vegetation, and, the tree density per 1,000 square feet of pervious area prior to development and the resulting tree density per 1,000 square feet of pervious area excluding septic fields, Ocean Hazard Setbacks, and Estuarine Setbacks.

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~~(20.)~~(15.) ~~The location of proposed structures on the property including driveways;~~

~~(21.)~~(16.) The location and the design of proposed landscape areas and varieties and sizes of plant materials to be planted, including the quantity of trees.

~~(17.) Existing and proposed topography, clearly representing the extent of any proposed grading, excavation, and fill;~~

~~(18.) Other information determined by the Planning Administrator as necessary to evaluate the plan.~~

~~(22.)~~

~~(23.)~~(16.) The impervious surface calculation.

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(B.) The Planning Administrator may waive the requirement for a specific item or information in a landscape plan if such item or information is totally irrelevant to the proposed development.

~~(B.)~~(C.) If the major landscape plan or single-family landscape plan is to include excavation (other than for building footers), fill, or grading (other than minor leveling of the construction site and installation of not more than four inches of topsoil following construction) the permit applicant must submit certification from a registered surveyor, professional engineer, or landscape architect that normal and natural drainage patterns on adjacent properties (including streets) will not be changed and that the amount of stormwater runoff on or over adjacent properties (including streets) will not be increased.

~~(C.)~~(D.) All applications for a minor landscape permit shall include at least an 8½ inch × 11 inch sketch of the property, its current structures, the proposed improvement, current regulated trees near the proposed improvement, any of these trees to be disturbed, plantings to be added, any other pertinent information important to the approval process.

~~(D.)~~(E.) The landscape plan required by this Ordinance shall clearly define for oceanfront property those areas where existing dunes, berms, and maritime vegetative cover shall remain undisturbed and shall include plans for restabilizing and revegetating areas disturbed. Disturbance of the natural vegetation shall only be permitted in those

circumstances in which such disturbance is necessary to allow safe construction of the proposed structure and its appurtenant facilities, such as septic tank and driveway (and in those circumstances in which property values would be significantly devalued by completely restricting view). Such special consideration must be given to preserving as much natural vegetation as possible.

~~(E)~~(F.) For single-family landscape permit applications, notice will be sent by the Planning Administrator, or his authorized agent by first class mail, or electronic mail, to the adjacent property owners at least one week before the Planning Administrator issues such a permit. Following receipt of a recommendation from the community appearance commission regarding each permit application, the Planning Administrator will decide to approve, approve with conditions, or deny a single-family landscape permit application. To grant a single-family landscape permit, the ~~Planning zoning Administrator~~ must find that, or his authorized agent must find that the activities described in the application:

(16.) The applicant has provided a certification from a design professional per Section 11.5 C, that the development will not change drainage patterns on adjacent properties or streets and the development will not increase the amount of stormwater runoff on or over adjacent properties and including streets.

~~(16.) Will not produce stormwater runoff that is averse to adjacent or other properties, to include streets in town.~~

(17.) ~~The development w~~Will not cause the removal or destruction of trees or vegetation in excess of the standards of this Ordinance; and

(18.) ~~The development m~~Meets all requirements and standards of this Ordinance for single family homes and development on lots for the zoning district in which the property is located.

The applicant has the burden of persuasion for the required findings. In the event the Planning Administrator ~~has~~insufficient information to make the required findings, he shall have the authority to require the applicant ~~to make the required findings, he shall have the authority to require the applicant,~~ at the applicant's cost, to provide professional certifications or opinions on the question.

~~(F)~~(G.) Upon completion of the work authorized in any form of a single family landscape permit ~~or minor landscape permit,~~ the Planning Administrator, ~~or his authorized agent~~ shall re-inspect the site, ~~and~~ascertain compliance with the permit, and, if the development is in compliance, issue a certificate of compliance. ~~Additionally, upon completion of the work authorized in a major landscape permit or single family landscape permit, the Planning Administrator will also re-inspect the site and advise the compliance with the permit.~~

~~(G)~~(H.) Any person with standing, including the town, aggrieved by the decision of the Planning Administrator regarding a single-family landscape permit or minor

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landscape permit may appeal to the board of adjustment. The board of adjustment shall hold a quasi-judicial hearing on the appeal.

~~(H.) For major landscape permit applications, upon receipt of the Appearance Commission's recommendation, the Planning Board shall consider the application following its site inspection. Such consideration shall be scheduled after all adjacent property owners have been sent written notice at least 14 calendar days prior to the meeting where the application will be considered. If an applicant is requesting that their building height limit be considered from approved grade rather than natural grade, the notice to adjacent property owners must indicate and the request will be considered as part of the review of the permit application. After its review of the application, the Planning Board will determine whether the development proposed in the application is in substantial compliance with the applicable provisions of this Ordinance and provide its determination to the Planning Administrator. Upon receipt of the determination, the Planning Administrator will take the Appearance Commission's and Planning Board's determinations under advisement, and if the Planning Administrator is convinced the application is in substantial compliance with the applicable provisions of this Ordinance, he shall issue the permit. Otherwise he will deny the permit. Any person with standing may appeal the Planning Administrator's action to the Board of Adjustment for a quasi-judicial hearing on question of whether or not the development sought in the application is in substantial compliance with the applicable provisions of this Ordinance.~~

(I.) For Major Landscape Permit Applications and Single-Family Landscape Permit Applications, the applicant must provide a tree plan required by this section. The tree plan must allow for a minimum tree density standard as follows: for each 1,000 square feet of pervious surface, excluding septic field, and state regulated setbacks i.e. CAMA setbacks, three trees three inches in diameter or greater measured at 36" above adjacent grade must be saved post development. New and/or existing trees that do not survive the development process must be replaced by trees measured 1.5" diameter or greater at 36" above adjacent grade. See the Town of Pine Knoll Shores *Technical Standards & Specifications Manual* for: "recommended", "not recommended" and/or "prohibited species." The Town will give additional credit to existing trees towards the density requirement based on the tree diameter at 36" above grade to be retained post construction. Palm trees will not count towards tree density credit. Refer to Table 11.1 below for allowable credit:

TABLE 11.1

Diameter of Existing Tree(s) in Inches	Number of Trees Credited
3" – 6"	1

7"-12"	2
13"-18"	3
19"-24"	4
25" +	5

(J.) Critical Root Zone. To preserve existing trees for post development density credit, the Critical Root Zone (CRZ) of the trees shall be preserved to the greatest extent possible as agreed upon during the predevelopment conference. The CRZ includes a radius around the tree equal to, or at least, one foot for every one inch of diameter at 36" above adjacent grade. It is recommended to preserve the entire CRZ of each preserved tree.

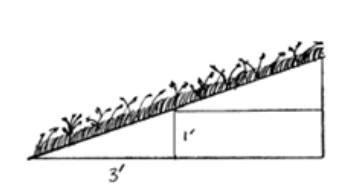
(16.) If the entire CRZ cannot be preserved, tree roots must be cut prior to the grading of the site and no closer than 10 feet from the tree trunk.

(17.) Disturbance within the CRZ will be allowed only on one side of the tree(s) to be saved and only with prior approval by the *Planning Administrator*.

(K.) Grading Limitations. Land disturbing activity shall be limited to areas designated on an approved Landscape Plan.

(16.) Grading shall not disturb any watercourse, nor area below normal high-water mark inland. The finished topography of any lot altered shall be aligned with and graded with existing neighboring elevation in such a manner as to minimize erosion. In any case where two (2) feet of fill are added to a previously developed lot, the lot owner shall obtain a certified stormwater plan indicating that the use of fill shall in no way create a burden on adjacent property.

(17.) Areas where land-disturbing activities have created slopes in excess of 3:1 (three (3) horizontal linear feet for every vertical linear foot) shall require a retaining wall to stabilize the slope and preserve vegetation on, above, and below the slope.



~~11.10-211.9-2~~ Installation of Plant Materials Required. Installation of plant material shall occur prior to the issuance of a Certificate of Occupancy.

~~11.10-311.9-3~~ Performance Guarantee In lieu of Installation of Plant Materials.

(A.) If at the time of a request for a Certificate of Compliance, the required planting areas are not complete the developer may provide a performance guarantee in accordance with G.S. 160D-804(g), guaranteeing the installation of the plant materials if the following conditions are met:

- (16.) Plant materials are unavailable,
- (17.) Completion of the planting areas would jeopardize the health of the plant materials until seasonal conditions exist, or
- (18.) Weather conditions prohibit completion of the planting areas.

