

AN ORDINANCE AMENDING THE KITTY HAWK TOWN CODE

WHEREAS, the Town Council recognizes that certain 'special uses' in commercial zoning districts are less intense and intrusive than several of the 'permitted uses'; and

WHEREAS, those identified 'special uses' have no specific conditions of approval; and

WHEREAS, requiring a special use permit for those identified uses can create an unnecessary burden for the applicant; and

WHEREAS, the Town Council also recognizes there are certain identified uses that are not appropriate in any zoning district in Kitty Hawk; and

WHEREAS, the Town Council of Kitty Hawk has found this amendment to be consistent with the Town's adopted CAMA Land Use Plan.

BE IT ORDAINED by the Town Council of Kitty Hawk that Sections 42-1, 42-194, 42-250, 42-251 and 42-252 of the Kitty Hawk Town Code be amended as follows:

Sec 42-1.-Definitions

Day care center: A child day care facility as defined in G.S. § 110-86(3). An adult day care facility as defined in G.S. § 131D-6(b).

Delicatessen means a retail store with no customer seating specializing in the sale of prepared cooked meats, smoked fish, cheeses, sandwiches and other specialty food items.

Hospital means an institution providing physical services primarily for human inpatient medical or surgical care for the sick or injured. A hospital may include related facilities such as laboratories, outpatient services, training facilities, central service facilities, mental health and staff offices. A hospital shall include an on-site heliport.

Medical clinic means a building or structure or portion thereof where medical services are provided from licensed practitioners, for outpatients only. This definition shall include doctor's and dentist's offices, and the offices of any other licensed and/or certified health care providers.

Place of worship means churches, mosques, synagogues, temples and the like.

Sec. 42-194. Prohibited uses in all districts and Unlisted uses.

~~(a) Procedure for approving unlisted uses. Where a particular use category or use type is not specifically allowed~~

~~under this article and is also not prohibited or restricted by this article, the planning director may permit the use category or type if the criteria of subsection (b) below are met. The planning director shall give due consideration to the intent of this article concerning the district(s) involved, the character of the uses specifically identified, and the character of the use(s) in question.~~

- ~~(b) *Criteria for approving unlisted uses.* In order to determine that the proposed use(s) has an impact that is similar in nature, function, and duration to the other uses allowed in a specific zoning district, the planning director shall assess all relevant characteristics of the proposed use, including but not limited to the following:~~
- ~~(1) The volume and type of sales, retail, wholesale; size and type of items sold and nature of inventory on the premises;~~
 - ~~(2) Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution; any dangerous, hazardous, toxic, or explosive materials used in the processing;~~
 - ~~(3) The nature and location of storage and outdoor display of merchandise; enclosed, open, inside or outside the principal building; and predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders);~~
 - ~~(4) The type, size and nature of buildings and structures;~~
 - ~~(5) The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;~~
 - ~~(6) Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site, trip purposes and whether trip purposes can be shared by other uses on the site;~~
 - ~~(7) Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other uses;~~
 - ~~(8) The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation and fumes;~~
 - ~~(9) Any special public utility requirements for serving the proposed use, including but not limited to water supply, waste water output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities;~~
 - ~~(10) The impact on adjacent properties created by the proposed use will not be greater than that of other uses in the zoning district.~~
- ~~(c) *Determination by the planning director; effects.* All determinations by the planning director made pursuant to subsection (b) above shall be in writing. In making the determination described in subsection (b) above, the planning director shall initiate an amendment to this article if the particular use or category of use(s) is likely to be common or to recur frequently, or that omission of specific inclusion and reference to this article is likely to lead to public uncertainty and confusion. Until final action has been taken on such proposed amendment, the determination of the planning director shall be binding on all officers and departments of the town. If no amendment is initiated, the planning director's determination shall thereafter be binding on all officers and departments of the town, without further action or amendment of this article.~~
- ~~(d) *Appeal of determination of the planning director.* The determination of the planning director may be appealed to the zoning board of adjustment pursuant to the procedures set forth in section 42-73 of this article.~~
- ~~(Ord. No. 16-14, 12-5-2016)~~

(a) The following uses shall be prohibited in all zoning districts:

- (1) Asphalt and concrete plants
- (2) Bus, Truck, and transportation terminals
- (3) Concentrated animal feeding operations
- (4) Crematoriums (animals and human)
- (5) Dormitories and residence halls
- (6) Drug paraphernalia sales
- (7) Explosives, ammunition, fireworks, or gunpowder manufacturing
- (8) Fat rendering, or production of fats and oils from animal or vegetable
- (9) Fraternity and sorority houses
- (10) Garbage, offal, or animal reduction and processing
- (11) Hazardous materials handling or storage
- (12) Jails and prisons
- (13) Junk yards, scrap yards, and salvage facilities
- (14) Landfills
- (15) Manufacturing, processing, assembly and other industrial facilities
- (16) Nitrogenous tankage, fish meal or manufacture, or any fertilizer materials carrying objectionable odor
- (17) Outdoor advertising, specifically billboards, except where prohibition is preempted by state or federal laws
- (18) Package treatment plant wastewater disposal systems that discharge to surface waters
- (19) Satellite dish farms
- (20) Shooting ranges, indoor or outdoor
- (21) Slaughterhouses
- (22) Solar energy farms
- (23) Storage or processing of radioactive or infectious waste
- (24) Taxi and pedicab storage or dispatch

(b) Classification and review of unlisted uses. The zoning administrator shall determine whether or not an unlisted use is substantially similar to an already defined use category or use type. A proposed use will not be denied solely because it is not included in this section. An unlisted use will be denied if the zoning administrator determines that the unlisted use is substantially similar to a use which is expressly prohibited. The zoning administrator shall use the following factors as a guideline when classifying a new or unlisted use to determine if such use is classified in a manner consistent with other similar uses in the zoning jurisdiction of the town:

- (1) Consistency with the stated intent of the zoning district;
- (2) Consistency with the adopted vision statement and policies of the town's land use plan;
- (3) Density of development (number of units, square footage, etc.);
- (4) Intensity of use consistent with the zoning district in which the use is to be located;
- (5) Type of activity associated with the use;
- (6) Number of customers and length of stay;
- (7) Generation of pedestrian and vehicular traffic;
- (8) Potential impacts such as noise, light, odor, etc.;

- (9) Public safety;
- (10) Environmental effects; and
- (11) Negative impacts on adjacent land uses.

(c) If the zoning administrator rejects a proposal for a use that is not clearly prohibited, then the zoning administrator will:

- (1) Ensure that the citizen is provided with a copy of the interpretation in writing;
- (2) Inform the citizen of the right to appeal the decision to the board of adjustment, as specified in section 42-73 of this chapter, appeals of administrative decisions; and
- (3) Advise the applicant on the requirements for the preparation of a proposed zoning text amendment for consideration by the planning board and town council allowing policy-makers to determine whether the proposed use should be an allowable use in the district or not. Financial responsibility for a proposed zoning text change shall be on the applicant.

Sec. 42-250. BC-1 general beach commercial district.

(b) *Permitted uses.* The following uses shall be permitted by right:

(1) Offices.

- a. Business.
- b. Financial.
- c. Governmental.
- d. Professional.
- e. Call centers.
- f. Realty and construction.
- g. Medical office/clinic

(2) Retail stores.

- a. Books.
- b. Cameras.
- c. Candy.
- d. Clothing.
- e. Dry goods.
- f. Automobile parts, not to include actual repair or service.
- g. Drugs.
- h. Flowers.
- i. Gifts.
- j. Hardware, including rental of small equipment (no outside display or storage).
- k. Hobby goods.
- l. Jewelry.
- m. Leather goods.
- n. Magazines.
- o. Music store.
- p. Notions.
- q. Sporting goods.

- r. Toys.
 - s. Food stores.
 - t. Antiques.
 - u. Household appliances.
 - v. Video rental.
 - w. Furniture stores.
 - x. Medical equipment and supplies, sales and rental.
 - y. Bicycle sales and skateboard sales, provided there is no outdoor storage or display.
 - z. Seafood market
 - aa. Bait and tackle shops
 - bb. Floor coverings and materials sales and installation provided there is no outside storage of materials or products.
 - cc. Office supplies.
 - dd. Electronics, sales and repair.
- (3) Service establishments, including such uses as:
- a. Appliance and electronic equipment sales and repair, provided there is no outdoor storage of appliances or equipment.
 - b. Barbershops and beauty shops, nail salons, personal spa salons, tanning salons.
 - c. Dry cleaning and laundry pickup stations including laundromats.
 - d. Parking lots.
 - e. Radio and television broadcasting studios.
 - f. Restaurants, bars, bakeries.
 - g. Shoe repair.
 - h. Theaters.
 - i. Indoor fitness and exercise facilities.
 - j. Cater service.
 - k. Banks.
 - l. Cafés and Delicatessens.
- (4) Public and private schools.
- (5) Town owned or leased facilities.
- (6) Home sales center; provided there is no outdoor display of merchandise.
- (7) Places of worship
- (8) Daycare centers
- (9) Art galleries and art supply stores
- (10) Single-family dwellings, not to include mobile or manufactured homes. A single-family dwelling must comply with the dimensional requirements of the BR-1 district.
- (c) *Special uses.* The following uses are permitted subject to the requirements of this district and additional regulations and requirements imposed by the town as provided in section 42-99:

- ~~(1) Single family dwellings, not to include mobile or manufactured homes. A single family dwelling must comply with the dimensional requirements of the BR-1 district.~~
- (2) Gas stations or fuel dispensing accessory use facilities; provided that no principal or accessory building shall be located within 50 feet of a residential district, and: provided that there shall be no storage of wrecked or abandoned cars, and that no portion of a gas station building, equipment or canopy shall be nearer than 30 feet to any right-of-way, and no portion of gas pumps shall be nearer than 50 feet to any right-of-way.
- (3) Motor vehicle service and repair, provided that there shall be no storage of wrecked, junked or abandoned vehicles and that there shall be no fuel dispensing devices.
- (4) Conveyor carwash service station is a special use upon the following conditions and such other conditions as the town council may reasonably set forth:
 - a. A prewash vehicular lane of sufficient size to accommodate 12 vehicles during the prewash phase of the wash operation.
 - b. A post wash vehicular lane of sufficient size to accommodate four vehicles being towel dried. The exit from the conveyor belt system shall be the entrance to the postwash vehicle drying area.
 - c. The prewash and post wash vehicle areas must be located separate from and outside of internal traffic circulation lanes and ingress/egress access points with public or private rights-of-way.
 - d. At the location of the vehicle exit from the building there shall be a water catchment at the post wash vehicle parking area which shall drain and slope to the water catchment. The water catchment must be large enough to contain all water draining into it from washed vehicles.
 - e. The water used for washing the vehicles must be recycled on site through a closed recycle system. The system must be designed, constructed and maintained in order to prevent wash water from entering the subsurface ground area or from flowing upon the ground surface.
 - f. On-site directional signs must not be illuminated internally. Sign lighting on the site must not interfere with the vision of motor vehicle operators on site or off site.
 - g. Each site shall have restroom facilities open and available to its customers.
 - h. Trash containers must be located at all vacuum cleaner stations and the area maintained free of trash and rubbish.
 - i. At least one attendant shall be on duty during the hours of operation.
- (5) Public utility facilities.
- ~~(6) Seafood markets.~~
- ~~(7) Hospitals and medical centers.~~
- (8) Emergency heliport. The operation of a medical emergency evacuation heliport shall be an accessory use to the primary hospital or medical center special use and shall be authorized in addition to the primary hospital or medical center special use as a special accessory use after the following requirements have been satisfied:

- a. Hospitals and medical clinics shall include those facilities which, under normal operating conditions, receive and treat trauma patients.
- b. Compliance with and evidence of compliance with any applicable requirements of the Department of Transportation, Division of Aviation, the Federal Aviation Administration, and any other federal, state or local agency having jurisdiction over the operation of helicopter flights, landings and the environmental impact thereof.
- c. Submission of a special accessory use application with the town planning department in addition to the following materials:
 - 1. A site plan and map drawn to a scale of one-inch equals 100 feet showing the locations, height and first floor elevations or foundation elevations above mean sea level of all structures, utility and street rights-of-way, existing power lines, towers, undeveloped residential lots, and other similar uses within 500 feet of the outside edge of the heliport landing pad.
 - 2. Environmental assessment consisting of:
 - (i) An analysis of the impact of noise within 500 feet of the heliport performed by a qualified audio engineer or other appropriate professional;
 - (ii) An analysis of the socioeconomic issues relating to the heliport and the hospital or the clinic; and
 - (iii) Viable alternatives.

The fees and costs associated with the review of the environmental assessment shall be paid to the town by the applicant prior to the public hearing as part of the application review fee. The analysis is to be submitted prior to the first regular or special meeting of the planning board at which the application is considered.
 - 3. Proposed heliport lighting plan demonstrating the technology and technique for retaining light on the site and prevention of light or light glare from affecting traffic using streets and highways in the area.
 - 4. Proposed approach and departing flight paths shall be shown on the map required in subsection (c)(8)c.1 of this section.
 - 5. Proposed protection for the innermost portion of the approach and departure routes.
- d. Upon filing the application and all required materials with the town planner, the town council shall set a public hearing on the applicant's request for the special accessory use of the medical emergency evacuation heliport. In addition to advertising the public hearing, the town planner shall mail, by certified mail, copies of the notice of hearing to all property owners on the tax records of the town within 500 feet of the heliport landing pad. The cost of advertising and mailing of the notices shall be borne by the applicant and paid prior to the public hearing date.
- e. In the case of a protest against the medical emergency evacuation heliport by the owners of 20 percent or more either of the area of the lots included within 500 feet of the heliport pad, or of those immediately adjacent thereto either in the rear thereof or on either side thereof or extending 500 feet therefrom, or of those directly opposite

thereto extending 500 feet from the street frontage of the opposite lots, then a motion to allow the special accessory use shall not become effective except by favorable vote of four of the five members of the town council.

- f. No protest against the applicant's proposed special accessory use shall be valid or effective for the purposes of subsection (c)(8)e of this section unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed special accessory use and unless it shall have been received by the city clerk within ten days following the public hearing. For the purposes of determining the ten-day period, the date of the public hearing shall be excluded and the tenth day shall be included. Thereafter, the town shall determine the sufficiency and accuracy of the petition within two normal work days, excluding Saturdays, Sundays and legal holidays, after the end of the ten-day period for filing protest petitions. The protest petition shall be in a form adopted by the town council. In the event no protest is filed or the protest is inadequate, the favorable vote of three of the five town councilmembers shall be required in order to authorize the special accessory use.
- g. The minimum lot or parcel size to accommodate a hospital or medical center with a heliport facility shall be three acres or more.
- h. The heliport shall be ground based only. No rooftop facility shall be permitted.
- i. The heliport shall comply with the latest edition of the FAA regulations in its design, size and use.
- j. The heliport shall not be used until FAA approval is obtained and a copy of the approval is submitted to the town.
- k. Prior to submitting the FAA permit application for the heliport, a copy of the application shall be forwarded to the town. The town's review of the copy of the application is for informational purposes and not intended as an approval requirement.
- l. No fixed base operations or refueling facilities shall be permitted on the hospital-medical center or heliport site.
- m. Lighting of the helipad or final approach and takeoff areas shall comply with FAA regulations but shall be ground level based using cutoff or restrictive features to minimize overspill of light from the activity area itself.
- n. No takeoff and landing area shall be nearer than 200 feet at its closest point to a state or federal highway. The entire takeoff and landing area, as defined by the FAA and determined by the size of the helicopter, shall fall within the property lines of the lot. The developer of a heliport shall be required to place signs warning motorists of low-flying aircraft. These signs shall be placed in accordance with regulations of the state department of transportation.
- o. Fire protection and safety measures shall be in accordance with the FAA and NFPA guidelines. The presence of firefighting equipment shall not be required by the town unless requested by the owner. The cost of providing such firefighting equipment coverage shall be the responsibility of the owner.

- p. The use of sound buffers, proper facility siting, separation distances or other natural or manmade barriers shall be made a part of the heliport approval process.
 - q. A protection plan for the innermost portion of the approach and departure routes shall be developed. Protection means may consist of, but not be limited to, acquiring title to the land or leasing the land area, acquisition of air rights, or the written consent of property owners within the approach and departure routes, or other means approved by the town council. The plan shall include an evaluation of viable alternatives. The method of such protection must be approved by the council and consummated by the applicant. The council, acting in its sole discretion, may waive this requirement if the procedure cannot be completed within a reasonable period of time or for reasons beyond the control of the applicant.
- (9) Veterinary hospitals and clinics subject to other requirements of this chapter and provided the following conditions are met:
- a. No animals shall be kept or boarded outside the principal building and there shall be no structure, runs, or pens used for boarding, holding or restraining animals located upon the site outside of the principal building.
 - b. The principal building shall be constructed in such a manner and with such materials as to prevent any noise originating within the facility from being heard beyond the approved site boundary line. An architect, engineer or other qualified professional must certify on the site plan that the proposed design and materials will allow no animal noise originating within the building to be heard at any point on the approved site boundary.
 - c. All animal waste must be disposed of through the facility septic system and the applicant must submit evidence that the appropriate county or state department has approved the proposed septic systems for the disposal of animal waste.
 - d. No dead animal shall be placed in any outside receptacle located on the premises outside the facility.
 - e. A vegetated or constructed visual buffer may be required.
 - f. Exterior lighting shall be of low intensity and shall reflect upon the site in such a manner as not to interfere with traffic on public streets or highways.
- (10) Apartments on the second story of compatible commercial uses; provided that applicable state building and fire codes are met and that one parking space per bedroom be reserved for the occupants of the apartment in addition to any other parking spaces that may be required.
- ~~(11) Day care centers.~~
- (12) Boat sales and rentals; provided that any outdoor display must be completely screened from the public's view, from public and private rights-of-way or the ground level of adjacent properties according to standards in article VI division 5 of this chapter.
- ~~(13) On-site retail sales and production of bakery goods, subject to any reasonable conditions imposed by the town council and the following specific conditions:~~

- ~~a. The production of bakery goods must be incidental to and for the purpose of on-site retail sales and not for distribution to wholesale vendors.~~
 - ~~b. The property owner must provide a waste container of sufficient size to accommodate all of the waste generated by the bakery production activity.~~
 - ~~e. The owner shall obtain and maintain firefighting apparatus or fire extinguishing apparatus in accordance with the requirements of the planning board and the fire department.~~
- (14) Craft production and retail sales, subject to any reasonable conditions imposed by the town council and the following conditions:
- a. The production of crafts must be incidental to and for the purpose of retail sales and not for distribution to wholesale vendors.
 - b. The maximum square footage of the area devoted to craft production shall not exceed 800 square feet.
 - c. The building in which crafts are produced shall be constructed in such a manner and with such materials as to prevent any noise originating within the facility from being heard beyond the approved site boundary line if the same is a freestanding building and to prevent any noise emanating from within the building, or portion thereof used for craft production, if the same is located within a multiunit structure. An architect, engineer or qualified professional must certify on the site plan that the proposed design and materials will allow no noise from the craft production activity within the building to be heard at any point on the approved site boundary or outside of the building, or that portion of the building used for craft production if the same is located within a multiunit structure.
 - d. All odors and vapors, including chemical vapors, associated with or generated by the production of crafts shall be contained within the boundaries of the site or within the building, or that portion of the building used for the production of crafts in a multiunit structure. When requested by the planning board, an engineer's certification shall be furnished to the planning board that the design, construction, and proposed methods of odor and vapor control are sufficient to contain all odors and vapors generated by or emanating from the production of crafts within the site boundary, if a freestanding building, or within the interior of that portion of the building used for the production of crafts in a multiunit structure.
 - e. The property owner must provide a waste container of sufficient size to accommodate all of the waste generated by the craft production activity.
 - f. If flammable materials are used in the craft production activity, the owner shall obtain and maintain firefighting apparatus or fire extinguishing apparatus in accordance with the requirements of the planning board or the volunteer fire department.
- (15) Print shop. A print shop may be permitted subject to other requirements of this chapter and provided the following conditions are met:
- a. No more than 1,000 square feet may be used for printing purposes, excluding office area.