(B.) The Performance Guarantee shall be 125 percent of the estimated cost of installing the required plant materials, as determined by the Town. The *Planning Administrator* may accept a valid contract assignable to the Town containing a ninety-day (90) termination and/or cancellation notice to the Town by any party exercising such action incorporated therein for the remaining materials and turn-key installation, as a form of cost estimation. The performance guarantee shall secure the installation of the plant materials as shown on the approved landscape plan. The performance guarantee shall remain in full force and effect until such time as the installation of plant materials is completed, inspected, and accepted by the Town of Pine Knoll Shores. Failure to maintain the required performance guarantee shall result in the revocation of the site development plan's approval and any permits issued as a result of the plan approval. The performance guarantee shall be renewed by the applicant unless all parties, including the Town, agree not to renew it at least sixty (60) days prior to its scheduled expiration date.

~~11.10-411.9-4~~ 11.10-411.9-4 **Tree Protection Plan Requirements.** A Tree Protection Plan for all development projects to which these standards apply, along with all other necessary drawings, shall be submitted to the *Planning Administrator*. Tree protection items shall be included on all grading plans, erosion control plans, and Tree Removal/Oceanfront Pruning Permit (TRP) plans. Drawings shall identify the following items.

- (A.) CRZ of each proposed protected tree or group of trees
- (B.) Limits of clearing
- (C.) Grading
- (D.) Trenching
- (E.) Required tree protection measures including protective fencing and signage
- (F.) Overhead and underground utilities, rights-of-way, and easement
- (G.) Areas of reforestation if any
- (H.) Stream buffers, if any
- (I.) A complete survey of all trees on the *site* that exceed 3" inches at 36" above adjacent grade, including tree size and species.

~~11.10-5~~11.9-5 Pre-Construction Meeting. A pre-development meeting between the principal contractor on a project, the property owner, the Planning Administrator and representatives of the Appearance Commission is required for all work authorized by a Major Landscape Permits or Single-Family Landscape Permits. The Planning Administrator will schedule the meeting.

~~11.10-6~~11.9-6 Plan Review. The aforementioned plans shall be reviewed by the Planning Administrator for conformance with applicable provisions of this section and for tree and vegetation viability. The plans will either be approved or returned for revisions. Reasons for return shall be noted on the proposed plan.

~~11.10-7~~11.9-7 Installation of Protective Measures. All tree protection measures shall be installed prior to inspection by the *Planning Administrator* and prior to tree disturbance. All trees to be protected shall be identified on site with a blue ribbon indicating the tree.

(A.) Removal or damage of trees identified to be retained post-development will be subject to the penalties established in Section 11.15, Enforcement, of this Ordinance.

~~11.10-8~~11.9-8 Site Inspections. The *Planning Administrator* will conduct follow-up site inspections for enforcement of the tree protection requirements.

11.9-9 Permit Display. All permits issued hereunder shall be so displayed as to be clearly visible from a public right-of-way.

~~11.10-9~~

~~11.10-10~~11.9-10 Emergency Waiver. The Planning Administrator may waive provisions of this Article in writing in an emergency if compliance would hamper the rescue of life or property from immediate danger or the repair of utilities.

~~11.10-11~~11.9-11 Performance Guarantees

Failure to initiate installation of the plant materials within six (6) months of the date the performance guarantee was accepted by the Town of Pine Knoll Shores may result in the Town, at its sole discretion, directing and/or installing the plant materials, with the cost to be paid from the performance guarantee. The performance guarantee shall, if requested by the Town, pay all or any portion of the performance guarantee to the Town up to the amount needed to complete the installation of the plant materials based on an estimate by the Town as described above. The Town at its discretion may spend such portion of said funds as deemed necessary to complete all or any portion of the required plant installation. The Town shall return to the developer any funds not spent in completing the plant installation, less reasonable administrative, professional and legal services cost resulting from the failure of the developer. Default on a project does not release the developer from responsibility for the completion of the plant installation. The Town may release a portion or all of any performance guarantee as the

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plant installation is completed and approved by the Town. In the event the amount of the performance guarantee on hand is insufficient to pay for completion of the plant installation, the property owner shall pay to the Town of Pine Knoll Shores the total amount of the insufficiency. If the Town is not re-paid in full within ninety (90) calendar days of notice, the amount of the insufficiency shall be the basis for a claim against the property and constitute a lien on the property in favor of the Town upon filing with the Register of Deeds.

11.6-12 Tree Plan Modifications. Should the applicant seek to modify the approved tree plan during the construction process, the applicant shall submit a written petition to the Planning Administrator requesting a replanting or substitution for the tree with the number of trees as credited in table 11-1. Such a request shall be reviewed by two members of the Appearance Commission prior to Planning Administrator approval.

#### **11.11-11.10 Tree Removal/Oceanfront Pruning Permit**

11.11-11.10-1 Permit required. No regulated tree within the town, and no oceanfront vegetation, may be cut, removed, or either subjected to root disturbance or chemicals or pruned in a manner that may cause it to die, without a permit from the Planning Administrator unless exempted by a specific provision of this Article. Cutting, removal, pruning, root disturbance and/or exposure to chemicals that may cause death of regulated trees or oceanfront vegetation is referred to in this section as a "regulated activity."

- (A.) *Application for permit.* The Planning Administrator will create an application form for a regulated activity. The application form will require the applicant to specify the location of the tree or trees, and/or oceanfront vegetation, proposed for a regulated activity.
- (B.) *Appearance Commission.* Upon receipt of an application for a regulated activity, the Planning Administrator will provide a copy to the Appearance Commission. The Appearance Commission may then proceed as quickly as possible to:
- (16.) Inspect the site;
  - (17.) Photograph the site; and
  - (18.) Recommend to the Planning Administrator approval or denial of the permit.

In cases where the applicant does not seek to completely cut or remove one or more regulated trees or oceanfront vegetation, the Appearance Commission shall have the authority to provide an opinion stating whether or not the desired pruning, cutting, root disturbance, or application of chemicals will cause material damage or death to the regulated tree(s) or oceanfront vegetation in question.

Approval or disapproval of the permit application must be issued within 30 days of receipt of the application by the Planning Administrator.

An applicant aggrieved by the decision of the *Planning Administrator* may seek an administrative review by the Board of Adjustment.

(C.) Standard for approving tree cutting. The Planning Administrator, after receipt of a recommendation from the Appearance Commission will approve an application for a regulated activity involving any regulated tree upon a finding that the activity will achieve one of the following purposes:

- (16.) Protect a structure or improvement on the property from imminent damage from the tree, or any part thereof (note: possible damage from a healthy tree that could be blown over in a storm is not imminent damage);
- (17.) Promote the growth and health of other more desirable vegetation;
- (18.) Remove dead or diseased trees.

(D.) Standard for approving pruning/removal of oceanfront vegetation. The Planning Administrator, after receipt of a recommendation from the Appearance Commission, will approve an application for a regulated activity involving oceanfront vegetation upon a finding that the activity will achieve one of the following purposes:

- (16.) Protect a structure or improvement on the property from imminent damage from oceanfront vegetation, or any part thereof;
- (17.) Promote the growth and health of other more desirable vegetation;
- (18.) Remove dead or diseased vegetation;
- (19.) Improve the ocean vista from the top floor of a dwelling without destabilizing the soil or other oceanfront vegetation thereon or on adjacent properties; or
- (20.) Protect the dunes.

(E.) *Time limits on regulated activities on oceanfront parcels.* Regulated activity under this section on oceanfront parcels may only take place during the period from November 1 through the following March 31.

(F.) *Monitoring.* The Appearance Commission and the Planning Administrator shall each have authority to monitor the regulated activity. Upon completion of the activity the Planning Administrator and the Appearance Commission may re-inspect the site, take photographs, and ascertain compliance with the permit.

#### ~~11.12~~11.11 Screening of Dumpsters, Outdoor Storage, and Utility Structures.

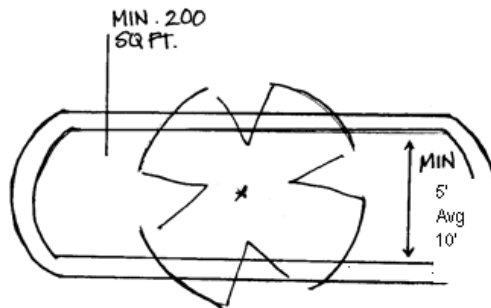
~~11.12~~11.11-1 All dumpsters must be screened if they are visible to adjacent public or private streets or any adjacent properties. Screening options include:

- (A.) A single material wall or fence with a minimum height of 4 feet.

- (B.) A combination of opaque materials, berming, and/or evergreen landscaping spaced at 8 feet on center that provides the required screening effect. The combination of opaque materials, berming, and/or evergreen landscaping shall have a minimum height of 6 feet within three (3) years of planting.
- (C.) The wall(s) of a principal or accessory structure may also count for screening.
- (D.) Chain-link fencing with woven slats of opaque material is *not* acceptable.
- (E.) Existing Trees: See Section 11.6 (I) for information regarding credits for preservation of existing trees.

11.12-211.11-2 Parking Lot Planting Areas.

- (A.) Applicability. Parking lot landscaping buffers shall be required to separate parking areas from adjacent uses for new and/or expanding parking lots with six (6) or more spaces. Required canopy trees and shrubs shall be located within the parking lot and adjacent to parking spaces in planting areas between rows of parking spaces, at the end of parking bays, in tree islands, and/or around the periphery of the parking lot.
- (B.) Planting Rate. For every fifteen hundred (1500) square feet of vehicular use area (VUA), one (1) deciduous tree and three (3) shrubs must be planted. Trees and shrubs must be planted within fifteen (15) feet of the VUA to meet the requirement.
- (C.) Existing Trees. Credit for preservation of existing trees in parking lots may be available in other parts of this Article.
- (D.) Reduction in Parking Requirements. To allow an existing development to retrofit parking to conform to the landscaping regulations, or for an existing or new development to preserve trees within or adjacent to a parking lot, the number of required off-street parking spaces may be reduced by the *Planning Administrator* by up to ten (10) percent.



- (E.) Multiple Parking Bays. When there are more than 4 bays of parking, an interior island with an average width of twenty (20) feet and a length equivalent to the parking bay shall be constructed. It should include a pedestrian walkway five (5) feet or more wide and a planted strip on one or both sides. The median should be located in such a way as to enhance pedestrian circulation within the development, leading to the entrance or to an adjacent sidewalk and/or walkway.
- (F.) Perimeter Parking. All continuous runs of fifteen (15) or more parking spaces shall be interrupted by a tree island.
- (G.) Grouping. Shrubs and trees may be grouped or clustered in the required planting yards, except for the perimeter landscaping adjacent to parking lots, outside storage, access drives, and loading and unloading areas. The remainder of the materials shall be distributed throughout the planting yard. There shall be at least one (1) row of evergreen shrubs or evergreen understory trees in all Type A planting yards used in parking areas.
- (H.) Plant Protection. Whenever planting areas are adjacent to parking lots or drives, such areas shall be protected from damage by vehicles, lubricants, or fuels. Curbing or some other structural barrier is required to be placed around trees within five feet of a car bumper. Allowances may be made if rain gardens are incorporated into the planting area. Trees and shrubs in islands should be set back at least three feet from the curb to allow for the operation of car doors.



**11.13.11.12 Heritage Trees**

**11.13-11.12-1 Heritage Trees on Developing Land.**

- (A.) Heritage trees as recognized on the town’s designated list shall be shown on all Tree Protection Plans if such trees are within one hundred (100) feet of areas where soil disturbance or construction activity is proposed. In addition, these trees shall be identified and located by survey on the Tree Protection Plan if such trees are located on the development site or adjacent public property. The *Planning Administrator* may visit the site to determine the accuracy of identification.

- (B.) Proposed development shall be designed to preserve rare and specimen trees. Where rare and specimen trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces, and location of utilities shall be pursued in order to save them.
- (C.) No soil disturbance from construction, trenching, grading, paving, or storage of equipment or materials shall take place within the critical root zone of any rare or specimen tree to be preserved unless the Planning Administrator determines there is no reasonable way the property can be developed without such disturbance or unless the proposed work will be carried out in accordance with the specifications for such work in the Pine Knoll Shores *Technical Standards & Specifications Manual*.
- (D.) No heritage tree shall be removed from land being developed unless the Planning Administrator determines there is no reasonable way the property can be otherwise developed, improved or properly maintained and the tree saved.

#### **11.14.11.13 Public Trees and Trees Interfering with Public Space – Maintenance and Protection**

The following standards are hereby established for the maintenance and protection of public trees:

~~11.14~~ 11.13-1 **Approved Personnel.** No person except an authorized employee or contractor of public utility or other approved public personnel shall cut, prune, or remove any living tree on or in a public highway, right-of-way, public park, sidewalk, or other public property; or cut or disturb or interfere in any way with the roots of any tree on public property.

~~11.14~~ 211.13-2 **Owner Responsibility for Private Trees Interfering with Public Space.** Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall not significantly obstruct the view of any street intersection and so that there shall be a clear space of thirteen (13) feet above the street surface or eight (8) feet above the sidewalk surface. Said owners shall remove all dead, diseased or unsafe trees, or broken or decayed limbs that constitute a nuisance to the safety of the public following approval by the *Planning Administrator*. The Town shall have the right to prune any tree or shrub on private or public property when it constitutes a public safety hazard, interferes with pedestrian traffic or the visibility of any traffic control device, sign, or sight triangle.

~~11.14~~ 311.13-3 **Placement of Materials Around Plants.** No person shall pile building or other material around any tree or shrub in a public right-of-way in any manner that will injure such tree or shrub.

~~11.14~~ 411.13-4 **Paving Adjacent to Trees.** No person shall pave or place gravel, soil, or

other such material within eight (8) feet of any tree on public property, unless approved by the *Planning Administrator*. Plans which fail to identify an impacted tree shall not constitute a transfer of responsibility to the Town or its *Planning Administrator*.

~~11.14-5~~ 11.13-5 Dumping of Deleterious Matter. No person shall dump, pour or spill any oil, pesticide, or other deleterious matter upon any tree or critical root zone in any public rights-of-way, or keep or maintain upon any public rights-of-way, any receptacle from which any oil, pesticide, or other deleterious matter leaks or drips onto any soil, parking area, or concrete gutter so as to injure any tree on any public property.

~~11.14-6~~ 11.13-6 Disposal of Materials on Public Places. No person shall use parks, sidewalks, utility easements, or other public places to dump grass clippings, tree trimmings, rocks or other organic refuse. This shall not apply to properly placed yard waste that is intended for pickup by Town of Pine Knoll Shores Public Services or Solid Waste crews.

~~11.14-7~~ 11.13-7 Decoration, Posting and/or Advertising on Public Trees. No person shall decorate a tree or shrub in any public right-of-way, neutral ground, park, sight triangle or sidewalk, either with or without lights, or place advertising material, posters, political placards, rope, or wire on trees in public properties.

#### ~~11.15~~ 11.14 Hazard Trees

The following standards are hereby established for trees and shrubs determined to be hazardous.

~~11.15-1~~ 11.14-1 Removal of Trees. The *Planning Administrator* may order the removal of any tree, shrub, or part thereof on private or public property, which is unsafe or injurious to wastewater systems or other public improvements, structures, or to the general public.

~~11.15-2~~ 11.14-2 Right to Enter upon Property. The *Public Works Administrator* or their designee may enter upon public or private property in the Town to spray or otherwise treat any tree infected or infested by any parasite, insect, or disease to prevent the breeding or scattering of any parasite or animal pest and to prevent danger to persons or property or to trees planted on Town property.

~~11.15-3~~ 11.14-3 Owner Notification and Opportunity to Correct. Prior to exercising the authority conferred by this section, the *Planning Administrator* shall give the owner notice and an opportunity to correct the condition by requesting that corrective action be taken. The request shall be in writing and sent via First Class Mail to the owner of the property in question and shall be acted upon within twelve (12) days (or a lesser period of time if an imminent threat to life or property exists) from the date of the receipt of the request. If, after twelve (12) days, the owner has not corrected the

condition or undertaken action that would lead to a timely correction of the condition, the *Planning Administrator* may enter upon the property, perform the work necessary to correct the condition, and bill the owner for the actual costs incurred. If the property owner fails to pay the bill for such work within thirty (30) days of such notice, the amount of the bill and any collection costs, including attorney's fees and court costs, incurred shall become a lien against the subject property and shall be collected in the same manner provided for the collection of delinquent taxes. In situations involving an immediate threat to public health, safety, or welfare, the Town may act without prior notification to the property owner.

## 11.12 Dune Protection

Provisions of Section 46-26 of the Pine Knoll Shores Town Code are incorporated herein as if set forth in full. In addition to the provisions of Section 46-26, the following apply for the protection of dunes.

11.12-1 Frontal and Primary Dunes. Development, including, but not limited to, excavation and fill by use of machinery or hand tools, is strictly prohibited on Frontal Dunes and Primary Dunes except for the following:

- Stabilization of the Frontal Dune and Primary Dune by the Town or Carteret County as part of an engineered beach nourishment project.
- Stabilization of the Frontal Dune and Primary Dune by the Town or Carteret County as part of an emergency project following erosion of the dune in a storm.
- Planting of sea oats or beach grass under a plan authorized or undertaken by the Town or Carteret County.
- Installing sand fences under a plan authorized or undertaken by the Town or Carteret County.
- The installation and maintenance of beach access ways authorized by this Ordinance .