- b. The principal building shall be constructed in such a manner and with such materials as to prevent any noise originating within the facility from being heard beyond the approved site boundary line. An architect, engineer or other qualified professional must certify on the site plan that the proposed design and materials will allow no machine noise originating within the building to be heard at any point on the approved site boundary.
 - c. In the event any chemicals used or stored on the premises require approval by a governmental agency of the method such chemicals are stored, used or disposed, then written evidence of the approval by the appropriate governmental agency shall be furnished to the town.
 - d. A list of all chemicals used or stored on the site shall be filed on or before January 10 of each year with the fire department.
- (16) Miniature golf course associated with PCD. A miniature golf course is a course containing all or a significant number of elements of a regulation golf course consisting of some combination of tees, fairways, greens, sand traps, water and vegetation hazards, and varying topography but all of which have been reduced in size to accommodate the project site and designed for the sport of golf. Putt-Putt type golf courses and animated courses are expressly excluded. Miniature golf courses, where authorized in various districts under this chapter, shall meet the following conditions and requirements:
- a. The miniature golf course and support facilities must be located within the boundary of the PCD project.
 - b. The miniature golf course must be compatible with the land uses in the PCD project.
 - c. The miniature golf course site shall consist of at least 30,000 square feet of land area for an 18-hole course with parking and golf course facilities. The total number of golf course holes shall not exceed 36 holes of play. In addition, a separate practice putting green may be located within the miniature golf course site boundary.
 - d. To the extent possible, the course design and layout shall utilize the natural terrain of the site. Alteration of the existing natural topography and the creation of other natural topographical features such as hills, mounds and waterfalls shall require the approval of the planning board and town council. There shall be no animation on or around the course and within the golf course site. The golf course site and course shall utilize only water, earth and natural vegetation as hazards, decorative features and other play-related features and shall not use artificial devices including, but not limited to, miniature buildings, animal, human or vehicular models, signs (other than hole number signs) or billboards. A site plan, including the location and identification of trees larger than six inches in diameter shall be required for miniature golf courses. The PCD submission and review procedure shall apply to the planning review of the golf course site.
 - e. The course shall be buffered from adjacent parcels outside the PCD by a vegetated buffer; however, it is permissible for the course to be visible from US Highway 158 if the PCD boundary is contiguous to the right-of-way of US Highway 158. The buffer

shall be a vegetated buffer with plants, shrubs and trees approved for use by the planning board. The vegetated buffer shall be maintained by the manager or association responsible for maintenance of the planned commercial development.

- f. There shall be no neon or flashing lights in the miniature golf course site boundary. Lighting of the course shall be contained on the site and shall not interfere with the reasonable enjoyment of adjacent parcels or traffic on streets or highways.
 - g. The electrical transmission of sound shall be prohibited.
 - h. Alcoholic beverages may not be sold or consumed in the miniature golf course area.
 - i. Restroom facilities shall be located within the golf course area for use by the players.
 - j. The golf course design shall accommodate stormwater retention and shall comply with the guidelines for soil erosion and sedimentation control.
 - k. There shall be one parking space for each numbered hole plus one parking space for each employee working in the golf course site. All parking spaces shall be located within 400 feet of the golf course.
 - l. Trash receptacles shall be centrally located and maintained within the golf course site.
- ~~(17) Cater service.~~
- (18) Game room, subject to the following conditions:
- a. A game room special use can coexist with another authorized district use within a freestanding detached building or within the area owned or leased by a person or entity within a multiuse building where the game room utilizes no more than 49 percent of the gross (interior) square footage of the floor area excluding designated storage area and areas to which customer access is prohibited.
 - b. Supervision in the game room area shall be provided during all operating hours. If the owner or lessee of the game room allows the consumption of alcoholic beverages within the game room, then the supervising attendant must be at least 18 years of age.
 - c. The game room area shall be constructed in such a manner and with such materials as to prevent any noise originating within the facility from being heard beyond the approved site boundary. If the game room is located in a structure which houses other nonrelated businesses, the noise within the game room must not be audible beyond the boundaries of the area leased or owned by the game room operator. An architect, engineer or other qualified professional must certify on the site plan that the proposed design and materials will comply with these standards.
 - d. The maximum number of occupants shall be determined by the building inspector according to the standards of the state fire code. The maximum number of occupants allowed in the game room shall be posted in a conspicuous place therein and its limits shall not be exceeded.
 - e. No alcoholic beverages shall be sold in the game room and no alcoholic beverages shall be consumed therein unless permitted by state law and in compliance with state law and the laws of the town.
 - f. It shall not be permissible to stimulate play by gambling incentives such as, but not limited to, free plays or games, monetary rewards or the exchange of coupons redeemable for play or gifts.

- g. The parking requirement shall be calculated on the basis of one space for each 200 square feet of floor area devoted to game room use.
- (19) Natural grass putting golf course. The term "natural grass putting golf course" means a course containing all or a significant number of elements of a regulation golf course consisting of some combination of tees, fairways, greens, sand traps, water and vegetation hazards and varying topography, but all of which have been reduced in size to accommodate the project site and designed for the sport of golf and limiting play to the use of a putter. Miniature golf courses utilizing artificial playing surfaces and/or with animated features within the golf course site are expressly excluded. All playing surfaces must be natural grass. Playing surfaces may be connected by wooden walkways not to exceed three feet in width and one foot in height. In addition to any other reasonable requirements or conditions imposed by the town council, a natural grass putting golf course shall satisfy the following conditions and requirements:
 - a. The natural grass putting golf course site shall consist of an area that is at least one acre in size for each 18 holes of play. The parking area for the natural grass putting golf course site shall not be located within the boundaries of the natural grass putting golf course site, and the parking area cannot be included in the calculation of the required one acre of land area for each 18 holes of golf. An accessory structure used as a pro shop may be located within the natural grass putting golf course site. In no event shall the total number of golf holes exceed 36; however, a separate practice green may be included within the natural grass putting course site in addition to the maximum of 36 holes of golf.
 - b. The natural grass putting golf course shall be designed to utilize the natural terrain of the site as much as possible. The golf course shall contain and consist of only natural materials. A certification must be submitted by the property owner with the site plans stating that there will be no change in natural terrain exceeding two feet in elevation or two feet in excavation of the site. If the existing terrain will be altered by more than a two-foot increase or decrease in elevation, then a topographic plan drawn with elevations at two-foot intervals must be submitted with the site plan.
 - c. There shall be no artificial moving objects or animated natural objects on or around the course and within the natural grass putting golf course site. Only water, earth and natural vegetation shall be used as hazards or decorative features. Artificial devices including, but not limited to, miniature buildings, animal, human or vehicular models, manmade waterfalls, signs (other than hole number signs) or billboards are prohibited within the golf course site. The site plan shall show the location of and identify trees larger than six inches in diameter within the project site. To the extent possible, trees with diameters larger than six inches shall be preserved.
 - d. The natural grass course shall include a buffer along its common boundary with adjoining properties. The buffer shall consist of an earthen mound at least ten feet wide at its base and six feet high. Natural vegetation shall be planted on the mound to function as a visual screen. The type of vegetation planted on the buffer shall be approved by the planning board. The screen shall be maintained by the owner or operator of the course. In the absence of a buffer and vegetative screen, there shall be an open space buffer 50 feet in width along the common boundary with adjoining

properties and lying within the project site. No golf course playing area shall be located closer than 200 feet to the right-of-way of any state road or federal highway. In order to safeguard the public health, safety and welfare, a sufficient vegetative screen shall be provided on property lines adjacent to such state or federal highways. The overall height of the screen shall be at least 12 feet. It shall be opaque to a minimum height of six feet. Intermittent visual obstruction shall be permitted from six feet to a height of at least 12 feet. The opaque portion of the screen is intended to exclude visual contact during all seasons. The intermittent portion shall not contain any unobstructed opening more than 15 feet wide except at approved access points. The screen shall be composed of a landscaped earthen berm, planted vegetation or existing vegetation. The planting materials list in this subsection, defines acceptable species which may constitute the screen. A plan showing details of a proposed screen shall be developed and submitted as part of the site plan review procedure. The plan shall be judged sufficient if it satisfies the standards and species defined in this subsection.

PLANTING MATERIALS	
<i>Trees (ten feet to 40 feet)</i>	
	Black Pine (<i>Pinus thunbergi</i>)
	Brazilian Butia (<i>Butia capitata</i>)
	Cabbage Palmetto (<i>Sabal palmetto</i>)*
	Cedar (<i>Cedrus deodora</i>)
	Cluster Pine (<i>Pinus pinaster</i>)
	Crepe Myrtle (<i>Lagerstroemia indica</i>)
	Eastern Red Cedar (<i>Juniperus virginiana</i>)
	Live Oak (<i>Quercus virginiana</i>)
	Redbay (<i>Persea borbonia</i>)
	White Poplar (<i>Populus alba</i>)
<i>Opaque screen (ground to six feet)</i>	
	Bayberry (<i>Myrica pensylvanica</i>)
	European Privet (<i>Ligustrum vulgare</i>)
	Japanese Privet (<i>Ligustrum japonicum</i>)
	Oleander (<i>Nerium oleander</i>)
	Pampas Grass (<i>Cortaderia selloana</i> , et al.)
	Pittosporum (<i>Pittosporum tobira</i>)
	Russian Olive (<i>Elaeagnus pumgens</i>)

	Ord. No. <u>22-17</u>
	Saltcedar (<i>Tamarix gallica</i>)
	Wax Myrtle (<i>Myrica cerifera</i>)
	Yaupon Holly (<i>Ilex vomitoria</i>)

*Requires special care in colder areas.

- e. Lighting within the natural grass putting golf course site boundary shall be shielded and focused on the course in such a manner as not to interfere with the reasonable enjoyment of adjacent parcels of property or traffic on nearby streets or highways. The light shall be contained on the site. Light fixtures shall not exceed ten feet in height. There shall be no neon or flashing lights within the natural grass putting golf course site boundary. A light plan shall be submitted to the planning board as part of the site plan review. The light plan shall demonstrate compliance with the light standards set forth herein.
 - f. The transmission of voice or musical sound within the natural grass putting golf course site boundary shall be prohibited. Malt beverages, wine or other beverages containing alcohol shall not be sold or consumed within the boundaries of the natural grass putting golf course. Adequate restroom facilities for the use of golf course players and customers shall be located within the golf course area. Trash receptacles approved by the town and/or county shall be located and maintained on the site. The site plan submitted to the planning board shall contain information and design elements demonstrating that stormwater runoff will be managed in a manner which contains the runoff within the boundaries of the site and otherwise complies with the applicable provisions of chapter 32, pertaining to soil erosion and sedimentation control.
 - g. There shall be a minimum of two parking spaces per hole of golf play and one parking space for each golf course employee at the site. If the natural grass putting golf course is planned and included as part of a restaurant mixed-use development, then the minimum parking requirement may be reduced to 1½ spaces per golf hole within the site and one space for each employee at the site.
 - h. Accessory uses. A restaurant center that sells snacks and beverages to the customers may be included as an accessory use within the natural grass putting golf course site.
- (20) Bed and breakfast facility.
- a. The bed and breakfast facility shall be compatible in scale of structure and scale of development with residential structures in the neighborhood in which it is located. The principal use of such dwelling structure is residential. The exterior of the structure shall be harmonious with surrounding property. The bed and breakfast use shall be operated in a primary, single-family residential structure and not in any accessory structure.
 - b. The operation shall be conducted by persons who own and reside within the dwelling unit. It shall be permissible to employ the equivalent of one fulltime person to assist in the operation.