Installation and maintenance of driveways over and through the dunes by the Town for access to the ocean beach by emergency vehicles and equipment and vehicles necessary for beach renourishment projects or beach and dune maintenance projects authorized by the Town. 11.12-2 Restriction on Development and Land Disturbing Activity Within the Ocean Setback.

No building or other structure, unless expressly allowed by this section 11.2, shall be erected within the oceanfront setback established under the Coastal Area Management Act. This provision supersedes any provision of the Coastal Area Management Act or regulations promulgated thereunder, unless the Act preempts this restriction.

The following structures, to the extent consistent with laws and regulations adopted in accordance with the Coastal Area Management Act, shall be allowed to be constructed on improved or unimproved lots or parcels without regard to the setbacks established by this section:

- One beach accessway for each single-family lot;
- One beach accessway for each 100 feet of ocean frontage of multifamily, recreational, commercial or institutional property, as follows:

Zero—100 feet, one accessway;

101 feet—200 feet, two accessways;

201 feet—301 feet, three accessways; and so forth;

- Sand fences under a plan authorized or undertaken by the Town or Carteret County.
- Public beach accessways established by the Town.

As used within this section, the term “beach accessway” shall mean a raised pedestrian walkway with an overlook platform for viewing the beach and ocean, and a step system to allow access to the foreshore.

Each accessway must be constructed on post or piling and only the post shall be in contact with the dune. Floor planks shall be spaced to allow water, light and sand passage. Roofs are not permitted over the floor planks.

The accessway, except for the viewing platform, shall not exceed six feet in width.

The overlook platform shall not exceed 160 square feet in size on single-family residential lots, or 400 square feet in size on any other parcel.

The floor of the overlook platform shall be no more than three feet above the natural crest of the dune.

The step system shall intrude onto the beach only as required to minimize contact with the seaward face of the dune.

The step system shall be promptly relocated upon substantial erosion or accretion of the frontal dune.

Should any platform overlook be destroyed as to at least one-half of its square footage, such platform overlook, and all steps leading thereto, shall not be reconstructed without the issuance of a building permit, and until it conforms with the standards imposed by this section.

For a beach front lot with an existing house/structure, no construction, additions or other modifications to the structure shall be permitted seaward of the existing structure, except, and when permitted by the Coastal Area Management Act, and not on or over any part of a Frontal or Primary Dune, the following may be permitted: 1) uncovered porches; 2) uncovered decks; and 3) uncovered walkways.

The oceanfront setback shall be that set by the Coastal Area Management Act or regulations promulgated thereunder.

If the Coastal Area Management Act or its regulations fail to establish an oceanfront setback, the setback line shall be a straight line that connects the points on the two nearest principal structures on either side (east and west) of the lot that constitute the most seaward points on those structures. If a structure is on a keyed lot as in the Maritime Place and Forest Dunes Subdivision, the straight line will be established between the points of the two nearest principal structures on similarly keyed lots. If a greater setback is established by the coastal resources commission, that setback shall prevail.

### 11.13 Maintenance of Regulated Planting Spaces

- A. Owner Responsibility. The owner or lessee of the property where landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Any dead, unhealthy, or missing plants (preserved or planted) shall be replaced with new plant material equal to the number of credited plants planted or preserved, subject to the provisions of this Ordinance. The replacement plant material shall be sized according to the requirements of this section and shall conform to the initial planting rates and standards. The replacement plant material shall be planted within one hundred eighty (180) days of the date that dead, unhealthy, or missing plants are identified. Regulated spaces include those physical areas in which trees and landscape materials are required by this section.
- B. Failure to Maintain. Failure to maintain or replace dead, damaged, or diseased material or to repair a broken fence or wall (where such fence or wall is considered a required portion of the landscape as outlined by this section) shall constitute a violation of this Ordinance and shall be subject to the provisions in Section 11.15, Enforcement, if not replaced within 30 days of notification.
- C. Reserved.
- D. Irrigation. It is suggested that drip irrigation, which includes drip misters, be used for required landscaping planting beds during the required establishment period. After establishment, supplemental watering can be reduced and used on an as needed basis. Traditional spray irrigation is prohibited except for turf areas.
- E. Pruning. All required trees shall be allowed to reach their mature size and shall be maintained at their mature size. Trimming and pruning shall be done in strict accordance with the (ANSI) standards. Topping is not an acceptable pruning practice. Topping is the reduction of a tree's size using heading cuts that shorten limbs or branches back to a predetermined crown limit. The *Planning Administrator* may require the removal and replacement of any tree(s) that have been topped or excessively trimmed.

## 11.14 Regulation of Tree Care Professionals

The following standards are established for tree care professionals working within the Town of Pine Knoll Shores and its jurisdiction.

### 11.14-1 Town-Owned Lands.

A. It shall be unlawful for any person or firm to prune, treat, or remove trees within Town owned land or public rights-of-way without first applying for and procuring a Tree Removal/Oceanfront Pruning Permit (TRP).

B. Before any permit shall be issued, each applicant must first file evidence of possession of liability insurance and workman's compensation insurance, in the minimum amounts as required by the Town of Pine Knoll Shores, indemnifying the Town or any person injured or damage resulting from the pursuit of such endeavors as herein described.

C. The *Planning Administrator* is authorized to suspend or revoke the right of any person or business to perform work for the Town of Pine Knoll Shores that engages in work practices that do not comply with proper tree care standards. Specifically, the "topping" of trees shall be prohibited except in cases where the top of the tree has been injured beyond repair by a storm or a related incident.

## 11.15 Enforcement

Enforcement of the standards and requirements set forth in this article shall be as provided below.

### 11.15-1 Notice and Appeal.

A. Notice of Violation. The *Planning Administrator* shall provide notice of any violation of this Article any required remedies. The notice of violation shall be served by any means authorized under G.S. 1A-1, Rule 4, and the notice shall set forth the nature of the violation, the measures required to comply with this Article, if compliance is at all practicable, and a reasonable time period (not less than 30 days and not to exceed 180 days) within which compliance must be met.

B. Appeal. If any aggrieved party with standing disagrees with a decision of the *Planning Administrator*, such party may request a hearing within ~~twelve (12)~~ thirty (30) working days of receipt of the violation. The request must be in writing and directed to the *Board of Adjustment*. The hearing will be conducted at ~~a~~ meeting scheduled by the Chairman of the *Board of Adjustment*.

C. Decision of Board of Adjustment. The *Board of Adjustment* may affirm, modify, amend or revise the decision appealed. The decision of the *Board of Adjustment* shall be served upon the appealing party by registered or certified mail,

return receipt requested, or by hand delivery.

D. Appeal to Superior Court. If any aggrieved party with standing is dissatisfied with the decision of the *Board of Adjustment*, an appeal may be filed with the Carteret County Superior Court. Notice of the appeal must be filed within thirty (30) days of receipt of the *Board of Adjustment* decision. Any appeals to the Superior Court shall be in the nature of certiorari.

E. Injunction. Any aggrieved party with standing may request an injunction to preserve the status quo during the pending of any appeal in accordance with applicable North Carolina law.

### 11.16 Penalties

11.16-1 Grading and Tree Removal without Permit Approval. The penalty for development, prior to the issuance of a minor, single family, or major landscape permit shall be a civil penalty of \$10,000 per acre or prorated fraction thereof disturbed. (i.e., the civil penalty for a site of 0.35 acres that is cleared prior to the issuance of a landscape permit is three thousand five hundred dollars (\$3,500.00)). ~~In~~ addition to this penalty, any trees removed without a permit during the land disturbing process will invoke a civil penalty and be required to be replaced per Table 11.2 below as determined by the *Planning Administrator*. The *Planning Administrator* may determine tree diameter by stump measurements or certification by a licensed design professional retained by the property owner within the prior two years if/when tree has been removed. ~~;~~ ~~h~~ However, if the stump has also been removed, and no certification is available, the penalty shall be the average of the minimum and maximum penalties appearing in Table 11.2 below.

11.16-2 Removal or Damage to Individual Trees outside of an Approved Permit. The penalty for removal of or damage to the CRZ of protected trees after the issuance of a Tree Removal/Oceanfront Pruning Permit (TRP) without approval by the *Planning Administrator* shall result in a civil penalty as determined by the *Planning Administrator*, up to the amount shown in Table 11.2 below, in addition to the replacement of those trees with quality specimens native to coastal regions of North Carolina listed in the Native Tree Appendix Item. The *Planning Administrator* may determine tree diameter by stump measurements or certification by a licensed design professional retained by the property owner within the prior two years if/when tree has been removed. ~~;~~ ~~h~~ However, if the stump has also been removed, and no certification is available, the penalty shall be the average of the minimum and maximum penalties appearing in Table 11.2 below.