- c. The structure must contain at least one full bathroom for the exclusive use of the owner and other members of the immediate household, plus one private bathroom for each guest bedroom. Each full, discrete bathroom must include a minimum of a water closet, a lavatory and a bath or shower and meet current building code requirements.
 - d. The rental of rooms shall be on a daily or weekly basis to tourists, vacationers or similar transients. The rental period shall not exceed 14 consecutive days in any 30-day period.
 - e. There shall be no cooking facilities or kitchen-type appliances in the rental dwelling rooms. A breakfast meal may be provided. It is intended by this subsection that meals may be provided only to registered guests of the facility.
 - f. Smoke alarms shall be installed in all rental rooms and in common areas.
 - g. The total rented dwelling rooms shall not exceed four and the total occupancy, including the owner, shall not exceed ten persons.
 - h. Parking shall be provided on the basis of one space per rental dwelling room in addition to two spaces for the owner. Parking spaces for rental dwelling rooms may be grass, Geoweb or gravel. Such parking areas shall be maintained in a dust-free, rut-free condition and shall be visually screened with a vegetated buffer if adjacent to an existing residential structure or a vacant lot on which a residential structure can be built.
 - i. Only signs which comply with standards for display in the zoning district in which the structure is located may be permitted.
 - j. No dwelling may be used as a bed and breakfast unless and until it shall have been permitted by the county environmental health department.
 - k. Lighting of the premises shall be harmonious with surrounding property. Lighting shall not create glare or interfere with the reasonable enjoyment of adjacent properties.
 - l. Noise generated within the structure shall not exceed a volume normally associated with residential occupancy. Between 9:00 p.m. and 6:00 a.m., noise originating within the structure shall not be audible beyond the property lines.
 - m. The town shall issue a permit if all the requirements of this subsection and other applicable provisions of this chapter have been met. The permit shall remain in effect for a period of one year and may be suspended or revoked if a violation of standards is found. The permit shall be renewed each year, upon request, by the code enforcement officer unless it is determined that the use of the dwelling is not in compliance with this chapter. The use of the building as a bed and breakfast shall cease if the permit is not kept in effect.
- (21) Clubhouse and pro shop use subject to reasonable conditions established by the town council and the following conditions:
- a. The height, intensity and location of the exterior lights must be shown on the site plan and approved by the town. The maximum height of exterior lights shall not exceed 20 feet, and the exterior lights shall be positioned such that the light is directed down towards the ground surface and shielded to prevent glare from being observed from adjoining properties and town rights-of-way. An illustration of the proposed exterior lights must be submitted to the town and approved by the town planner.

- b. Cart path surfaces will be maintained in a safe condition by the golf course owner and at the golf course owner's expense. The golf course owner must properly repair any cart path within a town street right-of-way which has been damaged by the town, its employees, agents, contractors, or subcontractors performing work for the town or public utilities performing utility work within the street right-of-way.
 - c. The golf course owner shall maintain liability insurance in an amount and form approved by the town, with the town as an additional insured, against risk causing injury or damage due to the presence and use of the golf paths within the town right-of-way.
 - d. Warning signs and signals at any town, street, right-of-way crossing, or crossings will be maintained by the applicant (at the applicant's expense) in good working order in all times that the golf course is open for play. Failure to maintain signs or signals shall result in a suspension of the special use and shall constitute a violation of this condition which shall be enforceable by the remedy of injunction in addition to, and not in limitation of, other remedies available to the town.
 - e. There shall be a minimum of four parking spaces per hole on the site.
 - f. A regulation golf course consisting of 18 or more playable holes which has a retail pro shop and/or general administrative offices for the golf course use and any ancillary golf course uses may share a maximum of six parking spaces for the golf course use based upon the parking standards for a retail use (one space per 350 square feet) and for an office use (one space per 500 square feet and one parking space for each employee) in order to satisfy the total parking standards for the golf course use together with the retail pro shop and general administrative office use requirements.
 - g. The total number of golf course use shared parking spaces shall not exceed six, and the number of shared parking spaces shall not be increased as a result of an increase in the square footage of the retail pro shop use or the general administrative office use.
- ~~(22) Sales and installation of floor coverings and materials, provided there is no outside storage of materials or products.~~
- ~~(23) Churches.~~
- (24) Kayak sales or rental; provided that outdoor display must be completely screened from the public's view, from public and private rights-of-way or from the ground level of adjacent properties according to standards in article VI division 5 of this chapter.
- (25) Kayak tours, provided that they comply with section 42-273(c)(8).
- ~~(26) Water tank murals. Water tank murals shall be a special use upon the following terms and conditions as well as such other reasonable terms and conditions as the town council may require:~~
- ~~a. The water tank must be owned or leased by the county and used as part of the county water distribution system;~~
 - ~~b. The murals cannot contain words, numbers, and symbols, or commercial, religious, or political themes or content;~~
 - ~~c. The murals must not be visible from US 158 right of way or town street rights of way (except for that portion of Sibbern Street west of Croatan Highway);~~

- ~~d. A pictorial representation of the murals must be approved by the town planning board and the town council;~~
 - ~~e. The murals cannot be altered, changed, modified or repainted without the prior approval of the town planning board and town council. Any such alterations, changes, modifications or repainting of the mural must be in accordance with the approval given by the town.~~
- (27) Retail sale of Christmas trees and wreaths subject to the regulations set forth in section 42-502(3).
- (28) Outside storage associated with furniture stores limited to the following:
- a. All outdoor storage be contained in a maximum of four percent of the site.
 - b. Furniture must be outdoor in type.
 - c. Fenced to shield from public view.
 - d. Must meet all fire code requirements.
 - e. Shall not be located on approved drainfield area.
 - f. Storage area shall not increase the impervious surface.
 - g. Not accessible to the public.
- (29) Indoor ramp parks; provided the following conditions are met:
- a. Supervision in the ramp park area shall be provided during all operating hours.
 - b. The ramp park area shall be constructed in such a manner and with such materials as to prevent any noise originating within the facility from being heard beyond the approved site boundary. If the ramp park is located in a structure which houses other nonrelated businesses, the noise within the ramp park must not be audible beyond the boundaries of the area leased or owned by the ramp park operator. An architect, engineer or other qualified professional must certify on the site plan that the proposed design and materials will comply with these standards.
 - c. The maximum number of occupants shall be determined by the building inspector according to the standards of the state fire code. The maximum number of occupants allowed in the ramp park shall be posted in a conspicuous place therein and its limits shall not be exceeded.
 - d. No alcoholic beverages shall be sold in the ramp park and no alcoholic beverages shall be consumed therein.
 - e. It shall not be permissible to stimulate play by gambling incentives such as, but not limited to, free plays or games, monetary rewards or the exchange of coupons redeemable for play or gifts.
 - f. The parking requirement shall be calculated based on retail uses not otherwise listed. Parking for food service shall be calculated on eating establishment. Total parking shall be based on the combination of all uses.
 - g. The owner/lessee shall execute a hold harmless agreement with the town for any accidents or injuries at the ramp park.
 - h. There will be no skateboarding outside the building.
 - i. There will be no open air facility. Any open windows or doors will constitute a violation of the noise requirements.

(30) Bicycle rental and repair shop, subject to reasonable conditions established by the town council and the following conditions:

- a. No outdoor storage of bicycles and other bicycle accessories.
- b. No self-propelled or motorized vehicle (e.g., mopeds) rentals.
- c. All repairs must be made in the interior of the approved building.

~~(31) Fitness center; provided the following:~~

- ~~a. No promotional sales or services shall be visible outside of the building.~~
- ~~b. The building shall be designed so that any noise will be contained within the building.~~
- ~~c. All lighting shall meet section 42-515.~~
- ~~d. Any outdoor uses or facilities shall be set back or buffered so that no noise will go beyond the property.~~
- ~~e. Massage personnel shall be licensed by the state.~~

(32) Electric vehicle dealership: an electric vehicle dealership (rental, sales and service) may be authorized subject to any reasonable conditions and standards imposed by the town council, this Code, and the following conditions:

- a. The project site must be located along U.S. Highway 158 or N.C. Highway 12 frontage;
- b. The project site must contain a minimum of 0.75 acres (or 32,670 sq. ft.);
- c. The project site must have minimum road frontage on U.S. Highway 158 or N.C. Highway 12 of 100 feet;
- d. New buildings shall be set back a minimum of 75 feet from adjoining residential uses or zoning district boundaries;
- e. Parking spaces and vehicles for sale or display to customers must be set back a minimum of 15 feet from the rear property line;
- f. New curb cuts, entrances or exit points from the project site to U.S. Highway 158 or N.C. Highway 12 shall be prohibited;
- g. An opaque fence may be required along the property line when adjoining a residential use;
- h. No electric vehicles shall be placed, parked or displayed within, the town rights of way or the rights of way of U.S. Highway 158 or N.C. Highway 12;
- i. Repair and service of vehicles must take place inside of an enclosed structure;
- j. No electrical vehicle use shall be permitted on multi-use paths;
- k. The location of electrical vehicle dealerships is limited to properties with direct access onto a street with a speed limit of 35 miles per hour or less. If the proposed site cannot comply with this standard, then all vehicles must be delivered.

(33) *Produce stand.* The retail sale of fruits, vegetables, flowers, containerized house or bedding plants, herbs and other agricultural food products, such as jam, jelly, vinegar, eggs, cheese or honey, subject to the following terms and conditions:

- a. The project site must have frontage along U.S. Highway 158 or N.C. Highway 12;
- b. No produce, plants or related products shall be located within the town or state right-of-way or in designated parking spaces or fire lanes;

- c. The activity may not utilize on-site required parking spaces to conduct retail activities or storage;
 - d. No sales shall be conducted after 10:00 p.m. and prior to 7:00 a.m.;
 - e. No music shall be produced on the site which music is audible beyond the property lines of the lot on which the sales are being conducted;
 - f. Any signs must meet the current standards of this chapter and applicable sign permit requirements;
 - g. No additional lighting shall be allowed on the site;
 - h. Trailers or vehicles used to transport produce and materials to the site shall be concealed from observation from town streets and state rights-of-way;
 - i. Prior to issuance of a special use permit, the applicant shall present a scaled site plan illustrating the location of all vendor display and storage areas, pedestrian circulation areas and ways, and location of required parking;
 - j. Any structures must meet wind construction standards and tie-down standards per state building code;
 - k. One paved off-street parking stall shall be required for each 300 square feet of occupied retail space. For purposes of this section, retail space shall be that area occupied for the display, sale or storage of goods;
 - l. The required parking shall not be allowed in public or private rights-of-way, fire lanes or travel lanes designated on approved site plan;
 - m. Any tent occupying over 200 square feet of the site shall require approval from the fire chief;
 - n. Sanitary facilities shall be required in a manner consistent with the International Building Code for a similarly sized retail space and shall be located on the subject property and within 200 feet of the market;
 - o. On-site garbage or trash receptacles must be provided and properly maintained at all times.
- (34) Vehicle rentals, subject to any reasonable conditions imposed by the town council and the following specific conditions:
- a. No more than three rental vehicles to be parked in the front of the building, the remainder of the fleet shall be parked in the rear of the building.
 - b. Total number of rental vehicles shall not exceed fifteen.
 - c. Site must have sufficient interior storage for vehicle accessories.
 - d. Location must have counter area with restrooms.
 - e. Vehicle rental business must be the sole use of the property.
 - f. No high occupancy vehicles (seating for ten or more passengers) included in the fleet.
 - g. Rental vehicle repair and/or maintenance shall not be performed on site.
- (35) Multi-family dwellings.
- a. Maximum allowable lot coverage by principal use and all accessory structures is 60 percent.
 - b. The minimum front yard setback is 15 feet.

- c. The minimum side yard setback is ten feet, an additional five-foot side yard adjacent to the street is required for a corner lot.
- d. The minimum rear yard setback is 20 feet.
- e. The maximum permitted density shall be ten residential dwelling units per acre.
- f. Type A vegetative buffer, per section 42-654 shall be required between any multifamily dwelling and abutting residential zones or uses.

Sec. 42-251. BC-2 beach commercial district.

(b) *Permitted uses.* The following uses shall be permitted by right:

- (1) All permitted uses allowed within the BC-1 district.
- (2) Home center sales; provided there is no outdoor display or merchandise.
- (3) Cabinet and woodworking shops.
- (4) Town owned or leased facilities.
- (5) Marinas.
- (6) Building supply and equipment sales; provided that any outdoor storage area must be completely screened from public rights-of-way or the ground level of adjacent properties.
- (7) Plumbing supply and equipment sales; provided that any outdoor storage area must be completely screened from public rights-of-way or the ground level of adjacent properties.

(c) *Special uses.* The following uses are permitted subject to the requirements of this district and additional regulations and requirements imposed by the town council as provided in section 42-99:

- ~~(1) Single family dwellings, not to include mobile or manufactured homes. A single family dwelling must comply with the dimensional requirements of the BR-1 district.~~
- (2) Gas stations or fuel dispensing accessory use facilities; provided that no principal or accessory building shall be located within 50 feet of a residential district, and: provided that there shall be no storage of wrecked or abandoned cars, and that no portion of a gas station building, equipment or canopy shall be nearer than 30 feet to any right-of-way, and no portion of gas pumps shall be nearer than 50 feet to any right-of-way.
- (3) Motor vehicle service and repair, provided that there shall be no storage of wrecked, junked or abandoned vehicles and that there shall be no fuel dispensing devices.
- (4) Conveyor carwash service station is a special use upon the following conditions and such other conditions as the town council may reasonably set forth:
 - a. A prewash vehicular lane of sufficient size to accommodate 12 vehicles during the prewash phase of the wash operation.
 - b. A post wash vehicular lane of sufficient size to accommodate four vehicles being towel dried. The exit from the conveyor belt system shall be the entrance to the post wash vehicle drying area.

- c. The prewash and post wash vehicle areas must be located separate from and outside of internal traffic circulation lanes and ingress/egress access points with public or private rights-of-way.
 - d. At the location of the vehicle exit from the building there shall be a water catchment at the post wash vehicle parking area which shall drain and slope to the water catchment. The water catchment must be large enough to contain all water draining into it from washed vehicles.
 - e. The water used for washing the vehicles must be recycled on site through a closed recycle system. The system must be designed, constructed and maintained in order to prevent wash water from entering the subsurface ground area or from flowing upon the ground surface.
 - f. On-site directional signs must not be illuminated internally. Sign lighting on the site must not interfere with the vision of motor vehicle operators on site or off site.
 - g. Each site shall have restroom facilities open and available to its customers.
 - h. Trash containers must be located at all vacuum cleaner stations and the area maintained free of trash and rubbish.
 - i. At least one attendant shall be on duty during the hours of operation.
- (5) Public utility facilities.
- ~~(6) Seafood markets.~~
- (7) Hospitals **and medical centers.** ~~clinics and medical offices.~~
- (8) Emergency heliport. The operation of a medical emergency evacuation heliport shall be an accessory use to the primary hospital or medical center special use and shall be authorized in addition to the primary hospital or medical center special use as a special accessory use after the following requirements have been satisfied:
- a. Hospitals and medical clinics shall include those facilities which, under normal operating conditions, receive and treat trauma patients.
 - b. Compliance with and evidence of compliance with any applicable requirements of the Department of Transportation, Division of Aviation, the Federal Aviation Administration, and any other federal, state or local agency having jurisdiction over the operation of helicopter flights, landings and the environmental impact thereof.
 - c. Submission of a special accessory use application with the town planning department in addition to the following materials:
 - 1. A site plan and map drawn to a scale of one inch equals 100 feet showing the locations, height and first floor elevations or foundation elevations above mean sea level of all structures, utility and street rights-of-way, existing power lines, towers, undeveloped residential lots, and other similar uses within 500 feet of the outside edge of the heliport landing pad.
 - 2. Environmental assessment consisting of:
 - (i) An analysis of the impact of noise within 500 feet of the heliport performed by a qualified audio engineer or other appropriate professional;
 - (ii) An analysis of the socioeconomic issues relating to the heliport and the hospital or the clinic; and

(iii) Viable alternatives.

The fees and costs associated with the review of the environmental assessment shall be paid to the town by the applicant prior to the public hearing as part of the application review fee. The analysis is to be submitted prior to the first regular or special meeting of the planning board at which the application is considered.

3. Proposed heliport lighting plan demonstrating the technology and technique for retaining light on the site and prevention of light or light glare from affecting traffic using streets and highways in the area.
4. Proposed approach and departing flight paths shall be shown on the map required in subsection (c)(8)c.1 of this section.
5. Proposed protection for the innermost portion of the approach and departure routes.
- d. Upon filing the application and all required materials with the town planner, the town council shall set a public hearing on the applicant's request for the special accessory use of the medical emergency evacuation heliport. In addition to advertising the public hearing, the town planner shall mail, by certified mail, copies of the notice of hearing to all property owners on the tax records of the town within 500 feet of the heliport landing pad. The cost of advertising and mailing of the notices shall be borne by the applicant and paid prior to the public hearing date.
- e. In the case of a protest against the medical emergency evacuation heliport by the owners of 20 percent or more either of the area of the lots included within 500 feet of the heliport pad, or of those immediately adjacent thereto either in the rear thereof or on either side thereof or extending 500 feet therefrom, or of those directly opposite thereto extending 500 feet from the street frontage of the opposite lots, then a motion to allow the special accessory use shall not become effective except by favorable vote of four of the five members of the town council.
- f. No protest against the applicant's proposed special accessory use shall be valid or effective for the purposes of subsection (c)(8)e of this section unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed special accessory use and unless it shall have been received by the city clerk within ten days following the public hearing. For the purposes of determining the ten-day period, the date of the public hearing shall be excluded, and the tenth day shall be included. Thereafter the town shall determine the sufficiency and accuracy of the petition within two normal workdays, excluding Saturdays, Sundays and legal holidays, after the end of the ten-day period for filing protest petitions. The protest petition shall be in a form adopted by the town council. In the event no protest is filed or the protest is inadequate, the favorable vote of three of the five town councilmembers shall be required in order to authorize the special accessory use.
- g. The minimum lot or parcel size to accommodate a hospital or medical center with a heliport facility shall be three acres or more.