11.16-3 Removal or Damage to Individual Trees after Permit Denial. If the *Planning Administrator* has denied a Tree Removal/Oceanfront Pruning Permit (TRP) and the applicant fails to appeal the decision to the Board of Adjustment or Carteret County Superior Court or said appeal was denied, removal of the tree(s) will result in a maximum

civil penalty to be double the amount shown on Table 11.2. The *Planning Administrator* may determine tree diameter by stump measurements or certification by a licensed design professional retained by the property owner within the prior two years if/when tree has been removed. However, if the stump has also been removed, and no certification is available, the penalty shall be double the average of the minimum and maximum penalties appearing in Table 11.2 below.

Table 11.2 – Penalties for Unauthorized Tree Removal

Diameter of Tree(s) at 36" Removed or Damaged	Civil Penalty per Tree	Reforestation (3-inch Diameter minimum)
3-12 inches	\$800	1 tree
12 – 21 inches	\$1,600	2 trees
21 – 29 inches	\$2,400	3 trees
29 – 36 inches	\$3,200	4 trees
36+ inches	\$4,000	5 trees

11.16-4 Failure to Install or Maintain Tree Protection Devices. There shall be a civil penalty of five hundred dollars (\$500.00) per day for failure to install or maintain approved tree protection measures sufficient to protect the preserved trees beginning with the date the citation is issued and ending when the site is in compliance. The property owner may be subject to any penalties for damage in accordance with this Article.

11.16-5 Failure to Comply with Landscape Requirements (Section 11.6). There shall be a penalty of five hundred dollars (\$500.00) per day for failure to install required landscape material or to replace dead landscape material beginning with the date the citation is issued and ending when the site is in compliance.

11.16-6 Civil Penalties Considered Restorative. Civil penalties assessed under this section are considered restorative; intended to provide compensation to the Town for costs associated with the Town’s program to monitor, control, prosecute, cure and/or correct the violation. As such, the amount declared herein is presumed to provide sufficient restoration to the Town for its costs. The decision of the *Planning Administrator* to assess a civil penalty may be delivered by personal service, by registered mail, or certified mail return receipt requested or by any means authorized under G.S. 1A-1, Rule 4. Each day of a continuing violation shall constitute a separate violation.

11.16-7 Appeal. Every decision of the *Planning Administrator* to assess a civil penalty and/or require re-plantings, shall be subject to appeal to the Board of Adjustment by an aggrieved party with standing. Decisions of the Board of Adjustment on such appeals may be further appealed by an aggrieved party with standing to the Carteret County Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the decision of the *Board of Adjustment*.

11.16-8 Failure to Appeal and/or Pay: If not paid when due, any civil penalty that is assessed against a person who violates the provisions of this Ordinance shall be recovered by the Town in a civil action in the nature of collection of a debt to be brought in the appropriate division of the General Court of Justice in Carteret County

11.16-9 Violations Not Criminal: A violation of this Ordinance shall not be considered a misdemeanor under N.C. General Statute 14-4.

**ARTICLE 19**  
**STORMWATER**

**Section 19.1 Title**

This Article may be cited as the Town of Pine Knoll Shores Stormwater Ordinance.

**Section 19.2 Purpose**

This Article is adopted for the purposes of:

- a. The stormwater management regulations of this Article shall protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of stormwater runoff associated with new development or redevelopment of property, primarily to manage the quantity of stormwater flowing off property as a result of impervious surface on the property or change of topography. Proper management of stormwater runoff will protect property, control stream channel erosion, prevent increased flooding associated with new development, protect floodplains, wetlands, water resources, riparian and aquatic ecosystems, and otherwise provide for environmentally sound use of the Town's natural resources;
- b. Facilitate public understanding of stormwater management principles including the preservation of water quality through proactive stormwater management practices;
- c. Establish public awareness of potential surface and subsurface water drainage problems recognizing that development potential of some land may be limited; and
- d. Establishing procedures through which these purposes can be fulfilled consistent with applicable State Department of Environmental Quality (DEQ) regulations (NCAC T15: 02H .1000 inclusive).

**Section 19.3 Applicability:**

- 19.3.1 This Article applies to all Development except as specifically exempted.
- 19.3.2 An owner proposing Development must submit to the Town a Stormwater Plan and an application for a Stormwater Permit.
- 19.3.3 A Stormwater Permit issued by the Planning Administrator is required for Development before a building permit or zoning permit is issued for work for a land use authorized by such permits and before any Development begins.
- 19.3.4 The Planning Administrator will provide a stormwater application form to applicants.

**Section 19.4 Exemptions**

- 19.4.1 Development exempted from this Article’s requirement for a Stormwater Plan or Permit are the following:
  - A. Development which adds less than 100 square feet of impervious coverage which is compliant with lot impervious coverage limitations.
  - B. Development that qualifies for a Minor Landscape Permit is exempt from the requirement for a Stormwater Management Plan and Permit, unless the Planning Administrator determines the proposed work may have negative drainage impact on adjacent properties or streets. If the Planning Administrator determines that proposed work may have negative drainage impacts on adjacent properties or streets based on impervious coverage or grade changes, design standards for a Stormwater Management Plan shall apply.

**Section 19.5 State Stormwater Permits**

- 19.5.1 State stormwater regulations largely address the quality of water discharged from development that drains into state waters.
- 19.5.2 This Article principally addresses managing the amount of stormwater discharged off-site to adjacent and other properties or streets.
- 19.5.3~~2~~ Requirements for a state stormwater permit may restrict certain practices approved under the standards of this article. For this reason, property owners developing under a state stormwater permit may apply for a waiver of town stormwater requirements. The applicant must provide information showing that

adhering to both standards would restrict reasonable use of their property and that the development would not violate the common law standards outlined in 19.6 of this article.

19.5.4 Requests for waivers from town stormwater requirements for projects under a State Stormwater Permit shall be reviewed by the *Planning Administrator* and approved by the Pine Knoll Shores Planning Board prior to issuance.

#### **Section 19.6 Common Law**

19.6.1 If any provision of this Article is inconsistent with the principles of common law drainage, the following will apply:

- A. The provisions hereof supersede the common law with respect to the specific requirements.
- B. Nothing in this Article authorizes (i) the discharge of more stormwater from higher properties to lower properties than permitted by common law, (ii) a change in the location of such discharge permitted by common law except when there is no negative impact on other properties or streets, or the velocity of the water discharged permitted by common law, (iii) the obstruction of natural drainage courses except through adequate drainage pipes or ditches.
- C. The Article does not preclude any property owner from pursuing damages and injunctive relief against other owners, even owners with a Stormwater Permit, who discharge water in violation of common law drainage principles and cause damage.

#### **Section 19.7 Requirements for Stormwater Management Plans**

19.7.1 All Stormwater Management Plans must include, and/or adhere to, the following:

- A. The Plan must be prepared by a North Carolina licensed professional authorized to prepare stormwater plans for stormwater management systems and bear his seal.
- B. The name, address, email address, and telephone number of the owner of the site proposed for Development and the developer (if different).
- C. The legal description of the property.
- D. A site plan for the site including its location with reference to such

landmarks as major waterbodies, adjoining roads and subdivisions.

E. The existing environmental and hydrologic conditions of the site described in detail, including the following:

1. The location of areas on the site where stormwater collects or percolates into the ground including the locations of any interdunal troughs;

~~2. Seasonal water table levels;~~

~~3.~~ Locations of floodplains;

~~4.~~ Topography.

F. Proposed alterations of the site shall be described in detail, including:

1. Changes in topography;

2. Areas where vegetation will be cleared or otherwise killed;

3. Areas that will be covered with an impervious surface and a description of the surfacing material;

4. The size and location of any buildings or other structures.

G. All components of the drainage system and any measures for the detention, retention or infiltration of water or for the protection of water quality shall be described in detail, including:

1. Detention and retention areas, including plans for the discharge of contained waters, maintenance plans, and predictions of water quality in those areas;

2. Areas of the site to be used or reserved for percolation;

3. A plan for the control of erosion and sedimentation, location of control measures, the stage of development/redevelopment which describes in detail the type and at which time they will be put into place or used, and provisions for their maintenance;

4. The direction of the flow of water off-site once the required retention rate is exceeded.

5. A design depicting that the flow from gutters and downspouts must be diverted to dry wells or porous drainpipes in rock envelope. For structures without gutters and downspouts, gravel infiltration

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beds, or other approved methods under roof overhangs may be provided.

H. Be prepared in accordance with one of the designs in the Manual of Stormwater Management Practices referenced in Section 19.14. statement from a North Carolina licensed professional authorized to prepare stormwater plans that the stormwater management system, if constructed as designed, will retain and infiltrate the requisite volume of stormwater runoff, and any grade elevation changes or construction of impervious surface on the site will neither increase the rate of flow nor the volume of water discharged to other properties or the streets.

I. All stormwater management plans shall demonstrate that the first two inches of rainwater within a One-year 24 Hour Storm from impervious surfaces shall be retained and infiltrated on the site of the development.

J. In addition to subsection I immediately above, the stormwater management plan must certify. Ensure that, after development or redevelopment, runoff from the site approximates the rate of flow, volume and timing of runoff that would have occurred following the same rainfall under existing conditions and to the extent practicable, of predevelopment conditions.

H.K. The stormwater management plan must contain the design professional's certification that the plan meets the design requirements of this Section 19.7.

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19.7.2 In addition to the information required in all Stormwater Management Plans in 19.7.1, for Development that requires a Major Landscape Permit, the Planning Administrator may request any of the following information as needed; the Plan shall also include:

- A. The existing environmental and hydrologic conditions of the receiving lands, wetlands or waters.
- B. The direction, flow rate and volume of stormwater runoff under existing conditions and, to the extent practicable, predevelopment conditions.
- C. A description or illustration of all watercourses, waterbodies and wetlands

on or adjacent to the site or into which stormwater flows. Information regarding their water quality and the current water quality classification, if any, given them by the state division of environmental management (NCDEM) shall be included.

- D. Groundwater levels, including seasonal fluctuations.
- E. Locations of floodplains.
- F. Vegetation.
- G. Soils, as delineated and described in the Soil Conservation Service Publication, Soil Survey of Carteret County, North Carolina or Soil Survey of the North Carolina Outer Banks.
- H. The size and location of any buildings or other structures.
- I. Predicted impacts of the proposed development on existing conditions to include:
  - 1. Changes in water quality;
  - 2. Changes in groundwater levels;
  - 3. Changes in the incidence and duration of flooding on the site and upstream and downstream from it;
  - 4. Impacts on interdunal troughs, if any;
  - 5. Impacts on wetlands, if any;
  - 6. Impacts on vegetation.
- J. All components of the drainage system and any measures for the detention, retention or infiltration of water or for the protection of water quality shall be described or illustrated in detail, including:
  - 1. The channel, direction, flow rate, volume and quality of stormwater that will be conveyed from the site with a comparison to existing conditions and, to the extent practicable, predevelopment/redevelopment conditions;
  - 2. Detention and retention areas, including plans for the discharge of contained waters, maintenance plans, and predictions of water quality in those areas;
  - 3. Areas of the site to be used or reserved for percolation, including a

prediction of the impact on groundwater quality;

4. A plan for the control of erosion and sedimentation, location of control measures, the stage of development/redevelopment which describes in detail the type and at which time they will be put into place or used, and provisions for their maintenance;

19.7.3 It is the responsibility of an applicant to include in the Stormwater Management Plan sufficient information for the Town to evaluate the environmental characteristics of the affected areas, the potential and predicted impacts of the proposed activity on area surface waters, and the effectiveness and acceptability of those measures proposed by the applicant for reducing adverse impacts.

The Stormwater Management Plan may contain illustrations maps, charts, graphs, tables, photographs, narrative descriptions and explanations and citations to supporting references, as appropriate, to communicate the information required by this section.

19.7.43 The Planning Administrator may require additional information on the Plan if he believes additional information is reasonably necessary for an evaluation of the development/redevelopment proposal for compliance with this Article.

**~~19.8 — Performance standards for stormwater management plans.~~**

~~Stormwater management plans must demonstrate that the proposed development or activity has been planned and designed and will be constructed and maintained to meet each of the following standards:~~

- ~~19.8.1 Ensure that, after development or redevelopment, runoff from the site approximates the rate of flow, volume and timing of runoff that would have occurred following the same rainfall under existing conditions and to the extent practicable, of predevelopment conditions, unless runoff is discharged into an off-site drainage facility as provided in section 19-10;~~
- ~~19.8.2 Maintain the natural hydrodynamic characteristics of the watershed;~~
- ~~19.8.3 Protect or restore the quality of ground surface waters;~~
- ~~19.8.4 Ensure that erosion during and after development or redevelopment is minimized;~~

- ~~19.8.5 Protect groundwater levels;~~
- ~~19.8.6 Protect the beneficial functioning of wetlands as areas for the natural storage of surface waters and the chemical reduction and assimilation of pollutants;~~
- ~~19.8.7 Prevent increased flooding and damage that results from improper location, construction and design of structures in areas which are presently subject to an unacceptable danger of flooding;~~
- ~~19.8.8 Prevent or reverse salt water intrusion;~~
- ~~19.8.9 Protect the natural fluctuating levels of salinity in estuarine areas;~~
- ~~19.8.10 Protect, insofar as possible, the integrity of natural interdunal trough groundwater recharge areas;~~
- ~~19.8.11 Minimize injury to flora and fauna and adverse impacts to fish and wildlife habitat;~~
- ~~19.8.12 Maintain the integrity of the right of way of all roads. To the extent that the driveway will not maintain any grade that will drain toward the driveway, toward the roadway, in both development and redevelopment;~~
- ~~19.8.13 Otherwise further the objectives of this Article.~~

**Sec. 19.9. Design standards for stormwater management plans.**

To ensure attainment of the objectives of this Article and to ensure that performance standards will be met, the design, construction and maintenance of stormwater management systems shall be consistent with the following standards:

- 19.9.1 Channeling runoff directly into waterbodies shall be strictly prohibited. Instead, runoff shall be routed through swales and other systems designed to increase time of concentration, decrease velocity, increase infiltration, allow suspended solids to settle and remove pollutants.
- 19.9.2 The area of land disturbed by development shall be as small as practicable. Those areas which are not to be disturbed shall be protected by an adequate barrier from construction activity. Whenever possible, natural vegetation shall be retained and protected. Where this is not possible, suitable nature species shall be planted.
- 19.9.3 No grading, cutting or filling shall be commenced until erosion and

sedimentation control devices have been installed between the disturbed area and waterbodies, watercourses and wetlands.

- 19.9.4 Land which has been cleared for development/redevelopment and upon which construction has not commenced shall be protected from erosion by appropriate techniques designed to revegetate the area (seeding, etc.).
- 19.9.5 Sediment shall be retained on the site of the development.
- 19.9.6 Wetlands and other waterbodies shall not be used as sediment traps during development/redevelopment.
- 19.9.7 Erosion and sedimentation facilities shall receive regular maintenance to ensure that they continue to function properly.
- 19.9.8 Artificial watercourses shall be designed, considering soil type, so that the velocity of flow is low enough to prevent erosion.
- 19.9.9 Vegetated buffer strips shall be created or, where practicable, retained in their natural state along the banks of all watercourses, waterbodies or wetlands. The width of the buffer shall be sufficient to prevent erosion, trap the sediment in overland runoff, provide access to the waterbody and allow for periodic flooding without damage to structures.
- 19.9.10 Intermittent watercourses, such as swales, should be vegetated.
- 19.9.11 Retention and detention ponds shall be used to retain and detain the increased and accelerated runoff which the development/redevelopment generates. Water shall be released from detention ponds into watercourses or wetlands at a rate and in a manner approximating the natural flow which would have occurred before development.
- 19.9.12 Although the use of wetlands for storing and purifying water is encouraged, care must be taken not to overload their capacity, thereby harming the wetlands and transitional vegetation. Wetlands should not be damaged by the construction of detention ponds.
- 19.9.13 The first two inches of rainwater within a *One-year 24 Hour Storm* from impervious surfaces shall be retained and infiltrated on the site of the development.

- 19.9.14 Runoff from parking lots shall be treated to remove oil and sediment before it enters receiving waters.
- 19.9.15 Detention and retention areas shall be designed so that shorelines are sinuous rather than straight and so that length of shoreline is maximized, thus offering more space for the growth of littoral vegetation.
- 19.9.16 The banks of detention and retention areas shall slope at a gentle grade into the water as a safeguard against drowning, personal injury or other accidents, to encourage the growth of vegetation and to allow the alternate flooding and exposure of areas along the shore as water levels periodically rise and fall.
- 19.9.17 The multiple use of drainage facilities and vegetated buffer zones as open space, recreation and conservation areas shall be encouraged.
- 19.9.18 It is not necessary to control stormwater runoff from the liquid surface of swimming pools.

**19.10 Off-site drainage facilities.**

- 19.10.1 The town may allow stormwater runoff that is otherwise of unacceptable quality or which would be discharged in volumes or at rates in excess of those otherwise allowed by this Article, to be discharged into drainage facilities off the site of development or redevelopment if each of the following conditions is met:
  - A. It is not practicable to completely manage runoff on the site in a manner that meets the performance standards and design standards;
  - B. The off-site drainage facilities and channels leading to them are designed, constructed and maintained in accordance with the requirements of this chapter;
  - C. Adverse environmental impacts on the site of development/redevelopment will be minimized.
- 19.10.2 A request to use off-site drainage facilities and all information related to the proposed off-site facilities should be made a part of the developer's stormwater management plan. Guidelines for the consideration of off-site facility use are (or will be defined) in the manual of stormwater management

practices.