- h. The heliport shall be ground based only. No rooftop facility shall be permitted.
 - i. The heliport shall comply with the latest edition of the FAA regulations in its design, size and use.
 - j. The heliport shall not be used until FAA approval is obtained and a copy of the approval is submitted to the town.
 - k. Prior to submitting the FAA permit application for the heliport, a copy of the application shall be forwarded to the town. The town's review of the copy of the application is for informational purposes and not intended as an approval requirement.
 - l. No fixed base operations or refueling facilities shall be permitted on the hospital-medical center or heliport site.
 - m. Lighting of the helipad or final approach and takeoff areas shall comply with FAA regulations but shall be ground level based using cutoff or restrictive features to minimize overspill of light from the activity area itself.
 - n. No takeoff and landing area shall be nearer than 200 feet at its closest point to a state or federal highway. The entire takeoff and landing area, as defined by the FAA and determined by the size of the helicopter, shall fall within the property lines of the lot. The developer of a heliport shall be required to place signs warning motorists of low-flying aircraft. These signs shall be placed in accordance with regulations of the state department of transportation.
 - o. Fire protection and safety measures shall be in accordance with the FAA and NFPA guidelines. The presence of firefighting equipment shall not be required by the town unless requested by the owner. The cost of providing such firefighting equipment coverage shall be the responsibility of the owner.
 - p. The use of sound buffers, proper facility siting, separation distances or other natural or manmade barriers shall be made a part of the heliport approval process.
 - q. A protection plan for the innermost portion of the approach and departure routes shall be developed. Protection means may consist of, but not be limited to, acquiring title to the land or leasing the land area, acquisition of air rights, or the written consent of property owners within the approach and departure routes, or other means approved by the town council. The plan shall include an evaluation of viable alternatives. The method of such protection must be approved by the council and consummated by the applicant. The council, acting in its sole discretion, may waive this requirement if the procedure cannot be completed within a reasonable period of time or for reasons beyond the control of the applicant.
- (9) Veterinary hospitals and clinics subject to other requirements of this chapter and provided the following conditions are met:
- a. No animals shall be kept or boarded outside the principal building and there shall be no structure, runs, or pens used for boarding, holding or restraining animals located upon the site outside of the principal building.
 - b. The principal building shall be constructed in such a manner and with such materials

- as to prevent any noise originating within the facility from being heard beyond the approved site boundary line. An architect, engineer or other qualified professional must certify on the site plan that the proposed design and materials will allow no animal noise originating within the building to be heard at any point on the approved site boundary.
- c. All animal waste must be disposed of through the facility septic system and the applicant must submit evidence that the appropriate county or state department has approved the proposed septic systems for the disposal of animal waste.
 - d. No dead animal shall be placed in any outside receptacle located on the premises outside the facility.
 - e. A vegetated or constructed visual buffer may be required.
 - f. Exterior lighting shall be of low intensity and shall reflect upon the site in such a manner as not to interfere with traffic on public streets or highways.
- (10) Indoor recreation activities.
- (11) Apartments on the second story of compatible commercial uses; provided that applicable state building and fire codes are met and that one parking space per bedroom is reserved for the occupants of the apartment in addition to any other parking spaces that may be required.
- ~~(12) Day care centers.~~
- (13) Boat sales and rentals, provided that any outdoor display must be completely screened from the public's view, from public and private rights-of-way or the ground level of adjacent properties according to standards in article VI of division 5 of this chapter.
- ~~(14) On-site retail sales and production of bakery goods, subject to any reasonable conditions imposed by the town council and the following specific conditions:~~
- ~~a. The production of bakery goods must be incidental to and for the purpose of on-site retail sales and not for distribution to wholesale vendors.~~
 - ~~b. The property owner must provide a waste container of sufficient size to accommodate all of the waste generated by the bakery production activity.~~
 - ~~c. The owner shall obtain and maintain firefighting apparatus or fire extinguishing apparatus in accordance with the requirements of the planning board or the fire department.~~
- (15) Craft production and retail sales, subject to any reasonable conditions imposed by the town council and the following conditions:
- a. The production of crafts must be incidental to and for the purpose of retail sales and not for distribution to wholesale vendors.
 - b. The maximum square footage of the area devoted to craft production shall not exceed 800 square feet.
 - c. The building in which crafts are produced shall be constructed in such a manner and with such materials as to prevent any noise originating within the facility from being heard beyond the approved site boundary line if the same is a freestanding building and

to prevent any noise emanating from within the building, or portion thereof used for craft production, if the same is located within a multiunit structure. An architect, engineer or qualified professional must certify on the site plan that the proposed design and materials will allow no noise from the craft production activity within the building to be heard at any point on the approved site boundary or outside of the building, or that portion of the building used for craft production if the same is located within a multiunit structure.

- d. All odors and vapors, including chemical vapors, associated with or generated by the production of crafts shall be contained within the boundaries of the site or within the building, or that portion of the building used for the production of crafts in a multiunit structure. When requested by the planning board, an engineer's certification shall be furnished to the planning board that the design, construction, and proposed methods of odor and vapor control are sufficient to contain all odors and vapors generated by or emanating from the production of crafts within the site boundary, if a freestanding building, or within the interior of that portion of the building used for the production of crafts in a multiunit structure.
 - e. The property owner must provide a waste container of sufficient size to accommodate all of the waste generated by the craft production activity.
 - f. If flammable materials are used in the craft production activity, the owner shall obtain and maintain firefighting apparatus or fire extinguishing apparatus in accordance with the requirements of the planning board or the volunteer fire department.
- (16) A print shop may be permitted subject to other requirements of this chapter and provided the following conditions are met:
- a. No more than 1,000 square feet may be used for printing purposes, excluding office area.
 - b. The principal building shall be constructed in such a manner and with such materials as to prevent any noise originating within the facility from being heard beyond the approved site boundary line. An architect, engineer or other qualified professional must certify on the site plan that the proposed design and materials will allow no machine noise originating within the building to be heard at any point on the approved site boundary.
 - c. In the event any chemicals used or stored on the premises require approval by a governmental agency of the method such chemicals are stored, used or disposed, then written evidence of the approval by the appropriate governmental agency shall be furnished to the town.
 - d. A list of all chemicals used or stored on the site shall be filed on or before January 10 of each year with the fire department.
- (17) Building contractor's offices ~~and~~ with equipment/material storage area; provided that any outdoor storage area must be completely screened from the public's view, from public and private rights-of-way or the ground level of adjacent properties according to standards in article VI of division 5 of this chapter.

- ~~(18) Building supply and equipment sales; provided that any outdoor storage area must be completely screened from the public's view, from public rights of way or the ground level of adjacent properties according to standards in article VI of division 5 of this chapter.~~
- ~~(19) Plumbing supply and equipment sales; provided that any outdoor storage area must be completely screened from the public's view, from public rights of way or the ground level of adjacent properties according to standards in article VI of division 5 of this chapter.~~
- (20) Miniature golf course associated with PCD. A miniature golf course is a course containing all or a significant number of elements of a regulation golf course consisting of some combination of tees, fairways, greens, sand traps, water and vegetation hazards, and varying topography but all of which have been reduced in size to accommodate the project site and designed for the sport of golf. Putt-Putt type golf courses and animated courses are expressly excluded. Miniature golf courses, where authorized in various districts under this chapter, shall meet the following conditions and requirements:
 - a. The miniature golf course and support facilities must be located within the boundary of the PCD project.
 - b. The miniature golf course must be compatible with the land uses in the PCD project.
 - c. The miniature golf course site shall consist of at least 30,000 square feet of land area for an 18-hole course with parking and golf course facilities. The total number of golf course holes shall not exceed 36 holes of play. In addition, a separate practice putting green may be located within the miniature golf course site boundary.
 - d. To the extent possible, the course design and layout shall utilize the natural terrain of the site. Alteration of the existing natural topography and the creation of other natural topographical features such as hills, mounds and waterfalls shall require the approval of the planning board and town council. There shall be no animation on or around the course and within the golf course site. The golf course site and course shall utilize only water, earth and natural vegetation as hazards, decorative features and other play-related features and shall not use artificial devices including, but not limited to, miniature buildings, animal, human or vehicular models, signs (other than hole number signs) or billboards. A site plan, including the location and identification of trees larger than six inches in diameter shall be required for miniature golf courses. The PCD submission and review procedure shall apply to the planning review of the golf course site.
 - e. The course shall be buffered from adjacent parcels outside the PCD by a vegetated buffer; however, it is permissible for the course to be visible from US Highway 158 if the PCD boundary is contiguous to the right-of-way of US Highway 158. The buffer shall be a vegetated buffer with plants, shrubs and trees approved for use by the planning board. The vegetated buffer shall be maintained by the manager or association responsible for maintenance of the planned commercial development.
 - f. There shall be no neon or flashing lights in the miniature golf course site boundary. Lighting of the course shall be contained on the site and shall not interfere with the reasonable enjoyment of adjacent parcels or traffic on streets or highways.
 - g. The electrical transmission of sound shall be prohibited.

- h. Alcoholic beverages may not be sold or consumed in the miniature golf course area.
 - i. Restroom facilities shall be located within the golf course area for use by the players.
 - j. The golf course design shall accommodate stormwater retention and shall comply with the guidelines for soil erosion and sedimentation control.
 - k. There shall be one parking space for each numbered hole plus one parking space for each employee working in the golf course site. All parking spaces shall be located within 400 feet of the golf course.
 - l. Trash receptacles shall be centrally located and maintained within the golf course site.
- ~~(21) Cater service.~~
- (22) Natural grass putting golf course. The term "natural grass putting golf course" means a course containing all or a significant number of elements of a regulation golf course consisting of some combination of tees, fairways, greens, sand traps, water and vegetation hazards and varying topography, but all of which have been reduced in size to accommodate the project site and designed for the sport of golf and limiting play to the use of a putter. Miniature golf courses utilizing artificial playing surfaces and/or with animated features within the golf course site are expressly excluded. All playing surfaces must be natural grass. Playing surfaces may be connected by wooden walkways not to exceed three feet in width and one foot in height. In addition to any other reasonable requirements or conditions imposed by the town council, a natural grass putting golf course shall satisfy the following conditions and requirements:
- a. The natural grass putting golf course site shall consist of an area that is at least one acre in size for each 18 holes of play. The parking area for the natural grass putting golf course site shall not be located within the boundaries of the natural grass putting golf course site, and the parking area cannot be included in the calculation of the required one acre of land area for each 18 holes of golf. An accessory structure used as a pro shop may be located within the natural grass putting golf course site. In no event shall the total number of golf holes exceed 36; however, a separate practice green may be included within the natural grass putting course site in addition to the maximum of 36 holes of golf.
 - b. The natural grass putting golf course shall be designed to utilize the natural terrain of the site as much as possible. The golf course shall contain and consist of only natural materials. A certification must be submitted by the property owner with the site plans stating that there will be no change in natural terrain exceeding two feet in elevation or two feet in excavation of the site. If the existing terrain will be altered by more than a two-foot increase or decrease in elevation, then a topographic plan drawn with elevations at two-foot intervals must be submitted with the site plan.
 - c. There shall be no artificial moving objects or animated natural objects on or around the course and within the natural grass putting golf course site. Only water, earth and natural vegetation shall be used as hazards or decorative features. Artificial devices including, but not limited to, miniature buildings, animal, human or vehicular models, manmade waterfalls, signs (other than hole number signs) or billboards are prohibited within the golf course site. The site plan shall show the location of and identify trees larger than six inches in diameter within the project site. To the extent possible, trees with diameters larger than six inches shall be preserved.