#### **~~19.11 – Single Family Home Development~~**

- ~~19.11.1 – All applications for a Single family Landscape Permit must be accompanied by a Stormwater Management Plan.~~
- ~~19.11.2 – The Stormwater Management Plan must provide for the infiltration on site of the first two inches of rainfall or less in a *One year 24 Hour Storm* from all existing and proposed impervious surfaces.~~
- ~~19.11.3 – The Stormwater Management Plan must demonstrate that stormwater in excess of the on-site retainage amount will flow off site according to either its natural means or in ways to reduce negative impacts on other properties or streets.~~
- ~~19.11.4 – Flow from gutters and downspouts must be diverted to dry wells or porous drainpipes in rock envelope. For structures without gutters and downspouts, gravel infiltration beds, or other approved methods under roof overhangs may be provided.~~
- ~~19.11.5 – The Planning Administrator shall issue a Stormwater Permit for Single family Development if all criteria of this Article are met.~~

#### **~~19.12 – Stormwater Management Plan: Development on all lands including subdivisions except on a Single family residential lot.~~**

- ~~19.12.1 – A Stormwater Management Plan under this Article is required for all Development that requires a Major Landscape Permit. The Stormwater Management Plan and an application for Stormwater Management Permit must be filed at the same time as the application for the Major Landscape Permit.~~
- ~~19.12.2 – The Stormwater Management Plan must provide for the infiltration or retention of the first two inches of rainfall or less in a *One year 24 Hour Storm* from all impervious surfaces on site.~~
- ~~19.12.3 – The Stormwater Management Plan must describe how flow from gutters and downspouts will be managed. Flow from gutters and downspouts may be~~

~~diverted to dry wells or porous drainpipes in rock envelope.~~

~~19.12.4 For structures without gutters and downspouts, gravel infiltration beds under roof overhangs may be provided.~~

~~19.12.5 The Planning Administrator is not authorized to issue a waiver of a Stormwater Management Plan for Development that requires a Major Landscape Permit.~~

~~19.12.6 The Planning Board will review and give comment to the Board of Commissioners on the adequacy of the Stormwater Management Plan for Development that requires a Major Landscape Permit.~~

~~19.12.7 The Board of Commissioners will determine the adequacy of the Stormwater Management Plan for Development that requires a Major Landscape Permit.~~

#### ~~19.13 Stormwater Management Plan for Development Requiring a Minor Landscape Permit.~~

~~19.13.1 Notwithstanding Section 19.9, proposed Development that qualifies for a Minor Landscape Permit is exempt from the requirement for a Stormwater Management Plan and Permit, unless the Planning Administrator determines the proposed work may have negative drainage impact on adjacent properties or streets.~~

~~19.13.2 In determining whether the exemption applies, the Planning Administrator shall use the criteria set forth in 19.11.5.~~

~~19.13.3 If the Planning Administrator determines that the exemption does not apply, he will decide whether a Stormwater Management Plan must be submitted:~~

~~A. Under the requirements for Single family Development, or~~

~~B. Under the requirements for Single family Development.~~

~~and direct the applicant to file the appropriate Plan.~~

#### **19.14 Manual of Stormwater Management Practices.**

19.14.1 The town adopts by reference the following published manuals of stormwater management practices for the guidance of persons preparing stormwater management plans, and designing or operating drainage systems:

A. Standards and Specifications for Infiltration Practices (February 1984).

B. Inspector's Guidelines Manual for Stormwater Management Infiltration

Practices (December, 1985) as published by the Maryland Department of Natural Resources, Water Resources Administration, Sediment and Stormwater Division, Tawes State Office Building, Annapolis, Maryland 21401.

- C. Maryland Stormwater Design Manual, Volumes I and II, (2000), as published by the Maryland Department of the Environment, Water Management Administration, 2500 Broening Highway, Baltimore, MD, 21224.
- D. NCDENR Stormwater Best Management Practices (April, 1999), as published by the NC Department of Environment and Natural Resources, Division of Water Quality, Water Quality Section, 512 N. Salisbury Street, Raleigh, NC 27699.

- 19.14.2 These manuals shall be replaced with updated versions periodically to reflect the most current and effective practices and shall be made available to the public at the Town Hall during normal business hours.
- 19.14.3 The manuals include guidance and specifications for the preparation of stormwater management plans. Acceptable techniques for obtaining, calculating and presenting the information required in the stormwater management plans are described.
- 19.14.4 The manuals include guidance in the selection of environmentally sound practices for the management of stormwater and the control of erosion and sediment. Specific techniques and practices are described in detail. The development and use of techniques which emphasize the use of natural systems are encouraged.
- 19.14.5 The manuals also establish minimum specifications for the construction of drainage facilities. Any alternative construction specifications proposed shall be established in accordance with current engineering practices.
- 19.14.6 The Planning Administrator will be the official custodian of these manuals and shall present subsequent revisions of them to the Town Board and Planning Board for review and approval before same shall be incorporated into the manuals.

### **19.15 Inspections**

- 19.15.1 No stormwater management plan may be approved without adequate provision for inspection of the property before development/redevelopment activity commences. The applicant shall arrange with the town's Planning Administrator the following inspections:
- A. Initial inspection. Prior to approval of the stormwater management plan;
  - B. Bury inspection. Prior to burial of any underground drainage structure;
  - C. Erosion control inspection. As necessary to ensure effective control of erosion and sedimentation;
  - D. Finish inspection. When all work including installation of all drainage facilities has been completed.
- 19.15.2 The Planning Administrator shall inspect the work and shall either approve it or notify the applicant in writing in what respects there has been a failure to comply with the requirements of the approved Stormwater Management Plan. Any portion of the work which does not comply shall be promptly corrected by the applicant, and all Building Permits, Certificates of Occupancy or Completion, shall be withheld until the work is corrected and/or the applicant will be subject to the penalty provisions of Section 19.19.

### **19.16 Installation, Operation and Maintenance of Stormwater Systems.**

- 19.16.1 Stormwater Management Systems (“Systems”) consistent with the Stormwater Management Plan approved by the Town must be installed before any certificate of occupancy or certificate of compliance is issued by the town, or a final subdivision plat is approved for recording.
- 19.16.2 The Planning Administrator shall inspect the installation and shall either approve it or notify the applicant in writing in what respects there has been a failure to comply with the requirements of the approved Stormwater Management Plan. Any portion of the work which does not comply shall be

promptly corrected by the applicant or the applicant will be subject to the penalty provisions of Section 19.19.

- 19.16.3 Systems must be maintained in a good working condition by the owner of the property the System serves. For subdivisions, once responsibility for operation and maintenance of common facilities is transferred to an owners' association, the association shall have the duty to operate and maintain the system. Until that time, the developer has such legal duty.
- 19.16.4 Systems maintained by the owner shall permit Town officials to inspect and, if necessary, to order corrective action should the owner or association fail to properly operate or maintain the system. The Planning Administrator shall give the owner or owners' association written notice of the nature of the existing defects and order correction. If the owner or owners' association fails within 30 days from the date of notice to commence corrective action or to appeal the matter to the board of adjustment, the Town may take necessary corrective action itself, the cost of which shall become a lien on the real property until paid.
- 19.16.5 If a System is permitted to connect to a drainage facility installed and maintained by the Town, the Town and the owner of the property shall mutually determine the terms of connection.
- 19.16.6 Approved Systems for subdivisions must be recorded with the Carteret County Register of Deeds in such form as the Town Reasonably requires.

#### **19.17 – Proceedings and Review19.14 Stormwater Variances**

##### ~~19.17.1 – Action of Planning Administrator.~~

- ~~A. – Within 30 days after receipt of the completed Stormwater Management Plan for Single Family Development, the Planning Administrator shall either approve or reject the Plan.~~
- ~~B. – If he fails to act within such 30 day period, it shall be deemed that he denied the Plan.~~
- ~~C. – Planning Administrator is authorized to attach conditions to his approval.~~

~~D. He shall file his decision with the town clerk, and shall notify the applicant accordingly.~~

~~E. All Planning Administrator's determinations in this Article are administrative decisions under Chapter 160D of the General Statutes and may be appealed to the Board of Adjustment.~~

~~19.17.2 Review and comment by Planning Board~~

~~A. For Development that requires a Major Landscape Permit, the Planning Board will review and comment on the proposed Stormwater Management Plan.~~

~~B. Such review and comment will take place within 60 days after the Plan is filed with the Town.~~

~~C. The comments will be transmitted to the Board of Commissioners.~~

~~D. The Planning Board's review is advisory only and not an administrative decision.~~

~~19.17.3 Review and Decision of the Board of Commissioners~~

~~A. Within 90 days of filing with the Town, the Board of Commissioners will review and approve or disapprove the proposed Stormwater Management Plan for Development that requires a Major Landscape Permit.~~

~~B. This review will be in conjunction with all other plans for the proposed Development.~~

~~C. The Board of Commissioner's review will be by quasi-judicial hearing pursuant to G.S. 160D-406.~~

~~1. The Board will determine if the proposed plan meets the standards and requirements of this Article.~~

~~2. Such determination will be set forth in a written order.~~

~~D. The Board of Commissioner's decision may be appealed to Carteret County Superior Court in the nature of certiorari pursuant to G.S. 160D-1402.~~

~~19.17.4 While it is not customary for the Planning Administrator or Planning Board to design an acceptable project for an applicant, the Planning Administrator and Planning Board are encouraged to do all they can to work with the applicant to achieve an acceptable project plan in harmony with this Article.~~

~~19.17.45 The Board of Adjustment, in cases involving Single Family and Major~~

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~~Landscape Development on a lot for a Single family home, and the Board of Commissioners in all other cases,~~ may grant a written variance from any requirement of this Article in accordance with the criteria listed below:

- A. There are special circumstances applicable to the subject property that make strict compliance with this Article an extreme, or impossible, hardship;
- B. Granting of the variance will not:
  - 1. Increase the rate or volume of surface water runoff;
  - 2. Have an adverse impact on an interdunal trough, wetland, watercourse or waterbody;
  - 3. Contribute to the degradation of water quality;
  - 4. Otherwise impair attainment of the objectives of this section, to wit:
    - a. Reducing ponding on streets;
    - b. Reducing ponding on developed private property or property suitable for development;
    - c. Reduce failure of septic systems;
    - d. Encourage productive and enjoyable harmony between humanity and nature;
    - e. Protect, restore and maintain the chemical, physical and biological integrity of the waters of Bogue Sound, the canal system within the corporate limits and the Atlantic Ocean;
    - f. Prevent harm to the community by activities which adversely affect water resources;
    - g. Encourage the construction of drainage systems which aesthetically and functionally approximate natural systems;
    - h. Encourage the protection of natural systems

and the use of them in ways which do not impair their beneficial functioning;

- i. Encourage the use of drainage systems which minimize the consumption of electrical energy or petroleum fuels to move water, remove pollutants, or maintain the systems;
  - j. Minimize the transport of pollutants to land or surface waters;
  - k. Maintain or restore groundwater levels;
  - l. Protect, maintain or restore natural salinity levels in estuarine areas;
  - m. Minimize erosion and sedimentation;
  - n. Prevent damage to wetlands and, insofar as possible, to the local natural recharge areas such as interdunal troughs;
  - o. Prevent damage from flooding, while recognizing that natural fluctuations in water level are beneficial;
  - p. Protect, restore and maintain the habitat of fish and wildlife;
  - q. Prevent or reverse salt water intrusion.
- C. A written request for variance is provided stating specific variances sought and reasons for their granting.
- D. A variance from the terms of this Article shall not be granted by the Board of Adjustment, ~~or the Board of Commissioners~~, unless, and until it holds a quasi-judicial hearing, and makes these findings:
- 1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;

2. That literal interpretation of the provisions would deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this Article;
  3. That the special conditions and circumstances do not result from the actions of the applicant;
  4. That the hardship is of a physical nature and not economic;
  5. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Article to other land, structures or buildings in the same district.
- E. Additionally, the granting of the variance will not:
1. Increase the rate or volume of surface water runoff;
  2. Have an adverse impact on an interdunal trough, basins, wetland, watercourse or waterbody;
  3. Contribute to the degradation of water quality;
  4. Otherwise impair attainment of the objectives of this Article.
- F. In granting any variance, the Board of Adjustment, or ~~Board of Commissioners,~~ may prescribe appropriate conditions and safeguards in conformity with this chapter.

19.17.6 Any person with standing aggrieved by a decision under this Article of the Board or Adjustment or ~~Board of Commissioners~~ following a quasi-judicial hearing may appeal in the nature of a certiorari to the Carteret County Superior Court pursuant to Chapter 160D of the General Statutes.

#### **19.18 Fees**

19.18.1 The Board of Commissioners shall establish permit application and review fees.

#### **19.19. Civil Penalty; Enforcement**

This section, and its subsections, provide specific civil penalties for violations of provisions of this Article, as well as procedures for assessing civil penalties, and other remedies and enforcement methods. The specifics of this Article shall supersede any contrary provision in Article 23; however, provisions of Article 23 will apply in cases where this Article does not contain a specific penalty, remedy or procedure.

- 19.19-1 The penalties and remedial measures for violation of this Article are:
- A. (For Violations Relating to Development Requiring a Major Landscape Permit.) The civil penalty for Development without an approved Stormwater Plan and Stormwater Permit required by 19.3.2 and in other provisions of this Article for Development requiring a Major Landscape Permit is five thousand dollars (\$5,000.00).
  - B. (For Violations Relating to Development Requiring a Single-family Landscape Permit.) The civil penalty for Development without an approved Stormwater Plan and Stormwater Permit required by 19.3.2 and in other provisions of this Article for Development requiring a Single-family Landscape Permit is five hundred dollars (\$500.00).
  - C. (Continuing Violation.) Each day of Development without a required Stormwater Permit is a separate violation.
- 19.19-2 (Authority to Remit.) The Planning Administrator, with the written consent of the Town Manager, shall have the authority to remit a portion of any civil penalty assessed in this Article. In determining whether to remit, the Planning Administrator will consider the following factors:
- A. Whether the activity in violation of this Article was intentional or accidental.
  - B. The extent of the violation.
  - C. The cost of correcting the violation.
  - D. The harm to the public policy expressed in this Article.
  - E. The harm to the environment.
  - F. The harm to adjacent property.
  - G. The time consumed by staff in addressing the violation.
  - H. The cumulative amounts of civil penalties provided for all violations of this Ordinance by the Development.
  - I. Other factors the Planning Administrator deems to have a bearing on the matter.
- 19.19-3 Administrative Decision. All determinations of the Planning Administrator

made under this Article, including violations, assessment of civil penalty, remedial orders, and remission of any portion of a civil penalty, are “administrative decisions” under Chapter 160D of the General Statutes and are subject to appeal to the Board of Adjustment by aggrieved persons with standing pursuant to G.S 160D-405.

- 19.19.4 Board of Adjustment. Upon receipt of an appeal under 19.19-3, the Board of Adjustment will hold a quasi-judicial hearing on the appeal. The Board of Adjustment has the authority to affirm, modify, or reverse the Planning Administrator’s administrative decision, and the Board of Adjustment shall also have the authority to remand the matter to the Planning Administrator for additional administrative proceedings.
- 19.19-5 Superior Court. Decisions of the Board of Adjustment may be appealed to Carteret County Superior Court according to G.S. 160D-406(k) and G.S. 160D-1402 by any aggrieved party with standing.
- 19.19-6 Civil penalties shall be recovered by the Town in a civil action filed in the appropriate division of the General Court of Justice in Carteret County.

## UDO Permit Amendment Plan Consistency & Reasonableness Statement

### Motion:

Move that the amendments to Articles 7, 11, and 19 of the Pine Knoll Shores Unified Development Ordinance pertaining to permit procedures and modifications to landscape plans and stormwater plans are in the public's interest. The Town's 2015 CAMA Land Use Plan and Pine Knoll Shores Strategic Plan has the following policies:

“LUC 7. The Town will rely on its existing land use and development ordinances to regulate development.”

“LUC 7.1. “The Town will review its existing ordinances periodically to ensure consistency with this and other adopted plans.”

“Strategic Plan: Managing Growth - Objective 3, Emphasize the uniqueness of PKS in development, redevelopment, and regional government forums.”

“Strategic Plan: Managing Growth - Objective 4, Implement and enforce the town's Unified Development Ordinance by ensuring adequate fiscal and personnel resources.”

“Strategic Plan: Sense of Community - Objective 5: Improve the awareness of the community's uniqueness and opportunities for engagement and volunteerism.

The proposed ordinance amendment does changes procedure for permit approval clarifying conflicting information within the Pine Knoll Shores Development Ordinance for ease of use for both staff and property owners. Changes to landscape plans balance the interests of property owners with the community mission to preserve the natural environment. Therefore, the amendment is consistent with the spirit and intent of the Land Use Plan since it furthers the above noted policies found in the Plan and is in the public's interest. Additionally, the amendments are consistent with the Town's Strategic Plan as noted above and are in the public's interest.