- d. The natural grass course shall include a buffer along its common boundary with adjoining properties. The buffer shall consist of an earthen mound at least ten feet wide at its base and six feet high. Natural vegetation shall be planted on the mound to function as a visual screen. The type of vegetation planted on the buffer shall be approved by the planning board. The screen shall be maintained by the owner or operator of the course. In the absence of a buffer and vegetative screen, there shall be an open space buffer 50 feet in width along the common boundary with adjoining properties and lying within the project site. No golf course playing area shall be located closer than 200 feet to the right-of-way of any state road or federal highway. In order to safeguard the public health, safety and welfare, a sufficient vegetative screen shall be provided on property lines adjacent to such state or federal highways. The overall height of the screen shall be at least 12 feet. It shall be opaque to a minimum height of six feet. Intermittent visual obstruction shall be permitted from six feet to a height of at least 12 feet. The opaque portion of the screen is intended to exclude visual contact during all seasons. The intermittent portion shall not contain any unobstructed opening more than 15 feet wide except at approved access points. The screen shall be composed of a landscaped earthen berm, planted vegetation or existing vegetation. The planting materials list in this subsection defines acceptable species which may constitute the screen. A plan showing details of a proposed screen shall be developed and submitted as part of the site plan review procedure. The plan shall be judged sufficient if it satisfies the standards and species defined in this subsection.

PLANTING MATERIALS	
<i>Trees (ten feet to 40 feet)</i>	
	Black Pine (<i>Pinus thunbergi</i>)
	Brazilian Butia (<i>Butia capitata</i>)
	Cabbage Palmetto (<i>Sabal palmetto</i>)*
	Cedar (<i>Cedrus deodora</i>)
	Cluster Pine (<i>Pinus pinaster</i>)
	Crepe Myrtle (<i>Lagerstroemia indica</i>)
	Eastern Red Cedar (<i>Juniperus virginiana</i>)
	Live Oak (<i>Quercus virginiana</i>)
	Redbay (<i>Persea borbonia</i>)
	White Poplar (<i>Populus alba</i>)
<i>Opaque screen (ground to six feet)</i>	
	Bayberry (<i>Myrica pensylvanica</i>)
	European Privet (<i>Ligustrum vulgare</i>)
	Japanese Privet (<i>Ligustrum japonicum</i>)
	Oleander (<i>Nerium oleander</i>)

	Ord. No. <u>22-17</u>
	Pampas Grass (<i>Cortaderia selloana</i> , et al.)
	Pittosporum (<i>Pittosporum tobira</i>)
	Russian Olive (<i>Elaeagnus pumgens</i>)
	Saltcedar (<i>Tamarix gallica</i>)
	Wax Myrtle (<i>Myrica cerifera</i>)
	Yaupon Holly (<i>Ilex vomitoria</i>)

*Requires special care in colder areas.

- e. Lighting within the natural grass putting golf course site boundary shall be shielded and focused on the course in such a manner as not to interfere with the reasonable enjoyment of adjacent parcels of property or traffic on nearby streets or highways. The light shall be contained on the site. Light fixtures shall not exceed ten feet in height. There shall be no neon or flashing lights within the natural grass putting golf course site boundary. A light plan shall be submitted to the planning board as part of the site plan review. The light plan shall demonstrate compliance with the light standards set forth herein.
 - f. The transmission of voice or musical sound within the natural grass putting golf course site boundary shall be prohibited. Malt beverages, wine or other beverages containing alcohol shall not be sold or consumed within the boundaries of the natural grass putting golf course. Adequate restroom facilities for the use of golf course players and customers shall be located within the golf course area. Trash receptacles approved by the town and/or county shall be located and maintained on the site. The site plan submitted to the planning board shall contain information and design elements demonstrating that stormwater runoff will be managed in a manner which contains the runoff within the boundaries of the site and otherwise complies with the applicable provisions of chapter 32, pertaining to soil erosion and sedimentation control.
 - g. There shall be a minimum of two parking spaces per hole of golf play and one parking space for each golf course employee at the site. If the natural grass putting golf course is planned and included as part of a restaurant mixed-use development, then the minimum parking requirement may be reduced to one and one-half spaces per golf hole within the site and one space for each employee at the site.
 - h. Accessory uses.
 - 1. A food preparation center that sells snacks and beverages to the customers and/or a food preparation center that prepares carry out food to be consumed on site outside of the building or to be delivered off site may be included as an accessory use within the natural grass putting golf course site.
 - 2. Restaurant with not more than ten customer seats.
- (23) Bed and breakfast facility.
- a. The bed and breakfast facility shall be compatible in scale of structure and scale of

development with residential structures in the neighborhood in which it is located. The principal use of such dwelling structures is residential. The exterior of the structure shall be harmonious with surrounding property. The bed and breakfast use shall be operated in a primary, single-family residential structure and not in any accessory structure.

- b. The operation shall be conducted by persons who own and reside within the dwelling unit. It shall be permissible to employ the equivalent of one fulltime person to assist in the operation.
- c. The structure must contain at least one full bathroom for the exclusive use of the owner and other members of the immediate household, plus one private bathroom for each guest bedroom. Each full, discrete bathroom must include a minimum of a water closet, a lavatory and a bath or shower and meet current building code requirements.
- d. The rental of rooms shall be on a daily or weekly basis to tourists, vacationers or similar transients. The rental period shall not exceed 14 consecutive days in any 30-day period.
- e. There shall be no cooking facilities or kitchen-type appliances in the rental dwelling rooms. A breakfast meal may be provided. It is intended by this subsection (c)(23) of this section that meals may be provided only to registered guests of the facility.
- f. Smoke alarms shall be installed in all rental rooms and in common areas.
- g. The total rented dwelling rooms shall not exceed four and the total occupancy, including the owner, shall not exceed ten persons.
- h. Parking shall be provided on the basis of one space per rental dwelling room in addition to two spaces for the owner. Parking spaces for rental dwelling rooms may be grass, Geoweb or gravel. Such parking areas shall be maintained in a dust-free, rut-free condition and shall be visually screened with a vegetated buffer if adjacent to an existing residential structure or a vacant lot on which a residential structure can be built.
- i. Only signs which comply with standards for display in the zoning district in which the structure is located may be permitted.
- j. No dwelling may be used as a bed and breakfast unless and until it shall have been permitted by the county environmental health department.
- k. Lighting of the premises shall be harmonious with surrounding property. Lighting shall not create glare or interfere with the reasonable enjoyment of adjacent properties.
- l. Noise generated within the structure shall not exceed a volume normally associated with residential occupancy. Between 9:00 p.m. and 6:00 a.m., noise originating within the structure shall not be audible beyond the property lines.
- m. The town shall issue a permit if all the requirements of this subsection of this section (c)(23) and other applicable provisions of this chapter have been met. The permit shall remain in effect for a period of one year and may be suspended or revoked if a violation of standards is found. The permit shall be renewed each year, upon request, by the code enforcement officer unless it is determined that the use of the dwelling is not in compliance with this chapter. The use of the building as a bed and breakfast shall cease if the permit is not kept in effect.

- (24) *Motor vehicle dealership.* A motor vehicle dealership may be authorized subject to any reasonable conditions and standards imposed by the town council, this chapter, and the following conditions:
- a. The project site must be located and the use conducted west of US Highway 158 within the town;
 - b. The project site must contain a minimum of 0.75 acres (or 32,670 square feet);
 - c. The project site must have minimum road frontage on US Highway 158 of 100 feet and minimum road frontage on a street intersecting with US Highway 158 of 100 feet;
 - d. Buildings shall be set back a minimum of 75 feet from adjoining residential uses or zoning district boundaries;
 - e. Parking spaces and vehicles for sale on display to customers must be set back a minimum of 50 feet from adjoining residential uses or residential zoning district boundaries, and a buffer must be installed within those setbacks in accordance with the standards set forth in this chapter;
 - f. A building set back of not less than 60 feet shall be maintained from the centerline of any street which intersects with US Highway 158 and is contiguous to the project site;
 - g. A minimum building setback from the right-of-way margin of US Highway 158 of 175 feet;
 - h. Curb cuts, entrance or exit points from the project site to US Highway 158 shall be prohibited;
 - i. One or more curb cuts or driveway access locations may be authorized by the town where the point of access, ingress and egress is located a minimum of 100 feet from US Highway 158;
 - j. Upon recommendation by the planning board, a traffic study shall be conducted under the supervision of the planning board and at the expense of the applicant, and the applicant will install any traffic control measures recommended by the traffic study at the intersection of US Highway 158 by the street which is contiguous to the project site;
 - k. No motor vehicles shall be placed, parked, or displayed within the street rights-of-way or the right-of-way of US Highway 158.
- ~~(25) Sales and installation of floor coverings and materials, provided there is no outside storage of materials or products.~~
- ~~(26) Churches.~~
- (27) Kayak sales or rental; provided that outdoor display must be completely screened from the public's view, from public and private rights-of-way or from the ground level of adjacent properties according to standards in article VI of division 5 of this chapter.
- (28) Kayak tours, provided that they comply with section 42-273(c)(8).
- (29) Retail sale of Christmas trees and wreaths subject to the regulations set forth in section 42-502(3).
- (30) Outside storage associated with furniture stores limited to the following:
- a. All outdoor storage, contained in the maximum of four percent of the site.

- b. Furniture must be outdoor in type.
- c. Fenced to shield from public view.
- d. Must meet all fire code requirements.
- e. Shall not be located on approved drainfield area.
- f. Storage area shall not increase the impervious surface.
- g. Not accessible to the public.

~~(31) Fitness center; provided that:~~

- ~~a. No promotional sales or services shall be visible outside of the building.~~
- ~~b. The building shall be designed so that any noise will be contained within the building.~~
- ~~c. All lighting shall meet section 42-515.~~
- ~~d. Any outdoor uses or facilities shall be set back or buffered so that no noise will go beyond the property.~~
- ~~e. Massage personnel shall be licensed by the state.~~

(32) The retail sale of fruits, vegetables, flowers, containerized house or bedding plants, herbs and other agricultural food products, such as jam, jelly, vinegar, eggs, cheese or honey, subject to the following terms and conditions:

- a. No produce, plants or related products shall be located within the town or state right-of way or in designated parking spaces or fire lanes;
- b. The activity may not utilize on-site required parking spaces to conduct retail activities or storage;
- c. No sales shall be conducted after 10:00 p.m. and prior to 7:00 a.m.;
- d. No music shall be produced on the site which music is audible beyond the property lines of the lot on which the sales are being conducted;
- e. Any signs must meet the current standards of this chapter and applicable sign permit requirements;
- f. No additional lighting shall be allowed on the site;
- g. Trailers or vehicles used to transport produce and materials to the site shall be concealed from observation from town streets and state rights-of-way;
- h. Prior to issuance of a special use permit, the applicant shall present a scaled site plan illustrating the location of all vendor display and storage areas, pedestrian circulation areas and ways, and location of required parking;
- i. Any structures must meet wind construction standards and tiedown standards per state building code;
- j. One paved off-street parking stall shall be required for each 300 square feet of occupied retail space. For purposes of this section, retail space shall be that area occupied for the display, sale or storage of goods;
- k. The required parking shall not be allowed in public or private rights-of-way, fire lanes or travel lanes designated on approved site plan;
- l. Any tent occupying over 200 square feet of the site shall require approval from the fire chief;

- m. Sanitary facilities shall be required in a manner consistent with the International Building Code for a similarly sized retail space and shall be located on the subject property and within 200 feet of the market;
 - n. On-site garbage or trash receptacles must be provided and properly maintained at all times.
- (33) Electric vehicle dealership: an electric vehicle dealership (rental, sales and service) may be authorized subject to any reasonable conditions and standards imposed by the town council, the town code and the following conditions:
- a. The project site must be located along U.S. Highway 158 or N.C. Highway 12 frontage;
 - b. The project site must contain a minimum of 0.75 acres (or 32,670 sq. ft.);
 - c. The project site must have minimum road frontage on U.S. Highway 158 or N.C. Highway 12 of 100 feet;
 - d. New buildings shall be set back a minimum of 75 feet from adjoining residential uses or zoning district boundaries;
 - e. Parking spaces and vehicles for sale or display to customers must be set back a minimum of 15 feet from the rear property line;
 - f. New curb cuts, entrances or exit points from the project site to U.S. Highway 158 or N.C. Highway 12 shall be prohibited;
 - g. An opaque fence may be required along the property line when adjoining a residential use;
 - h. No electric vehicles shall be placed, parked or displayed within the town rights of way or the rights of way of U.S. Highway 158 or N.C. Highway 12;
 - i. Repair and service of vehicles must take place inside of an enclosed structure;
 - j. No electrical vehicle use shall be permitted on multi-use paths;
 - k. The location of electrical vehicle dealerships is limited to properties with direct access onto a street with a speed limit of 35 miles per hour or less. If the proposed site cannot comply with this standard, then all vehicles must be delivered.
- (34) *Multi-family dwelling development.*
- a. Maximum allowable lot coverage by principal use and all accessory structures is 60 percent.
 - b. The minimum front yard setback is 15 feet.
 - c. The minimum side yard setback is 10 feet, an additional five-foot side yard adjacent to the street is required for a corner lot.
 - d. The minimum rear yard setback is 20 feet.
 - e. The maximum permitted density shall be ten residential dwelling units per acre.
 - f. Type A vegetative buffer, per section 42-654 shall be required between any multifamily dwelling and abutting residential zones or uses.

Sec. 42-252. BC-3 community shopping mall district; community shopping center district.

- (b) *Permitted uses.* The following uses shall be permitted by right: community mall consisting of any of, or any combination of, the following:

(1) Any of the following offices, including such uses as:

- a. Business.
- b. Financial.
- c. Governmental.
- d. Medical and professional.
- e. Call centers.
- f. Realty and construction.
- g. Medical office/clinic

(2) Any of the following primary retail stores, including such uses as:

- a. Books.
- b. Cameras.
- c. Candy.
- d. Clothing.
- e. Craft goods.
- f. Dry goods.
- g. Drugs.
- h. Flowers.
- i. Gifts.
- j. Hardware.
- k. Jewelry.
- l. Leather goods.
- m. Magazines.
- n. Musical instruments.
- o. Notions.
- p. Sporting goods.
- q. Toys.
- r. Food stores and supermarkets.
- s. Household appliances.
- t. Furniture and furnishings.
- u. Card stores.
- v. ABC stores
- w. Seafood market.
- x. Bait and tackle shops.
- y. Floor coverings and materials sales and installation, provided there is no outside storage of materials or products.
- z. Office supplies.
- aa. Electronics, sales and repair.

(3) Department stores.

(4) Service establishments such as:

- a. Barbershops and beauty shops, nail salons, personal spa salons, tanning salons.

- b. Cafeterias.
 - c. Dry cleaning and laundry pickup stations.
 - d. Restaurants, ~~bars, bakeries.~~
 - e. Shoe repairs.
 - f. Theaters.
 - g. ~~Health and physical fitness centers~~ Indoor fitness and exercise facilities.
 - h. ~~Cater service.~~
 - i. ~~Banks.~~
 - j. ~~Cafes and delicatessens.~~
- (5) Town, county, state, or federal government owned or leased facilities.
- (6) ~~Places of worship~~
- (c) *Special uses.* The following uses are permitted subject to the requirements of this district and additional regulations and requirements imposed by the town council as provided in section 42-99:
- (1) Public utility facilities.
 - ~~(2) Seafood market.~~
 - (3) Medical centers ~~or clinics.~~
 - ~~(4) Optometrist facilities.~~
 - ~~(5) Banks.~~
 - (6) Child care facilities.
 - (7) Broadcasting facilities excluding antenna tower structures.
 - ~~(8) Bakery retail and bakery products produced to be sold on premises.~~
 - ~~(9) Chiropractor offices.~~
 - (10) Gas station or fuel dispensing accessory use facilities; provided that no principal or accessory building shall be located within 50 feet of a residential district, and: provided that there shall be no storage or wrecked or abandoned cars, and that no portion of a gas station building, equipment or canopy shall be nearer than 30 feet to any right-of-way, and no portion of gas pumps shall be nearer than 50 feet to any right-of-way.
 - ~~(11) Cater service.~~
 - (12) Sport facilities, real estate (time share) sales, community association facilities, and building maintenance facilities pursuant to the application and approval procedures of the planned commercial development regulations.
 - (13) In a PCD overlay district, the permitted and special uses under the PCD overlay shall be established by the town council as a condition of the PCD overlay approval and shall be set forth in the special use permit as amended by the council from time to time.
 - (14) Home improvement warehouse as a PCD overlay zone.
 - (15) Retail sale of Christmas trees and wreaths, subject to the regulations set forth in section 42-502(3).
 - ~~(16) Churches.~~

(17) Electronic gaming operations, subject to the following conditions:

a. *General requirements:*

1. An electronic gaming operation shall only be permitted as an accessory business use to a permitted principal business use.
2. No electronic gaming operation shall be located within 500 feet in any direction from any residential zoning district, school, day care center, religious institution, public park, public beach, or other electronic gaming operation.
3. An electronic gaming operation shall not exceed ten percent of the gross floor area of the principal business use.
4. Each electronic gaming operation shall be limited to a maximum of two electronic machines or devices.
5. No electronic machine or device can be used by more than one customer or player at a time.
6. The electronic gaming area must be visually separated from the principal business use by a wall.
7. A minimum of one parking space for every one electronic machine or device must be provided in addition to the parking requirements for the principal business use.
8. Signs visible from outside the business that advertise the electronic gaming operation are prohibited. Signs are allowed inside of the business to direct customers to the gaming area.

b. *Operating requirements:*

1. Hours of the electronic gaming operation are limited from 8:00 a.m. until 12:00 a.m., Monday through Saturday. Electronic gaming operations are prohibited on Sundays.
2. The electronic gaming room must be restricted to patrons 18 years of age and older. Such requirement shall be posted in a readily visible location at the entrance to the electronic gaming area.
3. There shall be no alcoholic beverages consumed in the establishment containing the electronic gaming area.
4. There shall be attended supervision of the electronic gaming area during operating hours.
5. The Town of Kitty Hawk shall have the right to conduct unannounced, periodic inspections of the electronic gaming area.

c. *Nonconforming operations:*

1. Should an existing electronic gaming operation continue in operation or be allowed to continue by an order of a court, such use must come into compliance with all standards of chapter 42-252(c)(17) within 12 months of the date that subsection 42-252(c)(17) is adopted by Kitty Hawk Town Council.

(18) Truck rentals, subject to other requirements of this chapter and provided the following conditions are met:

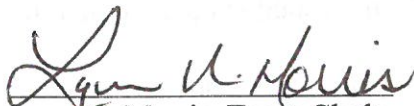
a. *General standards.*

1. Truck rentals shall only be permitted as an accessory use to a permitted principal business use.
2. Truck rental spaces shall not exceed six percent of the total provided parking spaces, or a maximum of 25 spaces, for the principal business use.
3. Truck rental spaces shall only utilize parking spaces in excess of the minimum required spaces for the principal business on site.
4. No additional signage will be permitted for the truck rental use.
5. Rental trucks to customers are to be limited to those trucks requiring a class D or standard/non-specialized driver's license.

b. *Operating requirements.*

1. Hours of operations are limited to the principal business's operating hours.
2. Rental trucks are limited to the designated area set forth on a special use permit site plan. That area is to be located at the perimeter of the business's parking lot and designated as "Truck Rental Spaces".
3. Rental trucks are not to be serviced, repaired, or maintained at the special use location. All such service, repair, or maintenance activities are to be conducted off-premises. In addition, rental trucks will not be refueled at the special use location. General cleaning of the interior cab may be required. If the interior of the cab is to be cleaned, all refuse is to be brought back into the business for disposal.
4. Rental trucks left outside of the designated "Truck Rental Spaces" are to be moved by the business to the designated area within 24 hours.

This ordinance amending the Kitty Hawk Town Code shall take effect the 6th day of September, 2022. Passed and adopted at a regular meeting held by the Town Council of Kitty Hawk the 6th day of September, 2022, with a unanimous approval vote. (5-0)

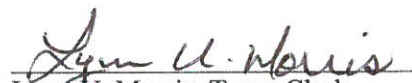

Lynn U. Morris, Town Clerk


D. Craig Garriss, Mayor

APPROVED AS TO FORM:

Casey Varnell, Town Attorney

The undersigned certifies that the foregoing official ordinance designated ORDINANCE AMENDMENT OF THE TOWN CODE OF KITTY HAWK, NORTH CAROLINA was filed in the Kitty Hawk Ordinance Book on the 7th day of September, 2022, at 3:30 o'clock P.M.


Lynn U. Morris, Town Clerk